

North Carolina. The revised time/area closure will still be effective at reducing dusky catch by 79 percent, and neonate and juvenile sandbar catch by 55 percent.

*Comment 13:* It is not clear if other measures are sufficient to rebuild sandbar and dusky sharks without the addition of time/area closures.

*Response:* Rebuilding of dusky and sandbar sharks is based on the combination of management measures including the reduction in quota, the time/area closure, gear restrictions that should reduce post-release mortality, and a minimum size on recreationally caught sharks. Without the time/area closure, NMFS would need to implement other reductions or restrictions in order to ensure that LCS are rebuilt within the necessary time frame.

*Comment 14:* NMFS received a number of comments regarding the depth of the closures. Comments included: most nursery grounds are in nearshore areas; closing areas 20 fathoms in depth to the shore should be suitable to protect neonates and juveniles. NMFS does not need to close areas out to the 200 mile limit unless the desire is to fiercely impact these shark fishing entities. Regions outside of 20 fathoms should remain open. We question any justification for closing anything other than state waters during pupping seasons. We cannot support closures inside of 10, 20, or any other fathom mark at this time.

*Response:* NMFS examined catches based on depth and found that both dusky sharks and juvenile sandbar sharks are caught at depths of up to 50 fathoms. Since large numbers of sharks appear to be caught in a line along the 50 fathom contour, a buffer of approximately two miles was included to extend the seaward boundary of the time/area closure to approximately 60 to 80 fathoms. The time/area closure is one of the few known areas where shark pupping and nursery grounds extend into Federal waters. It is also one of the only areas designated as a HAPC (for sandbar sharks) in Federal waters.

*Comment 15:* NMFS received several comments regarding the proposed time/area closure and the burden being placed on North Carolina fishermen. Comments included: Juvenile sharks are caught all along the coast and North Carolina fishermen are being targeted unfairly. If closures are needed to rebuild sharks, then fishermen in all states need to share the task, not just North Carolina fishermen. The time/area closure is payback for previous lawsuits by the commercial industry.

*Response:* Juvenile sharks are caught along much of the U.S. Atlantic and Gulf of Mexico coasts; however, the proportion of juvenile and neonate dusky and sandbar sharks being caught off North Carolina is substantially higher than in other areas. This is because the waters off North Carolina are pupping and nursery areas for these two species, and pregnant females, pups and juveniles aggregate in the area. EFH areas for both sandbar and dusky sharks, and HAPC areas for sandbar sharks have been designated off North Carolina. Data indicate that from 1994–2002, 1,099 or 79 percent of all dusky sharks were caught in the time/area closure from January through July. Of these, 1,016 or 92 percent were neonates or juveniles. Of the 12,445 sandbar sharks observed caught in the Atlantic from 1994–2002, 6,755 or 54 percent were caught in the time/area closure between January and July, of which 61 percent were juveniles and neonates. While there may be other nursery and pupping areas in coastal waters, this is one of the only areas where such a high proportion of neonate and juvenile sharks have been documented being caught in Federal waters.

*Comment 16:* The proposed time/area closure is absurd; the period should be April 1 through June 30 or maybe July 15. NMFS should not close the area for the entire time from January through July because most fishermen do not see any pregnant females in the area after mid-July.

*Response:* Data from the commercial shark observer program indicates that there are substantial numbers of juvenile and neonate sharks being caught in all months from January through July, not just from April through July. This is because in addition to being a primary pupping area from May to August, the area is also a secondary nursery and overwintering ground for young-of-the-year and juvenile sharks.

*Comment 17:* The five vessels with a history of landing most of the juvenile sandbar sharks should be given some options on how to catch bigger sharks.

*Response:* NMFS has not analyzed specific information regarding which vessels are catching small or large sharks, but has relied instead upon analysis of all data gathered in the time/area closure over various time periods to form the basis for the closure. Even if information were available to indicate that certain vessels were responsible for the majority of juvenile landings, options to remedy the problem would have to be made available to the entire fleet, not just selected vessels. Commercial shark fishery participants

who fish in the area are encouraged to share information on fishing gears, methods, and locations that might reduce the catch of juvenile sharks. The intent of the closure is to reduce all interactions between commercial fishing operations and pupping and nursery grounds and hence reduce both the catch and mortality of dusky and juvenile sandbar sharks.

*Comment 18:* Shrimp nets catch more small sharks than the directed shark fishery in North Carolina.

*Response:* NMFS agrees that the shrimp fishery is responsible for large catches of SCS. The bycatch of SCS in the shrimp trawl fishery in the Gulf of Mexico has been documented and was taken into account during the latest 2002 SCS stock assessment which indicates that SCS are not overfished and overfishing is not occurring. While there may be benefits to the SCS stock as a result of the closure, the intent of the closure was to reduce the catch of juvenile sandbar sharks and prohibited dusky sharks.

*Comment 19:* If an area is closed, landings should not be allowed in states adjacent to the area no matter where the fish are harvested.

*Response:* NMFS does not agree that adjacent states should be closed as well, or that landings should not be allowed in adjacent states. The time/area closure is based on specific information about catches off North Carolina in a known pupping and nursery area. Although there are pupping and nursery areas in state waters, most notably Chesapeake Bay, Maryland, and Delaware Bay, Delaware, fishing effort there has historically been low. Additionally, most other areas adjacent to the closure off North Carolina are not known pupping and nursery areas and have a much higher proportion of adult sandbar sharks, and far fewer dusky sharks. NMFS is implementing VMS to aid in enforcement of the time/area closure. VMS will benefit fishermen by allowing them to traverse the closed area to offload.

*Comment 20:* The time/area closure will push more vessels into other areas such as the Florida East Coast. This combined with the regional quotas and trimester seasons will mean that all the vessels will be working for one sixth of the normal January opening quota. There is only a small area off of Florida where you can shark fish. If more vessels go to that area, there will not be enough room to set gear.

*Response:* The original time/area closure proposed in the draft Amendment would have closed all waters off North Carolina, and portions of Virginia and South Carolina to