

NATIONAL MARINE FISHERIES SERVICE REPORT ON
FISHERY MANAGEMENT PLAN AMENDMENT UPDATE: HIGH SEAS LONGLINE
LIMITED ENTRY AND OTHER ISSUES

Highly Migratory Species (HMS) Fishery Management Plan (FMP) Status

The 95-day process for NMFS review, approval, and implementation of the proposed Fishery Management Plan for U.S. West Coast Highly Migratory Species (FMP) began on Monday, November 3, 2003. A Notice of Availability will be published Thursday, and it is intended that the proposed rule be filed about November 17, 2003, with a 45-day review period ending January 2, 2004. Day 95 would be February 5, 2004. The final rule would be published by the end of February 2004 and go into effect by the end of March 2004, after the 30-day delayed effectiveness period.

Section 7 consultations under the Endangered Species Act (ESA) have been initiated both internally and with the U.S. Fish and Wildlife Service. A critical issue is whether the fisheries that would be conducted pursuant to the FMP would result in jeopardy for any species. The Council was advised of NOAA Fisheries' concern at prior meetings and, in a letter from Dr. Hogarth, NOAA Fisheries advised that it would prepare a companion rule to the FMP rule to cover the potential need for additional protection for sea turtles. That is, a proposed rule will be published under ESA authority to prohibit longline fishing for swordfish east of 150° W longitude (long.) so that, if the consultation concludes that allowing such fishing would jeopardize any sea turtle species, the ESA rule can be implemented on the same time frame as the rule for the FMP. This would prevent a situation in which there would be a lapse in coverage while an FMP or regulatory amendment was being prepared. If the consultation concludes jeopardy but proposes a Reasonable and Prudent Alternative that is less stringent than prohibition of swordfish sets, the final rule could reflect that conclusion. Again, there would be no lapse in coverage.

Related Actions and Activities

As a result of the rulings in the litigation in Hawaii, for a time, there was no ESA authorized take of sea turtles in central and western Pacific pelagics fisheries. However, in response to requests from the Hawaii Longline Association (HLA), the U.S. Government, and environmental organizations, the court reinstated the 2002 regulations and 2002 Biological Opinion and Incidental Take Statement until April 1, 2004. This obviated an emergency rule that the WPFMC had proposed to provide a short-term management regime that could have resulted in a new consultation for that period. NOAA Fisheries is working hard with the Western Pacific Fishery Management Council, the Hawaii Longline Association, and non-governmental organizations to evaluate and seek agreement on a suite of longline fishery management measures that would allow some relief for longline controls without jeopardizing sea turtles. To meet the court mandated deadline for new regulations and a new Biological Opinion, the rulemaking has to start in early December 2003. It is not clear whether agreement will be achieved, in which case NOAA Fisheries will have to take the responsibility for the rulemaking. Among the types of actions being considered are limiting the amount of fishing effort that individual vessels could deploy; requiring large circle hooks and mackerel bait; setting a hard "cap" on the number of observed interactions resulting in mortality or a deep hook ingestion;

and off-site conservation efforts as mitigation for takes in the fisheries. No alternative has yet been submitted to NOAA Fisheries for formal review and implementation.

NOAA Fisheries has several related efforts underway that may have a bearing on future sea turtle conservation efforts and consultations. First, a three-year research project looking into the possible benefits of using large circle hooks and mackerel bait has been completed. While the formal results have not yet been published, the results are promising. There was a dramatic decline in the frequency of interactions, and the nature of the interactions that occurred was far less likely to result in mortality (that is, very few if any deep ingested hooks observed). The results of this research will be provided to the Council and its advisory bodies as they become available to the Southwest Region.

Second, NOAA Fisheries will sponsor three public workshops in coming months to review elements of the jeopardy standard - that is, exposure, effects, and risk - as applied to sea turtles. This may provide a basis for useful new analytical approaches or adjustments for future evaluations of jeopardy from fishery interactions of different types. The workshops will be completed by the end of February 2004. Details as to workshop dates, times and places will be provided to the Council as they are set, and the results of all such workshops will be provided to the Council and its advisory groups as well.