

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Parts 600 and 635****[Docket No. 030721180-3316-02; I.D. 010903D]****RIN 0648-AQ95****Atlantic Highly Migratory Species; Atlantic Shark Management Measures**

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

**ACTION:** Final rule; fishing season notification.

**SUMMARY:** This final rule is necessary to ensure that shark regulations are based on the results of the 2002 stock assessments for large coastal sharks (LCS) and small coastal sharks (SCS). The results of these stock assessments indicate that the LCS complex continues to be overfished, and overfishing is occurring; that sandbar sharks are not overfished, but overfishing is occurring; that blacktip sharks are rebuilt and healthy; that the SCS complex is healthy; and that finetooth sharks are not overfished, but overfishing is occurring. Based on these results, NMFS is revising the rebuilding timeframe for LCS to 26 years from 2004, changing some of the commercial regulations, changing some of the recreational regulations, implementing measures to reduce bycatch and bycatch mortality including a time/area closure, removing the deepwater/other sharks from the management unit, establishing criteria regarding adding or removing sharks from the prohibited species group, and establishing a display permit for fishermen who wish to harvest highly migratory species (HMS) for public display. NMFS also updates essential fish habitat (EFH) identifications for sandbar, blacktip, finetooth, dusky, and nurse sharks. NMFS also notifies eligible participants of the opening and closing dates for the Atlantic large coastal, small coastal, and pelagic shark fishing seasons.

**DATES:** This final rule is effective February 1, 2004, except for the amendments to §§ 635.20(e), 635.22(c), and 635.27(b) which are effective on December 30, 2003.

**Fishing Season Opening and Closing Dates**

The fishery opening for large coastal sharks (LCS) in the North Atlantic region is effective January 1, 2004,

through 11:30 p.m., local time, April 15, 2004, and the closure is effective 11:30 p.m., local time, April 15, 2004, through June 30, 2004. The fishery opening for LCS in the South Atlantic region is effective January 1, 2004, through 11:30 p.m., local time, February 15, 2004, and the closure is effective 11:30 p.m., local time, February 15, 2004, through June 30, 2004. The fishery opening for LCS in the Gulf of Mexico region is effective January 1, 2004, through 11:30 p.m., local time, February 29, 2004, and the closure is effective 11:30 p.m., local time, February 29, 2004, through June 30, 2004. The fishery opening for small coastal sharks (SCS) in all regions, pelagic sharks, blue sharks, and porbeagle sharks is effective January 1, 2004, through June 30, 2004, unless otherwise modified or superseded through publication of a closure notification in the **Federal Register**.

**ADDRESSES:** For copies of Amendment 1 to the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (Amendment 1) and its Final Environmental Impact Statement/Regulatory Impact Review/Final Regulatory Flexibility Analysis (FEIS/RIR/FRFA), contact Karyl Brewster-Geisz at NMFS Highly Migratory Species Management Division, 1315 East-West Highway, Silver Spring, MD 20910 or at (301) 713-1917 (fax). Copies can also be obtained on the web at <http://www.nmfs.noaa.gov/sfa/hms/>. Comments regarding the collection-of-information requirements contained in this rule should be sent to the HMS Management Division at the address noted above and to the Office of Management and Budget (OMB) by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or fax to (202) 395-7285.

**FOR FURTHER INFORMATION CONTACT:** Karyl Brewster-Geisz, Heather Stirratt, or Chris Rilling at 301-713-2347 or fax 301-713-1917 or Greg Fairclough at 727-570-5741 or fax 727-570-5656.

**SUPPLEMENTARY INFORMATION:** The Atlantic shark fisheries are managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP), finalized in 1999, and Amendment 1 to the HMS FMP are implemented by regulations at 50 CFR part 635.

NMFS published a Notice of Intent to conduct an EIS and draft Amendment 1 to the HMS FMP on November 15, 2003 (67 FR 69180). On January 27, 2003, NMFS announced the availability of an Issues and Option paper and scheduled seven scoping meetings (68 FR 3853).

On August 1, 2003, NMFS published the proposed rule regarding Amendment 1 (68 FR 45196) and announced the availability of the Draft EIS (68 FR 45237). NMFS held six public hearings and one Advisory Panel meeting during the public comment period, which was extended to October 3, 2003, due to Hurricane Isabel (68 FR 47904, August 12, 2003; 68 FR 51560, August 27, 2003; 68 FR 54885, September 19, 2003). Additionally, NMFS attended several Fishery Management Council meetings regarding Amendment 1 and its proposed rule.

Information regarding the management history of Atlantic sharks, Exempted Fishing Permits (EFP), and EFH and the alternatives considered in Amendment 1 was provided in the preamble of the proposed rule and is not repeated here. Additional information can be found in the Final Amendment 1 available from NMFS (*see ADDRESSES*). A description of the changes to the proposed rule can be found after the response to comments, followed by information on the available quota and the length of the first 2004 fishing season.

Most of the measures in this rule, such as the requirement to carry and use linecutters and dipnets, the change in authorized gear in the recreational fishery, and the removal of deepwater and other sharks from the management unit, will be effective on February 1, 2004. However, some of the management measures that relieve restrictions, such as the changes to the commercial quotas (including the quota level for large coastal sharks (LCS), small coastal sharks (SCS), and establishment of regional quotas (§ 635.27(b))), changes to the recreational bag and size limit (§§ 635.22(c) and 635.20(e)), and changes to the commercial minimum size (§ 635.20(e)), will be effective on December 30, 2003. Additionally, in order to give fishermen time to adjust to the new regulations and, if necessary, revise their business plans, some of the final measures will be implemented after February 1, 2004. For instance, the Mid-Atlantic shark closure off of North Carolina (§ 635.21(d)(1)) and the trimester seasons for the commercial fisheries (§ 635.27(b)(1)(i)) will be effective on January 1, 2005. Furthermore, the requirements of installing and activating a vessel monitoring system (VMS) for bottom longline and gillnet vessels (§ 635.69(a)(2) and (3)) and possessing and using a dehooking device (§ 635.21(d)(3)(ii)) are delayed indefinitely pending type approval