

coverage because the reduction of bycatch using strikenet gear in or near Georgia waters has not been adequately investigated. Unlike the waters off Florida, the waters off Georgia are highly turbid. Without adequate observer data, allowing strikenetting for sharks is not a risk-averse strategy to reduce bycatch.

*Response:* This rule does not remove gillnet gear from the list of authorized gears in the commercial shark fishery. The Agency understands the concerns about the need for adequate observer data documenting gillnet operations and catch near Georgia waters and will continue to monitor catch and bycatch, protected species interactions, and fishery characteristics through continued observer coverage.

*Comment 4:* Many states ban both longline and gillnetting without adequate data. If longlines are allowed in Federal waters, then gillnets should similarly be allowed.

*Response:* NMFS has banned gear types (e.g., gillnets in the swordfish fishery) and restricted the use of other gear types (e.g., area closures in the pelagic longline fishery) for a variety of reasons including reducing bycatch and bycatch mortality. In this case, NMFS is not removing gillnet gear from the list of authorized gears at this time.

*Comment 5:* Blacktip and Atlantic sharpnose sharks make up the majority of our drift gillnet landings and are not overfished or experiencing overfishing according to the latest stock assessments. Our biggest discard species in the LCS fishery are rays. In the small coastal shark fishery, our biggest discard species is king mackerel and we have petitioned the South Atlantic Fishery Management Council to allow us to retain more of this catch per trip.

*Response:* The latest LCS and SCS stock assessments indicate that Atlantic sharpnose and blacktip sharks are not overfished and overfishing is not occurring. In regard to the reduction of bycatch and discards, NMFS supports the reduction of bycatch, including regulatory discards, in HMS fisheries. According to 2002 shark gillnet fishery observer data, king mackerel was observed to be the species most commonly discarded from drift gillnet sets, with approximately 248 fish discarded; however, great barracuda (approximately 4 fish) and cownose rays (one fish) were observed to be the most commonly discarded species from strikenet sets. Little tunny, king mackerel, and great barracuda were the three non-target species most commonly observed caught in the shark gillnet fishery in 2002. In a future rulemaking, NMFS will consider additional

alternatives such as gear modifications to reduce bycatch of all species in the gillnet fishery.

*Comment 6:* The preferred alternative allowing only strikenet gear appears as if the Agency is trying to supercede the actions of both the Atlantic Large Whale Take Reduction Plan and the Bottlenose Dolphin Take Reduction Plan. Negotiated actions with members working on these plans are about to become final. If NMFS eliminates the use of gillnet gear, it would be wrong and set a dangerous precedent. Instead, NMFS should start a buyout program for these vessels and regularly attend take reduction plan meetings. There is no support from either take reduction team to ban drift gillnetting.

*Response:* As part of this rulemaking, NMFS analyzed the impacts of various bycatch alternatives on bycatch species and protected resources in an attempt to minimize bycatch and bycatch mortality in HMS fisheries to the extent practicable. In this final action, NMFS is not implementing measures to limit or remove gillnet gear from the list of authorized gears. A buyout program is beyond the scope of this rulemaking, but could be considered in the future should funding become available.

*Comment 7:* The only way to fish for small sharpnose sharks is with a drift gillnet in deep water. Strikenet gear will not work because it only catches large coastal sharks.

*Response:* NMFS has reviewed available shark gillnet fishery observer data and agrees that strikenet gear does not appear to be effective at catching Atlantic sharpnose sharks. For this reason, and reasons discussed above, drift gillnet gear will not be banned in this rulemaking.

*Comment 8:* Enforcement efforts in the EEZ could be complicated due to similarities between drift gillnet and strikenet gear.

*Response:* NMFS agrees that enforcement efforts could be complicated due to similarities between drift gillnet and strikenet gear. For this reason, and reasons discussed above, drift gillnet gear will not be banned in this rulemaking.

*Comment 9:* The five vessels actively using drift gillnet should be given gillnet endorsements on their directed shark permits to limit entry into the fishery. NMFS should consider allowing the five fishing vessels currently in the fishery to continue and prevent any new vessels from entering the fishery.

*Response:* NMFS did not consider specific permit endorsements in this rulemaking, but may consider options to limit vessel participation in the shark gillnet fishery in the future.

*Comment 10:* NMFS received several comments regarding the modification of shark gillnet gear to reduce protected resources interactions. The comments include: Instead of banning the gear, NMFS should reduce the allowable length of the gear. NMFS should consider gear modifications to reduce bycatch. My vessel accounted for a large number of interactions between marine mammals and sea turtles until I replaced a large section of my gear; while I still have some interactions with them, they swim away unharmed and are observed to be healthy. I used new gear this past summer with tighter mesh and this increased my sharpnose catch and decreased my interactions with protected species. Fishermen who use shark drift gillnet gear have adapted their gear using corks to keep the gear high in the water and allow any entangled turtles to get to the surface and survive. Fishermen who do not usually fish in the fishery or who use stab nets are the fishermen who catch dead turtles. Instead of banning drift gillnets, NMFS should consider the use of pingers to reduce interactions with protected species.

*Response:* Gear modifications have been shown to be effective in other fisheries; however, some modification measures can be difficult to enforce or can be circumvented by altering fishing patterns, resulting in no bycatch reduction. NMFS continues to support research projects regarding effectiveness of gear modifications, to the extent that funding allows, and will consider the possibility gear modifications in a future rulemaking.

*Comment 11:* NMFS received several comments regarding sea turtle interactions in the shark gillnet fishery. The comments include: In terms of actual numbers, relatively few sea turtles have been captured in the shark gillnet fisheries. While this fishery is supposed to have high levels of observer coverage, this is not always the case. As noted in the June 2001 BiOp, this fishery can have a large impact on leatherback sea turtles at a time when reproductive females are in the area. I have been fishing 18 years and carried an observer for 10 years; in those 10 years, I have only caught one sea turtle.

*Response:* The best available information indicates that relatively few sea turtles have been captured in the shark gillnet fishery. The October 2003 BiOp estimated that over a five-year period the expected take of sea turtles in the shark gillnet fishery would be 10 total loggerhead sea turtle captures with one mortality, and 22 total leatherback sea turtles captures with three mortalities. The BiOp concluded that