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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 150413357-5999-02]

RIN 0648-XG647

Atlantic Highly Migratory Species; Commercial Blacktip Sharks in the eastern 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 blacktip sharks in the eastern Gulf of Mexico sub-region. This action is necessary because, as of reports received by November 16, 2018, the commercial landings of blacktip sharks in the eastern Gulf of Mexico sub-region for the 2018 fishing season have reached 97 percent of the available commercial quota. Therefore, NMFS is closing the blacktip shark fishery in the eastern Gulf of Mexico sub-region. This closure will affect anyone commercially fishing for blacktip sharks in the eastern Gulf of Mexico sub-region.

DATES: The commercial fishery for blacktip sharks in the eastern Gulf of Mexico sub-region is closed effective 11:30 p.m. local time November 25, 2018, until the end of the 2018 fishing season on December 31, 2018, 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: Lauren Latchford or Karyl Brewster-Geisz
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)(2), when NMFS calculates that the landings for any species and/or management group that has a non-linked quota has reached or is projected to reach a threshold of 80 percent of the available quota, NMFS will file for publication, with the Office of the **Federal Register**, a notice of closure for that species and/or management group that will be effective no fewer than four 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 and specified non-linked species and/or management groups are closed, even across fishing years.

On November 22, 2017 (82 FR 55512), NMFS announced that for 2018, the commercial eastern Gulf of Mexico blacktip shark sub-regional quota was 37.7 metric tons (mt) dressed weight (dw) (83,158 lb dw). Dealer reports received through November 16, 2018, indicate that

97 percent (36.7 mt dw) of the available eastern Gulf of Mexico blacktip shark sub-regional quota has been landed. Based on these dealer reports, landings have exceeded 80 percent of the eastern Gulf of Mexico blacktip shark sub-regional quota. Therefore, the blacktip shark fishery meets the closure threshold. Accordingly, NMFS is closing the blacktip shark fishery in the eastern Gulf of Mexico sub-region as of 11:30 p.m. local time November 25, 2018.

All other shark species or management groups in the eastern Gulf of Mexico sub-region that are currently open will remain open, including the commercial eastern Gulf of Mexico aggregated LCS, eastern Gulf of Mexico hammerhead sharks, Gulf of Mexico 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 eastern and western Gulf of Mexico sub-regions is drawn along 88° 00' W. long (§ 635.27(b)(1)(ii)).

During the closure, retention of blacktip sharks in the eastern Gulf of Mexico sub-region is prohibited for persons fishing aboard vessels issued a commercial shark limited access permit 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 and has a NMFS-approved observer onboard may continue to harvest and sell blacktip sharks in the eastern Gulf of Mexico sub-region pursuant to the terms and conditions of the shark research permit.

During this closure, a shark dealer issued a permit pursuant to § 635.4 may not purchase or receive blacktip sharks in the eastern Gulf of Mexico sub-region from a vessel issued an Atlantic shark limited access permit (LAP), except that a permitted shark dealer or processor may possess blacktip sharks in the eastern 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 or processor may possess blacktip sharks in the eastern 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 blacktip 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 blacktip sharks in the eastern 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)(2) and is exempt from review under Executive Order 12866.

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

Dated: November 21, 2018.

Karen H. Abrams,

Acting Director,

Office of Sustainable Fisheries,

National Marine Fisheries Service.

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