

20° N latitude and 20° S latitude in a calendar year.

(1) For the high seas there is a limit of 1,370 fishing days in 2018.

(2) For the U.S. EEZ there is a limit of 458 fishing days for 2018. If NMFS expects that this limit will be reached by October 1, 2018, NMFS will publish a document in the **Federal Register** increasing the limit for that calendar year to 558 fishing days no later than seven days prior to October 1, 2018.

(3) NMFS will determine the number of fishing days spent on the high seas and in the U.S. EEZ in each calendar year using data submitted in logbooks and other available information. After NMFS determines that a limit in a calendar year is expected to be reached by a specific future date, and at least seven calendar days in advance of the closure date, NMFS will publish a document in the **Federal Register** announcing that the purse seine fishery in the area where the limit is expected to be reached will be closed starting on that specific future date and will remain closed until the end of the calendar year.

(4) Once a fishery closure is announced pursuant to paragraph (a)(3) of this section, fishing vessels of the United States equipped with purse seine gear may not be used to fish in the closed area during the period specified in the **Federal Register** document, except that such vessels are not prohibited from bunkering during a fishery closure.

(b) *Use of fish aggregating devices.* (1) During the periods and in the areas specified in paragraph (b)(2) of this section, owners, operators, and crew of fishing vessels of the United States equipped with purse seine gear shall not do any of the activities described below in the Convention Area in the area between 20° N latitude and 20° S latitude:

(i) Set a purse seine around a FAD or within one nautical mile of a FAD.

(ii) Set a purse seine in a manner intended to capture fish that have aggregated in association with a FAD or a vessel, such as by setting the purse seine in an area from which a FAD or a vessel has been moved or removed within the previous eight hours, or setting the purse seine in an area in which a FAD has been inspected or handled within the previous eight hours, or setting the purse seine in an area into which fish were drawn by a vessel from the vicinity of a FAD or a vessel.

(iii) Deploy a FAD into the water.

(iv) Repair, clean, maintain, or otherwise service a FAD, including any electronic equipment used in

association with a FAD, in the water or on a vessel while at sea, except that:

(A) A FAD may be inspected and handled as needed to identify the FAD, identify and release incidentally captured animals, un-foul fishing gear, or prevent damage to property or risk to human safety; and

(B) A FAD may be removed from the water and if removed may be repaired, cleaned, maintained, or otherwise serviced, provided that it is not returned to the water.

(v) From a purse seine vessel or any associated skiffs, other watercraft or equipment, do any of the following, except in emergencies as needed to prevent human injury or the loss of human life, the loss of the purse seine vessel, skiffs, watercraft or aircraft, or environmental damage:

(A) Submerge lights under water;

(B) Suspend or hang lights over the side of the purse seine vessel, skiff, watercraft or equipment, or;

(C) Direct or use lights in a manner other than as needed to illuminate the deck of the purse seine vessel or associated skiffs, watercraft or equipment, to comply with navigational requirements, and to ensure the health and safety of the crew.

(2) The requirements of paragraph (b)(1) of this section shall apply:

(i) From July 1 through September 30, in each calendar year;

(ii) In any area of high seas, from November 1 through December 31, in each calendar year.

(3)(i) *Activating FADs for purse seine vessels.* A vessel owner, operator, or crew of a fishing vessel of the United States equipped with purse seine gear shall turn on the tracking equipment of an active FAD while the FAD is onboard the vessel and before it is deployed in the water.

(ii) *Restrictions on Active FADs for purse seine vessels.* U.S. vessel owners and operators of a fishing vessel of the United States equipped with purse seine gear shall not have more than 350 drifting active FADs per vessel in the Convention Area at any one time.

\* \* \* \* \*

■ 7. In § 300.224, revise paragraph (a)(1) and remove and reserve paragraph (a)(2).

The revision reads as follows:

**§ 300.224 Longline fishing restrictions.**

(a) \* \* \*

(1) There is a limit of 3,554 metric tons of bigeye tuna per calendar year that may be captured in the Convention Area by longline gear and retained on board by fishing vessels of the United States.

\* \* \* \* \*

■ 8. Revise § 300.225 to read as follows:

**§ 300.225 Eastern High Seas Special Management Area.**

The owner and operator of a fishing vessel of the United States used for commercial fishing for HMS is prohibited from engaging in transshipment in the Eastern High Seas Special Management Area.

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

[Docket No. 150413357–5999–02]

RIN 0648–XG325

**Atlantic Highly Migratory Species; Commercial Aggregated Large Coastal Shark and Hammerhead Shark Management Group 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 aggregated large coastal shark (LCS) and hammerhead shark management group retention limit for directed shark limited access permit holders in the Atlantic region from 3 LCS other than sandbar sharks per vessel per trip to 36 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 36 LCS other than sandbar sharks per vessel per trip in the Atlantic region through the rest of the 2018 fishing season or until NMFS announces via a notification 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 Atlantic region.

**DATES:** This retention limit adjustment is effective on July 18, 2018, through December 31, 2018, or until NMFS announces via a notification in the **Federal Register** another adjustment to the retention limit or a fishery closure, if warranted.

**FOR FURTHER INFORMATION CONTACT:** Lauren Latchford, Guý DuBeck, or Karyl

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**SUPPLEMENTARY INFORMATION:** 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.*).

Atlantic shark fisheries have separate regional (Gulf of Mexico and Atlantic) quotas for all management groups except those for blue shark, porbeagle shark, pelagic sharks (other than porbeagle or blue sharks), and the shark research fishery for LCS and sandbar 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 north and east of that boundary is considered, for the purposes of setting and monitoring quotas, to be within the Atlantic region. This inseason action only affects the aggregated LCS and hammerhead shark management groups in the Atlantic region.

Under § 635.24(a)(8), NMFS may adjust the commercial retention limits in the shark fisheries during the fishing season. Before making any adjustment, NMFS must consider specified regulatory criteria (see § 635.24(a)(8)(i) through (vi)). After considering these criteria as discussed below, NMFS has concluded that increasing the retention limit of the Atlantic aggregated LCS and hammerhead management groups for directed shark limited access permit holders in the Atlantic region will allow use of available aggregated LCS and hammerhead shark management group quotas and will provide fishermen throughout the region equitable fishing opportunities for the rest of the year. Therefore, NMFS is increasing the commercial Atlantic aggregated LCS and hammerhead shark retention limit in the Atlantic region from 3 to 36 LCS other than sandbar shark per vessel per trip.

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

- 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 June 18, 2018, 52.6 metric tons (mt) dressed weight (dw) (116,048 lb dw), or 25 percent, of the 168.9 mt dw shark quota

for aggregated LCS and 4.9 mt dw (10,836 lb dw), or 18 percent, of the 27.1 mt dw shark quota for the hammerhead management groups have been harvested in the Atlantic region. This means that approximately 75 percent of the aggregated LCS quota remains available and approximately 82 percent of the hammerhead shark quota remains available. NMFS took action previously this year to reduce retention rates after considering the relevant inseason adjustment criteria, particularly the need for all regions to have an equitable opportunity to utilize the quota. Given the geographic distribution of the sharks at this time of year (*i.e.*, they are heading north before moving south again later in the year), the retention limit needs to be adjusted upwards to ensure that fishermen in the Atlantic region have an opportunity to fully utilize the quotas in the region throughout the remainder of the year.

- 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 aggregated LCS and hammerhead shark quota available is high, while harvest in the Atlantic region on a daily basis is low. Using current catch rates, projections indicate that landings would not reach 80 percent of the quota before the end of the 2018 fishing season (December 31, 2018). A higher retention limit will better promote fishing opportunities and utilization of available quota in the Atlantic region.

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

Once the landings reach 80 percent of either the aggregated LCS or hammerhead shark quotas, 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.” Current catch rates would likely result in the fisheries remaining open for the remainder of the year, but with the quotas being underutilized in the Atlantic region. The higher retention limit should help make it possible to more fully utilize the quota in the Atlantic region.

- Effects of the adjustment on accomplishing the objectives of the 2006 Consolidated HMS FMP and its amendments.

Increasing the retention limit on the aggregated LCS and hammerhead management groups in the Atlantic region from 3 to 36 LCS other than

sandbar sharks per vessel per trip would allow for fishing opportunities later in the year, consistent with the FMP’s objective to ensure equitable fishing opportunities throughout the region.

- 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 Atlantic region are composed of a mix of species, with a high abundance of aggregated LCS caught in conjunction with hammerhead sharks. Migratory patterns of many LCS in the Atlantic region indicate the sharks move farther north in the summer and then return south in the fall. Increasing the retention limit in the Atlantic region at this time provides for fishing opportunities by fishermen farther north (*i.e.* Mid-Atlantic and New England) as the sharks are likely going to be in the northern areas of the region for only a short period of time before migrating south again. As a result, by increasing the harvest and landings on a per-trip basis, fishermen throughout the Atlantic region will likely experience equitable fishing opportunities.

- 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 (82 FR 55512; November 22, 2017, and 83 FR 21744; May 10, 2018) that a goal of this year’s fishery is to ensure fishing opportunities throughout the fishing season and the Atlantic region. While dealer reports indicate that, under current catch rates, the aggregated LCS and hammerhead shark management groups in the Atlantic 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 still remain open for the remainder of the year and fishermen throughout the Atlantic region would have a reasonable opportunity to harvest a portion of the quota.

On November 22, 2017 (82 FR 55512), NMFS announced in a final rule that the aggregated LCS and hammerhead shark fisheries management groups for the Atlantic region would open on January 1 with a quota of 168.9 mt dw (372,552 lb dw) and 27.1 mt dw (59,736 lb dw), respectively. We had published a proposed rule on August 22, 2017 (82 FR 39735) and invited and considered

public comment. In the final rule, NMFS explained that if it appeared that the quota is being harvested too quickly, thus precluding fishing opportunities throughout the entire region (e.g., if approximately 20 percent of the quota is caught at the beginning of the year), NMFS would consider reducing the commercial retention limit to 3 or fewer LCS other than sandbar sharks and then later consider increasing the retention limit, perhaps to 36 LCS other than sandbar sharks per vessel per trip around July 15, 2018, consistent with the applicable regulatory requirements. In May 2018, dealer reports indicated that landings had reached 19 percent of the quota, and NMFS therefore reduced the commercial Atlantic aggregated LCS and hammerhead shark retention limit from 25 to 3 LCS other than sandbar sharks per vessel per trip on May 12, 2018 (83 FR 21744; May 10, 2018) after considering the inseason retention limit adjustment criteria listed in § 635.24(a)(8). Based on dealer reports through June 18, 2018, approximately 75 percent and 82 percent of the aggregated LCS and hammerhead shark quotas remain, respectively. At this point in the season, fishermen in the Atlantic region may not have an opportunity to fully utilize the quotas in the region for the remainder of the year if the retention limits are not increased, and available quota will be underutilized.

Accordingly, as of July 18, 2018, NMFS is increasing the retention limit for the commercial aggregated LCS and hammerhead shark management groups in the Atlantic region for directed shark limited access permit holders from 3 LCS other than sandbar sharks per vessel per trip to 36 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 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, in which case the restrictions noted on the shark research permit apply.

All other retention limits and shark fisheries in the Atlantic region remain unchanged. This retention limit will remain at 36 LCS other than sandbar sharks per vessel per trip for the rest of the 2018 fishing season, or until NMFS announces via a notification in the **Federal Register** another adjustment to the retention limit or a fishery closure, if warranted.

#### **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 equitable fishing opportunities. 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 provide equitable fishing opportunities to fishermen throughout a region. 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 while sharks are present in their region. 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 Atlantic region will begin on July 18, 2018. Prior notice

would result in delays in increasing the retention limit and would adversely affect those shark fishermen that would otherwise have an opportunity to harvest more than the current retention limit of 3 LCS other than sandbar sharks per vessel per trip and could result in low catch rates and underutilized quotas. Analysis of available data shows that adjustment of the LCS commercial retention limit upward to 36 would result in minimal risks of exceeding the aggregated LCS and hammerhead shark quotas in the Atlantic region based on our consideration of previous years' data, in which the fisheries have opened in July. 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 Atlantic region is effective July 18, 2018, to minimize any unnecessary disruption in fishing patterns, to allow the impacted fishermen to benefit from the adjustment, and to not preclude fishing opportunities by fishermen farther north as the sharks are likely going to be in the northern areas of the region for only a short period of time before migrating south again. 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: July 12, 2018.

**Margo B. Schulze-Haugen,**

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

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