

SCIENTIFIC AND STATISTICAL COMMITTEE REPORT ON  
PUBLIC REVIEW DRAFT OF THE HIGHLY MIGRATORY SPECIES FISHERY MANAGEMENT PLAN

The Scientific and Statistical Committee's (SSC's) Highly Migratory Species HMS Subcommittee met on June 10 to review the "Draft Fishery Management Plan (FMP) and Environmental Impact Statement (EIS) for U.S. West Coast Based Fisheries for Highly Migratory Species," dated May 2001. This statement represents the outcome of the SSC's consideration of the HMS Subcommittee's findings.

General Comments and Recommendations

The draft FMP represents significant progress toward development of a management plan for HMS. For instance, the fishery descriptions (Section 2) and discussions of bycatch by fishery sector (Section 5) are well developed. The SSC recognizes that the HMS Plan Development Team (HMSPDT) attempted to include in the FMP all management options identified during the scoping process to comply with National Environmental Protection Act (NEPA) requirements. However, many of the options contained in Section 8 take the form of brief conceptual descriptions of logbook/observer programs, limited entry options, and longline fishing options in the exclusive economic zone (EEZ), and the analysis of such options is very limited. These issues are complex and likely to have significant repercussions for HMS fisheries. The options will need to be more fully developed and the analyses considerably expanded in order to meet NEPA requirements and be considered for implementation by the Council.

Development of the draft FMP has been a daunting task, and development and analysis of the ninety options contained in the FMP will require considerably more time and resources. The SSC fully appreciates the importance of issues such as logbook/observer programs, limited entry, and longline fishing in the EEZ. However, if the Council wishes to move forward expeditiously with the draft FMP, the SSC recommends the scope of the FMP be initially limited to addressing minimum requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) - such as maximum sustainable yield (MSY)/optimum yield (OY) control rules, bycatch, essential fish habitat, and community impacts. Given the importance of "federalizing" the fisheries in some manner, the FMP could also include measures that achieve such federalization. However, depending on how soon the Council wishes to submit the draft FMP for public comment, it may be advisable to exclude options that affect fisheries in ways that deviate significantly from the status quo and that would require major elaboration and analysis to meet NEPA requirements. The Council could framework the management tools needed to address substantive issues not addressed in the draft FMP. Once the FMP is approved, subsequent amendments could be undertaken to address those issues.

In terms of addressing Magnuson-Stevens Act requirements, the draft FMP appears to provide considerable material for addressing the MSY and bycatch provisions of the Act. However, the sections of the FMP on the Characteristics of Support Industries and Communities and the Regulatory Flexibility Act (RFA) analysis are requirements under the Magnuson-Stevens Act and need completion before the plan is made available for public comment. The Regulatory Flexibility Act (RFA) analysis currently contained in the draft FMP is largely limited to assertions that the options will not have a disproportionate impact on small entities. The RFA analysis will need to address other considerations as well. For instance, the analysis will have to document whether a substantial number of small entities are affected by the proposed management actions. It would also have to explain why the preferred option was selected over other options that would minimize economic effects on small entities and, if so, why the preferred option was selected instead. RFA requirements are specified in NMFS Guidelines for Economic Analysis of Fishery Management Actions, dated August 16, 2000.

The SSC also has comments on specific sections of the draft FMP, as follows:

Section 2.4 - Characteristics of Support Industries and Communities (p. 27)

A placeholder for this section is included in the draft FMP, but the section is not yet completed. It is important the Magnuson-Stevens Act requirement to consider community effects be addressed before the FMP is distributed for public comment.

### Section 3 - Status of Fish Stocks

The SSC reviewed the aspects of the draft FMP related to evaluating the status of stocks relative to overfishing criteria. The SSC supports the MSY and OY control rules developed for the HMS, but recommends they be presented separately for each management unit species to improve clarity of presentation.

The lack of information for some species will lead to considerable uncertainty when determining stock status using the control rules. This means that any determinations regarding whether overfishing is occurring or stocks are overfished will be highly uncertain. The SSC recommends the draft FMP link the data/analysis requirements identified in FMP Section 8.7 more directly with the need to classify stocks using the control rules and to implement any resultant management actions. In particular, the SSC notes that estimates of the catches off Mexico are not available, increasing uncertainty substantially for some species.

The information in Table 3.3 should be restricted to the estimates derived from analyses of data rather than those based on assumptions about the ratio of  $B_{MSY}$  to  $T$ , estimates of the intrinsic rate of growth should be replaced by the qualitative conclusions that can be inferred robustly from the analyses based on demographic models. The information presented does not permit a robust evaluation of the sustainability of regional catches of sharks and billfishes. The SSC recommends this be reflected in Table 3.4. The productivity estimates reported in the draft FMP are based on analyses in Au *et al.* (in press). The SSC should review these analyses.

The proposed MSY and OY control rules differ from those applied by international bodies such as Inter-American Tropical Tuna Commission (IATTC). The SSC recommends mechanisms be developed to deal with any possible conflicts in harvest guidelines that may arise from the use of different control rules.

Although the draft FMP does not specify an annual management cycle, an annual stock assessment and fishery evaluation (SAFE) document will be produced. The SSC recommends the SAFE document include summaries of available data and assessments by international bodies (e.g., tunas under the IATTC). The SSC notes further that the current assessment framework does not include an independent review process. While assessments conducted by international bodies are already subject to peer review, this is not the case for the proposed assessments for species that are not assessed by international bodies. The SSC recommends a process be developed for independent review of any such assessments; the SSC should be part of this process.

### Section 8.2 - Management Goals and Objectives (pp. 3-4) and Section 8.5.3 - Evaluation Factors (pp. 15-16)

Section 8.2 describes 17 goals and objectives of the draft FMP and Section 8.5.3 describes 13 evaluation factors, which are used as the basis for evaluating management options contained in Section 8. Many of the 13 evaluation factors are worded similarly to some of the 17 goals and objectives; moreover, the twelfth evaluation factor (“meeting the objectives of the HMS FMP”) ensures all of the goals and objectives not already mentioned are encompassed in the evaluation factors. Some clarification is needed regarding why the distinction is made between the FMP goals and objectives and the evaluation factors. Also, despite the fact many of the management options contained in the draft FMP have significant allocation implications, none of the goals and objectives directly point to the need for fairness and equity in allocation decisions.

### Section 8.5.4 - Elements of Economic Analysis

Sections 8.5.4.1 and 8.5.4.2 provide a discussion of theoretical concepts relevant to economic analysis. Expectations are subsequently raised regarding the presence of an analysis in the FMP that applies these theoretical concepts. For instance, Section 8.5.4.3 makes reference to “economic analyses that follow”. Section 8.5.4.4 states that “A seven percent real discount rate is used in the analysis below....”. However, subsequent sections of the FMP contain no such economic analysis. Unless such analysis is completed and subject to SSC review before the draft FMP is submitted for public comment, the SSC recommends Section 8.5.4 be removed from the FMP.

### Section 8.5.5.1.2 - Licensing (pp. 25-28)

Federal permits for commercial HMS fishing vessels are discussed in options 70-71, federal recreational permits for HMS anglers in option 72 and federal and/or state permits for HMS recreational vessels

(including private boats) in options 73-74.

The SSC agrees with the HMSPDT's conclusions regarding the potential research, conservation, and management benefits of having a permit system that allows ready identification of all HMS fishery participants. However, the SSC does not agree with the conclusion that federal permits as specified in options 70-74 would "indirectly contribute to reducing fishing mortality" (a claim which appears to be based on the assumption that increased information necessarily results in additional harvest restrictions). It is also not clear why federal permits would "increase net benefits to the nation." Decisions regarding these options will require close collaboration with the states and a careful delineation of costs. Costs of federal permits for recreational anglers may be particularly difficult to predict, given the unprecedented nature of such a program.

Section 8.5.5.1.3 - Reporting/Monitoring Requirements (pp. 29-32)

Options 76-77 pertain to logbooks, options 78-79 to observer programs, option 80 to a "comprehensive at-sea data collection plan" and option 81 to vessel monitoring systems (VMS).

All of these options are presented as ideas for which programs would need to be developed. The analysis of these options indicates that "limited expenses" would be imposed on fishing entities, and the options would "not have a disproportionate effect" on small relative to large entities. This may or may not be true, depending on the specific details of the monitoring programs.

Sections 8.5.5.2 - Surface Hook-and-Line Fishery (pp. 33-36), Section 8.5.5.3 - Drift Gill Net Fishery (pp. 36-46) and Section 8.5.5.5 - Longline Fisheries (pp. 47-52)

These sections of the draft FMP include a discussion of open access versus limited entry options for three fishery sectors - surface hook-and-line (options 14-15), drift gillnet (options 22-24) and longline (option 43) fisheries. Section 8.5.5.5 also includes additional options pertaining to longline fishing in the EEZ (options 38-42).

The SSC strongly supports consideration of management measures that address overcapacity in HMS fisheries. However, the limited entry options described in the draft FMP are only conceptual in their current form. The SSC is aware of the Council's expressed intention to consider limited entry after the FMP is adopted. Numerous details of limited entry options would have to be developed and analyzed at that time.

The analysis of options 22-24 includes a discussion of the effects on the drift gillnet fishery of a Biological Opinion (BO) issued by NMFS to protect leatherback turtles. Although such information is relevant to understanding the status of that fishery, it is important that the analysis also explicitly distinguish between the effects of the BO (which was authorized by the Endangered Species Act) and the effects of the fishery management options being considered under the Magnuson-Stevens Act.

The analysis of option 41, which would allow pelagic longline fishing in the EEZ under an exempted fishing permit (EFP) program, focuses on the potential benefits afforded by the opportunity to gather scientific and/or fishery information. The analysis should also indicate that a prohibition on longline fishing in the EEZ (as delineated in option 40) would be a necessary pre-condition for establishment of an EFP program and should include an evaluation of the effects of such prohibition on the longline fishery.

Section 8.5.5.8 - Recreational Fisheries (pp. 57-62)

This section includes options for federalizing management of the recreational fishery (options 61-62). Option 61 may have potentially significant ramifications, for instance, in terms of the role of the state fish and game commissions relative to federal management, changes in state legislation or regulations needed to authorize or facilitate federalization, analysis and actions needed to ensure (as specified in the draft FMP) that "the regulations would have to be made consistent with the Magnuson-Stevens Act" (p. 60). Such ramifications will need to be more fully understood in order to evaluate the feasibility, desirability and costs associated with this option.

Section 8.5.6 - Measures to Establish Harvest Quotas (pp. 68-69)

Option 90 appears to pertain to two separate issues, (1) how to establish total harvest quotas for

vulnerable species on the basis of an OY proxy, and (2) how the distribution of such quotas between commercial and recreational sectors should be based on historical landings. (1) is a scientific issue and (2) is an allocation issue for which historical landings represents one of any number of allocation criteria that could be considered. Given the potentially significant consequences of these issues, the SSC recommends that the Council not take action on Option 90 until these issues are further developed, analyzed and reviewed.

Section 8.5.7 - Standardized Reporting of Bycatch and Measures to Minimize Bycatch (pp. 70-85).

There is no discussion of standardized reporting in this section. The SSC recommends that reference be made in this section to the logbook/observer program/VMS options previously described in Section 8.5.5.1.3 (pp. 29-32), given the potential importance of such programs for reporting bycatch.

Options 16, 27, 44 and 56 respectively propose that performance standards be adopted that provide incentives to reduce bycatch for participants in the surface hook and line, drift gillnet, longline and coastal purse seine fisheries. According to the FMP, "Performance standards can be expressed as a percentage of the total catch by weight or number as well as specific goals for individual species of particular concern" (p. 8-70). The SSC notes that performance standards of this type may reflect not only the effect of bycatch avoidance measures but also changes in stock abundance of bycatch species and regulatory measures such as trip limits.

Section 8.7 - Research and Data Needed for Management (pp. 90-97)

The information needs for each species consist of a lengthy list that includes items that are critical for management and those that would be "nice to know". The SSC recommends the HMSPDT prioritize the items in the list, based on the requirements for conducting assessments, applying MSY and OY control rules and conducting economic analysis of pending management actions. This will be particularly important for ensuring that critical HMS needs are incorporated in the Council's Research and Data Needs and Economic Data Plan.

Minor Editorial Corrections

- In Section 8, reference is made to an "Option 6" in the second to last paragraph on p. 42 and in the first and second paragraphs on p. 43. What is Option 6?
- Section 8 states that "The Council is currently considering under the Coastal Pelagics Amendment an option of evaluating the use of grates to cover openings of holds through which fish are pumped..." (p. 67). The statement should be edited to reflect the fact that use of such grates has been approved.
- Some of the research and data needs identified in Section 8.7 (pp. 90-97) are lettered, while others are bulleted. The distinction between lettered and bulleted items should be clarified.
- The title of Section 8.8 on p. 97 (MSFCMA Specifications) should be renamed something that specifically refers to total allowable level of foreign fishing, as it deals only with that one issue.

PFMC  
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