

order to ensure that the final e-comment program is user-friendly and provides an adequate method of providing comments. A link to regulations that are accepting comments via the web can be found off the main NMFS Web page at: <http://www.nmfs.noaa.gov>. NMFS is also working on a system that would allow commenters to submit comments via e-mail. This system may be available for use in 2004.

*Comment 8:* NMFS received a range of comments on the rule and Amendment as a whole. Comments included: NMFS should be commended for adhering to the scientific recommendations from recent stock assessments and proposing conservation measures that have a reasonable chance to protect all shark species. This proposed rule is an encouraging step forward in the long process of rebuilding; management is on the correct path to rebuilding and sustaining this fishery. The continued communication and cooperation between various stakeholders and the inclusion of interested parties and user groups from the inception of the process has helped to ensure the success of these management measures. NMFS has proposed a rule that walks down the middle to allow for a viable commercial fishery while protecting the most vulnerable species; all the alternatives are linked to account for the 50-percent reduction that is needed. The proposed measures will not be enough catalyst to regain a healthy population across the whole spectrum of the shark species; the "collective impact of humanity" on the total population has to be addressed as well as the simplistic concept of the population being overfished.

*Response:* Management measures in this document are a step forward towards rebuilding and are a result of the participation and cooperation of various stakeholders and user groups. Consistent with the Magnuson-Stevens Act, the measures in the final Amendment and this rule are based on the best available science, will rebuild the LCS complex, prevent overfishing of Atlantic sharks, provide for commercial and recreational fisheries, and will clarify other shark-related management measures. Without these management measures, some management measures that are not based on the best available science, such as the 1999 commercial quotas, will go in place, contrary to the Magnuson-Stevens Act. NMFS will continue to work with stakeholders on issues not addressed in this rulemaking during a future rulemaking process.

*Comment 9:* NMFS received a range of comments regarding who is influencing agency decisions. One commenter noted that NMFS settled with the commercial

fishing industry but is fighting the environmental groups tooth and nail in order to protect commercial fish profits. Another commenter was concerned that NMFS is being overly influenced by environmentalists.

*Response:* Environmental groups, recreational fishermen, and commercial fishermen all had the chance to participate in the process and submit comments on the scoping documents and the Draft Amendment 1 and proposed rule. While NMFS considers these comments in selecting the alternatives, the Agency follows the mandates of the Magnuson-Stevens Act and other domestic law when finalizing actions, not the influence of particular stakeholders.

*Comment 10:* While state waters are outside of NMFS' jurisdiction, ensuring rebuilding of overfished sharks is not. NMFS must develop a strategy for working with states and state commissions to implement cooperative shark management in nearshore waters.

*Response:* NMFS will continue to work with states and the Fishery Management Councils with a goal of consistent management in mind. At the time of finalization of the HMS FMP, several states indicated their intent to develop more consistent regulations but decided to postpone their efforts due to the unstable legal environment for Federal shark management. Upon completion of this rule and during the scoping processes for future rulemakings, NMFS hopes to work with those and other states, possibly through the implementation of Memorandum of Understandings, to ensure that, at the minimum, NMFS can have access to all state shark landings and catches from all fisheries for use in future stock assessments.

*Comment 11:* NMFS must reduce bycatch and mortality of sharks in both directed and non-directed fisheries; establish a standardized bycatch reporting methodology; account for all sources of mortality when determining shark quotas and closures; and allocate levels of observer coverage that are adequate to provide statistically significant estimates of catch and bycatch.

*Response:* As described above, NMFS recently issued National Bycatch Implementation Plans for various fisheries, including HMS fisheries. Sources of shark mortality other than the directed fishery landings are included as part of the stock assessments from which the quotas were developed. Levels of observer coverage are generally set at five percent of the total effort in each fishery unless there is a concern that more coverage would

be beneficial, as is the case for the shark gillnet fishery where 100 percent observer coverage is required during the right whale calving season.

*Comment 12:* NMFS should identify and quantify the potential impacts of any HMS fisheries on seabirds so that appropriate protocols can be developed to alleviate potential chronic mortalities associated with the fishery or gear. This will be especially important in future actions associated with pelagic sharks and other components with the HMS FMP.

*Response:* Potential impacts to seabird populations should continue to be monitored and where appropriate, protocols developed to alleviate bycatch problems. Relatively few seabird interactions have been identified in the Atlantic shark fisheries. If a potential problem is identified with the pelagic longline fishery this can be addressed in a future rulemaking.

*Comment 13:* Draft documents need to ensure that detailed effort data is incorporated into the text and tables, especially regarding the bycatch of sea turtles, marine mammals, and sea birds. For example, draft Amendment 1 does not properly quantify the level of observer effort involved in documenting seabird bycatch in the Atlantic pelagic longline fishery (Table 3.38). Therefore, the conclusion that seabird interactions are relatively low holds little merit.

*Response:* The Final Amendment 1 provides an overview of the types of seabird interactions in the shark fishery. The conclusion regarding the level of seabird interactions in Amendment 1 is based on the take of a single seabird in nine years of observer data from the shark bottom longline fishery.

*Comment 14:* NMFS should increase boat and catch monitoring efforts.

*Response:* NMFS already requires 100 percent observer coverage for shark gillnet vessels operating during the right whale calving season and approximately 50 percent outside of the calving season. Observer coverage in the shark bottom longline fishery is targeted as five percent while pelagic longline vessels operating in the NED experimental area are required to carry an observer at all times. A target of five percent observer coverage for pelagic longline vessels fishing outside of the NED is in place. Additional resources would need to be identified in order to increase observer coverage.

*Comment 15:* I need time to prepare for other fisheries and hire crew between notice of the final rule and implementation.

*Response:* For a number of regulations, such as implementation of the time/area closure and VMS