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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 191125-0090]

RTID 0648-XA073

Atlantic Highly Migratory Species; Commercial Aggregated Large Coastal Sharks and Hammerhead Sharks in the western Gulf of Mexico Sub-Region; Closure

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 the aggregated large coastal sharks (LCS) and hammerhead shark management groups in the western Gulf of Mexico sub-region. This action is necessary because the commercial landings of sharks in the aggregated LCS management group in the western Gulf of Mexico sub-region for the 2020 fishing season are projected to reach 80 percent of the available commercial quota, and are projected to reach 100 percent of the quota by the end of the fishing season, and the aggregated LCS and hammerhead shark management groups are quota-linked under the regulations. This closure will affect anyone commercially fishing for sharks in the western Gulf of Mexico sub-region.

DATES: The commercial fishery for the aggregated LCS and hammerhead shark management groups in the western Gulf of Mexico sub-region are closed effective 11:30 p.m. local time March 14, 2020, until the end of the 2020 fishing season on December 31, 2020, or until and if

NMFS announces via a notice in the *Federal Register* that additional quota is available and the season is reopened.

FOR FURTHER INFORMATION CONTACT: Guy DuBeck or Guy Eroh 301-427-8503; fax 301-713-1917.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the 2006 Consolidated 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 § 635.5(b)(1), dealers must electronically submit reports on sharks that are first received from a vessel on a weekly basis through a NMFS-approved electronic reporting system. Reports must be received by 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)(4), the quotas of certain species and/or management groups are linked. If quotas are linked, when the specified quota threshold for one management group or species is reached and that management group or species is closed, the linked management group or species closes at the same time (§ 635.28(b)(3)). The quotas for the aggregated LCS and hammerhead shark management groups in the western Gulf of Mexico sub-region are linked (§ 635.28(b)(4)(iii)).

Under § 635.28(b)(3), when NMFS calculates that the landings for any linked species and/or management group have reached or are projected to reach a threshold of 80 percent of the available quota, and are projected to reach 100 percent of the relevant quota by the end of the fishing season, NMFS will file for publication with the Office of the Federal Register a notice of an overall, regional, and/or sub-regional closure, as applicable, for the linked species and/or

management groups that will be effective no fewer than 4 days from date of filing. From the effective date and time of the closure until and if NMFS announces, via a notice in the *Federal Register*, that additional quota is available and the season is reopened, the fisheries for all linked species and/or management groups are closed, even across fishing years.

On November 29, 2019 (84 FR 65690), NMFS announced that for 2020, the commercial 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 sharks sub-regional quota was 11.9 mt dw (26,301 lb dw). Dealer reports received through March 5, 2020, indicate that 79 percent (56.9 mt dw) of the available western Gulf of Mexico aggregated LCS management group sub-regional quota has been landed and that less than 1 percent (< 1.0 mt dw) of the available western Gulf of Mexico hammerhead sharks sub-regional quota has been landed. Based on these dealer reports, the western Gulf of Mexico aggregated LCS management group sub-regional quota is projected to exceed 80 percent of the available quota very soon and is projected to exceed 100 percent of the available quota before the end of the fishing season. Thus, NMFS has determined that a closure of the commercial western Gulf of Mexico aggregated LCS fishery is warranted at this time. While the western Gulf of Mexico hammerhead shark sub-regional quota has reached less than 1 percent of the available quota, it is linked to the aggregated LCS fishery, and therefore, closes when the aggregated LCS management group in the western Gulf of Mexico sub-region closes. Accordingly, NMFS is closing the commercial aggregated LCS and hammerhead shark management groups in the western Gulf of Mexico sub-region as of 11:30 p.m. local time March 14, 2020.

All other shark species or management groups in the western Gulf of Mexico sub-region that are currently open will remain open, including the commercial blacktip sharks, non-blacknose small coastal sharks, blue sharks, smoothhound sharks, and pelagic sharks other than porbeagle or blue sharks.

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

During the closure, retention of sharks in the aggregated LCS and/or hammerhead shark management groups in the western Gulf of Mexico sub-region is prohibited for persons fishing aboard vessels issued a commercial shark LAP under § 635.4. However, persons aboard a commercially permitted vessel that is also properly permitted to operate as a charter vessel or headboat for HMS, has a shark endorsement, and is engaged in a for-hire trip could fish under the recreational retention limits for sharks and “no sale” provisions (§ 635.22 (c)). Similarly, persons aboard a commercially permitted vessel that possesses a valid shark research permit under § 635.32 may continue to harvest and sell aggregated LCS and/or hammerhead sharks in the western Gulf of Mexico sub-region pursuant to the terms and conditions of the shark research

permit, if a NMFS-approved observer is onboard and the shark research fishery, as applicable, is open.

During this closure, a shark dealer issued a permit pursuant to § 635.4 may not purchase or receive aggregated LCS and/or hammerhead sharks in the western Gulf of Mexico sub-region from a vessel issued an Atlantic shark LAP, except that a permitted shark dealer or processor may possess aggregated LCS and/or hammerhead sharks in the western Gulf of Mexico sub-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)(6). Additionally, a permitted shark dealer may possess aggregated LCS and/or hammerhead sharks in the western Gulf of Mexico sub-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 LCS research fishery quota remains open. Similarly, a shark dealer issued a permit pursuant to § 635.4 may, in accordance with relevant State regulations, purchase or receive aggregated LCS and/or hammerhead sharks in the western Gulf of Mexico sub-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 quotas for these species and management groups and

thus would be inconsistent with fishery management requirements and objectives. The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments and fishery closures to respond to the unpredictable nature of availability on the fishing grounds, the migratory nature of the species, and the regional variations. NMFS is not able to give notice sooner nor would sooner notice be practicable given the structure of the regulations, which close the fisheries under specified regulatory criteria or thresholds, and closure determinations need to be based on near real-time data to balance fishing opportunities against the management goal of preventing quota overharvests. Similarly, affording prior notice and opportunity for public comment on this action is contrary to the public interest because if a 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)(3) and § 635.28(b)(4) and is exempt from review under Executive Order 12866.

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

Dated: March 10, 2020.

Karyl K. Brewster-Geisz,

Acting Director, Office of Sustainable Fisheries,

National Marine Fisheries Service.

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