

June 2007



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE

Southwest Region  
501 West Ocean Boulevard, Suite 4200  
Long Beach, California 90802- 4213

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Mr. Donald Hansen, Chair  
Pacific Fishery Management Council  
7700 NE Ambassador Place  
Portland, OR 97220

Dear Mr. Hansen:

By this letter, I am notifying the Pacific Council that with the concurrence of the Assistant Administrator for Fisheries, I have approved Amendment 1 to the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP). As you know, Amendment 1, in combination with the Western Pacific Council's Amendment 14, addresses overfishing of bigeye tuna Pacific-wide. The specific actions to end overfishing would be implemented by multilateral cooperation through appropriate regional fishery management organizations - the Inter-American Tropical Tuna Commission (IATTC) in the Eastern Pacific Ocean (EPO) and the Western and Central Pacific Fisheries Commission (WCPFC) in the Western and Central Pacific Ocean (WCPO). Taken together, proposed reductions in fishing mortality offered both by Amendment 1 and Amendment 14 would be expected to end overfishing of Pacific bigeye tuna. Amendment 1 also reorganizes the HMS FMP to create a more user-friendly document as the current FMP is combined with a lengthy Final Environmental Impact Statement.

Since Amendment 1 was transmitted to the National Marine Fisheries Service (NMFS), Section 406 of the Magnuson-Stevens Reauthorization Act (MSRA, Public Law 109-479) added section 304(i) to the Magnuson-Stevens Fishery Conservation and Management Act (MSA). This new section requires the Secretary to, among other things, in cooperation with the Secretary of State, immediately take appropriate action at the international level to end overfishing for fisheries that NMFS has determined: (a) to be overfished or approaching a condition of being overfished due to excessive international fishing pressure, and (b) for which there are no management measures to end overfishing under an international agreement to which the United States is a party. NMFS interprets "no management measures" to mean the absence of management measures that are adequate to stop overfishing for purposes of the MSA and its implementing regulations. NMFS has made a determination that both of these conditions are present, and therefore subsection 304(i) governs the MSA mandate to end overfishing in the case of Pacific bigeye tuna.

Section 304(i) does not provide that the "appropriate action" requirement necessitate preparing a plan, plan amendment or regulatory amendment. However, section 304(i) does not preclude a



council from preparing and submitting its recommendations to end overfishing through a plan or plan amendment. I believe that the recommendations for international management actions to end overfishing in Amendment 1 partially fulfill the requirement of section 304(i)(2)(b). The Council will still need to transmit its recommendations to the Secretary of State and to the Congress to be fully compliant with this section.

NMFS acknowledges and appreciates the Council's efforts in preparing Amendment 1. Amendment 1 outlines general principals that are to be adhered to when proposing management measures to the U.S. delegation to the IATTC intended to meet the goal of ending bigeye tuna overfishing. The Council's commitment to manage and conserve fishery resources at sustainable levels in the Pacific is to be commended.

Sincerely,



Rodney R. McInnis  
Regional Administrator

cc:

PFMC – McIsaac  
F – Hogarth, Rauch  
F/SF – Risenhoover  
GCSW – Feder  
SWFSC - Fox