

Sandbar Sharks

According to the 2005/2006 LCS stock assessment, sandbar sharks are overfished with the current stock abundance at 35 percent of the virgin biomass. The assessment also indicates overfishing is occurring ($F_{2004}/F_{MSY} = 3.72$). The assessment recommends that rebuilding could be achieved with 70 percent probability by 2070 with a total allowable catch across all fisheries (commercial and recreational) of 220 metric tons (mt) whole weight (ww) each year and an F between 0.009 and 0.011. Based on these results, NMFS is declaring the status of sandbar sharks to be overfished with overfishing occurring.

Blacktip Sharks

The 2005/2006 LCS stock assessment assessed blacktip sharks for the first time as two separate populations: a Gulf of Mexico population and an Atlantic population. The results from the stock assessment indicate that the Gulf of Mexico population is rebuilt. The peer reviewers indicated that current catches should not increase in order to keep this population at a sustainable level. Based on these results, NMFS is declaring the status of Gulf of Mexico blacktip shark population as not overfished with no overfishing occurring.

The assessment also indicates that the current status for the Atlantic blacktip shark population is unknown. The assessment scientists were unable to provide estimates of stock status or reliable population projections. The peer reviewers agreed with the assessment scientists and indicated that current catch levels should not change. Based on these results, NMFS is declaring the status of the Atlantic blacktip shark population to be unknown.

Dusky Sharks

In 1999, dusky sharks, which were in the LCS complex, were placed on the prohibited species list due to their low population growth rate and low reproductive potential. In 2003, in Amendment 1 to the FMP for Atlantic Tunas, Swordfish, and Sharks (68 FR 74746), NMFS established a Mid-Atlantic shark closure to protect dusky sharks and juvenile sandbar sharks. Due to high catch rates of dusky sharks in the shark bottom longline fishery in the closed area and the high mortality of dusky sharks on bottom longline gear, NMFS closed this area to bottom longline fishing from January 1 through July 31 of every year, starting in January 2005. The first dusky-specific shark assessment was released in May 2006

(71 FR 30123). The 2006 dusky shark stock assessment used data through 2003 and indicates that dusky sharks are overfished with overfishing occurring. The estimated stock depletions are between 62–80 percent with respect to virgin biomass. Given the heavy fishing impact on this stock and high vulnerability to exploitation, the assessment scientists recommend that rebuilding for dusky sharks could require 100 to 400 years. Based on these results, NMFS is declaring the status of dusky sharks as overfished with overfishing occurring.

Porbeagle Sharks

Canada has conducted stock assessments on porbeagle sharks in 1999, 2001, 2003, and 2005. Based on the 2001 stock assessment, the Committee on the Status of Endangered Wildlife in Canada designated the porbeagle shark as endangered. Reduced Canadian porbeagle quotas in 2002 brought the 2004 exploitation rate to a sustainable level. According to the 2005 recovery assessment report conducted by Canada, the North Atlantic porbeagle stock has a 70 percent probability of recovery in approximately 100 years if F is less than or equal to 0.04. To date, the United States has not conducted a stock assessment on porbeagle sharks.

NMFS has reviewed the Canadian stock assessment and deems it to be the best available science appropriate to use for U.S. domestic management purposes. The Canadian assessment indicates that porbeagle sharks are overfished with the 2005 abundance less than 15 percent (for female spawner abundance) or 24 percent (for total abundance) of the virgin biomass. However, the Canadian assessment indicates that overfishing is not occurring. Based on these results, NMFS is declaring the status of porbeagle sharks as overfished, but overfishing is not occurring.

Copies of the assessments are available for review (see ADDRESSES).

Request for Comments

NMFS anticipates significant changes to shark management via an amendment to the Consolidated HMS FMP as a result of the latest stock assessments and requests comments on a variety of management options for this action. Analyses of these changes would likely need to be done via an EIS. As such, NMFS specifically requests comments on commercial management options including, but not limited to, quota levels, regional and seasonal quotas, trip limits, minimum sizes, quota monitoring, applying dead discards and state landings after a Federal closure to

the quota, counting quota over- and underages, authorized gears, permit structure, prohibited species, and the Mid-Atlantic shark closure. In addition, NMFS is seeking comments on recreational management options including retention limits, minimum sizes, authorized gears, and landing requirements. NMFS also seeks comments on display quotas and collection of sharks through exempted fishing permits, display permits, and scientific research permits. Comments received on this action will assist NMFS in determining the options for ways to conserve and manage shark resources and shark fisheries, consistent with the Magnuson-Stevens Act, the Consolidated HMS FMP, NEPA, and other relevant domestic laws. Within the comment period established in this action, NMFS will hold scoping meetings to gather public comment on the implementation of new management measures for Atlantic sharks (time and location details of which will be announced in a subsequent **Federal Register** notification).

Based on the 2005 and 2006 stock assessments, NMFS believes the implementation of new management measures via an amendment to the Consolidated HMS FMP is necessary to rebuild sandbar, dusky, and porbeagle sharks while providing an opportunity for the sustainable harvest of blacktip sharks in the Gulf of Mexico. NMFS anticipates completing this amendment and any related documents by January 1, 2008.

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

Dated: November 1, 2006.

James P. Burgess,

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

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101606B]

RIN 0648-AV00

Atlantic Highly Migratory Species; Essential Fish Habitat

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

ACTION: Notice of intent to prepare an environmental impact statement; request for comments.

SUMMARY: NMFS has reviewed all new and existing Essential Fish Habitat (EFH) information in its Consolidated Atlantic Highly Migratory Species Fishery Management Plan (HMS FMP) and has determined that EFH for some Atlantic HMS may need to be updated. Through the publication of this notice, NMFS announces its intent to prepare an environmental impact statement (EIS) pursuant to the National Environmental Policy Act (NEPA) to: examine management alternatives to revise existing HMS EFH; consider additional Habitat Areas of Particular Concern (HAPCs); and to minimize, to the extent practicable, adverse fishing impacts on EFH consistent with the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and other relevant Federal laws. To complete the EIS and assess the potential effects on the human environment NMFS is requesting: new EFH information not considered previously in the Consolidated HMS FMP, comments on potential HAPCs, and information regarding potential fishing/non-fishing impacts that may adversely affect EFH. This information will be used to propose amendments to the Consolidated HMS FMP.

DATES: Comments on this action must be received no later than 5 p.m., local time, on December 22, 2006.

ADDRESSES: Written comments on this action should be mailed to Chris Rilling, Highly Migratory Species Management Division by any of the following methods:

- E-mail: SF1.101606B@noaa.gov.

Include in the subject line the following identifier: "I.D. 101606B."

- Written: 1315 East-West Highway, Silver Spring, MD 20910. Please mark the outside of the envelope "Comments on EFH Amendment to HMS FMP."

- FAX: 301-713-1917.

FOR FURTHER INFORMATION CONTACT: Chris Rilling, Sari Kiraly, or Mike Clark at (301) 713-2347, or Jackie Wilson at (404) 806-7622.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*) as amended by the Sustainable Fisheries Act (Public Law 104-297) provided for the establishment of EFH in FMPs and the consideration of actions to ensure the conservation and enhancement of such habitat. The EFH regulatory guidelines (50 CFR 600.815) state that NMFS should periodically review the EFH provisions of FMPs and revise or amend EFH as warranted based on available information. The EFH guidelines further state that NMFS

should review all EFH information at least once every five years.

EFH, including HAPCs, for HMS was identified and described in the 1999 FMP for Atlantic Tunas, Swordfish, and Sharks, and in the 1999 Amendment 1 to the Atlantic Billfish FMP. EFH for five shark species was updated in the 2003 Amendment 1 to the FMP. As part of the five-year review required by the Magnuson-Stevens Act, and set forth by schedule in the EFH regulatory guidelines, NMFS reviewed all new and existing EFH data in the Consolidated HMS FMP and determined that revisions to existing EFH for some Atlantic HMS may be warranted. The EIS will be used to propose alternatives to amend some of the existing EFH identifications and descriptions.

In addition to considering possible revisions to EFH identification and descriptions, the EFH guidelines require FMPs to identify fishing and non-fishing activities that may adversely affect EFH. Each FMP must include an evaluation of the potential adverse impacts of fishing on EFH designated under the FMP, effects of each fishing activity regulated under the FMP, as well as the effects of other Federal FMPs and non-federally managed fishing activities (i.e., state fisheries) on EFH. The FMPs must describe each fishing activity and review and discuss all available relevant information such as the intensity, extent, and frequency of any adverse effects on EFH; the type of habitat within EFH that may be adversely affected; and the habitat functions that may be disturbed (50 CFR 600.815(a)(2)). If adverse effects of fishing activities are identified, then the Magnuson-Stevens Act requires the effects of such fishing activities on EFH to be minimized to the extent practicable (Magnuson-Stevens Act, Section 303(a)(7)).

NMFS completed the original analysis of fishing and non-fishing impacts in the 1999 FMP, and presented all new information gathered during the five-year review, including a comprehensive review of all fishing gears and non-fishing activities that could potentially impact EFH, in the Consolidated HMS FMP. Some new information regarding gear impacts was incorporated into the review. For example, information presented in the Gulf of Mexico and Caribbean Fishery Management Council EFH FEIS's (2004) suggests that bottom longline gear may have an adverse affect on coral reef habitat which serves as EFH for certain reef fishes. As a result, NMFS has made a preliminary determination that bottom longline gear may have an adverse affect on EFH for other federally-managed species. An

assessment of whether HMS bottom longline gear is fished in EFH, and if so, the intensity, extent, and frequency of such impacts, including any measures to minimize potential impacts, will be addressed in the EIS.

Copies of the Consolidated HMS FMP are available for review (see **ADDRESSES**).

Request for Comments

NMFS anticipates completing this EIS and any related documents by January 1, 2008.

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

Dated: October 31, 2006.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 110206C]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permit

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

ACTION: Notice; receipt of exempted fishing permit application.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Northeast Region, NMFS (Assistant Regional Administrator) has made a preliminary determination that the subject exempted fishing permit (EFP) application contains all the required information and warrants further consideration. The Assistant Regional Administrator has also made a preliminary determination that the activities authorized under the EFP would be consistent with the goals and objectives of the Northeast (NE) Multispecies Fishery Management Plan (FMP). However, further review and consultation may be necessary before a final determination is made to issue the EFP. Therefore, NMFS announces that the Assistant Regional Administrator proposes to recommend that an EFP be issued that would allow one commercial fishing vessel to conduct fishing operations that are otherwise restricted by the regulations governing the fisheries of the Northeastern United States. The EFP, which would enable researchers to investigate the efficacy of