

Southwest Region NMFS Report HMS

FISHERY ACTIONS

Status of Shallow-set Longline Exempted Fishing Permit (EFP) Application: NMFS and PFMC staff are finalizing all accompanying documents and required consultations with completion expected on or before September 1, 2008. NMFS received approximately 25,000 comments during the 30-day public comment period of the Notice of Availability of the 2008 EFP application. The vast majority (> 99 percent) of the comments were form letters expressing a general opposition to longline gear and the potential negative impacts from bycatch of leatherback sea turtles. Substantive comments were taken into consideration during the preparation of the supplemental environmental assessment, or had already been addressed and included in the 2007 EFP EA.

A formal Section 7 consultation and a biological opinion were completed on August 6, 2008. It was determined that three leatherback sea turtles are likely to be taken during the proposed action, and one mortality may result. NMFS determined that the level of leatherback sea turtle take and mortality anticipated through fishing operations authorized by the EFP is not likely to jeopardize the continued existence of the species. No other ESA-listed species were considered likely to be taken; therefore, the consultation was limited to leatherback sea turtles. Estimated impacts to other protected species, marine mammals, seabirds and finfish do not appreciably change from those in the 2007 final EA.

The final decision to approve the permit is pending the California Coastal Commission's review of the EFP application for consistency certification

Status of IATTC Tuna Conservation Measures: The Inter-American Tropical Tuna Commission (IATTC) held its 78th meeting, June 23 - 27, 2008, in Panama City, Panama. At this annual meeting the IATTC failed to adopt any conservation and management measures for the tuna fisheries of the eastern tropical Pacific Ocean for 2008 or beyond. This means there are no multilateral rules in place for tuna fishing this year, and any conservation measures will rely on action by individual nations to regulate vessels of their flag.

White Paper on Prospective Conservation and Management Options for the U.S. North Pacific Albacore Fishery: NMFS awarded a contract for the preparation of a white paper on potential conservation and management options that would provide fundamental information that could be used to support any future deliberation on North Pacific albacore management. The paper will review a range of reasonable management options for consideration in maintaining or reducing catch and/or effort in the U.S. fishery as part of the larger regional effort for collaborative, sustainable management of the stock. The conservation and management options under review will include biological, socio-economic, regulatory, and monitoring and compliance elements. The report will include an examination of the historic and current fishery including the U.S. West Coast fleet, Canadian vessels fishing in the U.S. EEZ under the U.S.-

Canada Albacore Treaty, and the various sources of catch and effort by the main foreign fishing nations active in the fishery.

Swordfish-Leatherback Sea Turtle Utilization of Temperate Habitat (SLUTH) Workshop:

The NMFS Southwest Region and Southwest Fisheries Science Center sponsored the SLUTH workshop on May 28-29, 2008. The goal of this workshop was to bring together scientists, fisheries managers, and knowledgeable swordfish fishermen to discuss key life history traits and the ecological and oceanographic parameters influencing the distribution and abundance of swordfish and leatherback sea turtles in the California Current. Workshop objectives included highlighting areas of distributional and habitat overlap, where further research and monitoring efforts would assist in developing methods to reduce leatherback bycatch in swordfish longline and driftnet fisheries. Proceedings from the workshop are being prepared that will be used to guide future research and monitoring needs.

Deep-set Longline Fishery Environmental Assessment (EA): A single U.S. West Coast-based deep-set longline (DSL) fishing vessel targeting tuna has been conducting fishing operations on the high seas since 2005 under the authority of the High Seas Fishing Compliance Act and the U.S. West Coast Highly Migratory Species Fishery Management Plan (HMS FMP) permit issued under the Council's HMS FMP. When the HMS FMP was developed, the Council and NMFS assumed that a DSL fishery on the West Coast would not develop due to the economic and vessel constraints associated with operating far from West Coast ports, thus a thorough analysis of the possible impacts to the human environment was not completed in the Environmental Impact Statement prepared for the HMS FMP. NMFS intends to open a 30-day public comment period for the EA of the West Coast DSL fishery that targets tuna outside of the U.S. West Coast exclusive economic zone in mid-September 2008. The preferred alternative is to allow the U.S. West Coast DSL fishery to continue operating on the high seas in accordance with the management measures established by the Council and NMFS in section 6.2.2 of the HMS FMP.

U.S.–Canada Albacore Treaty: Delegations from both countries met in Vancouver, B. C. on April 24-25, 2008 to discuss the status of the Treaty. The meeting served as the annual consultation between both countries. In addition, because U.S. industry members have expressed their dissatisfaction with the Treaty and question its effectiveness, seeking solutions to problems the United States sees with the existing arrangement were discussed at length. Particular issues addressed included Canadian vessel permit leasing, credit for catch history, barriers to Canadian landings in the United States, the number of vessels allowed in each country, improved data collection, and joint marketing of fish. A followup meeting is scheduled for the fall with the United States hosting.

REGULATORY ACTIONS

HMS FMP Permit Fee Rule: At the HMS agenda item at the September 2007 Council meeting and again in a January 25, 2008 letter from Sam Rauch, Deputy Assistant Administrator for Regulatory Programs to Dr. McIsaac, NMFS gave notice of its intention to collect fees for permits. When the HMS FMP was implemented in 2004, a Federal permit for HMS vessels was required but a fee for the permit was not included. Based on the current national policy on permit fees, NMFS requests the Council's comment and formal acknowledgement of the

undertaking as NMFS prepares the proposed rule for submission. A draft of the proposed rule has been reviewed internally and is undergoing final revisions before being submitted to the Federal Register in the fall. The preliminary estimates for the cost of the 2-year permit fee range from \$30-\$40.

Proposed Rule to Revise Regulations for Vessels Fishing in the Eastern Pacific Ocean

(EPO): On July 11, 2008, NMFS published a proposed rule in the Federal Register (73 FR 39915), that would revise regulations governing vessels authorized by the United States to fish for tuna and tuna-like species in the EPO and revise requirements for the submission of documents for the import of tuna, tuna products, and certain other fish products. In summary the rule would: 1) revise requirements for vessel owners requesting to list a purse seine vessel as active or inactive on the IATTC Vessel Register; 2) address frivolous requests for active status on the Vessel Register (purse seine vessels only); 3) require written notification prior to transfer to foreign registry and flag for owners of purse seine vessels listed on the IATTC Vessel Register; 4) add additional criteria for removal of vessels from the IATTC Vessel Register (e.g., if the vessel does not have a valid state registration or U.S. Coast Guard certificate of documentation); 5) modify net inspection and floodlight gear specification requirements for purse seine vessels with Dolphin Mortality Limits; and 6) require Fisheries Certificates of Origin requirements and associated certifications for the import of tuna, tuna products, and certain other fish products to be submitted to NMFS within 10 calendar days of a shipment's entry into the commerce of the United States, rather than within 30 days. The 30-day public comment period for this rule closed on August 11, 2008.

Vessel Marking Requirements: On August 11, 2008, a letter was sent to the Pacific Council from NMFS regarding a measure adopted by the Western and Central Pacific Fisheries Commission (WCPFC) that, among other things, affects the vessel marking requirements of U.S. fishing vessels active in that convention area. Some of the existing vessel marking regulations (i.e., 50 CFR 660.704 and 50 CFR 300.173) conflict with the requirements of WCPFC Conservation and Management Measure (CMM) 2004-03 with respect to U.S. vessels fishing for highly migratory species in the WCPFC Convention Area, beyond national jurisdiction. CMM 2004-03 requires a vessel to be marked with its international radio call sign (IRCS), which is the same as the International Telecommunication Union radio call sign, and no other markings. The conflicting regulations require that a vessel be marked with its "official number", defined at 50 CFR 600.10 to mean the documentation number issued by the Coast Guard or, for an undocumented vessel, the certificate number issued by a state or by the Coast Guard. NMFS is requesting that the Council consider developing revisions to the regulations to allow, but not necessarily require (because not all vessels subject to those two sets of regulations will necessarily be subject to the WCPFC-based regulation), vessels be marked as required under CMM 2004-03.