



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

NMFS ANNOUNCES DECISION ON A PETITION FOR RULEMAKING TO AMEND THE CURRENT TIME/AREA CLOSURE FOR ATLANTIC SHARKS OFF THE MID-ATLANTIC REGION

On March 7, 2005, the National Marine Fisheries Service (NMFS) received a petition for rulemaking from the North Carolina Department of Environment and Natural Resources, Division of Marine Fisheries (Petitioner), to change the current Mid-Atlantic shark closed area boundary of 55 fathoms from January to July in the middle part of the state to only include waters out to 15 fathoms coastwide and year-round off North Carolina. NMFS published a notice of receipt of the petition for rulemaking in the Federal Register (May 10, 2005, 70 FR 24494) and invited public comments for 60 days ending on July 11, 2005.

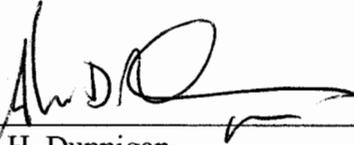
After carefully considering the petition and all public comments, NMFS has decided not to initiate the requested rulemaking at this time. Currently, NMFS does not have any information that was not already analyzed and/or examined in the 2003 Amendment 1 to the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (Amendment 1), which included the Mid-Atlantic closed area and which was implemented by a December 24, 2003, final rule (68 FR 74746). Without new information, NMFS has no basis to modify the existing time/area closure. In addition, the large coastal shark (LCS) rebuilding plan relies, in part, on the benefits expected from the time/area closure. Any modifications to the time/area closure would need to be reviewed in light of the rebuilding plan, which may require a Fishery Management Plan (FMP) Amendment. Additionally, since the first time period of the time/area closure ended in July, there has been insufficient time to assess the effect of the time/area closure, which precludes NMFS' ability to make any modifications within the requested timeframe (i.e., by January 1, 2006).

However, there are a number of items that could warrant modification of the time/area closure within a few years. First, NMFS will be conducting a stock assessment for LCS starting this year (September 15, 2005, 70 FR 54537). The results of this stock assessment are expected to be final in mid-2006. Second, NMFS expects a final dusky shark stock assessment to be released later this year. Preliminary results indicate that dusky sharks are currently below B_{MSY} . Third, because the time/area closure has now been in effect for one time period, NMFS can begin to examine the data and analyze the actual impacts of the closure, ecologically and economically. Fourth, NMFS is working with the Atlantic States Marine Fisheries Commission (ASMFC) to start work on an interstate coast-wide shark plan. If other states become more consistent with the Federal regulations, either through a coast-wide plan or on their own initiative, it is possible that the ecological benefits could warrant a review of existing Federal regulations, including the time/area closure. Fifth, NMFS has recently released a proposed rule that, among other things, would establish criteria to be considered when implementing or modifying



time/area closures (70 FR 48804, August 19, 2005). This proposed rule should be final in 2006.

This FAX notice is a courtesy to Atlantic HMS fisheries interests to keep you informed about your fishery. Official notice of Federal fishery actions is made through filing such notice with the Office of the Federal Register. For further information, please contact Margo Schulze-Haugen or Karyl Brewster-Geisz, 301-713-2347.



John H. Dunnigan
Director, Office of Sustainable Fisheries

DEC 14 2005

Date