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Dated: August 26, 2014.

Michael J. Bean,*Principal Deputy Assistant Secretary for Fish and Wildlife and Parks.*

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 635**

[Docket No. 130402317-3966-02]

RIN 0648-XD475

Gulf of Mexico Highly Migratory Species (HMS); Commercial Blacknose Sharks and Non-Blacknose Small Coastal Sharks (SCS) in the Gulf of Mexico Region

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is closing the fisheries for commercial blacknose sharks and non-blacknose SCS in the Gulf of Mexico region. This action is necessary because the commercial landings of Gulf of Mexico non-blacknose SCS for the 2014 fishing season could exceed 80 percent of the available commercial quota as of September 5, 2014, and the fisheries are quota-linked under current regulations.

DATES: The commercial fisheries for blacknose sharks and Gulf of Mexico non-blacknose SCS in the Gulf of Mexico region are closed effective 11:30 p.m. local time September 9, 2014, until the end of the 2014 fishing season on December 31, 2014, 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: Alexis Jackson or Karyl Brewster-Geisz 301-427-8503; fax 301-713-1917.

SUPPLEMENTARY INFORMATION: The Gulf of Mexico shark fisheries are managed under the 2006 Consolidated HMS Fishery Management Plan (FMP), its amendments, and its 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), the quotas of certain species and/or management groups are linked. The quotas for blacknose sharks and the non-blacknose SCS management group in the Gulf of Mexico region are linked (§ 635.28(b)(3)(iv)). Under § 635.28(b)(2), when NMFS calculates that the landings for any species and/or management group of a linked group has reached or is projected 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 all of the species and/or management groups in a linked group that will be effective no fewer than 5 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 26, 2013 (78 FR 70500), NMFS announced that the commercial Gulf of Mexico blacknose shark quota for 2014 is 1.8 metric tons (mt) dressed weight (dw) (3,968 lb dw). The non-blacknose SCS quota was set at 221.6 mt dw, and divided into regions (Atlantic and Gulf of Mexico) for management purposes. The Atlantic region non-blacknose SCS quota is 79.5 percent of the base quota or 153.3 mt dw (150,574 lb dw), and the Gulf of Mexico non-blacknose SCS quota is 20.5 percent or 68.3 mt dw (150,574 lb dw). Current regulations specify that “[i]nseason and/or annual quota transfers of regional quotas between regions may be conducted only for species or management groups where the species are the same between regions and the quota is split between regions for management purposes and not as a result of a stock assessment.” Although the non-blacknose SCS quota currently is split between regions for management purposes, transferring quota between the two regions would be inconsistent with accomplishing the objectives of the fishery management plan now that sharpnose and bonnethead have been split into separate stocks as a result of the stock assessment. Such a transfer would, essentially, disregard the scientific bases for splitting sharpnose and bonnethead sharks into two stocks, and there is no practicable way to

analyze the impacts of and establish separate quotas for these stocks or the complex as a whole absent the amendment process. Thus, no such transfer will be made pursuant to 50 CFR 635.27(b)(2)(iii), which includes among the transfer criteria to be considered, “[e]ffects of the adjustment on the status of all shark species;” and “[e]ffects of the adjustment on accomplishing the objectives of the fishery management plan.”

In the upcoming Amendment 6 to the 2006 Consolidated Highly Migratory Species Fishery Management Plan, NMFS will be considering implementing total allowable catches and commercial quotas for the non-blacknose SCS complexes in the Atlantic and Gulf of Mexico regions, which includes the sharpnose and bonnethead stocks, based on the results of the SEDAR 34 assessment. Pending such an Amendment, the separate Atlantic and Gulf of Mexico sharpnose and bonnethead shark stocks remain within the overall non-blacknose SCS management complex, with the quotas for the complex designated for this fishing year. The next assessments for these two species are not yet scheduled but will include benchmark assessments for each stock.

Dealer reports recently received through August 29, 2014, indicate that 0.8 mt dw or 42 percent of the available Gulf of Mexico blacknose shark quota has been landed and 51.7 mt dw or 76 percent of the available Gulf of Mexico non-blacknose SCS quota has been landed. Based on projections, NMFS estimates that the 80-percent limit could be exceeded by September 5, 2014, or earlier. Accordingly, NMFS is closing both the commercial blacknose shark fishery and non-blacknose SCS management group in the Gulf of Mexico region as of 11:30 p.m. local time September 9, 2014. All other shark species or management groups that are currently open in the Gulf of Mexico region will remain open, including the blue shark, porbeagle shark, and pelagic sharks other than porbeagle or blue shark management groups.

At § 635.27(b)(1), the boundary between the Gulf of Mexico region and the Atlantic region is defined 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.

During the closure, retention of blacknose sharks and non-blacknose SCS in the Gulf of Mexico region is

prohibited for persons fishing aboard vessels issued a commercial shark limited access permit (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 and is engaged in a for-hire trip could fish under the recreational retention limits for sharks and “no sale” provisions (§ 635.22(a) and (c)).

During this closure, a shark dealer issued a permit pursuant to § 635.4 may not purchase or receive blacknose sharks or non-blacknose SCS in the Gulf of Mexico region from a vessel issued a shark LAP, except that a permitted shark dealer or processor may possess blacknose sharks and/or non-blacknose SCS in the Gulf of Mexico 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)(5).

Similarly, a shark dealer issued a permit pursuant to § 635.4 may, in accordance with relevant state regulations, purchase or receive blacknose sharks and/or non-blacknose SCS in the Gulf of Mexico 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 a 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 fisheries are currently underway and any delay in this action would result in overharvest of the Gulf of Mexico non-blacknose SCS quota 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 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: September 4, 2014.

Emily H. Menashes,

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

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