

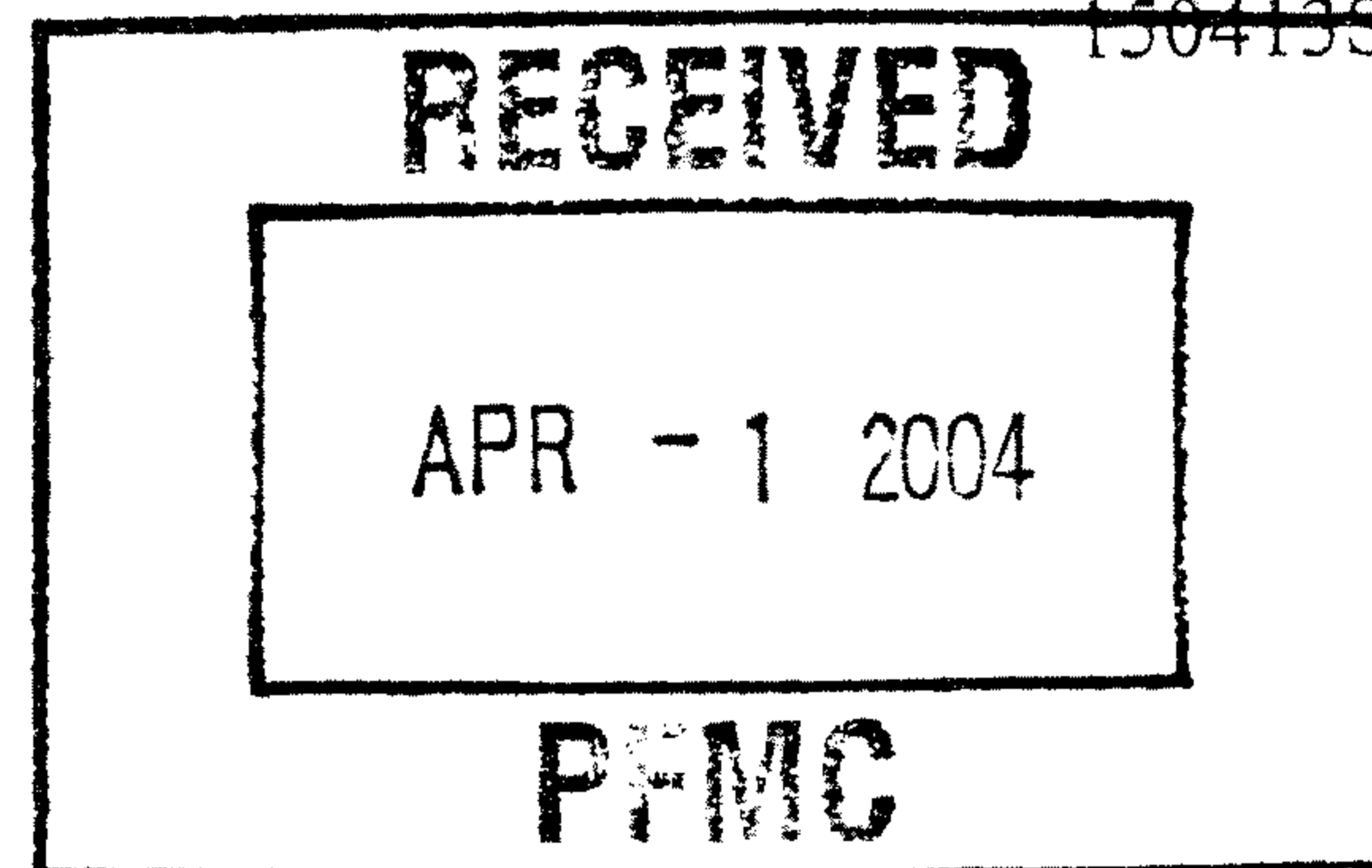


**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE

Southwest Region  
501 West Ocean Boulevard, Suite 4200  
Long Beach, California 90802- 4213

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Mr. Donald Hanson, Chairman  
Pacific Fishery Management Council  
7700 NE Ambassador Place, Suite 200  
Portland, Oregon 97220-1384

Dear Mr. Hanson:

I am writing to follow up on my February 4, 2004, letter informing you that, with the exception of one provision, I had approved the Pacific Fishery Management Council's proposed Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (FMP). In that letter, I indicated that I disapproved the provision that would have allowed shallow-set longline fishing by west coast-based vessels targeting swordfish in waters beyond the U.S. exclusive economic zone (EEZ) east of 150° W. longitude. This was based on the result of consultations under section 7 of the Endangered Species Act (ESA) that determined that the levels of takes and mortalities that were projected to occur in the fishery under the Council's proposed management program would appreciably reduce the likelihood of survival and recovery of loggerhead sea turtles. I also indicated that National Marine Fisheries Service (NOAA Fisheries) was separately publishing rules under the authority of the ESA that would prohibit shallow sets in the waters east of 150° W. longitude. The ESA regulations have now been published and will be effective April 12, 2004. The final rule for the FMP is in process and should be published soon.

In my previous letter, I also noted that the Magnuson-Stevens Act (section 304(a)(1)) requires that, if an FMP is disapproved in part or in whole, the Council must be advised of actions it can take to address the FMP provisions that were disapproved. I provided some initial information in this regard. I would like to update that information in hopes that the Council will consider an FMP amendment that will ultimately eliminate the need for the ESA rule.

As I indicated in February, NOAA Fisheries believes that the results of research in the Atlantic Ocean demonstrates clearly that there are alternative gear and bait combinations available to longline fishing that significantly reduce sea turtle interactions and consequent injury to or mortality of sea turtles. The research concluded that encounters with leatherback and loggerhead turtles in the Atlantic Ocean can be reduced by 65 to 90 percent by switching the type of hook and bait from the traditional "J" style hook with squid to a large, circular hook with mackerel. In addition, the nature of hookings is less damaging as the large hooks are far less likely to be deeply swallowed and lethal. In addition, new de-hooking and release devices and techniques have been developed, further reducing the likelihood of major injury to or death of turtles. The Council has received copies of news releases and summary information on the results of the research. A copy of a powerpoint presentation on this research is enclosed. I believe this information will be very useful to the team and the advisory subpanel in

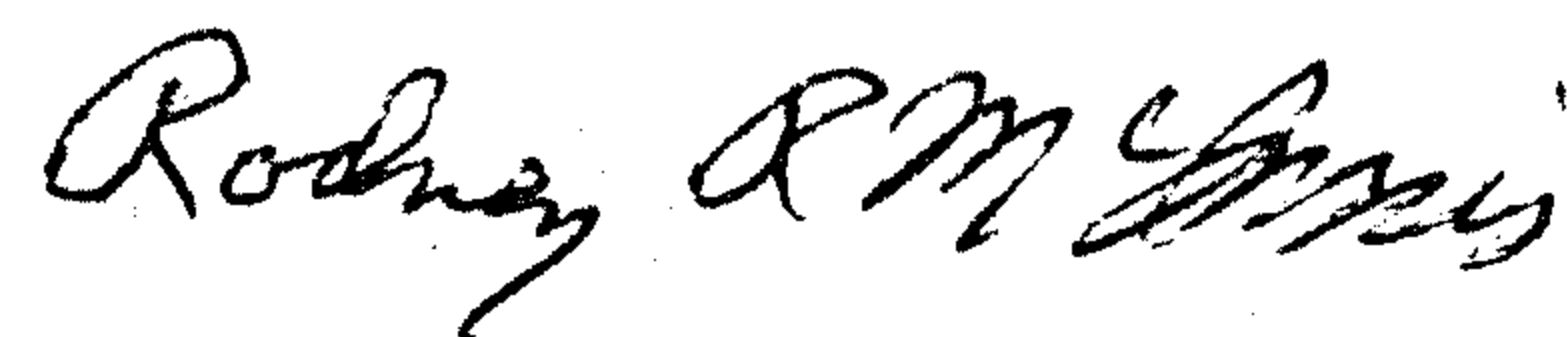


considering the possible use of gear restrictions as a tool for reducing sea turtle takes and mortality in the longline fishery. Second, I am pleased to inform you that NOAA Fisheries has approved proposed new regulations to govern the longline fishery for the Hawaii-based fleet. This proposed new strategy of the Western Pacific Fishery Management Council includes a combination of fleet effort limits, transferable individual vessel effort limits, a requirement to use circle hooks and mackerel bait, and numerical limits on annual sea turtle takes in the fishery based on observers' records. A section 7 consultation was completed on this proposal and concluded that the fishery, if operated under these controls, would not jeopardize the continued existence of any species of sea turtle. A copy of the Biological Opinion on this proposal has been provided to the Pacific Council under separate cover. The final rule implementing this action is enclosed.

I believe the Pacific Council now has information that provides a basis for developing alternatives that could allow longline fishing for swordfish without jeopardizing any ESA listed species. I recommend that the Council direct its management team to consider this information to develop and analyze alternative sets of comparable conservation and management measures under which the longline fishery off the West Coast might be able to target swordfish with low levels of marine turtle takes. This could include consideration of a longline limited entry program (as the Council has already directed the team to explore), a limit on overall longline fishing effort targeting swordfish by West Coast vessels, individual vessel effort limits, gear and bait requirements, time/area limits, turtle take limits, or other measures that would limit sea turtle mortality to low levels approximating those that had previously been found in the drift gillnet fishery not to result in jeopardy to any listed sea turtles. I commit the Southwest Region to work closely with the Council and its advisory bodies as well as to coordinate with the Pacific Islands Region and the Office of Protected Resources to the extent possible to ensure that the best scientific information available is used in developing and evaluating the potential impacts of alternative approaches.

Again, congratulations to the Council on developing this new FMP. I look forward to working closely with you and your staff and the states to implement this FMP, and will report on our progress as it occurs.

Sincerely,



Rodney R. McInnis  
Acting Regional Administrator

Enclosures

cc: F - W. Hogarth, Ph.D.  
F/NWR - B. Lohn  
GCSW - J. Feder  
GCNW - E. Cooney  
F/NWR - B. Robinson  
F/PIR - S. Pooley, Ph.D.