

the 50-mt quota transfer, would allow the General category to remain open through the end of the fishing year while not risking overharvest of the U.S. BFT quota, including accounting for dead discards as required by ICCAT.

Regardless of the duration of a fishing trip, the daily retention limit applies upon landing. For example, whether a vessel fishing under the General category limit takes a two-day trip or makes two trips in one day, the daily limit of two fish may not be exceeded upon landing. This General category retention limit is effective in all areas, except for the Gulf of Mexico, and applies to vessels permitted in the General category as well as to those HMS Charter/Headboat permitted vessels fishing commercially for BFT.

This adjustment is intended to provide a reasonable opportunity to harvest the U.S. landings quota of BFT without exceeding it, while maintaining an equitable distribution of fishing opportunities; to help achieve optimum yield in the General category BFT fishery; to collect a broad range of data for stock monitoring purposes; and to be consistent with the objectives of the Consolidated HMS FMP.

Monitoring and Reporting

NMFS selected the daily retention limit for the remainder of the 2011 fishing year after examining an array of data as it pertains to the determination criteria. These data included, but were not limited to, current and previous catch and effort rates in the BFT fisheries, quota availability, previous public comments on inseason management measures, and stock status. NMFS will continue to monitor the BFT fishery closely through the mandatory dealer landing reports, which NMFS requires to be submitted within 24 hours of a dealer receiving BFT. Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional action is necessary to ensure available quota is not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas. NMFS will address the January 2012 General category daily retention limit via a separate inseason action later in the year, if necessary.

Closure of the General category or subsequent adjustments to the daily retention limits, if any, will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (888) 872-8862 or (978) 281-9260, or access <http://www.hmspermits.gov>, for updates on quota monitoring and retention limit adjustments.

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:

The regulations implementing the Consolidated HMS FMP provide for inseason retention limit adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery. Based on available BFT quotas, fishery performance in recent years, and the availability of BFT on the fishing grounds, a quota transfer is warranted to provide additional opportunities to harvest the U.S. BFT quota, including preserving the opportunity for General category fishermen to participate in the winter BFT fishery in the mid-Atlantic region that typically begins in December. A reduction in the General category daily retention limit is necessary to extend fishing opportunities throughout the fishing year while reducing the risk of combined landings and dead discards exceeding the available U.S. quota, consistent with ICCAT recommendations.

Affording prior notice and opportunity for public comment to implement these retention limits is impracticable as it would preclude NMFS from acting promptly to allow continued harvest of BFT that are available on the fishing grounds via a quota transfer from the Reserve category to the General category. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, and because this action relieves a restriction (*i.e.*, the General category retention limit will remain open due to the quota transfer from the Reserve category rather than closing at this time), there is also good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under 50 CFR 635.23(a)(4) and 635.27(a)(7), and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: November 3, 2011.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 0906221072-91425-02]

RIN 0648-XA781

Atlantic Highly Migratory Species; Inseason Action To Close the Commercial Non-Sandbar Large Coastal Shark Fishery in the Atlantic Region

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

ACTION: Fishery closures.

SUMMARY: NMFS is closing the commercial fishery for non-sandbar large coastal sharks (LCS) in the Atlantic region. This action is necessary under existing regulations because landings in this fishery have exceeded 80 percent of the available quota.

DATES: The commercial non-sandbar LCS fishery in the Atlantic region is closed effective 11:30 p.m. local time November 15, 2011, until the effective date of the final 2012 shark season specifications, which NMFS will publish as a separate document in the **Federal Register**.

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 found at 50 CFR part 635 and 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 every two weeks all sharks landed. 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 species group 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 species group is closed, even across fishing years.

On December 8, 2011 (75 FR 76302), NMFS announced that the non-sandbar LCS fishery quota in the Atlantic region for the 2011 fishing year would be 190.4 metric tons (mt) dressed weight (dw) (419,756 lb dw). Dealer reports through November 1, 2011, indicate that 140.6 mt dw or 74 percent of the available quota for non-sandbar LCS Atlantic fishery has been landed. Assuming landings continue at the current rate, NMFS projects that 83 percent of the quota will be landed by November 15. Dealer reports received to date indicate that 22 percent of the quota was landed from the opening of the fishery on July 15, 2011, through July 31, 2011; 20 percent of the quota was landed in August; 21 percent of the quota was landed in September; and 11 percent of the quota was landed in October. Because this exceeds the 80 percent threshold specified in the regulations, NMFS is closing the commercial non-sandbar LSC fishery in the Atlantic region as of 11:30 p.m. local time

November 15, 2011. This closure does not affect any other shark fishery.

As such, as of November 15, 2011, all commercial non-sandbar LCS fisheries in all regions and fisheries will be closed. All of the pelagic shark fisheries will remain open.

During this closure a fishing vessel issued an Atlantic Shark limited access permit (LAP) 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 Limited Access Permit, 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 consistent with 50 CFR 635.28(b)(4). 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 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 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 50 CFR 635.28(b)(2) and is exempt from review under Executive Order 12866.

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

Dated: November 3, 2011.

Steven Thur,

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

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