

PROPOSED CHANGES TO THE SEPTEMBER 2002 DRAFT HMS FMP
Prepared by the HMSPDT
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Introduction

After completion of the September 19, 2002 draft of the Highly Migratory Species Environmental Impact Statement/Fishery Management Plan to meet the printing deadline, Plan Development Team members identified a number of sections in chapters 8 and 9 which need to be revised. These include inadvertent errors in language, and language that was intended to be included but was not completed in time for printing. The Team has prepared the following proposed changes for consideration by the HMSAS, public and Council prior to adoption of the FMP.

Language proposed to be deleted is crossed out, and new proposed language is highlighted.

Chapter 8, Proposed Action and Alternatives

1. Page 3 under section 8.2 Unilateral Management, Harvest Guidelines and Quotas, and Overfishing, 1st paragraph under *Unilateral Management*: language added to clarify that recovery time > 10 years is not the only criterion for "vulnerable" species, as explained in Ch. 3, sec. 3.2.3:

For most management unit species in this FMP, U.S. harvest by west coast-based vessels represents only a small fraction of total fishing mortality out of the overall range of the species. Therefore, any unilateral action, such as a reduction in the U.S. west coast harvest or effort, would not likely have a significant biological effect on the stock. However, under some circumstances, unilateral management of U.S. vessels may be appropriate, in addition to or in the absence of international actions. This is particularly true for vulnerable stocks, defined, in part, as stocks that will require more than ten years to recover from depletion (see Ch. 3, sec. 3.2.3). Circumstances where unilateral management may be appropriate include, but are not limited to, the following situations: ...

2. Page 14 section 8.4.1 Legal Gear Sub-alternative 2b omitted word corrected:

Sub-alternative 2b: Specifies *no minimum stretched mesh size* for authorized HMS drift gillnet gear; small mesh drift gillnet gear can target HMS.

3. Page 17 section 8.4.4 Bycatch Alternative 2 restated for consistency with Ch. 9:

Alternative 2 (Proposed Action): In addition to the fishery-specific bycatch reduction measures discussed in Chapter 5, the FMP ~~will also establish~~ **establishes** a framework ~~procedure~~ for implementing further bycatch reduction measures in the future. It also adopts a formal voluntary "catch-and-release" program for HMS recreational fisheries.

Background for Proposed Action:

The framework procedure is to allow efficient implementation of bycatch reporting and reduction measures as needed and as is practical. Potential measures/methods include but are not limited to:

- logbooks
- observers
- time/area closures
- gear restrictions or modifications, or use of alternative gear
- educational programs
- performance standards

- real-time data collection programs (e.g., VMS, electronic logbooks)

The voluntary “catch-and-release” program is to promote reduction of bycatch mortality and waste by encouraging the live release of unwanted fish. Its rationale and origination for recreational fisheries is explained in Chapter 5, section 5.7. Although establishment of the catch-and-release program technically removes bycatch in the recreational fisheries from the definition of “bycatch” in the Magnuson-Stevens Act at 16 U.S.C. § 1802(2), the catch-and-release program is also designed to promote the handling and release of fish in a manner that minimizes the risk of incidental mortality, encourages the live release of small fish, and discourages waste.

4. Page 18 sec. 8.4.5 Fishing Observer Authority Alt. 2 restated for consistency with Ch. 9:

Alternative 2 (Proposed Action): Mandates new observer programs initially for the longline, surface hook-and-line, and small purse seine fisheries, with NMFS to develop initial, in the longer term, pilot observer sampling plans for the private recreational and CPFV fleets.

In consultation with the Council, its advisory bodies, and the fishery participants, NMFS will develop initial observer plans for these fisheries that will be submitted when the FMP is implemented. The observer coverage plans for these fisheries may be adjusted as the initial data is assessed and more is learned about the levels of coverage necessary to obtain reliable data on bycatch in these fisheries. Large- and small-mesh DGN fisheries already have mandated observer programs, and observer coverage recently has become mandatory for the longline fishery.

This alternative provides for documentation and review of the bycatch, bycatch mortality, and protected species interactions in all HMS fisheries.

5. Page 19 sec. 8.4.6 Protected Species Alternative 2 restated for consistency with Ch. 9 and additional language added elaborating on the mechanism for implementing that alternative:

Alternative 2 (Proposed Action): Adopts a framework authorization for protected species conservation measures and implements initial conservation and management measures for drift gillnet, pelagic longline, and purse seine fisheries, as described in section 8.5, Ch. 6 sec. 6.3, and Ch. 9 sec. 9.2.5.1-3. and These measures are intended to reduce the potential for takes of protected species and to minimize the risk of adverse impacts from these takes.

The framework provisions of the FMP would be used to address new protected species concerns as they are identified. Both through the SAFE Report and through special reports from interested parties (which could include the USFWS or environmental organizations), the Council would be advised of the new concerns; would direct the plan team or others to investigate and recommend action; would determine if action is needed and, if it is viewed as a matter of substantial concern, would direct the completion of necessary documents to analyze the issues and evaluate alternatives; and would submit recommendations for corrective action to NMFS for consideration. If such an action were recommended by the Council and approved by NMFS, the action would be implemented by NMFS.

In fisheries where protected species takes are already being addressed, as by the Pacific Offshore Cetacean Take Reduction Team (POCTRT) for the drift gillnet fishery, any recommendations and supporting analyses, as by POCTRT, would be provided by NMFS to the Council for consideration. The Council would make recommendations as it deems appropriate to NMFS, which will make final decisions on whether to proceed with rulemaking under the MMPA or Magnuson-Stevens Act, as appropriate.

6. Page 31 sec. 8.5.3 Purse Seine Fishery Management Alternative 2 plus comment rewritten for consistency with Ch. 9.

Alternative 2 (Proposed Action): Closes the area within the EEZ north of 45°N. latitude to purse seine fishing to address bycatch and protected species concerns, and possible adverse impacts on other fisheries.

Purse seines are presently not authorized by Washington, mainly out of concern for salmon; thus this alternative extends that protection south of the OR-WA border to 45°N, with compliance to be required of all west coast fishers. Some species of salmon are listed as threatened or endangered. Since purse seine fishing for HMS has not only rarely been practiced in these waters in the past, this precautionary action would effectively maintain the status quo.

7. Page 44 sec. 8.6 Research and Data Needs paragraphs 4, 5, and 6 rewritten for clarity:

There is very little specific information on the migratory corridors and habitat dependencies of these large mobile fishes, how they are distributed by season and age throughout the Pacific and within the west coast EEZ, and how oceanographic changes in habitat affect production, recruitment and migration. Research is needed to better define EFH and HAPCs, and to identify specific habitat areas of particular concern (HAPC), such as pupping grounds, key migratory routes, feeding areas, and areas of concentration of large adult female sharks where adults aggregate for reproduction. These areas may not only concentrate pups, but also the highly valuable pregnant females at certain times of the year. Of special relevance are A special need is to determine the pupping areas of thresher and mako sharks, pupping areas, the locations of which are currently unknown but must occur which are presumed to be somewhere within the southern portion of the U.S. west coast EEZ, judging from the presence occurrence of post-partum and young pups in the area (e.g., NMFS Driftnet Observer data).

To determine which size/age groups of For sharks, the size/age groups contribute the contributing most to population growth and maintenance (and thus need the most protection), further demographic analyses (including elasticity analyses) are needed for each shark species. This is need to be determined by demographic studies to better determine the effectiveness of various how best to apply management measures, such as season and area closures, and 'slot' size limits for sharks. Additionally, the U.S. Congress identified the following data needs for sharks in the Shark Finning Prohibition Act (PL 106-557) (see also the U.S. National Plan of Action for Sharks):

8. Page 47 sec. 8.6.2 Information Needed by Fishery items under Pelagic Longline are expanded:

Pelagic Longline

- a. Extent and composition of bycatch and of protected species interactions.
- b. The size composition of the primary catch.
- c. Evaluate effectiveness of the conservation measures adopted from the Hawaii-based longline fishery in the area fished by the west coast longline fishery; develop and test new measures for reducing seabird take.
- d. Economic factors (for RIR and RFA analysis).

Chapter 9, Environmental Consequences of Proposed Action and Alternatives

1. Page 14, 1st paragraph in Analysis section of Control Rule section 9.2.2.2 needs to be replaced with the text:

The proposed No action or alternative is not really an alternative because the National Standard Guidelines for implementing National Standard 1 (Optimum Yield) of the Magnuson-Stevens Act specifically calls for use of control rules in managing the species of an FMP.

And the following paragraph needs a topic sentence and should begin with...:

The proposed action establishes such a rule, by adopting the default MSY control rule, and using an OY target for vulnerable species.

2. Page 18, middle of page. Legal Gear Sub-Alternative 2b should read :

Legal Gear Sub-Alternative 2b: Specifies no minimum stretched mesh size for authorized HMS drift gillnet gear; includes small-mesh drift gillnet gear which can target HMS.

3. Page 19, Analysis of Legal Gear SubAlternative 2a. Portion of analysis still pending on analysis of the impact on the set net fishery of limiting HMS landings to incidental catches.

4. Page 22, Analysis of Incidental Catch Allowance Alternative 2 (Proposed Action). Analysis still pending on the impact on the set net fishery of limiting HMS (e.g., thresher shark) landings to incidental catch allowance.

5. Page 25, under Bycatch Alternative 2 description. The following changes.

Bycatch Alternative 2: (Proposed Action): In addition to the fishery-specific bycatch reduction measures discussed in Chapter 5 (and in this chapter), the FMP ~~will also~~ establishes a framework ~~procedure~~ for implementing further bycatch reduction measures in the future. It also adopts a formal, voluntary "catch-and-release" program for HMS recreational fisheries. Although establishment of the catch-and-release program technically removes bycatch in the recreational fisheries from the definition of "bycatch" in the Magnuson-Stevens Act at 16 U.S.C. § 1802(2), the catch-and-release program is also designed to promote the handling and release of fish in a manner that minimizes the risk of incidental mortality, encourages the live release of small fish, and discourages waste.

6. Page 25, bottom of page, Fishery Observer Authority Alternative 2 should read:

Alternative 2: (Proposed Action): Mandates new observer programs initially for the longline, surface hook-and-line, and small purse seine fisheries. In consultation with the Council, its advisory bodies, and the fishery participants, NMFS will develop initial observer coverage plans for these fisheries that will be ~~implemented~~ submitted when the FMP is implemented. The observer coverage plans for these fisheries may be adjusted as the initial data is assessed and more is learned about the levels of coverage necessary to obtain reliable data on bycatch in these fisheries. In addition, in the longer term, NMFS will also develop observer sampling plans for the private recreational and CPFV fisheries in order to assess potential ways of improving information on the species and quantity of bycatch/live releases in these fisheries.

7. Page 27, 9.2.4.6 Protected Species. Replace the first and second paragraphs under Alternative 2 with:

Alternative 2: (Proposed Action): Adopts a framework authorization for protected species conservation measures (see Chapter 8 section 8.4.6) and implements initial conservation and management measures for the drift gillnet, pelagic longline and purse seine fisheries as described in this Chapter, in Chapter 8 section 8.5, and in Chapter 6, section 6.3. These measures are intended to reduce the potential for takes of protected species and to minimize the risk of adverse impacts from these takes.

The analyses associated with Protected Species alternatives are provided in this Chapter, under the drift gillnet 9.2.5.1, longline 9.2.5.2 and purse seine 9.2.5.3 alternatives sections. ~~Chapter 8, Section 8.5:~~

8. Page 31, Section 9.2.4.11 Exempted Fishing Permit section. To be consistent with Ch 8, Alternative 2 descriptive text 2nd par should be replaced with:

Alternative 2: Proposed Action: Authorizes issuance of EFPs pursuant to 50 CFR 600.745(b). In addition, requires that a general EFP plan be submitted for Council review for all future applicants wishing to target HMS prior to formal application to NMFS (an example of a fishery-specific proposal for an EFP is provided in Ch 9 Section 9.2.5.2.1). This EFP plan will be provided to the Council for review and recommendations. The Council may require changes in the initial proposed plan or request additional information. The final plan and Council recommendations will then be provided by the applicant to NMFS for action under 50 CFR 600.745.

9. Page 84, Analysis of Purse Seine Alternative 2. Replace this section with the following:

Analysis of Purse Seine Alternative 2: (Proposed): This closure has been proposed by the State of Washington because of the state's concerns over possible salmon and shark bycatch and incidental catch by purse seiners, potential interactions with protected species and marine mammals, and adverse impacts on other fisheries, such as possible competition with the albacore troll fleet if a purse seine fishery develops for albacore. No data are available on the potential extent of such interactions, however, the state wishes to be precautionary by proposing this closure. Such a closure would eliminate the opportunity that currently exists for non-Washingtonian fishers to use purse seines in the EEZ off Washington and would shift the management burden, and associated costs, from the state to the federal government. Purse seine fishers would still have the alternative to apply for an exempted fishing permit

There has not been any recent purse seine fishing for HMS in the proposed closed waters and, even though purse seine gear is legal gear in Oregon, no one in the Northwest has expressed interest in using this gear to target HMS. In order to use purse seine gear, a vessel needs calm sea conditions which typically do not occur offshore in northern Pacific waters. If purse seiners targeted HMS in these waters, the most likely target species would be albacore or bluefin tuna. The latter species, while ranging north to Vancouver, is not thought to be common in this area, with only minor catches recorded historically and recently in Washington state waters. If purse seine fishers were to target albacore tuna, there could be potential gear conflicts with the albacore troll fleet, as they would be fishing in the same area, targeting the same species. The potential bycatch of purse seine gear targeting albacore tuna in offshore waters cannot be ascertained at this time. There is a current purse seine fishery for sardine in the area, but these data are not comparable because this fishery occurs inshore and uses a different type of seine gear.

The proposed action will likely have little impact compared to the status quo. It would federalize regulations under the Magnuson-Stevens Act restrictions that already apply to Washington vessels under that state's laws but would add to those restrictions by closing some waters off Oregon as well. To the extent otherwise allowed under current states' regulations, purse seine fishing for HMS can continue. As noted in 9.1, it is expected that the coast-wide purse seine fishery will remain at or decline below recent levels, but this is dependent on a number of factors that are beyond the control of the Council. It is presumed that the proposed closure would have little impact because there has been virtually no purse seine fishing for HMS in the waters proposed to be closed except for a small amount of exploratory tuna purse seining in the 1960s. Absent data that demonstrates what the extent of bycatch and/or protected species interactions might be in waters offshore Washington, the State of Washington recommends that the Council take a precautionary approach regarding allowing any new, emerging HMS fisheries targeting HMS.

10. Page 86, section 9.2.5.5 Permits. Delete last two paragraphs on page 86 and first on page 87. This section, entitled "Analysis of commercial permit alternatives 1,3, and 4," is repetitive and should have been deleted.

