

JOINT WEST COAST REGION-SOUTHWEST FISHERIES SCIENCE CENTER,
NATIONAL MARINE FISHERIES SERVICE (NMFS) REPORT
ON AMENDMENT 4 (STATUS DETERMINATION CRITERIA) TO THE HIGHLY
MIGRATORY SPECIES (HMS) FISHERY MANAGEMENT PLAN (FMP)

In this report, NMFS highlights outstanding issues related to Amendment 4 and makes recommendations.

Additional revisions to Sections 4.2 and 4.4 of the HMS FMP: During the June 2017 meeting, the Council adopted a version of the HMS FMP for public review that included revisions to the schedule of the Council’s biennial management cycle that would allow for alignment with the international assessment process and NMFS’ stock status determination process for HMS stocks (see Figure 1, Section 2 of [Agenda Item J.4, Supplemental NMFS Report](#)). However, the content of Sections 4.2 and 4.4, which regard processes for MSY estimation and assessment of stock status, remains unchanged under Amendment 4. The current stock status determination process for HMS stocks differs from the process employed for other Council-managed stocks, like groundfish and coastal pelagic species. However, the processes described in the current version of Sections 4.2 and 4.4 of the HMS FMP are more representative of how status determinations are completed for purely Council-managed stocks. As a result, the content of these sections is inconsistent with the current status determination process for HMS stocks as well as revisions proposed to Chapter 5 of the HMS FMP under Amendment 4. The edits proposed by the HMSMT in [Agenda Item J.4.a, HMSMT Report 1](#) address these inconsistencies.

For HMS stocks assessed by the science providers to regional fishery management organizations (RFMOs), compliance with National Standard 2 is met through “other peer review processes” acknowledged in connection to transboundary and/or internationally-managed species under legal authorities other than the MSA ([81 FR 54561; August 16, 2016](#)). “Other peer review processes” are also used when NMFS conducts stock assessments through ad hoc international collaborations, which may include an exchange of confidential international data, like was the case for the common thresher shark assessment. In these instances, NMFS will seek input from the SSC on a case-by-case basis regarding peer-review. Following peer review, if accepted, the assessments are determined to be the best scientific information available (BSIA) for fishery management decisions and NMFS evaluates information in these assessments relative to the status determination criteria (SDCs) specified in the HMS FMP for making stock status determinations. The edits proposed by the HMSMT to Sections 4.2 and 4.4 reflect these practices for determining BSIA while preserving an opportunity for SSC and Council input on information used to make status determinations for HMS stocks.

NMFS offers a point of clarification with respect to edits proposed in Agenda Item J.4.a., HMSMT Report 1 that state, “When a status determination is deemed necessary.” It is NMFS’ interpretation that status determinations follow instances in which new information has become available, e.g., a stock assessment is conducted. To make a status determination, current estimates of fishing mortality and biomass are compared to the computed SDC. While SDCs are required for all stocks listed as management unit species in the HMS FMP, there may not be enough information for some stocks to compute the SDCs and make a status determination. For several regularly assessed

HMS stocks, assessments do not occur every year (e.g., Pacific bluefin tuna). Therefore, it is unlikely that status determinations for these stocks would be updated annually. For unassessed stocks or stocks for which a full assessment has not been completed, the status may be determined to be “unknown.”

RECOMMENDATION: HMS stock status determination processes were discussed at the September 2016, March 2017, and June 2017 Council meetings. NMFS reviewed Agenda Item J.4.a, HMSMT Report 1, including proposed revisions to Sections 4.2 and 4.4, and found that the HMSMT’s recommendations would resolve inconsistencies within the currently adopted Amendment and clarify status determination processes applicable for HMS stocks. Once the Council adopts its final Amendment 4, NMFS will make it available for a 60-day public comment period prior to making a final decision to approve Amendment 4. Therefore, NMFS recommends that the Council include these revisions in their final adoption of Amendment 4 at this meeting.

Updates to Regulations at 50 CFR 660.709: During the June 2017 Council meeting, the Council adopted proposed revisions to Chapter 5 of the FMP to change the schedule of the biennial management cycle for public review such that the three-meeting biennial management cycle would take place during September, November, and March meetings instead of during June, September, and November meetings; however, the schedule would continue to start on even years (see [Agenda Item J.4, Supplemental NMFS Report](#), Figure 1: A schedule to align NMFS’ stock status determination process with the Council’s biennial management cycle). The biennial management cycle described in regulation at 50 CFR 660.709 is inconsistent with proposed revisions under Amendment 4 to the HMS FMP, and would need to be revised to reflect the new management review schedule.

RECOMMENDATION: NMFS recommends that the Council propose specific revisions to the regulations at 50 CFR 660.709 (or in the alternative task staff to develop the specific language) such that they are consistent with changes to the biennial management cycle in Amendment 4. For example, the Council may wish to revise the regulations so that the details of the biennial management cycle remain in regulation, but in updated form, or are replaced with a simple cross-reference to the HMS FMP.

Updates to the Council’s Operating Procedures (COP 9; Schedule 5): During its June 2017 meeting, the Council adopted for public review proposed revisions to chapter 5 of the FMP, which would change the biennial management review cycle. Similar to the situation concerning regulations at 50 CFR 660.709, COP 9 is inconsistent with proposed revisions in under Amendment 4 to the HMS FMP, and would need to be revised to reflect the new management review schedule. If NMFS approves Amendment 4, then COP 9 should be revised accordingly. NMFS has reviewed proposed revisions to the COP 9, Schedule 5 in [Agenda Item H.4, Attachment 1](#). These revisions adequately address the inconsistencies between the proposed revisions to the FMP and the current COP.

RECOMMENDATION: NMFS recommends that the Council amend COP 9, consistent with and effective upon NMFS approval of Amendment 4 to the HMS FMP.

Clarity of Council’s Expectations for Recommendations related to Stock Status: The question of which HMS stocks the Pacific Council considers itself an “appropriate council” for recommending management measures under MSA Section 304(i) has been discussed under Amendment 4 in relation to clarifying and streamlining Council workload to address stock status. The HMSMT originally described the “appropriate Council” concept [Agenda Item J.3, Supplemental HMSMT Report 2](#) prior to the September 2016 Council meeting. Subsequently, NMFS submitted a report prior to the March 2017 meeting, which described how such a decision by the Council could inform coordination on HMS stock status determinations and management recommendations and presented information on stock assessment areas of management unit species in the HMS FMP as well as U.S. West Coast catches of those stocks that could inform such decisions ([Agenda Item J.4, Supplemental NMFS Report](#)). As explained in the NMFS Report, if at some future time the Council wished to make international or domestic recommendations regarding the status of a stock for which it previously did not consider itself an “appropriate Council,” it could do so. Similarly, should NMFS determine that the Council is an “appropriate Council” to make recommendations to address the status of a stock for which the Council did not previously consider itself the “appropriate Council” (e.g., based on new information about relative impact of U.S. West Coast vessels), NMFS could notify the Council of such requirements. On request of the Council, the HMSMT prepared a report for the June meeting with recommendations on which stocks the Council should be considered an “appropriate Council,” with proximity of the stock to the U.S. EEZ or catches by the U.S. West Coast fleets or both being central to the basis of their recommendations ([Agenda Item H.2.a, HMSMT Report](#).)” However, during the June Council meeting, the Council did not express its preferences for which HMS stocks the Pacific Council considers itself an “appropriate council” for recommending management measures under MSA Section 304(i). Rather, the meeting minutes indicate a preference for the Council to be informed of the status of all management unit species and a continued lack of clarity regarding which stocks the Council would expect to receive notices from NMFS regarding the applicability of obligations to make management recommendations within the 1-year statutory timeframe under MSA Section 304(i).

RECOMMENDATION: While not pertinent to Council action to adopt final revisions to the HMS FMP under Amendment 4, NMFS recommends that the Council consider expressing its preference regarding which stocks the Council is an “appropriate Council” for NMFS to distribute notices to regarding obligations to address stock status within the 1-year statutory timeline under MSA Section 304(i). The Council could task Council staff to record these decisions in a meeting decision summary document or in a letter to NMFS such that they could be used to inform communication and reporting protocols regarding stock status determinations and fulfillment of MSA Section 304(i) obligations (as described in previous reports). Regardless of whether the Council chooses to specify its preferences, the Council would still receive stock status updates for all management unit species listed in the HMS FMP and retain the ability to make management recommendations for those species. Stock status updates could be provided annually in the SAFE.