

FISHERY MANAGEMENT PLAN (FMP) AMENDMENT 2- HIGH SEAS SHALLOW-SET LONGLINE

In September 2008 the Council adopted a revised set of alternatives to amend the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP) to authorize a West Coast based shallow-set longline (SSLL) fishery seaward of the Exclusive Economic Zone (EEZ) in the North Pacific Ocean. Use of traditional SSLL gear is currently not authorized under the HMS FMP and is prohibited on the high seas east of 150° W. longitude by Endangered Species Act (ESA) regulations because, as originally proposed in the HMS FMP, this type of fishing without sufficient mitigation measures was determined likely to jeopardize the continued existence of loggerhead sea turtles, which are listed as threatened under the ESA. The fishery authorized through Amendment 2 to the HMS FMP would incorporate the use of innovative longline gear and methodologies and be subject to a range of restrictions and mitigation measures designed to minimize the likelihood of the action jeopardizing the continued existence of any species listed under the ESA.

Attachment 1 is a preliminary Draft Supplemental Environmental Impact Statement analyzing the alternatives adopted by the Council. There are four alternatives including No Action. Alternative 2 would establish a limited entry fishery with no more than 20 permits. Alternative 3 would establish a limited entry program with anyone having made at least one swordfish landing on the West Coast, 2005-2007, qualifying. Alternative 4 would establish an open access fishery with no new permit requirement. Under all of the action alternatives, the new gear requirements, use of circle hooks and mackerel-type bait, would be required to reduce the incidental take of sea turtles. In addition, under the action alternatives the fishery would be subject to incidental take limits (“sea turtle caps”), which would be set consistent with the findings of a consultation on the proposed action pursuant to section 7 of the ESA. If, during the fishing year, turtle takes reach any of the limits (likely set for loggerhead and leatherback sea turtles) the fishery would close for the remainder of the year. Alternatives 3 and 4 would prohibit fishing west of 140° W. longitude. Alternative 2 contains three options related to an area closure: no area closure, prohibiting the fishery west of 150° W. longitude, and prohibiting the fishery west of 140° W. longitude.

As noted, if an action alternative is selected, it would be subject to a section 7 consultation to determine whether the proposed action jeopardizes the continued existence of any ESA-listed species. If such a jeopardy determination were to be made, National Marine Fisheries Service (NMFS) is required under the ESA to include Reasonable and Prudent Alternatives (RPAs) that specify additional measures necessary to avoid jeopardy. In developing these RPAs the Protected Resources Division (Consulting Agency) would confer with the Sustainable Fisheries Division (Action Agency) on the measures to be included. The Council would likely want to discuss various possible measures with the Federal Action Agency (Sustainable Fisheries Division) for their consideration in this process. The Council may wish to discuss with NMFS how such a process would unfold in a way to allow Council input, if necessary.

Previously, the Council requested NMFS conduct a simultaneous ESA section 7 consultation of this proposed action and the Western Pacific Fishery Management Council’s (WPFMC’s) Pelagics FMP Amendment 18, which proposed to lift the current fishing effort limit on the Hawaii SSLL fishery and increase the interaction limits (turtle caps) applicable to that fishery

accordingly. However, a biological opinion was completed for Pelagics FMP Amendment 18 on October 15, 2008. In response to the biological opinion, at their October 2008 meeting the WPFMC reexamined their previous vote on an increase in the leatherback sea turtle interaction limit from 16 to 19 and decided to recommend keeping the current limit of 16 leatherbacks. The 60-day public comment period during Secretarial Review of Amendment 18 was announced on March 18, 2009 (see Attachment 2).

Council Action:

Adopt a preferred alternative to amend the HMS FMP to authorize a West Coast based SSL fishery seaward of the EEZ in the North Pacific Ocean.

Seek guidance from NMFS on a process to allow Council input, if appropriate, in response to findings in the biological opinion for the proposed action.

Reference Materials:

1. Agenda Item D.2.a, Attachment 1: Amendment 2 to the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species: Authorize a Shallow-set Longline Fishery Seaward of the EEZ; Preliminary Draft Supplemental Environmental Impact Statement
2. Agenda Item D.2.a, Attachment 2: Notice of Availability of WPFMC Pelagics FMP Amendment 18 for Public Comment (74 FR 11518)

Agenda Order:

- a. Agenda Item Overview Kit Dahl
- b. Reports and Comments of Advisory Bodies
- c. Public Comment
- d. **Council Action:** Adopt Final Preferred Alternative

PFMC
03/19/09