

	Fishery	Authorized gear types
V. Caribbean Fishery Management Council.	*	*
2. Caribbean Reef Fish Fishery (FMP).	*	*
D. Other commercial fishery .....	*	D. Spear.

**PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC**

■ 3. The authority citation for part 622 continues to read as follows:

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

■ 4. In § 622.33, paragraph (a) introductory text is revised, paragraph (a)(2)(ii)(A) is removed and reserved, and paragraph (a)(8) is added to read as follows:

**§ 622.33 Caribbean EEZ seasonal and/or area closures.**

(a) *Seasonal closures.* In addition to the other restrictions specified in this paragraph (a), fishing with pots, traps, bottom longlines, gillnets or trammel nets is prohibited year-round in the closed areas specified in paragraphs (a)(1), (2), (3), and (8) of this section.

(8) *Bajo de Sico closed area.* (i) The Bajo de Sico closed area is bounded by rhumb lines connecting, in order the following points:

Point A	North lat.	West long.
A .....	18°15.7'	67°26.4'
B .....	18°15.7'	67°23.2'
C .....	18°12.7'	67°23.2'
D .....	18°12.7'	67°26.4'
A .....	18°15.7'	67°26.4'

(ii) From October 1 through March 31, each year, no person may fish for or possess any Caribbean reef fish, as listed in Table 2 of Appendix A to part 622, in or from those parts of the Bajo de Sico closed area that are in the EEZ. The prohibition on possession does not apply to such Caribbean reef fish harvested and landed ashore prior to the closure.

(iii) Anchoring, by fishing vessels, is prohibited year-round in those parts of the Bajo de Sico closed area that are in the EEZ.

\* \* \* \* \*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

**RIN 0648-XZ95**

**Atlantic Highly Migratory Species; Inseason Action To Close the Commercial Blacknose Shark and Non-Blacknose Small Coastal Shark Fisheries**

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

**ACTION:** Notification of fishery closure.

**SUMMARY:** NMFS is closing the commercial blacknose shark and non-blacknose small coastal shark (SCS) fisheries. This action is necessary because landings for the 2010 blacknose shark fishing season are projected to have reached at least 80 percent of the available quota.

**DATES:** The commercial fisheries for blacknose shark and non-blacknose SCS are closed effective 11:30 p.m. local time November 2, 2010 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:** Karyl Brewster-Geisz or Peter Cooper, 301-713-2347; (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 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 all sharks landed every two weeks. 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)(3), when NMFS projects that fishing season landings for either blacknose shark or non-blacknose SCS quota have reached or are projected to reach 80 percent of the available quota within a given fishing season, NMFS will file for publication with the Office of the Federal Register a notice of closure for the entire SCS fishery, including both the blacknose and non-blacknose SCS fisheries, 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 June 1, 2010 (75 FR 30484), NMFS announced the final rule for Amendment 3 to the Consolidated Atlantic Highly Migratory Species (HMS) Fishery Management Plan (FMP), which, among other things, established quotas and opening dates for the 2010 blacknose shark and non-blacknose SCS fisheries. Both the blacknose shark and non-blacknose SCS fisheries opened on June 1, 2010, with base quotas of 19.9 metric tons (mt) dressed weight (dw) (43,872 lb dw) and 221.6 mt dw (488,539 lb dw), respectively. Dealer reports recently received through the September 30, 2010, reporting period indicate that 13.4 mt dw or 68 percent of the available blacknose shark fishery quota has been landed, and that 89.1 mt dw or 40 percent of the available non-blacknose SCS fishery quota has been landed. Dealer reports received to date indicate that 20 percent of the blacknose shark quota was landed from the opening of the fishery on June 1, 2010, through June 30, 2010; 14.4 percent of the quota was landed in July; 13.6 percent of the quota was landed in August; and 20 percent of the quota was landed in September. NMFS looked at

two landings projection scenarios—one that used the average landings rate of blacknose sharks per day from the entire 2010 fishing period (June 1 to September 30), and another that used the average blacknose shark landings rate from the last reporting period (September 15 to September 30)—to estimate blacknose shark landings by October 31, 2010. The projections estimate that approximately 17 and 36.9 percent of the blacknose shark quota will be landed in October, respectively, and that blacknose shark landings could total approximately 85 and 104.9 percent of the blacknose shark quota by October 31, 2010, respectively.

Dealer reports received to date indicate that 9.5 percent of the non-blacknose SCS fishery quota was landed from the opening of the fishery on June 1, 2010, through June 30, 2010; 8.5 percent of the quota was landed in July; 9.4 percent of the quota was landed in August; and 12.6 percent of the quota was landed in September. NMFS looked at two landing projection scenarios—one that used the average landings rate of non-blacknose SCS per day from the entire 2010 fishing period (June 1 to September 30), and another that used the average non-blacknose SCS landings rate from the last reporting period (September 15 to September 30)—to estimate non-blacknose SCS landings by October 31, 2010. The projections

estimate that approximately 10 and 13.5 percent of the non-blacknose SCS quota will be landed in October, respectively, and that non-blacknose SCS landings could approximately total 50 and 53.5 percent of the non-blacknose shark quota by October 31, 2010, respectively.

The projections indicate that blacknose shark landings have reached at least 85 percent of the quota, which exceeds the 80-percent limit specified in the regulations. Accordingly, NMFS is closing both the commercial blacknose shark and non-blacknose SCS fisheries as of 11:30 p.m. local time November 2, 2010. This closure does not affect any other shark fishery.

During the closure, retention of blacknose sharks and/or non-blacknose SCS is prohibited for persons fishing aboard vessels issued a commercial shark limited access permit (LAP) under 50 CFR 635.4, unless 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 (50 CFR 635.22(a) and (c)). A shark dealer issued a permit pursuant to § 635.4 may not purchase or receive blacknose sharks and/or non-blacknose SCS from a vessel issued an Atlantic shark LAP, except that a permitted shark dealer or processor may possess blacknose sharks and/or non-blacknose

SCS that were harvested, off-loaded, and sold, traded, or bartered, prior to the effective date of the closure and were held in storage.

#### 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 fishery is currently underway, and any delay in this action would cause overharvest of the quota and be inconsistent with management requirements and objectives. If the quota is exceeded, the affected public is likely to 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: October 27, 2010.

**Carrie Selberg,**

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

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