

complaint in writing within the time specified in said notice of complaint.

(2) All subsequent pleadings and briefs shall be served by the filing party on all other parties to the proceeding in accordance with the requirements of § 1.47 of this chapter. Proof of such service shall also be made in accordance with the requirements of said section.

(G) *Answers to complaints and amended complaints.* Any party upon whom a copy of a complaint or amended complaint is served under this subpart shall serve an answer within the time specified by the Commission in its notice of complaint. The answer shall advise the parties and the Commission fully and completely of the nature of the defense and shall respond specifically to all material allegations of the complaint. In cases involving allegations of harm, the answer shall indicate what action has been taken or is proposed to be taken to stop the occurrence of such harm. Collateral or immaterial issues shall be avoided in answers and every effort should be made to narrow the issues. Matters alleged as affirmative defenses shall be separately stated and numbered. Any defendant failing to file and serve an answer within the time and in the manner prescribed may be deemed in default.

(H) *Replies to answers or amended answers.* Within 10 days after service of an answer or an amended answer, a complainant may file and serve a reply which shall be responsive to matters contained in such answer or amended answer and shall not contain new matter. Failure to reply will not be deemed an admission of any allegation contained in such answer or amended answer.

(I) *Defective pleadings.* Any pleading filed in a complaint proceeding that is not in substantial conformity with the requirements of the applicable rules in this subpart may be dismissed.

(7) *Treatment of TRS customer information.* Beginning on July 21, 2000, all future contracts between the TRS administrator and the TRS vendor shall provide for the transfer of TRS customer profile data from the outgoing TRS vendor to the incoming TRS vendor. Such data must be disclosed in usable form at least 60 days prior to the provider's last day of service provision. Such data may not be used for any purpose other than to connect the TRS user with the called parties desired by that TRS user. Such information shall not be sold, distributed, shared or revealed in any other way by the relay center or its employees, unless compelled to do so by lawful order.

6. Revise § 64.605 to read as follows:

**§ 64.605 State certification.**

(a) *State documentation.* Any state, through its office of the governor or other delegated executive office empowered to provide TRS, desiring to establish a state program under this section shall submit, not later than October 1, 1992, documentation to the Commission addressed to the Federal Communications Commission, Chief, Common Carrier Bureau, TRS Certification Program, Washington, DC 20554, and captioned "TRS State Certification Application." All documentation shall be submitted in narrative form, shall clearly describe the state program for implementing intrastate TRS, and the procedures and remedies for enforcing any requirements imposed by the state program. The Commission shall give public notice of states filing for certification including notification in the **Federal Register**.

(b) *Requirements for certification.* After review of state documentation, the Commission shall certify, by letter, or order, the state program if the Commission determines that the state certification documentation:

(1) Establishes that the state program meets or exceeds all operational, technical, and functional minimum standards contained in § 64.604;

(2) Establishes that the state program makes available adequate procedures and remedies for enforcing the requirements of the state program, including that it makes available to TRS users informational materials on state and Commission complaint procedures sufficient for users to know the proper procedures for filing complaints; and

(3) Where a state program exceeds the mandatory minimum standards contained in § 64.604, the state establishes that its program in no way conflicts with federal law.

(c) *Certification period.* State certification shall remain in effect for five years. One year prior to expiration of certification, a state may apply for renewal of its certification by filing documentation as prescribed by paragraphs (a) and (b) of this section.

(d) *Method of funding.* Except as provided in § 64.604, the Commission shall not refuse to certify a state program based solely on the method such state will implement for funding intrastate TRS, but funding mechanisms, if labeled, shall be labeled in a manner that promote national understanding of TRS and do not offend the public.

(e) *Suspension or revocation of certification.* The Commission may suspend or revoke such certification if, after notice and opportunity for hearing, the Commission determines that such

certification is no longer warranted. In a state whose program has been suspended or revoked, the Commission shall take such steps as may be necessary, consistent with this subpart, to ensure continuity of TRS. The Commission may, on its own motion, require a certified state program to submit documentation demonstrating ongoing compliance with the Commission's minimum standards if, for example, the Commission receives evidence that a state program may not be in compliance with the minimum standards.

(f) *Notification of substantive change.* States must notify the Commission of substantive changes in their TRS programs within 60 days of when they occur, and must certify that the state TRS program continues to meet federal minimum standards after implementing the substantive change.

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

[I.D. 052500B]

**Atlantic Highly Migratory Species (HMS) Fisheries; Prohibited Shark Species; Large Coastal Shark Species; Commercial Fishery Closure Change**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Implementation of prohibited species provisions; closure change.

**SUMMARY:** NMFS implements the 1999 prohibited species provisions and changes the closure of the large coastal shark (LCS) commercial fishery in the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea. On June 6, 2000, NMFS announced in the **Federal Register** a closure date of August 7, 2000, for LCS. In a court order by Judge Stephen D. Merryday, the 1999 regulations governing prohibited species provisions may be implemented and enforced, pending further review of the court. Therefore, based on 1997, 1998, and 1999 catch rates and the implementation of the prohibited species provisions, NMFS has determined that the second semiannual adjusted quota for LCS will be reached on or before August 15, 2000.

**DATES:** This action is effective July 1, 2000. The closure for the commercial LCS fishery is changed to August 15, 2000, at 11:30 p.m., local time, and will be in effect through December 31, 2000.

**FOR FURTHER INFORMATION CONTACT:**

Margo Schulze-Haugen or Karyl Brewster-Geisz, 301-713-2347; fax 301-713-1917.

**SUPPLEMENTARY INFORMATION:** The Atlantic shark fishery is managed under the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP), and its implementing regulations found at 50 CFR part 635 issued under authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*).

On June 30, 1999, NMFS received a Court Order from Judge Steven D. Merryday relative to the May 1997 lawsuit challenging commercial harvest quotas for Atlantic sharks. Specifically, the order states: “\* \* \* the Court hereby preliminarily, and until further order of the Court, expressly ENJOINS the defendant and his designees from enforcing the 1999 regulations, 64 Fed. Reg. 29090 (May, 28, 1999) with respect to Atlantic shark commercial catch quotas and fish-counting methods (including the counting of dead discards and state commercial landings after federal closures) that are different from the quotas and fish counting methods prescribed by the 1997 Atlantic shark regulations, 62 Fed. Reg. 16648 (April 7, 1997).” Therefore, effective July 9, 1999 (July 14, 1999, 64 FR 37883), NMFS reverted the LCS quota to its 1997 level of 1,285 metric tons dressed weight (all species of LCS included), with no minimum size on ridgeback LCS; reverted the pelagic and small coastal shark quotas to their 1997 levels; and applied the 1997 prohibited species list to commercial fisheries (i.e., did not apply the 1999 prohibited species list to commercial fisheries). The limited access provisions, including trip limits for directed and incidental shark permit holders, and all recreational shark

provisions (including the 1999 prohibited species provisions) were implemented.

On May 19, 2000, the parties filed a joint motion requesting clarification of the June 30, 1999, order relative to the implementation and enforcement of the prohibited species provisions contained in the final rule (May 28, 1999, 64 FR 29090) of the HMS FMP.

On June 12, 2000, NMFS received a Court Order from Judge Steven D. Merryday relative to the joint motion stating: “Upon consideration, the motion (Doc. 142) is **GRANTED**. Pending further review, the defendant may proceed with implementation and enforcement of the prohibited species provisions in 64 Fed. Reg. 29090 (May 28, 1999).”

Therefore, effective July 1, 2000, the 1999 prohibited species provisions, including species designations (see Table 1 of Appendix A to 50 CFR part 635 for a list of prohibited species) and prohibitions on possession are effective and will be enforced. Effective July 1, 2000, the following species are prohibited: white, whale, basking, sand tiger, bigeye sand tiger, dusky, bignose, Galapagos, night, Caribbean reef, narrowtooth, Caribbean sharpnose, smalltail, Atlantic angel, longfin mako, bigeye thresher, sevengill, sixgill, bigeye sixgill.

Pursuant to 50 CFR 635.71(d)(10), it is prohibited to retain, possess, sell, or purchase a prohibited shark. All sharks not retained must be released in a manner that will ensure maximum probability of survival, but without removing the fish from the water.

Due to the implementation of the 1999 prohibited species provisions and, based on catch rate data from the second semiannual fishing seasons from 1997, 1998, and 1999 for LCS species, NMFS has determined that the available LCS quota of 542.5 mt dw will be attained within 46 days. Accordingly, the second semiannual season for LCS in or from the Western North Atlantic Ocean, including the Gulf of Mexico and

Caribbean Sea, will close on August 15, 2000, at 11:30 p.m. local time. This closure date is 8 days later than the previously announced closure date of August 7, 2000 (June 6, 2000, 65 FR 35855). NMFS estimates that the available LCS quota will not be harvested as quickly when the prohibited species provisions are implemented because the available quota is unchanged but fewer species can be harvested against that quota.

During a closure, retention of, fishing for, possessing or selling LCS are prohibited for persons fishing aboard vessels issued a directed or incidental limited access permit under 50 CFR 635.4. After 11:30 p.m. local time August 15, 2000, the sale, purchase, trade, or barter of carcasses and/or fins of LCS harvested by a person aboard a vessel that has been issued a permit under 50 CFR 635.4 are prohibited, except for those that were harvested, offloaded, and sold, traded, or bartered prior to the closure and were held in storage by a dealer or processor.

Commercial fishing for pelagic and small coastal sharks may continue until further notice. When quotas are projected to be reached, NMFS will file notification of closure at the Office of the Federal Register. Those vessels that have not been issued a limited access permit under 50 CFR 635.4 may not sell sharks and are subject to the recreational retention limits and size limits specified at 50 CFR 635.20(d) and 635.22(c). The recreational fishery is not affected by this action.

**Classification**

This action is taken under 50 CFR part 635 and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: June 15, 2000.

**Bruce C. Morehead,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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