

communications (demarches) were sent to longlining states (and Taiwan) announcing the workshop and requesting information on sea turtle interactions in their longline fisheries. The workshop was attended by 197 countries. Additionally, the workshop and other sea turtle initiatives have been promoted in regional fisheries management and bilateral meetings.

Scientific activities undertaken in support of the NMFS sea turtle workshop include an October 2002, NMFS staff review of preliminary results of on-going research relating to the reduction of sea turtle bycatch in longline fisheries. The results of this in-house review were presented during sea turtle discussions in November 2002 at the Second International Fisher's Forum to Reduce Bycatch of Sea Turtles and Seabirds in Longline Fisheries. This information was updated as necessary and was presented at the February 2003 NMFS international technical workshop on sea turtle bycatch in longline fisheries. The February 2003 workshop, held in Seattle, WA, included participants representing 20 nations. The purpose of convening the workshop was to share information on global longline fisheries and to share ideas and information on experiments and solutions to reduce the bycatch of turtles in longline fisheries where interactions occur.

b. *International Communications Relating to Sea Turtles, Sharks and Seabirds.* The United States has communicated through diplomatic channels with flag states with significant longline fleets (and Taiwan). As noted above, a demarche relating to sea turtles was made that emphasized the international nature of the sea turtle bycatch problem in longline fisheries, described steps that the United States is taking to address this problem, and requested that recipients provide information relative to sea turtle bycatch in longline fisheries. The demarche announced the date and location of the International Longline Sea Turtle Bycatch Technical Workshop. The United States will also make similar demarches to Executive Secretaries (or equivalent) of regional fisheries management organizations or arrangements in whose area of operation longline fishing occurs during 2002.

Demarches have also been made to flag states with significant longline fleets (and Taiwan) that requested information on the status of implementing the IPOAs for Seabirds and Sharks. In these communications, the United States encouraged: development and implementation of National Plans of Action for Seabirds, to

promote the reduction of incidental catch of seabirds in longline fisheries where it occurs; and development and implementation of National Plans of Actions for Sharks, to promote the conservation and management of sharks and call attention to the international issue of shark finning. Additionally, the United States committed to provide information on topics relating to these IPOAs, including information that may be of use to states developing a National Plan of Action (NPOA) for Seabirds and an NPOA for Sharks. This communication provided an overview of the U.S. Shark Finning Prohibition Act.

During 2002, the United States has used current and new regional fishery management organizations (RFMOs) and existing bilateral relationships to call attention to the international problems of sea turtle bycatch and incidental catch of seabirds and sharks in longline fisheries. The United States continues to promote international cooperative efforts to collect standardized information on the incidence of sea turtle bycatch in longline fisheries and the technical workshop has been promoted as one forum to receive and consider such information.

In conclusion, NMFS has made significant progress on research and management measures to reduce bycatch and NMFS is committed to further expansion of these activities.

Agency Decision

After carefully considering all public comment, the Assistant Administrator for Fisheries has determined that the four-part program requested by the petition does not lend itself to specific rulemaking at this time. NMFS recognizes that the agency must continue to address bycatch in many domestic and international fisheries; however, given the vast array of characteristics among individual fisheries (including gear usage, fishing conditions, and other factors) and ongoing initiatives, we do not believe that global/national rulemaking as requested by Oceana is appropriate. Instead, NMFS believes in a regional approach working through the existing regulatory processes of the appropriate legal authority. NMFS will continue working with RFMCs, RFMOs, states, and other partners and constituents to address bycatch and will renew and revise, as explained below, the agency's strategy to combat bycatch both domestically and worldwide. Actions not subject to the MSA RFMC process will be carried out directly by NMFS.

NMFS believes that appropriate avenues exist for fisheries rulemaking to

address bycatch through the deliberative, public RFMC or Atlantic Highly Migratory Species Division process under the MSA, the ASMFC and the ACFCMA, the Take Reduction Teams under the MMPA, the ESA, and in support of the MBTA. NMFS believes that these processes and authorities should continue to be used to address specific bycatch problems rather than the petition process for comprehensive rulemaking. In addition, there is much that we have been doing and plan to do to address bycatch that is outside the purview of regulatory action, e.g., research for bycatch mitigation technology, international efforts, and voluntary use of observers.

NMFS National Bycatch Strategy

NMFS published a comprehensive national bycatch plan in 1998 entitled *Managing the Nation's Bycatch*. This plan defines bycatch as "Discarded catch of any living marine resource plus retained incidental catch and unobserved mortality due to a direct encounter with fishing gear." It is more inclusive than the definition of bycatch in the MSA because: (1) the plan's definition includes living marine resources other than "fish" as defined in the MSA (i.e., the plan's definition includes marine mammals and seabirds); (2) the plan's definition includes retained catch of non-target species, the MSA does not; and (3) the plan's definition includes fishing mortality of living marine resources that are not captured, but die after a direct encounter with fishing gear, the MSA does not. The plan's definition is also more inclusive than the definition of bycatch as used in the petition which refers to "the incidental catch of birds, mammals, turtles, and fish." It is also important to note that the plan addresses bycatch as occurring in recreational and subsistence fisheries as well as commercial fishing operations.

The 1998 plan was developed over an 18-month period by a planning team composed of fisheries managers and scientists from all of NMFS' administrative regions. The public participated in the development of this plan; NMFS carefully considered comments from 36 organizations or individuals in response to a March 1997 notice of availability published in the **Federal Register**. Seven national objectives are listed in the plan as supporting achievement of NMFS' national bycatch goal (i.e., "to implement conservation and management measures for living marine resources that will minimize, to the extent practicable, bycatch and the mortality of bycatch that cannot be