

Response: Workshops demonstrating proper handling and release techniques for finfish, sharks, and protected resources, and discussing regulations and species identification could reduce bycatch mortality, improve compliance with current regulations, and improve accuracy of reported data. NMFS intends to move forward with requiring participation in mandatory workshops in a future rulemaking and will attempt to make voluntary workshops available to the public in the interim.

C. Authorized Gears

Comment 1: NMFS received a range of comments regarding authorized gears, including: We support the preferred alternative. Recreational fishing techniques should be limited to rod and reel and handlines. Spearfishing gear should also be added to the list of allowable recreational fishing gears. Bandit gear is not appropriate for the recreational fishery. Bandit gear should be an allowable gear. Harpoon gear should be added to the list because many fishermen feel it is easier and safer to use harpoons than gaffs.

Response: Rod and reel and handline gear are appropriate gears for the recreational shark fishery, because they have lower bycatch and bycatch mortality of sharks, finfish, and protected species, and are being used in other recreational HMS fisheries. Bandit gear was not selected because it has traditionally been considered a commercial fishing gear and because the vast majority of recreational fishermen use rod and reel or handline gear. Spearfishing gear has not been an allowable gear in the recreational shark fishery and therefore was not included. However, implements used to secure rod and reel or handline catches alongside a vessel (e.g., gaffs and harpoons) are being allowed.

Comment 2: Limiting the recreational fishery to handline and rod and reel would prohibit landings by recreational gillnet fishermen.

Response: This is correct. All sharks caught recreationally with gears other than rod and reel and handline in Federal waters must be released. NMFS does not believe that this measure will increase discards substantially, because the vast majority of recreational fishermen already use rod and reel or handline gear and recreational fishermen, including those using gillnets, have been limited to one shark per vessel per trip since 1999.

Comment 3: NMFS should provide a provision that would allow disabled anglers who cannot hold the gear to fish.

Response: NMFS will continue to allow fishermen who are unable to

operate rod and reel or handline gear to apply for an EFP that would allow them to fish for sharks recreationally with alternative gear.

4. Bycatch Reduction Management Measures

A. Gear Restrictions

i. Authorized gear.

Comment 1: NMFS received a range of comments regarding the proposed regulation to ban drift gillnet fishing and allow strikenet fishing only, including: Strikenetting and drift gillnetting should be stopped. No observations of these gear types is accurate. Because of bycatch problems, many states have passed regulations banning drift gillnets; therefore, NMFS should as well. Gillnets should not be allowed because, in addition to unacceptable levels of bycatch of sea turtles, marine mammals, red drum, tarpon, and other game fish, the small shark gillnet fishery in Federal waters off Georgia drains limited law enforcement resources that are needed elsewhere. We support the preferred alternative allowing strikenets only if observer coverage is maintained to document a reduction in bycatch. If there is no reduction, this gear type should be removed from the list of authorized gear types. There is no reason to close the shark gillnet fishery because bycatch of protected resources is within the allowance for those species. NMFS should not eliminate a viable fishery that has reliable observer science behind it. There are only five vessels remaining in the fishery, which is down from the historic twelve vessels that used to participate.

Response: The intent of the proposed bycatch alternatives were to minimize bycatch and bycatch mortality to the extent practicable. The strikenet only alternative minimizes interactions with protected resources and reduces the bycatch of non-target species, while allowing the commercial shark gillnet fishery to operate. However, NMFS received public comment that allowing the use of strikenets only would not accomplish this objective because strikenet gear cannot target SCS. Therefore, the final regulations permit the use of drift gillnets with possible gear modifications or other measures being implemented through a future rulemaking, based upon further study.

Comment 2: The State of Georgia has requested a ban on gillnets since 1992 and continues to request this ban. Because Georgia has banned gillnets, the presence of a gillnet fishery in adjacent Federal waters compromises State management and regulatory statutes and

does not meet the standards for consistency required under Georgia's Coastal Zone Management Act (CZMA) program. Using Global Positioning System (GPS) technology, it may be possible for NMFS to close the Exclusive Economic Zone (EEZ) to gillnets adjacent to Georgia to alleviate ongoing consistency and enforcement problems.

Response: The CZMA (1972, reauthorized 1996) requires that Federal actions be consistent with the enforceable policies of all state coastal zone management programs. NMFS has determined that the final actions in Amendment 1 and this rule, which seek to rebuild the LCS complex, prevent overfishing of the LCS complex, and prevent overfishing of other species of sharks, will be implemented in a manner consistent to the maximum extent practicable with the enforceable policies of the coastal states in the Atlantic, Gulf of Mexico, and Caribbean that have federally approved coastal zone management programs.

The State of Georgia objects to the consistency determination due to the continuing operation of the shark gillnet fishery in Federal waters. NMFS has analyzed several bycatch alternatives in Amendment 1, including elimination of the shark gillnet fishery. However, data currently available indicate relatively low rates of bycatch and bycatch mortality of protected species and other finfish in this fishery. In the Biological Opinion (BiOp) conducted for this rulemaking, NMFS determined that the continued operation of the shark gillnet fishery would not jeopardize any endangered or threatened resources and issued a new incidental take statement for the fishery. Therefore, NMFS is not prohibiting the use of this gear at this time, consistent with National Standard 2 which requires that management measures be based on the best scientific information available. NMFS is finalizing a measure that will require all shark gillnet vessels to install and activate a VMS during right whale calving season, and will examine gear modifications or other alternatives to reduce bycatch and bycatch mortality in future rulemakings. NMFS will also work with existing take reduction teams and relevant Fishery Management Councils to examine methods of reducing bycatch. Thus, NMFS finds that the final regulations implemented in Amendment 1 are consistent with Georgia's Coastal Zone Management Program to the maximum extent practicable.

Comment 3: If only strikenetting is allowed, the State of Georgia would continue to ask for 100 percent observer