

## 8.2 Unilateral Management, Harvest Guidelines and Quotas, and Overfishing

### *Unilateral Management*

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, and 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, as discussed in the section on overfishing (see “overfishing” below), U.S. law requires unilateral action when a stock is determined to be overfished. Furthermore, unilateral management of U.S. vessels may also be appropriate under some circumstances apart from overfishing. This is particularly true for vulnerable stocks, defined, in part, as stocks that will require more than ten years to recover from depletion (see Chapter 3, section 3.2.3). Circumstances where unilateral management may be appropriate, not necessarily because a stock is overfished, include, but are not limited to, the following situations:

1. Where a stock is regionally distributed, and a significant portion of the regional distribution is subject to harvest by U.S. West Coast fisheries;
2. Where the ESA, the MMPA, or the MBTA mandate that a species be protected in both United States’ and international waters; or
3. Where unilateral action is needed to address domestic issues such as local depletion, protection for essential fish habitat in United States’ waters, bycatch reduction, catch allocations, or conflicts among user groups.

### *Precautionary harvest guidelines and quotas*

A quota is a specified numerical harvest objective, the attainment (or expected attainment) of which causes closure of the fishery for that species or species group. A harvest guideline is a specified numerical harvest objective that is not a quota. Attainment of a harvest guideline does not require closure of a fishery.

None of the management unit species that are taken by U.S. West Coast harvesters are overfished, and no U.S. harvest quotas are recommended at this time. A U.S. harvest guideline (to replace the current PSMFC guideline) is initially recommended for the common thresher shark, since thresher shark is regionally distributed, its population occupies a significant portion of the EEZ every year, and it is harvested by West Coast-based U.S. fishing vessels. A harvest guideline is also recommended for the shortfin mako shark because of the stock’s vulnerability, and the possible importance of the U.S. West Coast EEZ as nursery habitat. The recommended harvest guidelines for these sharks are given in Chapter 3 and Table 3-5.

### *Overfishing*

Section 304(e) of the Magnuson-Stevens Act, 16 U.S.C. § 1854(e), governs the rebuilding of overfished stocks. At any time, if the Secretary of Commerce (Secretary) determines that a fishery is overfished, the Secretary must immediately notify the Council and request that actions

be taken to end overfishing and rebuild the affected stock(s). For those fisheries managed under an FMP or an international agreement, the status is determined using the criteria for overfishing specified in the FMP or the agreement. Once an HMS stock is determined to be overfished, the Council must prepare, within one year, an FMP amendment or proposed regulations to end overfishing and rebuild the affected stock (see Chapter 3, section 3.2.4).

Because of the widespread distribution of HMS stocks outside the U.S. EEZ, it is recognized that unilateral action by the U.S. will likely provide little or no biological benefit to the stock(s), and that concerted international efforts will be required in order to achieve rebuilding. Therefore, if NMFS notifies the Council that a stock managed under an international agreement is overfished or is approaching a condition of being overfished, the Council may, in connection with preparing a rebuilding plan pursuant to the Magnuson-Stevens Act at 16 U.S.C. §1854(e) and 50 C.F.R. 600.310(e), provide analysis and documentation to NMFS and the Department of State supporting its recommendation for action under the international agreement to end or prevent overfishing. It is expected that the Department of State and U.S. delegation, in coordination with NMFS, will consider the Council's recommendation in developing U.S. positions for presentation to the international body, and will keep the Council informed of actions by the international body to end or prevent overfishing. These actions will be taken into account by the Council in completing its rebuilding plan, and in developing its recommendation to NMFS as to what additional U.S. regulations, if any, may be necessary to end or prevent overfishing. The Council's rebuilding plan will reflect traditional participation in the fishery, relative to other nations, by fishers of the United States, consistent with Section 304(e)(4)(C) of the Magnuson-Stevens Act, 16 U.S.C. §1854(e)(4)(C).