

the continued operation of the shark fisheries, including the shark gillnet fishery, are not likely to jeopardize the continued existence of the endangered Kemp's Ridley, green, hawksbill, and leatherback sea turtles, and the threatened loggerhead sea turtle. Although there were multiple interactions with leatherback turtles during 2001, NMFS believes this was an anomalous event, possibly associated with changes in environmental conditions. NMFS believes that events such as this can be mitigated through observer coverage, gear modifications, and enforcement.

Comment 12: I can strike at sharks without "striking" as you define it. I do not use the second vessel.

Response: NMFS is aware that some vessels have experimented with setting strikenet without using a second vessel. To the extent that these methods are more economical for fishermen, NMFS supports these methods. However, the use of shark strikenet gear in a method inconsistent with the current definitions inside the restricted area could constitute a violation. Requirements for strikenet vessels operating in the restricted area are described in the Atlantic Large Whale Take Reduction Plan regulations.

Comment 13: NMFS says that only six vessels are in the drift gillnet fishery. There are actually about a dozen that would be affected.

Response: The best available information indicates that there are five vessels that actively target sharks in the shark gillnet fishery. NMFS believes that there are a number of fishermen who land sharks incidental to their target species in other gillnet fisheries (e.g., bluefish, croaker, mackerel). All of these fishermen are affected by the general management measures such as changes in the commercial quota and the establishment of regional quotas. However, only those fishermen who actively targeted sharks would have been affected by the proposed measure to prohibit drift gillnet gear. NMFS is not finalizing that prohibition in this rule.

Comment 14: The bycatch of red drum in the shark gillnet fishery is of serious concern, given interstate effort to reduce bycatch of this species. Red drum is an overfished species whose harvest is strictly regulated with slot limits to promote its recovery.

Response: Red drum is caught incidentally in the shark gillnet fishery. However, the limited amounts of observed bycatch of this species in the shark gillnet fishery is not expected to impede recovery of the stock. Observer data indicate that the shark gillnet

fishery does not catch large numbers of red drum. In 2002, 28 red drum were observed caught, of which, 50 percent were released alive.

Comment 15: Finetooth sharks are rare in trawl catches off Georgia. However, significant numbers are taken by the shark drift gillnet fishery. Elimination of the shark drift gillnet fishery would contribute towards reducing the overfishing of finetooth sharks.

Response: The shark gillnet fishery has been observed to target Atlantic sharpnose and blacktip sharks. Elimination of the shark drift gillnet fishery would not be expected to reduce significantly overfishing of finetooth sharks, because they are not a target species. In 2002, 21,978 sharks were observed caught in the shark gillnet fishery. Of those sharks observed caught, 1,615 (7.3 percent) were finetooth sharks.

Comment 16: The Atlantic sharpnose I catch have stomachs full of juvenile sea turtles. NMFS should calculate how many sea turtles are saved by allowing the drift gillnet fishery to continue.

Response: NMFS is concerned with all sources of mortality for protected resources and realizes that the ecosystem as a whole needs to be considered when rebuilding species. However, NMFS' can only influence and mitigate anthropogenic sources of mortality, specifically, those due to interactions with fishing gear within NMFS' jurisdiction.

ii. VMS.

Comment 1: The use of VMS on bottom longline and gillnet vessels, combined with time/area closures to protect juveniles, may help reduce mortality of vulnerable shark stocks beyond what the quota cuts will achieve.

Response: The preferred time/area closure is designed to reduce bycatch and mortality of neonate and juvenile dusky and sandbar sharks in a known pupping and nursery area. The preferred time/area closure could reduce fishing mortality on the stages that contribute the most to population growth. The use of VMS on shark bottom longline and gillnet vessels will contribute to the enforcement of time/area closures and may enhance the rebuilding of LCS to maximum sustainable yield.

Comment 2: As a gillnet fisherman, I prefer observers over VMS.

Response: While NMFS understands that individual fishermen may prefer using observers over VMS, the VMS alternative is preferred as an aid in enforcing time/area closures. Fishery observers are used to monitor catch and bycatch, protected species interactions,

and fishery characteristics, and not used specifically for enforcement purposes.

Comment 3: One commenter was concerned with the utilization of VMS to monitor activities when vessels are engaged in normal fishing operations and not operating illegally.

Response: Currently, VMS is used in many fisheries managed by NMFS. VMS is the best technology at this time for monitoring vessel locations. It can be used by NMFS to reduce observer program costs, improve the enforcement of time/area closures, to deter illegal fishing, and to increase the efficiency of surveillance patrols. With respect to the shark gillnet and bottom longline time/area closures in particular, the size of the closed areas significantly diminishes the likelihood of detection through conventional means. Traditional methods of surveillance in these areas would be cost prohibitive. Other possible benefits of the VMS include increased safety at sea and dependable and confidential communications.

Comment 4: If VMS is implemented, NMFS should hold operators, not vessel owners, responsible for violations because the owner has little control over what the operator does with the vessel once it leaves the dock.

Response: NMFS is aware of vessel owners' concerns, however, for enforcement purposes, both vessel owners and operators will continue to be subject to liability for violations. Vessel owners can employ or terminate operators based on their compliance with fishery regulations.

Comment 5: VMS should be phased in to reduce negative economic impacts and blended with a communication adaptation that the U.S. Coast Guard uses as a homeland security technique.

Response: The VMS requirement will only be required for five shark gillnet vessels and any shark bottom longline vessels operating near the time/area closure (approximately 14 vessels). Because this measure will be required for only a select few vessels, it can be implemented with minimal economic impacts and will not affect the vast majority of the shark fishing fleet. To minimize impacts and to give time to NMFS to issue a type approval notice, NMFS is delaying the effective date of VMS in the shark fishery. In regards to communications adaptations and uses of VMS for homeland security, NMFS supports these uses.

Comment 6: NMFS received several comments regarding the number of vessels required to install and activate a VMS unit. The comments include: VMS is required for all pelagic longline vessels, why would it only be required for a portion of the bottom longline