

trawling in coastal bays, then the fishery may support higher quotas.

Response: Because sharks use both estuarine and coastal inshore habitats, their EFH may be negatively impacted by fisheries that target species other than sharks. These fisheries may be either state or Federally managed. In particular, shark pupping and nursery habitats may be subjected to fishing impacts from gears of other fisheries, e.g., shrimp trawling, but the degree of overlap between the various trawl fisheries and shark EFH, the extent to which habitat is altered by these gears, and the resulting impact on EFH are currently not known. Further research would be required to determine habitat-related production rates for sharks (the highest, most refined level of information available with which to identify EFH, and which is currently not available for sharks) and the potential impact of other fisheries on these production rates. Even if clamming or trawling were limited in some way to reduce impacts on shark EFH, the decision to raise quotas would only be made after appropriate stock assessments were conducted to determine whether the status of the stock had improved as a result of the conservation and enhancement actions.

Comment 2: NMFS should identify EFH based on the entire geographic range of the species.

Response: The EFH final rule recommends distinguishing EFH from all habitats potentially used by a species (50 CFR 600.815(a)(1)(iv)(A)). NMFS considered identifying EFH based on the entire geographic range of the species, but because specific information from scientists, observers, and tagging programs was available, decided to identify EFH more precisely based on observed distributions and knowledge about habitat requirements of individual species. The final action identifies EFH based on an initial analysis of 100 percent of the observed distribution, which may then either be expanded or reduced based on the status of the stock. If new information is not available, the existing EFH identifications would be maintained. The basis for this alternative is to provide flexibility to increase or decrease the extent of EFH based on the status of the stock. Since overfished resources are considered to be at greater risk, the percentage of habitat identified as EFH for overfished species would be greater than that of fully fished or not overfished species. Identifying the entire range could potentially have resulted in inclusion of the entire EEZ for certain species, which would include more than the range of areas

necessary for spawning, feeding, breeding and growth to maturity as defined in the EFH regulations. Areas currently identified as EFH in Amendment 1 are based upon the best available science and represent the most accurate identification of EFH.

Comment 3: We support the use of the preferred alternatives to identify EFH as specifically as possible and the use of data to increase or decrease the identifications for each species.

Response: The final action provides an objective way of identifying EFH, and allows for the expansion or contraction of EFH based on the status of a particular species or life stage. For example, for overfished species, 90 percent of the range of distribution could hypothetically be identified as EFH, and for a species that is not overfished, 75 percent of the range of distribution might be identified as EFH.

Comment 4: Sandbar shark EFH should include areas in the northern Gulf of Mexico.

Response: Current sandbar shark EFH for all life stages includes areas in the northeastern Gulf of Mexico from Key West, Florida, as far west as Cape San Blas, Florida, on the Florida Gulf coast at 80° 15' North, including Apalachicola Bay, Florida. NMFS did not have sufficient information to include areas farther west at this time.

Comment 5: NMFS should work with Mexico and Cuba to include their waters as EFH. Twenty percent of all dusky shark tags are returned from Mexico after having been tagged in the mid-Atlantic region. Expanding EFH would help present all information possible about EFH throughout the immediate range.

Response: Habitats that satisfy the criteria in the Magnuson-Stevens Act and the EFH regulations have been identified and described as EFH; some additional habitats may lie outside the U.S. EEZ, and therefore cannot be identified as EFH under the Magnuson-Stevens Act. Instead, these areas may be highlighted as particularly important habitats and actions that may adversely affect the habitat may be addressed through international agreements as recommended in the EFH regulations (50 CFR 600.805(b)(2)). The U.S. has engaged in discussions with Mexico regarding fisheries issues in the past, and met again October 22–24, 2003, for U.S. Mexico Bilateral Consultations in Mazatlan, Mexico. Currently the U.S. does not have diplomatic relations with Cuba, and working cooperatively to determine shark habitat in Cuban waters would be difficult.

Comment 6: The Amendment discusses changes to EFH based on

human impacts but does not discuss natural impacts such as red tide or rising temperatures.

Response: Both red tide and rising temperatures may influence EFH. Red tides may have a short term impact by altering distribution of organisms, and temperature rise may have a long term influence by changing the distribution and abundance of predators and prey, benthic and water column habitat characteristics, and a host of other related issues. Red tides and rising temperatures have been linked to human activities, and as such, the final Amendment includes conservation measures that could reduce the runoff of coastal pollution which may influence or exacerbate red tides, and discusses many other influencing factors that are land-based and may have an impact on coastal waters and EFH.

7. The Stock Assessments and the Status of the Sharks

Comment 1: NMFS received a range of comments regarding the current abundance of sharks. One commenter noted that a research scientist told him that there are plenty of sharks and that the scientist has seen more in his research this year than in other years. Another commenter noted that he no longer sees as many large coastal sharks as he used to and that shark harvesting should be stopped.

Response: Because of a number of factors including, but not limited to, environmental changes, the gear used, the random sampling scheme used, and past experience of the fisherman, the number of sharks seen by one person or in one year of a time series compared to other years or other people can vary. The models used in the 2002 large and small coastal shark stock assessments take this variation into account when examining the data provided by fishermen and scientists and are considered to be the best available science and an appropriate basis for management action.

Comment 2: How could blacktip sharks be overfished in 1998 and now be rebuilt?

Response: As a result of a settlement agreement with commercial fishermen, NMFS had the 1998 LCS stock assessment peer reviewed. Those reviews found that the scientific conclusions and recommendations in the 1998 stock assessment were not based on scientifically reasonable uses of appropriate stock assessment techniques. As a result of these peer reviews, NMFS went back to the 1998 stock assessment and conducted a number of sensitivity analyses on the data and the models used at that time.