

particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

**Taking of Private Property**

This proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

**Civil Justice Reform**

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

**Protection of Children**

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

**Indian Tribal Governments**

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

**Energy Effects**

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

**Technical Standards**

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

**Environment**

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this proposed rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation because it has been determined that the promulgation of operating regulations for drawbridges are categorically excluded.

**List of Subjects in 33 CFR Part 117**

Bridges.

**Regulations**

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

**PART 117—DRAWBRIDGE OPERATION REGULATIONS**

1. The authority citation for part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. In §117.997, paragraphs (g)(2) introductory text, (g)(3) and (g)(4) are revised to read as follows:

**§ 117.997 Atlantic Intracoastal Waterway, South Branch of the Elizabeth River to the Albermarle and Chesapeake Canal.**

\* \* \* \* \*

- (g) \* \* \*
  - (1) \* \* \*
  - (2) From 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., Monday through Friday, except Federal holidays:
    - (i) \* \* \*
    - (ii) \* \* \*
  - (3) From 9 a.m. to 4 p.m., Monday to Friday, except Federal holidays, the draw need be opened every hour on the hour.
  - (4) If any vessel is approaching the bridge and cannot reach the draw exactly on the hour, the drawtender may delay the opening up to ten minutes past the hour for the passage of the approaching vessel and any other vessels that are waiting to pass.
- \* \* \* \* \*

Dated: May 2, 2005.  
**Lawrence J. Bowling,**  
*Captain, United States Coast Guard, Acting Commander, Fifth Coast Guard District.*  
[FR Doc. 05–9303 Filed 5–9–05; 8:45 am]

BILLING CODE 4910–15–P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 635**

[I.D. 040605D]

**Atlantic Highly Migratory Species; Commercial Shark Management Measures**

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

**ACTION:** Receipt of a petition for rulemaking; request for comments.

**SUMMARY:** NMFS announces the receipt of, and requests public comment on, a petition from the North Carolina Department of Environment and Natural Resources, Division of Marine Fisheries (Petitioner) to initiate rulemaking to amend the extent of the current time/area closure for Atlantic sharks off the Mid-Atlantic region.

**DATES:** Written comments must be received no later than 5 p.m., eastern standard time, on July 11, 2005.

**ADDRESSES:** Written comments on the petition should be sent to Jackie Wilson, Highly Migratory Species Management Division:

- E-mail: *SF1.040605D@noaa.gov*.
- Mail: 1315 East-West Highway, Silver Spring, MD 20910. Please mark the outside of the envelope "Comments on Petition for Rulemaking for Sharks."
- Fax: 301–713–1917.

• Federal e-Rulemaking Portal: <http://www.regulations.gov>. Include in the subject line the following identifier: I.D. 040605D.

Copies of the petition are available upon request at the address specified above and are also available on the internet at <http://www.nmfs.noaa.gov/sfa/hms>.

**FOR FURTHER INFORMATION CONTACT:** Jackie Wilson or Karyl Brewster-Geisz by phone: 301-713-2347 or by fax: 301-713-1917.

**SUPPLEMENTARY INFORMATION:**

**Petition for Rulemaking**

On March 7, 2005, NMFS received a request from the Petitioner to initiate rulemaking for a regulatory amendment to 50 CFR 635.2 in the definition of the "Mid-Atlantic shark closed area." The proposal would reduce the current closed area by changing the boundary from 55 fathoms to only include waters out to 15 fathoms coastwide for North Carolina. The Petitioner has stated that this action would allow North Carolina fishermen access to the larger sharks in deeper waters from 15 to 55 fathoms and minimize discards of juvenile and protected sharks to a reasonable extent. The Petitioner states that the available data suggest that juvenile sharks occur predominately near shore. Thus, the Petitioner proposes that closing out to 15 fathoms along the entire North Carolina coastline instead of out to 55 fathoms for the northern part of North Carolina will still attain the management goal of protecting juvenile sandbar and prohibited dusky sharks. The Petitioner believes that the offshore extent of the current closed area encompasses the primary shark fishing grounds off North Carolina and severely restricts access to the shark quota off North Carolina, particularly during the first trimester.

The Petitioner asserts that the current time/area closure off of North Carolina is not justified based on available data, and has been implemented in violation of at least three National Standards (e.g., 14, 8, and 10) of the Magnuson-Stevens Fishery Conservation and Management Act. The Petitioner notes that the proposed change could address the above concerns and have positive significant economic benefits to fishermen, dealers, and fishing communities in the South Atlantic.

During the proposed rule stage of Amendment 1 (August 1, 2003, 68 FR 45196) of the Highly Migratory Species Fishery Management Plan, NMFS took comment on a much larger time/area closure (31,387 square nautical miles from VA to SC) than the current time/

area closure. Based on comments from fishermen, NMFS conducted additional analyses and adjusted the time/area closure's seaward boundary to follow the 60 to 80 fathom contour (4,490 square nautical miles). This area was selected to include all observed catches of dusky and sandbar sharks while mitigating social and economic impacts on fishing communities in North Carolina compared to the originally proposed closed area. The analyses conducted in Amendment 1 indicated that the current time/area closure should reduce dusky shark catch by 79 percent, and neonate and juvenile sandbar shark catch by 55 percent. Because the rebuilding plan for large coastal sharks (LCS) incorporated the mortality reductions anticipated for the existing time/area closure, it is possible that changes to the closure of the magnitude suggested by the Petitioner would require an amendment to the rebuilding plan.

In the final rule, NMFS also delayed implementation of the time/area closure for a year to allow fishermen time to adjust to the new regulations (December 24, 2003, 68 FR 74746). Thus, this closure has not yet been in place for a full year.

The Petitioner notes that North Carolina's interest in changing the time/area closure is on record. In addition, on March 23, 2005, the Petitioner presented this issue to the HMS Advisory Panel (AP), stating that the time/area closure disproportionately affects fishermen operating from home ports in the State of North Carolina. AP members noted that the LCS stock assessments determined that sandbar and dusky sharks have been overfished and are not currently rebuilt, thus warranting further management actions to rebuild these stocks. AP members also stated that any amendment to the current time/area closure must not increase mortality on large juvenile sandbar or dusky sharks because rebuilding these stocks requires lowering the mortality rate of large juveniles. AP members also discussed alternatives, such as the Atlantic States Marine Fisheries Commission working with other East Coast states for more statewide compliance with regulations at least as restrictive as Federal regulations.

**Request for Comments**

NMFS solicits comments from the public regarding the need to proceed with rulemaking to amend the current Mid-Atlantic shark closed area. NMFS is specifically requesting that the public provide comments on the social, economic, and biological impacts that a potential regulatory amendment to the

closure would have on the LCS rebuilding plan. NMFS will consider this public input in determining the need to amend regulations.

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

Dated: May 3, 2005.

**Alan D. Risenhoover,**

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

[FR Doc. 05-9332 Filed 5-9-05; 8:45 am]

**BILLING CODE 3510-22-S**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 697**

[Docket No. 050329085-5085-01; I.D. 032305A]

**RIN 0648-AT31**

**Atlantic Coastal Fisheries Cooperative Management Act Provisions; American Lobster Fishery**

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

**ACTION:** Advance Notice of Proposed Rulemaking (ANPR), Notice of Intent (NOI) to combine rulemaking and prepare an Environmental Impact Statement (EIS); request for comments.

**SUMMARY:** NMFS announces its intent to consider revisions to the Federal lobster regulations in response to the effort control recommendations of the Atlantic States Marine Fisheries Commission (Commission) in Addenda II, III, IV, V and VI to Amendment 3 of the Interstate Fishery Management Plan for American Lobster (ISFMP), and prepare an EIS to assess the impact on the human environment of controlling fishing effort in the American lobster fishery, in the U.S. Exclusive Economic Zone (EEZ). Written comments are requested from the public regarding issues that NMFS should address in this EIS relative to fishing effort reduction measures as proposed in Addenda II through VI.

**DATES:** Written comments must be received no later than 5 p.m. Eastern Standard Time on or before June 9, 2005.

**ADDRESSES:** Written comments should be sent to Harold C. Mears, Director, State, Federal, and Constituent Programs Office, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930. Comments may also be sent via email at [Lob0105@noaa.gov](mailto:Lob0105@noaa.gov), via fax (978) 281-