

in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. TSA has assessed the potential effect of this rulemaking and has determined that it will not create any unnecessary obstacles to foreign commerce.

#### Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a \$100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action."

This rulemaking does not contain such a mandate. The requirements of Title II of the Act, therefore, do not apply and TSA has not prepared a statement under the Act.

#### IV. Executive Order 13132, Federalism

TSA has analyzed this final rule under the principles and criteria of E.O. 13132, Federalism. We have determined that this action will not have a substantial direct effect on the States, or the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, have determined that this action does not have federalism implications.

#### V. Environmental Analysis

TSA has reviewed this action for purposes of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4347) and has determined that this action will not have a significant effect on the human environment.

#### VI. Energy Impact Analysis

The energy impact of the action has been assessed in accordance with the Energy Policy and Conservation Act (EPCA), Public Law 94-163, as amended (42 U.S.C. 6362). We have determined that this rulemaking is not a major regulatory action under the provisions of the EPCA.

#### List of Subjects in 49 CFR Part 1570

Appeals, Commercial drivers license, Criminal history background checks, Explosives, Facilities, Hazardous materials, Incorporation by reference, Maritime security, Motor carriers, Motor vehicle carriers, Ports, Seamen, Security measures, Security threat assessment, Vessels, Waivers.

#### The Amendments

■ For the reasons set forth in the preamble, the interim rule for part 1570 of Title 49 of the Code of Federal Regulations, adding § 1570.13, published July 31, 2008, at 73 FR 44665, is adopted as final, without change.

Issued in Arlington, VA, on June 22, 2009.

**Gale D. Rossides,**

*Acting Administrator.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 635

RIN 0648-XP91

#### Atlantic Highly Migratory Species; Inseason Action to Close the Commercial Non-Sandbar Large Coastal Shark Fisheries in the Shark Research Fishery and Atlantic Region

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

**ACTION:** Fishery closures.

**SUMMARY:** NMFS is closing the commercial fisheries for non-sandbar large coastal sharks (LCS) in both the shark research fishery and Atlantic region. This action is necessary because NMFS estimated that these fisheries have reached or exceeded 80 percent of the available quota.

**DATES:** The commercial non-sandbar LCS fisheries in both the shark research fishery and the Atlantic region are closed effective 11:30 p.m. local time July 1, 2009, until the effective date of the final 2010 shark season specifications in which NMFS will publish a separate document in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Karyl Brewster-Geisz or Guý DuBeck, 301-713-2347; fax 301-713-1917.

**SUPPLEMENTARY INFORMATION:** The Atlantic shark fisheries are managed under the 2006 Consolidated Atlantic

Highly Migratory Species (HMS) Fishery Management Plan (FMP), its amendments, 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.*).

Under § 635.5(b)(1), shark dealers are required to report every two weeks. Dealer reports for fish received between the 1<sup>st</sup> and 15<sup>th</sup> of any month must be received by NMFS by the 25<sup>th</sup> of that month. Dealer reports for fish received between the 16<sup>th</sup> and the end of any month must be received by NMFS by the 10<sup>th</sup> of the following month. In addition, shark landings within the shark research fishery are monitored via scientific observer reports. Under § 635.28(b)(2), when NMFS projects that fishing season landings for a specific shark quota have reached or are about to reach 80 percent of the available quota, NMFS will file for publication with the Office of the Federal Register a notice of closure for that shark species group that will be effective no fewer than 5 days from the date of filing. From the effective date and time of the closure until NMFS announces, via a notice in the **Federal Register**, that additional quota is available and the season is reopened, the fishery for that specific quota is closed, even across fishing years.

On December 24, 2008 (73 FR 79005), NMFS announced that the non-sandbar LCS quota for the shark research fishery for the 2009 fishing year would be 37.5 metric tons (mt) dressed weight (dw) (82,673 lb dw). Scientific observer reports through June 15, 2009, indicate that 34.9 mt dw or 93 percent of the available quota for non-sandbar LCS Atlantic shark research fishery has been taken. This amount exceeds the 80 percent limit specified in the regulations. Accordingly, NMFS is closing the commercial non-sandbar LCS fishery in the shark research fishery as of 11:30 p.m. local time July 1, 2009.

On December 24, 2008, NMFS announced that the non-sandbar LCS quota in the Atlantic region would be 187.8 mt dw (414,024 lb dw). Dealer reports through May 31, 2009, indicate that 138.9 mt dw or 74 percent of the available quota for non-sandbar LCS has been taken. Dealer reports indicate that 19 percent of the quota was taken in April and 18 percent taken in May. Based on dealer reports in April and May, NMFS estimates that approximately 19 percent of the quota could be taken in June. Based on this projection, the non-sandbar LCS Atlantic region fishery could reach 92 percent of the quota, which exceeds the

80 percent limit specified in the regulations. Accordingly, NMFS is closing the commercial non-sandbar LCS fishery in the Atlantic region as of 11:30 p.m. local time July 1, 2009.

As such, as of July 1, 2009, all commercial non-sandbar LCS fisheries in all regions and fisheries will be closed. All other Atlantic shark fisheries remain open.

During this closure, a fishing vessel, issued an Atlantic Shark LAP and a valid shark research permit with a NMFS-approved observer onboard, pursuant to § 635.4, may not possess or sell a non-sandbar LCS. A shark dealer, issued a permit pursuant to § 635.4, may not purchase or receive non-sandbar LCS from a vessel issued an Atlantic Shark LAP and a valid shark research permit with a NMFS-approved observer onboard, except that a permitted shark dealer or processor may possess sharks

that were harvested, off-loaded, and sold, traded, or bartered, prior to the effective date of the closure and were held in storage. Additionally, a shark dealer issued a federal permit, pursuant to § 635.4, may in accordance with state regulations, purchase or receive a non-sandbar LCS if the shark was harvested, off-loaded, and sold, traded, or bartered from a vessel that fishes only in state waters and had not been issued a Shark LAP, HMS Angling permit, or HMS CHB permit under § 635.4.

#### **Classification**

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries, NOAA (AA), finds that providing for prior notice and public comment for this action is impracticable and contrary to the public interest because the fisheries are currently underway, and any delay in this action would cause overharvest of the quotas and be

inconsistent with management requirements and objectives. Similarly, affording prior notice and opportunity for public comment on this action is contrary to the public interest because if the quotas are exceeded, the affected public is likely to experience reductions in the available quotas and a lack of fishing opportunities in future seasons. Thus, for these reasons, the AA also finds good cause to waive the 30-day delay in effective date pursuant to 5 U.S.C. 553 (d)(3). This action is required under § 635.28(b)(2) and is exempt from review under Executive Order 12866.

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

Dated: June 23, 2009.

**Kristen C. Koch,**

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

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