



Billing Code: 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 170605543-7999-02]

RIN 0648- XT005

Atlantic Highly Migratory Species; Commercial Blacktip Sharks, Aggregated Large Coastal Sharks, and Hammerhead Sharks in the Gulf of Mexico Region; Retention Limit Adjustment

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

ACTION: Temporary rule; inseason retention limit adjustment.

SUMMARY: NMFS is adjusting the commercial retention limit for blacktip shark, aggregated large coastal sharks (LCS), and hammerhead shark management groups in the Gulf of Mexico region from 45 LCS other than sandbar sharks per vessel per trip to 55 LCS other than sandbar sharks per vessel per trip. This action is based on consideration of the regulatory determination criteria regarding inseason adjustments. The retention limit will remain at 55 LCS other than sandbar sharks per vessel per trip in the Gulf of Mexico region through the rest of the 2019 fishing season, or until NMFS announces via a notice in the **Federal Register** another adjustment to the retention limit or a fishery closure. This retention limit adjustment affects anyone with a directed shark limited access permit fishing for LCS in the Gulf of Mexico region.

DATES: The commercial retention limit adjustment is effective on *[insert date of publication]*

with the Office of the Federal Register] through December 31, 2019, or until and if NMFS announces via a notice in the *Federal Register* another adjustment to the retention limit or a fishery closure, if warranted.

FOR FURTHER INFORMATION CONTACT: Lauren Latchford, Guy DuBeck, or Karyl Brewster-Geisz 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 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 50 CFR 635.24(a)(8), NMFS may adjust the commercial retention limits in the Atlantic shark fisheries during the fishing season. Before making any adjustment, NMFS must consider specified regulatory criteria (see § 635.24(a)(8)(i) through (vi)).

NMFS considered the inseason retention limit adjustment criteria listed at § 635.24(a)(8)(i) through (vi), which include:

- The amount of remaining shark quota in the relevant area, region, or sub-region to date, based on dealer reports.

Based on dealer reports through July 12, 2019, 24 percent of the 27.7 metric tons (mt) dressed weight (dw) shark quota for blacktip, 51 percent of the 85.5 mt dw shark quota for aggregated LCS, and 50 percent of the 13.4 mt dw for the hammerhead shark landings have been harvested in the eastern Gulf of Mexico sub-region. In the western Gulf of Mexico sub-region, 20 percent of the 255.8 mt dw shark quota for blacktip, 13 percent of the 72.0 mt dw shark quota for aggregated LCS, and less than 5 percent of the 11.9 mt dw for the hammerhead shark

landings have been harvested. In total across the Gulf of Mexico region (eastern plus western sub-regions), approximately 80 percent of the blacktip, 66 percent of the aggregated LCS quota, and more than 70 percent of the hammerhead shark regional quotas remain available.

- The catch rates of the relevant shark species/complexes in the region or sub-region, to date, based on dealer reports.

Based on the current commercial retention limit and average catch rate of landings data from dealer reports, the amount of overall commercial blacktip shark, aggregated LCS, and hammerhead shark quota that remains available is high. Using current catch rates, projections indicate that the overall Gulf of Mexico landings would not reach 80 percent of any of the quotas before the end of the 2019 fishing year (December 31, 2019). Implementing a higher retention limit will better promote fishing opportunities and utilize available quotas throughout the Gulf of Mexico region.

- Estimated date of fishery closure based on when the landings reach or are projected to reach 80 percent of the quota given the realized catch rates.

Once the landings reach, or are projected to reach a threshold of 80 percent of the available aggregated LCS or hammerhead shark quotas and are projected to reach 100 percent before the end of the fishing season, NMFS would, as required by the regulations at § 635.28(b)(3), close the aggregated LCS and hammerhead shark management groups since they are “linked” quotas. The blacktip shark quotas in the Gulf of Mexico region are not linked to the aggregated LCS or hammerhead shark sub-regional quotas. If blacktip shark landings reach, or are projected to reach a threshold of 80 percent of the available quota and are projected to reach 100 percent before the end of the fishing season, NMFS would close the blacktip management

group, consistent with existing regulations. Current overall regional catch rates for blacktip, aggregated LCS, and hammerhead sharks indicate all management groups would likely remain open for the remainder of the year. A higher retention limit should help make it possible to fully utilize the quotas in the Gulf of Mexico region.

- Effects of the adjustment on accomplishing the objectives of the 2006

Consolidated HMS FMP and its amendments.

Increasing the retention limit on the blacktip, aggregated LCS, and hammerhead shark management groups in the Gulf of Mexico region from 45 to 55 LCS other than sandbar sharks per vessel per trip would increase the fishery catch rates for the rest of the year and allow fishermen to capitalize on underutilized quota, consistent with the FMP's objective to manage Atlantic HMS fisheries for continuing optimum yield so as to provide the greatest overall benefit to the Nation, with respect to providing food production for commercial fisheries. The science-based quotas for the stocks would remain the same, consistent with previous actions, and ensure that the fisheries are managed consistent with conservation and management objectives in the 2006 Consolidated HMS FMP, as amended.

- Variations in seasonal distribution, abundance, or migratory patterns of the relevant shark species based on scientific and fishery-based knowledge.

The directed shark fisheries in the Gulf of Mexico region exhibit a mixed species composition, with a high abundance and distribution of aggregated LCS caught in conjunction with blacktip sharks. As a result, by increasing the harvest and landings on a per-trip basis, fishermen throughout the Gulf of Mexico region will likely experience equitable fishing opportunities and have a chance to fully utilize the available quotas.

- Effects of catch rates in one part of a region or sub-region precluding vessels in another part of that region or sub-region from having a reasonable opportunity to harvest a portion of the relevant quota.

NMFS has previously provided notice to the regulated community (83 FR 60777; November 27, 2018) that the goal of this year's fishery is to ensure fishing opportunities throughout the fishing year, consistent with conservation and management objectives for the stocks. While dealer reports indicate that, under current catch rates, the blacktip, aggregated LCS, and hammerhead shark management groups in the Gulf of Mexico region would remain open for the remainder of the year, the catch rates also indicate that the quotas would likely not be fully harvested under the current retention limit. If the harvest of these species is increased through an increased retention limit, NMFS estimates that the fishery would continue to remain open for the remainder of the year, and fishermen throughout the Gulf of Mexico region would have a reasonable opportunity to harvest a portion of the quota.

After considering the criteria discussed above, NMFS concluded that increasing the retention limit of the blacktip shark, aggregated LCS, and hammerhead shark management groups in the Gulf of Mexico region will allow for more utilization of the available quotas for the rest of the year. Based on landings projections, under the current retention limits the overall Gulf of Mexico blacktip shark, aggregated LCS, and hammerhead shark quotas would not be reached by the end of the year. Therefore, NMFS is increasing the overall commercial blacktip shark, aggregated LCS, and hammerhead shark retention limit in the Gulf of Mexico region from 45 to 55 LCS other than sandbar sharks per vessel per trip.

On November 27, 2018 (83 FR 60777), NMFS announced that the 2019 commercial

eastern Gulf of Mexico blacktip shark sub-regional quota was 27.7 mt dw (61,256 lb dw), the eastern Gulf of Mexico aggregated LCS sub-regional quota was 85.5 mt dw (188,593 lb dw), and the eastern Gulf of Mexico hammerhead shark sub-regional quota was 13.4 mt dw (29,421 lb dw), while the commercial western Gulf of Mexico blacktip shark sub-regional quota was 255.8 mt dw (563,799 lb dw), the western Gulf of Mexico aggregated LCS sub-regional quota was 72.0 mt dw (158,724 lb dw), and the western Gulf of Mexico hammerhead shark sub-regional quota was 11.9 mt dw (26,301 lb dw). Thus, the total Gulf of Mexico regional quotas are 283.5 mt dw (625,055 lb dw) for blacktip sharks; 157.5 mt dw (347,317 lb dw) for aggregated LCS; and 25.3 mt dw (55,722 lb dw) for hammerhead sharks. In the final rule, after considering public comment on the proposed rule (83 FR 45866, September 11, 2018), NMFS explained that if it appeared that the quota was being harvested too slowly, NMFS would consider increasing the retention limit, consistent with the applicable regulatory requirements. Dealer reports received through June 14, 2019, indicate that 18 percent (50.2 mt dw), 29 percent (45.8 mt dw), and 23 percent (5.9 mt dw) of the available Gulf of Mexico regional blacktip, aggregated LCS, and hammerhead shark quotas, respectively, has been harvested. Increasing the retention limit provides the best opportunity to fully utilize these available quotas.

The boundary between the Gulf of Mexico region and the Atlantic region is defined at § 635.27(b)(1) 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 monitoring and setting quotas, to be within the Gulf of Mexico region. The boundary between the western and eastern Gulf of Mexico sub-regions is drawn along 88° 00' W. long (§ 635.27(b)(1)(ii)). Persons fishing aboard vessels issued a commercial shark limited

access permit under § 635.4 may still retain blacktip sharks, aggregated LCS, and/or hammerhead sharks management groups in the eastern Gulf of Mexico sub-region (east of 88° 00' W. long).

Accordingly, as of [*insert date of publication with the Office of the Federal Register*], NMFS is increasing the retention limit for the commercial blacktip shark, aggregated LCS, and hammerhead shark management groups in the Gulf of Mexico region for directed shark limited access permit holders from 45 LCS other than sandbar sharks per vessel per trip to 55 LCS other than sandbar sharks per vessel per trip. This retention limit adjustment does not apply to directed shark limited access permit holders if the vessel is properly permitted in the charter/headboat category 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, in which case the restrictions noted on the shark research permit apply.

The adjusted retention limit will remain at 55 LCS other than sandbar sharks per vessel per trip for the remainder of the 2019 fishing season, or until NMFS announces via a notice in the **Federal Register** another adjustment to the retention limit or a fishery closure, if warranted. All other retention limits and shark fishery regulations in the Gulf of Mexico region remain unchanged by this adjustment.

Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

Prior notice is impracticable because the regulatory criteria for inseason retention limit adjustments are intended to allow the agency to respond quickly to existing management considerations, including remaining available shark quotas, estimated dates for the fishery closures, the regional variations in the shark fisheries, and allowing fishermen to capitalize on underutilized quota. Additionally, regulations implementing Amendment 6 of the 2006 Atlantic Consolidated HMS FMP (80 FR 50074, August 18, 2015) intended that the LCS retention limit could be adjusted quickly throughout the fishing season to provide management flexibility for the shark fisheries and to allow fishermen to capitalize on underutilized quota, consistent with the FMP's objective to manage Atlantic HMS fisheries for continuing optimum yield so as to provide the greatest overall benefit to the Nation. Based on available shark quotas and informed by shark landings in previous seasons, responsive adjustment to the LCS commercial retention limit from the incidental level is warranted as quickly as possible to allow fishermen to take advantage of available quotas. For such adjustment to be practicable, it must occur in a timeframe that allows fishermen to take advantage of it.

Adjustment of the LCS fisheries retention limit in the Gulf of Mexico region will begin on *[insert date of publication with the Office of the Federal Register]*. Analysis of available data shows that adjustment of the LCS commercial retention limit upward to 55 would result in minimal risks of exceeding the blacktip shark, aggregated LCS and hammerhead shark quotas in the Gulf of Mexico region based on our consideration of previous years' data. With quota available and with no measurable impacts to the stocks expected, it would be contrary to the public interest to require vessels to wait to harvest the sharks otherwise allowable through this action. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and

the opportunity for public comment. Adjustment of the LCS commercial retention limit in the Gulf of Mexico region is effective [*insert date of publication with the Office of the Federal Register*], to minimize any unnecessary disruption in fishing patterns and to allow the impacted fishermen to benefit from the adjustment. Foregoing opportunities to harvest the respective quotas could have negative social and economic impacts for U.S. fishermen that depend upon catching the available quotas. Therefore, the AA finds there is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness.

This action is being taken under § 635.24(a)(2) and is exempt from review under Executive Order 12866.

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

Dated: August 6, 2019.

Jennifer M. Wallace,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

[FR Doc. 2019-17139 Filed: 8/9/2019 8:45 am; Publication Date: 8/12/2019]