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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 120706221-2705-02]

RIN 0648-XC748

Atlantic Highly Migratory Species; Commercial Gulf of Mexico Aggregated Large Coastal Shark and Gulf of Mexico Hammerhead Shark Management Groups

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is closing the commercial management groups for aggregated large coastal sharks (LCS) and hammerhead sharks in the Gulf of Mexico region. This action is necessary because the commercial landings of Gulf of Mexico aggregated LCS for the 2012 fishing season has exceeded 80 percent of the available commercial quota as of July 5, 2013.

DATES: The commercial Gulf of Mexico aggregated LCS and Gulf of Mexico hammerhead shark management groups are closed effective 11:30 p.m. local time, July 17, 2013, until the end of the 2013 fishing season on December 31, 2013 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), sharks that are first received by dealers from a vessel must be submitted electronically on a weekly basis through a NMFS-approved electronic reporting system by the dealer and received by NMFS no later than midnight, local time, of the first Tuesday following the end of the reporting week unless the dealer is otherwise notified by NMFS. Under § 635.28(b)(2), when NMFS calculates that the landings for any species and/or management group of a linked group has reached or is projected 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 all of the species and/or management groups in a linked group that will be effective no

fewer than 5 days from 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 all linked species and/or management groups is closed, even across fishing years.

On July 3, 2013 (78 FR 40318), NMFS announced the final rule for Amendment 5a to the Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP), which, among other things, established new, final adjusted 2013 quotas for aggregated LCS and hammerhead sharks in the Gulf of Mexico region. The Gulf of Mexico aggregated LCS management group quota is 157.5 metric tons (mt) dressed weight (dw) (347,317 lb dw), and the Gulf of Mexico hammerhead shark management group quota is 25.3 metric tons (mt) dressed weight (dw) (55,722 lb dw). Dealer reports recently received through July 5, 2013, indicate that 128.7 mt dw or 82 percent of the available Gulf of Mexico aggregated LCS quota has been landed, and that 9.2 mt dw or 37 percent of the available Gulf of Mexico hammerhead shark quota has been landed. Based on these dealer reports, NMFS estimates that the 80-percent limit specified for a closure notice in the regulations has been reached or exceeded. Accordingly, NMFS is closing both the commercial aggregated LCS

and hammerhead management groups in the Gulf of Mexico region as of 11:30 p.m. local time, July 17, 2013. All other shark management groups remain open, except for the commercial porbeagle shark management group, which did not open in 2013 (78 FR 75896), and the commercial Gulf of Mexico blacktip shark management group, which closed on July 7, 2013 (78 FR 40318).

At § 635.27(b)(1), 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 aggregated LCS and hammerhead sharks in the Gulf of Mexico region is prohibited for persons fishing aboard vessels issued a commercial shark limited access permit under § 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 (§ 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 aggregated LCS and/or hammerhead sharks 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 aggregated LCS and/or hammerhead sharks in the Gulf of Mexico region 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)(5). However, a permitted shark dealer or processor may possess aggregated LCS and/or hammerhead sharks in the Gulf of Mexico region 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 aggregated LCS and/or hammerhead sharks 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: July 10, 2013

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Galen Tromble

Acting Deputy Director,

Office of Sustainable Fisheries,

National Marine Fisheries Service.

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