
FISHERY MANAGEMENT PLAN FOR U.S. WEST COAST FISHERIES FOR HIGHLY MIGRATORY SPECIES AS AMENDED APPENDIX E CURRENT MANAGEMENT

E.1 Summary of State Regulations	E-1
E.1.1 Recreational Fishery	E-1
E.1.2 Commercial Fishery	E-2
E.1.3 Far Offshore Fishery	E-4
E.1.4 Experimental, Emerging, or Developmental Fisheries	E-4
E.2 Summary of Federal Legislation/Regulations	E-4
E.2.1 High Seas Fishing Compliance Act (HSFCA)	E-4
E.2.2 Marine Mammal Protection Act (MMPA)	E-4
E.2.3 Pacific Tuna Fisheries	E-5
E.2.4 South Pacific Tuna Fisheries	E-6
E.2.5 Magnuson-Stevens Fishery Conservation and Management Act	E-6
E.2.6 Endangered Species Act	E-6
E.3 International Management	E-7
E.4 Tribal Management	E-7
E.5 Monitoring and Data Collection Programs	E-7
E.5.1 Federal Programs	E-7
E.5.2 State Programs	E-8
E.5.3 Current Programs by Fishery	E-8

This appendix comprises Chapter 7.0 in the original FMP/FEIS published in August 2003. It summarizes current state and federal fishery regulations and monitoring programs for West Coast HMS fisheries at the time of FMP adoption..

E.1 Summary of State Regulations

The following is a summary of the current state HMS fishery regulations for Washington, Oregon, and California. A more detailed comparison of state regulations is contained in Appendix B.

E.1.1 Recreational Fishery

Licenses

Currently, a recreational fishing license is not required to fish for albacore tuna off Washington; however, a recreational fishing license is required in Oregon and California. In addition, California requires an “ocean fishing enhancement stamp” south of Point Arguello. Changes in licenses require state legislative action.

Seasons

Fishing is open year-round coastwide with minor exceptions in specific areas off Oregon (i.e., Pyramid Rock, Three Arch Rocks, Whale Cove) and off California. California has several marine reserves and preserves,

some of which prohibit fishing; as such, these areas may be closed to bluefin tuna and thresher shark harvest. Changes to season structure require action by each state's respective Fish and Wildlife Commission.

Daily Bag Limit

Washington does not have a daily bag limit for HMS species; Oregon has a daily bag limit of 25 fish in aggregate. California has a 20 finfish bag limit with no more than 10 fish of any one species. In addition, the following sub-limits apply in California within the 20 fish aggregate limit:

- marlin - 1
- swordfish - 2
- blue shark - 2
- shortfin mako shark - 2
- sixgill shark - 1
- sevengill shark - 1
- thresher shark - 2

There are no limits on albacore, bluefin and skipjack tuna in California. Changes to daily bag limits require action by each state's respective Fish and Wildlife Commission.

Possession Limit

There is no possession limit in Washington (since there is no daily bag limit). The possession limit in Oregon is two daily bag limits and the possession limit in California is up to three daily bag limits, depending on the duration of the trip and filing of a multi-day declaration. Changes to possession limits require action by each state's respective Fish and Wildlife Commission.

Minimum Size Limit

There are no minimum size limits for HMS fisheries coastwide. Changes to minimum size limits require the action of each state's respective Fish and Wildlife Commission.

Fishing Gear

HMS recreational fishing gear is comparable coastwide, with troll and hook-and-line gears used in each state. "Mousetrap gear" is specifically prohibited in California. Changes to legal fishing gears require the action of each state's respective Fish and Wildlife Commission.

Prohibited Species

The taking of white sharks and basking sharks is prohibited in California. Prohibiting species requires action by each state's respective Fish and Wildlife Commission.

Logbook Program for Charter Boats

California has a mandatory logbook requirement for charter boats, and Washington recently initiated a voluntary logbook program.

E.1.2 Commercial Fishery

Licenses

Currently, in Washington a salmon troll fishing license or a non-salmon delivery permit is required to deliver

HMS into Washington. A Washington fishing license is not required to fish for albacore tuna.

In Oregon, a commercial fishing license is required to fish for or land HMS into Oregon (Oregon also has an albacore tuna landing license which may be used in lieu of a commercial fishing license when landing only albacore tuna).

In California, a commercial fishing license is required to fish for or land HMS into California. In addition, the following permits are also required in California:

- Permit to land California-caught fish at points outside California
- Permit for sharks or swordfish using drift gillnets (limited entry license) and a gillnet/ trammel net permit
- Permit to fish for swordfish (harpoon)

Changes in licenses require state legislative action.

Seasons

HMS fishing seasons are open year-round in all three states with a few exceptions in California: California does not allow commercial fishing for marlin; and the drift gillnet season is from May-August 14 offshore (outside 75 miles) and August 15-January 31 inshore (to within 3 miles, where designated). Changes to season structure requires the action of each state's respective fish and wildlife commission or legislature.

Fishing Gear

All three states allow the use of troll gear, or hook-and-line gear. Washington and California prohibit the use of drift longlines.

In Washington, the use of gillnets in Pacific Ocean waters is prohibited; sharks may be caught with otter trawl, beam trawl, set lines, bottomfish pots, commercial jig, and troll lines. It is unlawful to use bottomfish trawl gear in state waters (0-3 miles).

In Oregon, legal gears are handline, pole and line, longline, seines, and spears. It is unlawful to use gillnets for thresher shark.

In California, legal gears are gill nets, drift gill nets, and trammel nets, purse seine, and harpoon; set lines are legal in Districts 6, 7, 10, 17, 18, and 19; set lines cannot be used for shortfin mako, thresher, swordfish, or marlin.

Species-Specific Regulations Including Prohibited Species

Oregon prohibits the use of gillnets to take thresher shark; however, incidental catches of thresher shark taken in the swordfish gillnet fishery is permitted.

California prohibits the taking of white shark and basking shark in its commercial fisheries; bluefin tuna weighing less than 7 ½ pounds cannot be canned; the sale of marlin is prohibited; and incidental catches of swordfish or marlin by gillnet or trammel net must be delivered to CDFG.

Wastage and Shark Finning

It is unlawful to waste or destroy food fish in all three states. California specifically prohibits the landing or possession of "any shark fin or shark tail or portion thereof that has been removed from the carcass," except for thresher shark.

Washington indirectly prohibits shark finning by WAC 220-20-010 which states that it is "unlawful to take, fish

for, possess or transport for any purpose food fish, shellfish or parts thereof, in or from any waters or land over which the state of Washington has jurisdiction, or from the waters of the Pacific Ocean....”

Oregon indirectly prohibits shark finning by OAR 635-006-0210 which states that fishing receiving tickets need to include the pounds of each species received; pounds are to be determined by taking the actual round weights of the fish unless a conversion from dressed weight has been established in the OARs.

E.1.3 Far Offshore Fishery

All three states have regulations for far offshore fisheries which are similar. Washington’s far offshore regulations pertain to bottomfish only, which includes sharks. Oregon’s far offshore regulations also pertain to bottomfish and have a specific exception for albacore and swordfish. California’s far offshore regulations pertain to all fish, but the State is in the process of revising legislation to provide an exemption for the albacore troll fishery.

E.1.4 Experimental, Emerging, or Developmental Fisheries

Currently, all three states have regulations pertaining to experimental, emerging, or developmental fisheries.

In Washington, an experimental fishery cannot be conducted on a species managed under a federal FMP; however, trial commercial fisheries can be conducted on federally managed species, but the number of participants cannot be limited.

In Oregon, a developmental fishery can be conducted on a species managed under a federal FMP and the number of participants can be limited.

In California, an emerging fishery cannot be conducted for a fishery with a federal FMP in which the catch is limited within a designated time period.

Changes to experimental fishery regulations require action by each state’s respective Fish and Wildlife Commission.

E.2 Summary of Federal Legislation/Regulations

E.2.1 High Seas Fishing Compliance Act (HSFCA)

This statute requires that any U.S. vessel fishing on the high seas:

- obtain a permit (valid for five years) from the NMFS; and
- maintain and submit gear-specific logbooks detailing catch and effort on the high seas using forms provided under the program, unless the vessel is already reporting on its fishing under other regulations (e.g., regulations implementing a FMP).

E.2.2 Marine Mammal Protection Act (MMPA)

For a more complete description of the requirements of the MMPA and the interactions of HMS fisheries with marine mammals, refer to Chapter 6 of this FMP.

Pacific Coastal Fisheries

The MMPA generally provides protection for marine mammals that (among other things) may interact with fisheries. Vessel operators must obtain certificates of inclusion that authorize “takes” of marine mammals during their fishing operations. In response to interactions with the drift gillnet fishery, a Pacific Offshore Cetacean Take Reduction Plan has been developed and implemented through federal regulations that require

the following of U.S. drift gillnet vessels operating in waters seaward of the coast of California or Oregon, including adjacent high seas waters:

- extenders of at least six fm be used on all sets (lower the net in the water at least six fm);
- pingers (acoustic deterrent devices) be used on all vessels during every set, with specific performance standards for the pingers and with specific configuration requirements on the net; and
- skippers (after notification by NMFS) attend an educational workshop held by NMFS before commencing fishing each season (defined as May 1 through January 31 of the following year).

In addition, NMFS has implemented an observer program for the drift gillnet fishery since 1990.

Eastern Pacific Purse Seine Fisheries

The MMPA also requires that operators of purse seine vessels greater than 400 short tons (363 mt) carrying capacity operating in the IATTC area must:

- obtain a General Permit that authorizes the take of marine mammals in the area, even if they do not intentionally set on marine mammals;
- carry an observer on all trips; and
- comply with a number of gear and procedural requirements if setting on dolphin to catch tuna or if marine mammals are accidentally taken in a set that was not made on dolphin.

Operators of vessels smaller than 400 short tons carrying capacity must report any incidental takes of marine mammals in their fishing operations.

E.2.3 Pacific Tuna Fisheries (50 CFR Part 300 Subpart C)

The regulations in this subpart implement the Tuna Conventions Act of 1950 (as well as the Atlantic Tunas Convention Act of 1975). The regulations provide a mechanism to carry out the recommendations of the Inter-American Tropical Tuna Commission (IATTC) for the conservation and management of highly migratory fish resources in the Eastern Tropical Pacific Ocean so far as they affect vessels and persons subject to the jurisdiction of the United States. In 1999, NMFS promulgated new regulations establishing the procedure for carrying out these recommendations in the U.S.

The only continuing requirement for U.S. vessel operators under these regulations is the requirement to maintain logbooks of catch and effort covering their fishing in the Commission Yellowfin Tuna Regulatory area, which is generally described as 40° N latitude to 150° W longitude to 40° S latitude. The rules provide that the vessel operator has met the NMFS regulatory requirements if he/she maintains the IATTC logbook and submits the logbook to the IATTC. The IATTC also has an arrangement with the CDFG whereby the IATTC can determine vessels that landed tuna in California (which means the tuna presumably was taken in the eastern Pacific) and then contact the vessel operator/owner to ensure that logbook records are made available to IATTC.

Each year the IATTC may make management recommendations (e.g., a quota on yellowfin tuna), with associated measures (e.g., area closures or gear restrictions) to carry out those recommendations. After approval of the IATTC recommendation by the U.S. Department of State (DOS), the NMFS Southwest Region (in consultation with DOS) determines the best way to implement the recommendations. Generally, the Regional Administrator may implement the measures by direct notice to the U.S. fleet, with a follow-up notice in the Federal Register as soon as practicable thereafter. If there is a substantially new measure (e.g., a fleet capacity limit), a notice-and-comment rule-making may be required. To date, quotas have been set for yellowfin tuna (for many years) and bigeye tuna (since 1998), and implementing measures have included landing restrictions, area closures, and closure of the fishery on floating objects. In March 2001, NMFS published proposed rules to reduce bycatch in the purse seine fishery and to establish a regional vessel register.

E.2.4 South Pacific Tuna Fisheries (50 CFR 300 Subpart D))

The regulations in this Subpart implement the South Pacific Tuna Act of 1988 and the South Pacific Tuna Treaty and apply to persons and vessels subject to the jurisdiction of the United States. The regulations require licenses, reporting, and vessel/gear identification. Vessels must comply with all of the applicable national laws.

E.2.5 Magnuson-Stevens Fishery Conservation and Management Act

Under the MSFCMA, regulations affecting U.S. HMS fisheries in the Pacific area are implemented pursuant to FMPs developed by regional fishery management councils. If adopted and implemented, this FMP and its implementing regulations will affect U.S. West Coast-based fisheries for HMS.

In December 2000, the MSFCMA was amended to prohibit “finning” of sharks. Under this legislation, “shark-finning” means the taking of a shark, removing the fin or fins (whether or not including the tail), and returning the remainder of the shark to the sea. Regulations implementing the legislation are found at 50 CFR 600 Subpart M. It is a rebuttable presumption that shark fins found on board, or landed by, a fishing vessel were taken, held, or landed in violation of the regulations if the total weight of the shark fins on board, or landed, exceeds 5 percent of the total dressed weight of shark carcasses on board or offloaded from the fishing vessel.

Section 305(a) of the MSFCMA requires the Secretary of Commerce to publish a list of authorized fisheries under the authority of each council and all fishing gear used in such fisheries in the EEZ. A fish may be retained only if it is taken within a listed fishery, is taken with a gear authorized for that fishery, and is taken in conformance with all other applicable regulations. The current list was effective December 1, 1999. After that date, an individual fisherman may notify the appropriate council of the intent to use a gear or participate in a fishery not already on the list. Ninety days after such notification, the individual may use the gear or participate in that fishery unless regulatory action is taken to prohibit the use of the gear or participate in the fishery. The list includes the following HMS gears/fisheries:

- Thresher shark and swordfish drift gillnet fishery/ gillnet
- Shark and bonito longline and setline fishery/ longline
- Pacific albacore and other tuna hook-and-line fishery/ hook and line
- Pacific swordfish harpoon fishery/ harpoon
- Pacific yellowfin, skipjack tuna purse seine fishery/ purse seine
- Recreational fishery/ spear, trap, handline, pot, hook and line, rod and reel, hand harvest
- Commercial fishery/ trawl, gillnet, hook and line, longline, handline, rod and reel, bandit gear, cast net, spear

There is a Western Pacific Regional Fishery Management Council FMP for Pelagic Fisheries of the Western Pacific Region, with regulations at 50 CFR Part 660 (see section 1.6.6 in the HMS FMP for a summary of that FMP). The longline fisheries in the western Pacific are subject to permit and logbook reporting requirements, and there are only minor differences between this logbook and the one required under the HSFCA. In addition, the Hawaii-based longline fishery is subject to a variety of other management measures, including limited entry permits, observer coverage, vessel monitoring system equipment, area closures that vary in size by season, a maximum vessel size limit (101 feet length overall), and the use of techniques to minimize seabird interactions with longline gear. Recent U.S. District Court decisions have resulted in large area closures and the use of line clippers and special handling procedures to minimize harm to sea turtles caught on longline hooks or entangled in longline gear.

E.2.6 Endangered Species Act

Refer to Chapter 6 of this FMP for information on the ESA as it affects HMS fisheries.

E.3 International Management

Currently there are no federal regulations implementing the U.S./Canada Albacore Treaty, although the potential exists for regulations in the future.

E.4 Tribal Management

The four treaty Indian tribes (Makah, Quileute, Hoh, and Quinault) that NMFS recognizes as having usual and accustomed fishing grounds in the EEZ do not currently have any tribal regulations regulating treaty fishing for HMS by tribal members.

E.5 Monitoring and Data Collection Programs

The States of California, Oregon, and Washington and the National Marine Fisheries Service, as well as other agencies and organizations, currently have monitoring and/or data collection programs in place for HMS fisheries.

E.5.1 Federal Programs

E.5.1.1 High Seas Fishing Compliance Act (HSFCA)

Under the HSFCA, NMFS has implemented regulations requiring U.S. vessels operating on the high seas to maintain and submit records of catch and effort on their high seas fishing. The reporting requirement would be met if a vessel is reporting in compliance with regulations under another federal statute (e.g., Magnuson-Stevens Act). Thus, longline vessels operating outside the EEZ, but based on the west coast, must maintain and file the new federal logbook, and West Coast trollers must maintain and file a troll logbook. NMFS provides the required forms or logbooks. It should be noted that fishers are not required to report catch and effort within the EEZ under this requirement, although NMFS has asked that all activity be recorded and reported.

E.5.1.2 Marine Mammal Protection Act (MMPA) Reporting Requirements

Under the MMPA, any U.S. vessel must report any interactions with marine mammals. Of the HMS fishing sectors, the drift gillnet fleet is the most likely to be faced with this requirement. It should be noted that the NMFS Southwest Region has maintained an observer program that has covered about 20% of all drift gillnet effort for several years. This greatly supplements the data available from fisher's reports and landing receipts.

E.5.1.3 Monitoring the Canned Tuna Industry

The NMFS Southwest Region has maintained an extensive data collection program for the U.S. canned tuna industry for several years. Data are available on total U.S. consumption of canned tuna products; U.S. production by product type and source; and the sources of raw product by species. Imports of canned tuna are closely monitored as a result of a tariff program under which tariffs rise when imports reach specified levels.

E.5.1.4 Reporting Under Pacific Tuna Arrangements

Under regulations implementing the Tuna Conventions Act (which is the implementing statute for the IATTC Convention), U.S. purse seine and baitboat vessels fishing for tuna in the eastern Pacific are required to maintain and make available to the U.S. logbooks of catch and effort. This requirement is met if the vessel maintains and submits to IATTC a logbook that the IATTC provides. IATTC receives similar data from all member nations (and some non-members) whose vessels fish for tuna in the IATTC area of competency. The

IATTC also has a port monitoring program to collect samples and data at ports, and has an observer program to ensure accurate records of interactions with dolphins and mortality of dolphins from such interactions. These observers also collected catch data. In turn, the IATTC conducts annual assessments of the status of principal tuna stocks as well as research into fishery impacts on tuna and on bycatch species. The U.S. has limited access to these data, but can request access and/or special analyses in some cases.

E.5.2 State Programs

The states have various logbook, port sampling, and data recording programs in place for the different HMS fisheries.

E.5.3 Current Programs by Fishery

The following sections list the current programs, by fishery, that the Pacific Council could utilize in monitoring HMS fisheries.

E.5.3.1 General

In addition to the data collected by programs mentioned above, the following data are available for all HMS fisheries:

Federal

- U.S. Coast Guard vessel registration/documentation data
- NMFS high seas compliance logbooks (mandatory; includes catch and effort data)
- Cannery receipts (includes catch and transshipment data)

State

- Vessel registration/license data
- Fish receiving tickets (includes landing data)

Other

- Fuel price information from marine docks

E.5.3.2 Surface Hook-and-Line

Federal

- NMFS coastwide logbooks (voluntary; includes catch and effort data)
- NMFS coastwide shoreside port sampling efforts (includes interviews, catch and effort data, and length frequency data)
- NMFS ride-along observer data for high seas and coastal areas (includes occasional length data by location)
- Cannery receipts (includes catch and transshipment data, but not by individual vessel)

Other

- IATTC baitboat logbooks (mandatory; includes catch and effort data)
- Transshipment costs from American Fishermen's Research Foundation

E.5.3.3 Purse Seine - Large

Federal

- Cannery receipts (includes catch and transshipment data by individual vessel)

Other

- IATTC logbooks (mandatory; includes catch and effort data)
- IATTC observer program (100% coverage; includes catch and effort data)
- IATTC sampling program (includes catch data)
- South Pacific Forum Fishery Agency logbooks and dockside sampling efforts (includes catch by area and time and species and size compositions)

E.5.3.4 Purse Seine - Coastal

State

- Some dockside sampling (California; includes catch data)

Other

- IATTC logbooks (mandatory; includes catch and effort data)

E.5.3.5 Drift Gillnet

Federal

- NMFS observer program (20% coverage; includes catch and effort data and length frequencies)

State

- Logbooks (mandatory in California and Oregon; includes catch and effort data)

E.5.3.6 Harpoon

State

- Logbooks (mandatory in California; includes catch and effort data)

E.5.3.7 Longline - High Seas

Federal

- Observers (on a limited and voluntary basis)

E.5.3.8 Charter Vessels

Federal

- NMFS Marine Recreational Fishery Statistical Survey (MRFSS) data

The MRFSS has collected a time series of catch and effort data by area, time and mode of fishing since 1981. While not specifically focusing on HMS fisheries, the MRFSS program includes charter vessel trips on which

HMS were caught. MRFSS samplers generally ride on the vessels, collecting data as the boat returns to port. Occasionally, they will interview anglers as they depart the vessel. The time series is believed to be reasonably reliable with respect to trends over time while estimates of species composition and catch in any single year are less reliable.

State

- Logbooks (mandatory in California; voluntary for albacore in Washington; includes catch and effort data)
- Dockside sampling (Washington)

E.5.3.9 Private Recreational Fishing Vessels

Federal

- NMFS Marine Recreational Fishery Statistical Survey (MRFSS) data

The MRFSS has collected a time series of catch and effort data by area, time and mode of fishing since 1981. While not specifically focusing on HMS fisheries, the MRFSS program includes estimates of catch and effort for private recreational fishing vessel trips on which HMS were caught. However, it is acknowledged that estimates of catch on such trips are subject to wider confidence limits due to the difficulty of obtaining information from vessels in private marinas to which access is limited. The vessels that pursue HMS are generally larger and range farther than small vessels seeking coastal species, and these vessels more often are berthed in private marinas. To the extent that these marinas cannot be sampled, there may be underestimates of catch and effort by these vessels targeting HMS. MRFSS samplers have not been placed on these vessels and shoreside interviews have been limited.

State

- Dockside sampling (Washington)