

Mexico Fishery Management Council to monitor the situation and, as needed, examine methods of reducing bycatch of sharks in this fishery.

*Comment 9:* The two species that have been assessed outside the LCS complex have been shown to be not overfished; NMFS needs to assess the other 20 LCS species to find out what their status is. All LCS, except sandbar and blacktip sharks, are considered overfished. Some of these species are rare event animals in the ecosystem; they have never, nor will ever be, overfished because they cannot be targeted in U.S. waters. These species should not be considered overfished. Despite 10 years of management, NMFS has failed to conduct species-specific assessments for all LCS. Similarly, some of the prohibited LCS, such as bigeye sand tiger and narrowtooth sharks, are listed as overfished but should not be. These animals are rarely caught or found in U.S. waters.

*Response:* NMFS continues to collect species-specific data in support of species-specific stock assessments. To date, NMFS has conducted individual stock assessments for sandbar, blacktip, Atlantic sharpnose, finetooth, blacknose, and bonnethead sharks. As additional biological and fishery-related data become available, NMFS will conduct other species-specific stock assessments. As noted in the 2002 LCS stock assessment, NMFS plans to conduct a dusky shark stock assessment in the near future. Until that time, NMFS must use the best available data to conduct stock assessments. For many species of sharks, this means conducting group stock assessments of the entire complex. These results indicate that some species in the LCS complex are in apparent decline while other species are not. Until stock assessments can be conducted on individual shark species, NMFS is implementing a mechanism that uses a number of criteria to determine if the species should be on the prohibited species list. If a species, such as narrowtooth sharks, is rarely caught but does not meet the other criteria, such as sufficient biological data to indicate a decline, then the species can be removed. However, if the species is rarely caught because its stock is depleted, the species would be added to, or maintained on, the prohibited species list.

*Comment 10:* NMFS' dusky data is incorrect and is not a true indicator of what is being caught. Juvenile dusky sharks are not caught off the east coast of Florida. Only giant dusky sharks were reported in logbooks in the past.

*Response:* The data collected on dusky sharks is from a variety of sources

including fishermen, dealers, observers, and scientists. While there may be some problems with species identification on the part of those individuals not trained, observers and scientists who have been trained to identify sharks do provide species level data. These data indicate that juvenile dusky sharks (dusky sharks do not mature until they are approximately 10 ft (3 m) FL) are caught off the east coast of Florida.

*Comment 11:* NMFS received several comments regarding the assessment results for finetooth sharks. Comments include: The data on finetooth sharks is flawed; I only land a few and there is only a small area where they are caught. Assessments for finetooth sharks can be improved with better landings and bycatch information. NMFS states that overfishing is occurring for finetooth sharks because of excessive bycatch, yet according to the SCS stock assessment, no bycatch numbers were used in the model; NMFS should improve the data on finetooth sharks.

*Response:* Results for finetooth sharks are uncertain, possibly due to limited catch and CPUE series, lack of bycatch estimates, and no catches reported in some years. NMFS is also examining which fisheries are actually landing the majority of the finetooth sharks. The majority of finetooth shark landings come from gillnets in the South Atlantic fishery; however, observer data indicate that the gillnet vessels that are known to be targeting small coastal sharks, including finetooth sharks, do not land as many finetooth sharks as are reported. Given the uncertainty of the results of the models and the need to collect information on these non-HMS fisheries that are landing finetooth sharks, NMFS intends to prevent overfishing of finetooth sharks by improving species-identification, particularly by recreational fishermen, and working with the Fishery Management Councils to identify and improve monitoring of fisheries that land finetooth sharks.

*Comment 12:* NMFS received several comments regarding future assessments. Comments included: NMFS should use an assessment protocol similar to the South Atlantic Fishery Management Council's Southeast Data and Assessment Review (SEDAR) process for future stock assessments. Species level assessments for several of the primary LCS species need to be developed as soon as possible. NMFS needs to schedule LCS and SCS stock assessments for 2004 to prepare plans for future shark issues of importance. An assessment for the pelagic shark group needs to be completed as soon as possible.

*Response:* The process for conducting shark stock assessments continues to evolve and improve over time. As new data and techniques become available, NMFS makes every effort to examine the possibility of using those data and techniques for assessing the status of sharks. Additionally, NMFS considers and will continue to consider the process of other fisheries stock assessments and the needs of the fishing communities to improve the overall stock assessment process. Under the HMS FMP, NMFS committed to hold stock assessments for each complex every two to three years. At this time, NMFS has not yet decided when the next SCS or LCS stock assessments will be conducted. However, NMFS will make every effort to ensure interested parties can attend the shark evaluation workshop. As for pelagic sharks, because of their migratory nature, NMFS is working with ICCAT to collect data and conduct an international stock assessment of several species of pelagic sharks. That stock assessment should occur in 2004.

*Comment 13:* NMFS should make efforts to document fully landings in Mexican waters and to work with that country in coordinating shark management.

*Response:* NMFS agrees and is working through international means and with Mexican scientists to improve communication and facilitate the exchange of data.

## 8. Economic Impacts

*Comment 1:* NMFS received several comments regarding the range of economic impacts that should be analyzed. Comments included: NMFS should focus on the probability of extinction of sharks instead of the economic impacts on commercial fishermen. NMFS should not focus on the economic impacts on commercial fishermen but on U.S. citizens as a whole.

*Response:* In this rulemaking, NMFS considered the status and biology of the stock, the ecological impacts of management measures, and social and economic impacts, as required under the National Environmental Policy Act, 1969 (42 U.S.C. 4321 *et seq.*), Regulatory Flexibility Act, 1980 (5 U.S.C. 601 *et seq.*), Small Business Regulatory Enforcement Fairness Act, 1996 (5 U.S.C. 801 *et seq.*), Regulatory Planning and Review, 1993 (Executive Order 12866), and Proper Consideration of Small Entities in Agency Rulemaking, 2002 (Executive Order 13272). NMFS conducted economic and ecological analyses in an EIS, Initial Regulatory Flexibility Analysis (IRFA), Final