

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 100622276-0569-02]

RIN 0648-XC080

Atlantic Highly Migratory Species; Commercial Gulf of Mexico Non-Sandbar Large Coastal Shark Fishery

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is closing the commercial fishery for non-sandbar large coastal sharks (LCS) in the Gulf of Mexico region. This action is necessary because the commercial landings for the 2012 fishing season are projected to reach at least 80 percent of the available commercial quota by June 30, 2012.

DATES: The commercial non-sandbar LCS fishery is closed effective 11:30 p.m. local time July 6, 2012, until December 31, 2012, or if NMFS announces, via a notice in the **Federal Register**, that additional quota is available and the season is reopened.

FOR FURTHER INFORMATION CONTACT: Karyl Brewster-Geisz or Peter Cooper 301-427-8503; 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 (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 to NMFS all sharks landed every two weeks. Dealer reports for fish received between the 1st and 15th of any month must be received by NMFS by the 25th of that month. Dealer reports for fish received between the 16th and the end of any month must be received by NMFS by the 10th of the following month. Under § 635.28(b)(2), when NMFS projects that fishing season landings for a specific shark quota have reached or are projected to reach 80 percent of the available quota, NMFS will file for publication with the Office of the Federal Register a notification of closure for that shark species group, which will be effective no fewer than 5 days after 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 January 24, 2012 (77 FR 3393), NMFS announced that the non-sandbar LCS fishery for the Gulf of Mexico region for the 2012 fishing year would open on February 15 with a quota of 392.8 metric tons (mt) dressed weight (dw) (866,063 lb dw). Dealer reports through June 15 2012, indicate that 295.9 mt dw or 75.3 percent of the available quota for non-sandbar LCS has been taken. Dealer reports received to date indicate that 20 percent of the quota was landed from the opening of the fishery on February 15, 2012, through March 6, 2012; 16 percent of the quota was landed from March 7, 2012, through March 28, 2012; 21 percent was landed from March 29, 2012, through April 17, 2012; 11 percent of the quota was landed from April 18, 2012, through May 17, 2012; and 7.3 percent was landed from May 18, 2012, through June 15, 2012. Based on the rate of fishing effort indicated by these preliminary dealer reports, NMFS estimates that an additional 9 to 14 percent of the quota could be taken from June 15 through June 30, 2012, thus reaching or exceeding the 80-percent limit specified for a closure notice in the regulations. Accordingly, NMFS is closing the commercial non-sandbar LCS fishery in the Gulf of Mexico region as of 11:30 p.m. local time July 6, 2012. All other shark fisheries remain open, except the commercial porbeagle fishery, which closed on May 30, 2012 (77 FR 32036).

At § 635.27(b)(1)(ii), the boundary between the Gulf of Mexico region and the Atlantic region is defined as a line beginning on the East Coast of Florida at the mainland at 25°20.4' N. lat, proceeding due east. Any water and land to the south and west of that boundary is considered, for the purposes of quota monitoring and setting of quotas, to be within the Gulf of Mexico region.

During the closure, retention of non-sandbar LCS sharks in the Gulf of Mexico region is prohibited for persons fishing aboard vessels issued a commercial shark limited access permit under 50 CFR 635.4—unless, that is, the vessel is properly permitted to operate as a charter vessel or headboat for HMS and is engaged in a for-hire trip, in which case the recreational retention limits for sharks and “no sale” provisions apply (50 CFR 635.22(a) and (c)), or if the vessel possesses a valid shark research permit under § 635.32

and a NMFS-approved observer is onboard. A shark dealer issued a permit pursuant to § 635.4 may not purchase or receive non-sandbar LCS in the Gulf of Mexico region from a vessel issued an Atlantic Shark Limited Access Permit (LAP), except that a permitted shark dealer or processor may possess non-sandbar LCS that were harvested, off-loaded, and sold, traded, or bartered, prior to the effective date of the closure and were held in storage consistent with § 635.28(b)(4). However, a permitted shark dealer or processor may possess non-sandbar LCS that were harvested by a vessel issued a valid shark research fishery permit per § 635.32 with a NMFS-approved observer onboard during the trip the sharks were taken on as long as the non-sandbar shark research fishery remains open. Under this closure, a shark dealer issued a permit pursuant to § 635.4 may, in accordance with state regulations, purchase or receive a non-sandbar LCS in the Gulf of Mexico region if the sharks were harvested, off-loaded, and sold, traded, or bartered from a vessel that fishes only in state waters and that has not been issued an Atlantic Shark LAP, HMS Angling permit, or HMS Charter/Headboat permit pursuant to § 635.4.

Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries, NOAA (AA), finds that providing prior notice and public comment for this action is impracticable and contrary to the public interest because the fishery is currently underway and any delay in this action would result in overharvest of the quota 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 quota is exceeded, the stock may be negatively affected and fishermen ultimately could experience reductions in the available quota and a lack of fishing opportunities in future seasons. 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 29, 2012.

Emily H. Menashes,
Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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