



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

MAR 30 2007

Dr. Donald McIsaac
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 101
Portland, Oregon 97220

Dear Dr. McIsaac: ^{Don,}

This is to inform you that the Pacific Fishery Management Council (Council) is not required to prepare a fishery management plan (FMP) amendment to address eastern Pacific Ocean (EPO) yellowfin tuna (*Thunnus albacares*) overfishing under Section 304 (16 U. S. C. 1854(e)(3)) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) as stated in my letter October 25, 2006. The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (MSRA) of 2006 addresses international overfishing by adding section 304(i) to the MSA. This new section requires the Secretary to immediately take appropriate action at the international level to end overfishing for fisheries that NMFS has determined: (a) to be overfished or approaching a condition of being overfished due to excessive international fishing pressure, and (b) for which there are no management measures to end overfishing under an international agreement to which the United States is a party. NMFS interprets "no management measures" to mean the absence of management measures that are adequate to stop overfishing for purposes of the MSA and its implementing regulations. NMFS determined that both of these conditions exist, and therefore, subsection 304(i) governs the MSA mandate to end overfishing in the case of EPO yellowfin tuna. While the Council is not required to prepare an FMP amendment, it must undertake two tasks under section 304(i)(2).

The first task, under section 304(i)(2)(A), necessitates developing recommendations for domestic regulations addressing the relative impact of fishing vessels of the United States on the stock, and submit such recommendations to NMFS. Based on Inter-American Tropical Tuna Commission (IATTC) data for years 2000-2005, the estimated U.S. average catch of EPO yellowfin tuna by the commercial and recreational sectors combined was approximately 1.0 percent of the total catch. Thus, fishing mortality on the EPO yellowfin tuna stock stems predominantly from non-U.S. fleets in the EPO, and any unilateral management to end overfishing by the United States would have a proportionally diminutive effect in terms of reducing fishing mortality and ending overfishing. However, the United States is party to the IATTC and must implement domestic regulations that fulfill the conservation objectives adopted by IATTC. Since the 1970s, the United States has addressed the relative impacts of U.S. fishing on EPO yellowfin tuna by implementing annual or multi-annual conservation and management



resolutions under the Tuna Conventions Act (16 U.S.C. 951–961 and 971 *et seq.*). While the Council has not been directly involved with the regulatory process under this Act for implementing resolutions adopted by the IATTC and endorsed by the United States, it does have the opportunity to comment on draft regulations prepared by NMFS. NMFS will strive to provide adequate notice to the Council for soliciting their input on future domestic regulations addressing the conservation resolutions adopted by the IATTC as well as the Western and Central Pacific Fisheries Commission.

The second task required under section 304(i)(2)(B) is to develop and submit recommendations to the Secretary of State, and to the Congress, for international actions that will end overfishing in EPO yellowfin fisheries and rebuild the affected stocks. These recommendations must take into account the relative impact of vessels of other nations compared to vessels of the United States, and, as mentioned previously, the relative impact of U.S. fishermen is negligible. NMFS is aware that the Council provided recommendations in 2006 to the General Advisory Committee (GAC) to the U.S. delegation to the IATTC and to the U.S. Commissioners to the IATTC. This section of the MSA now formalizes this role previously played by the Council in providing recommendations to end overfishing.

The GAC will be meeting in Long Beach, California on May 30, 2007, and NMFS encourages the Council's participation. To this end, the agency applauds the Council's efforts in moving forward with developing a Council Operating Procedure (COP) for providing HMS management recommendations, in concert with the Western Pacific Fishery Management Council through the appropriate U.S. delegations, the IATTC and the Western and Central Pacific Fisheries Commission. It is my understanding that the COP will be consistent with the Memorandum of Understanding as described at section 503(f) in the MSRA

In closing, NMFS appreciates the Council's involvement in international fisheries and welcomes its contribution in seeking ways to end overfishing of HMS stocks.

Sincerely,



Rodney R. McInnis
Regional Administrator

cc: F – William T. Hogarth, Ph.D.
F/PIR – William Robinson
F – Rebecca Lent, Ph.D.
F/SF – Alan Risenhoover