

NATIONAL MARINE FISHERIES SERVICE REPORT ON  
HIGHLY MIGRATORY SPECIES MANAGEMENT

Situation: National Marine Fisheries Service (NMFS) will briefly report on recent international and domestic developments relevant to highly migratory species fisheries and issues of interest to the Council.

**Council Task:**

**1. Discussion.**

Reference Materials:

1. Exhibit G.1.a, Attachment 1: Supplemental NMFS Report on Highly Migratory Species Management.

Agenda Order:

- a. Update on Approval of FMP
- b. Reports and Comments of Advisory Bodies
- c. Public Comment
- d. Council Discussion

Svein Fougner

PFMC  
03/18/04

## **SWR INFORMATIONAL REPORT: INTERNATIONAL HMS ACTIVITIES**

### **Inter-American Tropical Tuna Commission (IATTC)**

The IATTC (with working groups) is scheduled to meet June 14-18, 2004, in Lima, Peru. A draft agenda was recently published on the IATTC Web Site ([iattc.org](http://iattc.org)) and includes discussion of fleet capacity, bycatch, conservation measures, and finance issues. The General Advisory Committee recently established to provide advice to the U.S. Commissioners and Department of State will meet May 17, 2004, in Long Beach to help prepare U.S. positions for the meeting.

### **U.S.-Canada Albacore Treaty**

Congress last week enacted legislation authorizing the Secretary of Commerce, with the concurrence of the Secretary of State, to implement such regulations as are necessary for the U.S. to meet its obligations under the Treaty. NMFS is evaluating the potential to complete rulemaking in time for implementing the reciprocal fishing limits June 1, 2004 (the original target date had been June 1, 2003, but legislative authority did not exist at that time). A decision on this matter will be made by the end of this week.

A consultation on the Treaty is scheduled for April 14, 2004, in Vancouver, Canada. This will be useful even if NMFS concludes that regulations cannot be implemented by June 1, 2004, as it will provide a final chance to agree on the reporting system to be used (and possibly refined by testing in 2004) when the reciprocal limits are implemented. U.S. and Canadian industry will be represented at this consultation, at which fisheries data also will be exchanged consistent with the Treaty.

## **SWR INFORMATIONAL REPORT - DOMESTIC HMS ACTIVITIES**

The final rule to implement approved provisions of the Council's Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (FMP) has been filed with the Federal Register and will publish April 7, 2004. It should be noted that permit, reporting and vessel identification requirements will not go into effect until the Office of Management and Budget has approved the Paperwork Reduction Act requests; this is anticipated in 60 days or less. However, NMFS is working to establish vessel owner lists so that application forms (partly filled in, in most cases) can be sent to persons known to have landed HMS in recent years. This is intended to simplify the permit process for the fishermen. The final rule will implement the Council's prohibition of shallow swordfish sets on the high seas west of 150° W. longitude. Meanwhile, the NMFS companion rule under the authority of the ESA to prohibit shallow sets targeting swordfish east of 150° W. longitude will be effective April 12, 2004, and will stay in effect until the FMP can be amended to ensure that the fisheries would not jeopardize the continued existence of any species of sea turtle

The Western Pacific Fishery Management Council's proposed regulatory amendment under its

fishery management plan for pelagic fisheries that would effectively reopened the swordfish fishery operating out of Hawaii was approved. The Council briefing book includes a detailed list of provisions in that program, which includes a fleet effort limit, transferable vessel effort limits, a requirement to use circle hooks and mackerel bait, fixed limits on sea turtle interactions, and 100% observer coverage. The section 7 consultation under the ESA concluded that the fisheries as they would be expected to operate under this new management program would not jeopardize the continued existence of any listed species. The results of that consultation will be made available to the Pacific Council. It should be noted that the Western Pacific Council proposal eliminates the requirement to register a vessel for use with a longline limited entry permit by the end of October of one year in order to use the vessel in the fishery the next year. This means that many of the owners of the vessels now used out of the West Coast can re-register their vessels in Hawaii when the ESA rule goes into effect and can then fish under the effort limitation program that was approved.

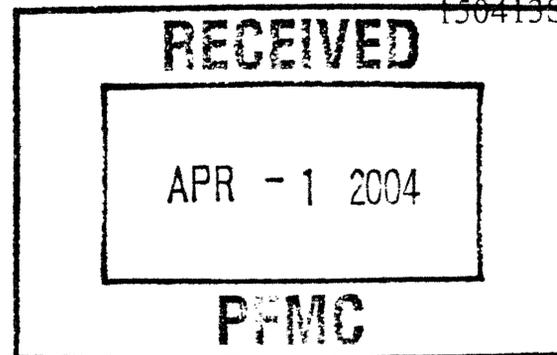


**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE

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

MAR 31 2004

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1504-13-HMS-OB-040  
150413SWR99SF13720



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.

ENDANGERED SPECIES ACT CONSIDERATIONS  
RELATED TO SEA TURTLE/LONGLINE FISHERY INTERACTIONS

Situation: The Pacific Fishery Management Council's (Council) Fishery Management Plan (FMP) for U.S. West Coast Fisheries for Highly Migratory Species (HMS) has been approved with the exception of the provision that would have allowed longline fishing targeting swordfish with shallow sets beyond the U.S. exclusive economic zone (EEZ) and east of 150° W longitude (Exhibit G.2.a, Attachment 1). This provision was disapproved because the Biological Opinion issued from a consultation under section 7 of the Endangered Species Act (ESA) concluded this fishery would have taken sea turtles and resulted in sea turtle mortality that "would appreciably reduce the likelihood of survival and recovery" of ESA-listed species of sea turtles.

National Marine Fisheries Service (NMFS) has promulgated a companion rule under the authority of the ESA to prohibit shallow sets targeting swordfish east of 150° W longitude until the FMP can be amended to ensure that the fisheries would not jeopardize the continued existence of any species of sea turtle. The final rule for this prohibition was published March 11, 2004 (69FR11540), it will be effective April 12, 2004. This document is included as Exhibit G.2.a, Attachment 2.

NMFS expects the final rule to implement the HMS FMP will be published by the end of March 2004. Additional information will be provided at the April Council meeting.

The partial approval letter from NMFS provides additional information about possible ways that the Council might remedy the jeopardy issues and resolve them through the framework procedure of the FMP. For example, the partial approval letter provides information on research to test whether changes in hook size/shape and/or bait can reduce sea turtle takes or mortalities in longline fisheries. The research was quite successful, indicating that large circle hooks with mackerel bait result in lower take rates and less likelihood of mortality from takes that do occur. The results of the research were a major factor in the Western Pacific Fishery Management Council's (WPFMC) development and submission of a regulatory amendment that would substantially change the conservation and management program for the longline fishery operating out of Hawaii. The proposed WPFMC program includes a fleet effort limit, transferable vessel effort limits, a requirement to use circle hooks and mackerel bait, and other measures (Exhibit G.2.a, Attachment 3).

At their meetings April 6<sup>th</sup> and 7<sup>th</sup>, the HMS Management Team and HMS Advisory Subpanel (respectively) will discuss the NMFS partial approval of the FMP and potential remedial management measures for the HMS FMP. They will report to the Council in supplemental reports.

**Council Task:**

**1. Discussion.**

Reference Materials:

1. Exhibit G.2.a, Attachment 1: NMFS Letter.
2. Exhibit G.2.a, Attachment 2: ESA-based Final Rule.
3. Exhibit G.2.a, Attachment 3: WPFMC Proposed Rule.
4. Exhibit G.2.c, Supplemental HMSMT Report.
5. Exhibit G.2.c, Supplemental HMSAS Report.

Agenda Order:

- a. Agendum Overview
- b. NMFS Report
- c. Reports and Comments of Advisory Bodies
- d. Public Comment
- e. Council Discussion

Dan Waldeck  
Svein Fougner

PFMC  
03/18/04



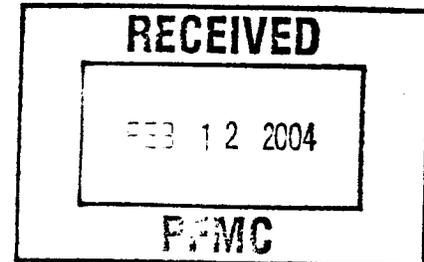
**UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration**

NATIONAL MARINE FISHERIES SERVICE  
Southwest Region  
501 West Ocean Boulevard, Suite 4200  
Long Beach, California 90802- 4213

FEB - 4 2004

F/SWR2:SF

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



Dear Mr. Hanson:

I am pleased to inform you that, with the exception of one provision, I have approved the Pacific Fishery Management Council's proposed Fishery Management Plan for U.S. West Coast Highly Migratory Species (FMP). There is broad agreement that this FMP is a major step forward toward effective management of these important west coast fisheries and resources.

Notwithstanding the provision disapproved, I compliment you and the Council on both the quality of the FMP and the open and collaborative process by which the FMP was developed.

The provision that I have disapproved 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. The FMP would prohibit longline fishing in the EEZ off the west coast, and would prohibit the longline fishery from making shallow sets to target swordfish sets in waters beyond the EEZ and west of 150° W. longitude. At the time the Council adopted the FMP, the Council had been provided with information about potential impacts of the fishery on endangered and threatened sea turtles if fishing shallow set longline fishing strategy were adopted and about the likelihood of FMP disapproval on this basis.

During review of the proposed FMP, the National Marine Fisheries Service (NOAA Fisheries) initiated consultations under section 7 of the Endangered Species Act (ESA) to determine if 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 listed species of sea turtles. Shallow-set longline fishing has been shown to have high rates of interaction with sea turtles (especially loggerhead and leatherback sea turtles). Currently, all west coast longline vessels (approximately 20 vessels) fish in this manner. The Biological Opinion (BO) resulting from the consultation concluded that, if allowed to make shallow sets in the waters east of 150° W. longitude at recent effort levels, the longline fishery would take turtles at levels that would appreciably reduce the likelihood of survival and recovery of at least one species of sea turtle. Therefore, that provision has been disapproved as not being consistent with the ESA, meaning that the FMP does not comply with "other applicable law" (section 303(a)(1)(C) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act)). A copy of the BO will be provided to the Council under separate cover.

NOAA Fisheries has separately published (68 FR 70219, December 17, 2003) a proposed rule under the authority of the ESA that would prohibit shallow sets in the waters east of 150° W. longitude. This was published prior to action on the FMP to ensure that, if the review of the Council's FMP concluded that its proposed management program would be inadequate, then NOAA Fisheries would have corrective regulations in place until the Council could make the necessary changes to its management program. Under this approach, the ESA regulations could be implemented at the same time as the FMP implementing regulations if they were deemed necessary after the section 7 consultation and action on the proposed FMP. In fact, this rule is now deemed necessary. The BO concluded that the fisheries as they would operate under the conservation and management measures of the FMP, and the ESA companion rule would not jeopardize the continued existence of any species of sea turtle. NOAA Fisheries will therefore proceed to finalize this rule on the same time track as the final rule for the FMP.

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 correct the FMP. The following information is provided to satisfy this requirement.

First, NOAA Fisheries is very pleased with the results of recent research in the Atlantic Ocean regarding the use of alternative gear and bait combinations in longline fishing to reduce sea turtle interactions and consequent injury or mortality to sea turtles. A copy of the news release summarizing the achievements of that research is enclosed. 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. NOAA Fisheries is actively promoting adoption of this new gear in the international arena given that this is a global problem. NOAA Fisheries also plans to undertake additional research into the use of this gear in longline tuna fishing, which also is known to have sea turtle interactions.

Second, in January 2004, NOAA Fisheries convened 17 experts in the areas of biology, veterinary medicine, anatomy/physiology, satellite telemetry, and longline gear deployment for a Workshop on Marine Turtle Longline Post-Interaction Mortality. These experts presented and discussed recent data available on the survival and mortality of sea turtles subsequent to being hooked by fishing gear. Based on the data gathered during that workshop, NOAA Fisheries revised its February 2001 post-hooking mortality criteria. The Southwest Region will work with its observer contractor to make sure that future observers collect more detailed interaction information to better support application of this new policy.

Third, new regulations to govern the longline fishery for the Hawaii-based fleet are needed by April 1, 2004, in response to a court decision. The Western Pacific Fishery Management Council has submitted a proposal (summary enclosed) that would allow shallow longline sets targeting

swordfish but that proposes to limit sea turtle takes and mortality through a combination of fleet effort limits, transferable vessel effort limits, a requirement to use circle hooks and mackerel bait, a limit on estimated sea turtle takes, in the fishery based on observer records, and other measures. This proposal is being reviewed by NOAA Fisheries, and a section 7 consultation is underway. I will advise the Pacific Council of the results of the consultation and NOAA Fisheries' action on this proposal.

I believe this information will be very useful to the Council in considering adjustments to its fishery management regime that can allow fishing without jeopardizing any ESA listed species. NOAA Fisheries' action on the Western Pacific Council's proposal has implications for potential approvability of similar approaches for the west coast longline fishery. I recommend that the Council direct its management team to review this information and to begin developing and analyzing 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 limited longline fishing for swordfish with 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

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UNITED STATES DEPARTMENT OF  
**COMMERCE**  
**NEWS**

WASHINGTON, D.C. 20230

NATIONAL  
OCEANIC AND  
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ADMINISTRATION

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NOAA 04-101  
Jan. 5, 2004

**NOAA, INDUSTRY DEVELOP TECHNOLOGY THAT SAVES SEA TURTLES;  
U.S. CALLS ON OTHER FISHING NATIONS TO JOIN EFFORT**  
**Turtle-friendly Gear and Techniques Reduce Interactions up to 90 Percent**

The National Oceanic and Atmospheric Administration (NOAA) announced today it has developed new technology to help fishermen reduce accidental capture and harm to endangered sea turtles. NOAA's National Marine Fisheries Service (NOAA Fisheries), in cooperation with fishermen and private industry, has completed three years of fishing-equipment research in the high seas of the Atlantic Ocean to develop turtle-friendly gear and fishing methods for commercial longline vessels. NOAA is an agency of the Department of Commerce.

"The results of this study have global implications for all nations with longline fishing fleets," said Dr. William Hogarth, director of NOAA Fisheries. "Our cooperative research with industry has shown that these turtle bycatch-reduction techniques have been successfully tested in the Grand Banks and are a viable solution for meeting everyone's objectives. I'm asking all nations to match our efforts and evaluate these techniques in their fisheries so we can meet our shared responsibility to protect sea turtles and allow commercial fishing to prosper."

The agency and partners have concluded that encounters with leatherback and loggerhead turtles 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 circle style hook with mackerel.

"These new approaches we are announcing today are the answer we've all been waiting for," said Nelson Beideman, Executive Director of Bluewater Fisherman's Association, a commercial longline group with 13 vessels participating in the project. "We are pleased to announce to the fishing world that we have successfully documented practical ways for pelagic longline fishermen to overwhelmingly reduce sea turtle interactions and also to substantially reduce harm from any remaining sea turtle interactions."

For the turtles that are incidentally captured, government scientists and partners have developed new de-hooking and release techniques to increase survival rates. Dehookers and dipnets allow fishermen to remove hooks from turtles with minimal additional trauma. A device used as a turtle elevator, the "leatherback lift," was crafted to allow fishermen to bring larger turtles on board for de-hooking.

Results of the study have received the endorsement of fishermen and environmentalists, such as the World Wildlife Fund.

-MORE-

"World Wildlife Fund applauds the efforts of NOAA Fisheries and the Blue Water Fishermen to develop techniques for saving sea turtles from drowning in longline gear," said Scott Burns, director of WWF's Marine Conservation Program. "We are joining NOAA and Blue Water to advance these methods internationally so that we can not only stop unnecessary killing of these endangered animals but provide economic incentives for fishermen in the process."

There is economic incentive for fishermen to use sea turtle bycatch reduction techniques. They are now able to retrieve their hooks and other gear, avoid the extra time spent on entangled turtles, and with the significant bycatch reduction achieved, the pelagic longline industry may have fewer bycatch-related restrictions. Further, tests showed the use of these techniques can increase directed catch by as much as 30 percent.

The need for research into these new practices became apparent when the U.S. prohibited American longliners from operating in the Grand Banks off Newfoundland due to bycatch of endangered sea turtles, leaving these productive swordfish grounds open to increased fishing effort by other nations. Though the foreign vessels are not equipped with turtle bycatch reduction technology, the United States imports their seafood products. Hogarth said American longline fleets pay a high price when shut out of turtle-prone fishing grounds, and the move does not ensure protection of sea turtles if U.S. effort is replaced by other fleets.

NOAA Fisheries has begun international outreach efforts to share the results of this experiment with other fishing nations. In 2003, the agency partnered with the Inter-American Tropical Tuna Commission to conduct training workshops for sea turtle bycatch reduction, attended by over 800 fishermen throughout Ecuador. The agency will participate in similar workshops in Costa Rica this spring.

Commercial longliners catch some of America's most popular seafood: tuna, swordfish and mahi mahi. The fishing technique has long been controversial because of the level of incidental bycatch. The U.S. Atlantic pelagic longline fleet is a \$40 million-per-year industry, and accounts for a fraction of the total sea turtle catches in all the world's fisheries.

For more information about this project, visit us online at: [www.nmfs.noaa.gov/mediacenter/turtles](http://www.nmfs.noaa.gov/mediacenter/turtles).

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NOAA's National Marine Fisheries Service (NOAA Fisheries) is dedicated to protecting and preserving our nation's living marine resources and their habitat through scientific research, management and enforcement. NOAA Fisheries provides effective stewardship of these resources for the benefit of the nation, supporting coastal communities that depend upon them, and helping to provide safe and healthy seafood to consumers and recreational opportunities for the American public. To learn more about NOAA Fisheries, please visit: [www.nmfs.noaa.gov](http://www.nmfs.noaa.gov).

The Commerce Department's National Oceanic and Atmospheric Administration (NOAA) is dedicated to enhancing economic security and national safety through the prediction and research of weather and climate-related events and providing environmental stewardship of our nation's coastal and marine resources. To learn more about NOAA, please visit [www.noaa.gov](http://www.noaa.gov).

## 2.0 Summary

This regulatory amendment to the Fishery Management Plan for the Pelagics Fisheries of the Western Pacific Region would:

- 1) Establish an annual limit on the amount of shallow-set longline fishing effort north of the equator that may be collectively exerted by Hawaii-based longline vessels (2,120 shallow-sets per year);
- 2) divide and distribute this shallow-set effort limit each calendar year in equal portions (in the form of transferable single-set certificates valid for a single calendar year) to all holders of Hawaii longline limited access permits that respond positively to an annual solicitation of interest from NMFS;
- 3) prohibit any Hawaii-based longline vessel from making more shallow-sets north of the equator during a trip than the number of valid shallow-set certificates on board the vessel;
- 4) require that operators of Hawaii-based longline vessels submit to the Regional Administrator within 72 hours of each landing of pelagic management unit species one valid shallow-set certificate for every shallow-set made north of the equator during the trip;
- 5) require that Hawaii-based longline vessels, when making shallow-sets north of the equator, use only circle hooks sized 18/0 or larger with a 10-degree offset;
- 6) require that Hawaii-based longline vessels, when making shallow-sets north of the equator, use only mackerel-type bait;
- 7) establish annual limits on the numbers of interactions between leatherback and loggerhead sea turtles and Hawaii-based longline vessels while engaged in shallow-setting (set equal to the annual estimated incidental take for the respective species in the shallow-set component of the Hawaii-based fishery, as established in the prevailing biological opinion issued by NMFS pursuant to section 7 of the Endangered Species Act);
- 8) establish a procedure for closing the shallow-setting component of the Hawaii-based longline fishery for the remainder of the calendar year when either of the two limits is reached, after giving 1 week advanced notice of such closure to all holders of Hawaii longline limited access permits (the numbers of interactions will be monitored with respect to the limits using year-to-date estimates derived from data recorded by NMFS vessel observers);
- 9) require that operators of Hawaii-based longline vessels notify NMFS in advance of every trip whether the longline sets made during the trip will involve shallow-setting or deep-setting and require that Hawaii-based longline vessels make sets only of the type declared (i.e., shallow-sets or deep-sets);
- 10) require that operators of Hawaii-based longline vessels carry and use NMFS-approved de-hooking devices; and
- 11) require that Hawaii-based longline vessels, when making shallow-sets north of 23° N. start and complete the line-setting procedure during the nighttime (specifically, no earlier than one hour after local sunset and no later than local sunrise).

On March 29, 2001, the National Marine Fisheries Service (NMFS) issued a Biological Opinion under section 7 of the Endangered Species Act for the authorization of fisheries under the Pelagics Fishery Management Plan (FMP) of the Western Pacific Region. The Biological Opinion (BiOp) contained a series of non-discretionary actions (Reasonable and Prudent Alternative) to mitigate interactions between the Hawaii-based longline fishery and sea turtles. At the 110<sup>th</sup> Council Meeting held June 18-21, 2001, staff of the Western Pacific Regional Fishery Management Council (WPRFMC) were directed to prepare a regulatory amendment recommending implementation of the Reasonable and Prudent Alternative (RPA) as required under the Endangered Species Act (ESA). This recommendation was prepared, and it was implemented by NMFS on June 12, 2002. New measures included a ban on the use of shallow-set swordfish longline fishing north of the equator and a seasonal area closure from 15° N. lat. to the equator and from 145° W. long. to 180° long. during April and May for any longline vessel fishing under the authority of the FMP.

On December 12, 2001, NMFS reinitiated section 7 consultation on the Western Pacific Region's pelagic fishery. This reinitiation was based on new information that could improve the agency's ability to quantify and evaluate the effects of the fishery on listed sea turtle populations, as well as the economic impacts of the implementation of the March 2001 RPA. At the conclusion of this reconsultation NMFS issued a new BiOp (November 15, 2002), which maintained the June 12, 2002 regulations including the ban on shallow-setting north of the equator and the April-May southern area closure.

At its 118<sup>th</sup> meeting in June 2003, the Council reviewed a number of potential modifications to the southern area closure to determine whether modifications could be made to support the economic viability of the fleet without jeopardizing sea turtles. The Council subsequently directed its staff to continue its preparation of a regulatory amendment to the Pelagics FMP containing a further range of alternatives and the impacts of those alternatives on sea turtles, fisheries, and the environment. The Council anticipated selecting a final preferred alternative at its 119<sup>th</sup> Council meeting, which would then be transmitted to NMFS for review and approval with the intention of implementing this change prior to the 2004 seasonal longline area closure.

However, on August 31, 2003, the Federal Court vacated the 2002 BiOp and the regulations put in place in June 2002. Consequently at its 119<sup>th</sup> meeting on September 23, 2003, the Council voted to recommend an emergency action which would allow a model swordfish longline fishery north of the equator at 75% of historic (1994-1998 average annual) swordfish levels of effort (sets) in conjunction with fishing experiments that stay within the anticipated takes in the model fishery. The fishery would only be allowed to operate with circle hooks instead of J-hooks and mackerel bait instead of squid, measures proven successful in minimizing leatherback and loggerhead interactions in the Atlantic Ocean. The emergency action would also require mandatory night setting for vessels shallow-setting fishing north of 23° N, implement a "hard limit" for turtle interactions, and would not include any time/area closures. Under this approach, the swordfish fishery would be closed annually upon exceeding its incidental take statement (rather than just reinitiating consultation) or when it reaches its effort limit (75% of historic effort

or 3,200 sets). In addition, the Hawaii-based tuna and swordfish fisheries would have separate incidental take statements, the hard limit detailed above would apply only to the swordfish fishery. All longline vessels (tuna and sword) would be obliged to carry and use effective dehooking devices. Finally, a series of conservation measures designed to protect sea turtles on nesting beaches and in coastal waters would be implemented to mitigate fishery impacts. Looking ahead, the Council also created a special advisory committee to include scientists, managers, industry and conservation groups who would work together to develop and recommend to the Council measures for the long-term management of this fishery.

On October 6, 2003, the Federal Court stayed the execution of the August 31, 2003 order until April 1, 2004 to allow NMFS time to develop a new BiOp and hopefully render a more permanent solution than interim or emergency measures. The purpose of this amendment is thus to provide recommended measures for the long-term management of the Hawaii-based longline fishery.

At its 120<sup>th</sup> meeting (October 20, 2003), the Council rejected a request from NMFS that it withdraw its recommendation for emergency measures (transmitted to NMFS for implementation on October 10, 2003) on the basis that the stay through April 1, 2004 eliminated the need for emergency action. NMFS also requested that the Council work to develop and transmit a complete long-term rule package to NMFS by December 1, 2003 so that it could be processed and implemented by April 1, 2004. In response, the Council directed its staff to continue development of this long-term rule package through a series of meetings of the special advisory committee, workshops and seminars, and preparation of an appropriate NEPA document, with the goal of meeting the December 1 deadline. However, given the abbreviated time available, the Council declined to withdraw the emergency rule package, instead recommended that if the long-term rule package is not completed according to NMFS' schedule, NMFS should process the Council's emergency rule for implementation by April 1, 2004.

The Council's Sea Turtle Conservation Special Advisory Committee held a series of three meetings to craft recommendations for further analysis and possible Council action. Committee membership included representation from fishery managers, scientists, industry, and environmental organizations. The Committee's first two meetings resulted in five potential alternatives that were submitted to NMFS' Office of Protected Resources (OPR) for their review and feedback. At the Committee's third and last meeting, OPR's comments were circulated and discussed. In summary, OPR ranked the proposed action as representing the second lowest risk of the five alternatives considered. This assessment was based on the fact that although other alternatives would have similar anticipated interactions, under the proposed action a greater percent of loggerhead and green turtle interactions would be expected to involve shallow-set longline gear (with circle hooks and mackerel-type bait) which would minimize potential harm to these species.

Because the impetus for this action is concern for fishery interactions with sea turtles, and because the FMP's Hawaii-based longline fishery is the only one thought to interact significantly

with sea turtles (see Sections 9.1.4.9 to 9.1.4.11) these alternatives focus on that fishery. No alternatives would allow general longline permit holders to participate in the Hawaii-based longline fishery (meaning to fish in Hawaii's EEZ or to land fish in Hawaii) without obtaining a Hawaii longline limited access permit. Thus, under all alternatives, the management of all other fisheries would remain unchanged, except for general longline permit holders.

This document includes a range of alternatives for the long-term management of the longline fisheries managed under the Council's Pelagics Fishery Management Plan. These alternatives supplement those described in NMFS' 2001 Final Environment Impact Statement (FEIS) for the Pelagic Fisheries of the Western Pacific Region through the examination of an additional range of levels of swordfish fishing, in conjunction with circle hooks and mackerel-type bait which have recently been shown to be effective in reducing sea turtle interactions, while maintaining swordfish catch rates.

A number of alternatives previously considered by the Council are also described in this document, but not analyzed in detail, as the Council's focus for final action at its 121<sup>st</sup> meeting was those alternatives recently recommended by its Turtle Conservation Special Advisory Committee. Please see the Council's October 9, 2003 document *Emergency Rule Package of the Management of Pelagic Fisheries under the Pelagic Fisheries Management Plan of the Western Pacific Region* for a detailed description and analysis of 18 additional action alternatives recently considered by the Council. A total of six alternatives were recommended for detailed analysis by Committee members, and a seventh, a 'no action' alternative, was added at the request of the NOAA Fisheries acting Regional Administrator for the Pacific Islands Region. These seven alternatives are the subject of this document. These alternatives range from a tuna only (no swordfish fishing) fishery (Committee Alternative 6), to one in which there are no constraints on swordfish fishing beyond the existing limited entry program and maximum vessel size limits (Alternative 7, the no action alternative). Those aspects of the alternatives related to fishery management are summarized in Table 1, while the conservation measures that are part of all alternatives are presented in Section 8.2.

On November 25, 2003, the Council held its 121<sup>st</sup> meeting via teleconference at the Council's Honolulu office. This was an emergency meeting and the measures discussed here were its sole focus. The Council's November 18, 2003 draft document *An Amendment to the Pelagics Fishery Management Plan of the Western Pacific Region, Long-Term Management Measures of the Western Pacific Pelagic Fisheries (Including a Draft Preliminary Draft Supplemental Environmental Impact Statement)* was distributed at this meeting as well as made available on the Council's website. The Council also reviewed the Committee's alternatives and estimates of their relative impacts. The Council's final action on this measure was to recommend that NMFS now allow 2,120 swordfish sets to be made annually by Hawaii longline limited access permit holders to model the use of circle hooks with mackerel-type bait, dehookers and other new technologies shown to reduce and mitigate interactions with sea turtles, in addition to a continued tuna fishery

**Table 1. Summary of Hawaii longline fishery management alternatives analyzed in detail for consideration by the Council**

<b>Committee Alternative</b>	<b>Tuna Fishery?</b>	<b>Model Swordfish Fishery - with circle hooks and mackerel bait?</b>	<b>Dehooker, (and line cutter, dip net and bolt cutters) required?</b>	<b>Conservation measures implemented?</b>
1	Yes, with no time/area closure	Yes, 1,060 sets annually	Yes	Yes
2	Yes, with no time/area closure	Yes, 1,560 sets	Yes	Yes
3	Yes, with recent time/area closure except for EEZ waters around Palmyra	Yes, 2,120 sets annually	Yes	Yes
4 Preferred Alternative	Yes, with no time/area closure	Yes, 2,120 sets annually	Yes	Yes
5	Yes, with no time/area closure	Yes, 3,179 sets annually	Yes	Yes
6 Current Fishery	Yes, with recent time/area closure	No	Yes, except for dehooker	Yes
7 No Action	Yes, with no time/area closure	Yes, no specific limits	Yes, except for dehooker	Yes

with no time/area closures, the mandated use of dehookers, and the implementation of a suite of conservation measures (Alternative 4). These conservation measures include protection of potentially affected turtles and eggs at nesting beaches and in coastal foraging waters in various areas throughout the Pacific. Based on information from NMFS' Pacific Islands Fishery Science Center and NMFS' Office of Protected Resources, as well as consideration of the conservation measures that are part of Alternative 4, the Council believes this alternative will best meet this action's objective of achieving optimum yields from the fisheries without jeopardizing sea turtles or other listed species.

All alternatives, apart from Alternative 6, would permit shallow set swordfish style fishing by vessels with a Western Pacific general longline permit. American Samoa longline vessels currently fish under a general permit, but a limited entry program for this fishery is currently nearing completion. American Samoa vessels could conceivably fish north of the equator and make shallow sets for swordfish but have no history of doing so. Moreover, the American Samoa fleet targets primarily albacore for the two fish canneries in Pago Pago, and there is little to no market for fresh swordfish in American Samoa. More importantly, there is no easy access to markets elsewhere on the U.S. mainland, unlike Hawaii, where most of the swordfish catch was sent. Two general longline permits have been issued in the Mariana Islands, one in Guam and the other in Commonwealth of the Northern Mariana Islands (CNMI). Neither permit is being used to conduct longline fishing from these locations. Based on historical data from other fleets, any longline fishing conducted around the Marianas would target tunas and not swordfish. Vessels with a Western Pacific general permit may not land longline caught fish in Hawaii.

On December 3, 2003 (68 FR 67640), the Council and NMFS published a Supplemental Notice of Intent to prepare the SEIS for this action, along with public notice of a compressed schedule under alternative procedures approved by the Council on Environmental Quality (CEQ). This notice furnished additional information on the need for expedited management action on proposed management measures for the Hawaii-based longline fishery and its potential impact on protected sea turtle populations. The accelerated management action schedule avoids a lapse in appropriate management measures after April 1, 2004. It further announced the Council and NMFS' intent to apply alternative procedures approved by the CEQ to facilitate completion of the SEIS on the proposed management measures for the Hawaii-based longline fishery for implementation of rules effective by April 1, 2004.

**§ 102-39.65 What are the sales methods?**

(a) You must use the methods, terms, and conditions of sale, and the forms prescribed in part 102-38 of this title, in the sale of property being replaced, except for the provisions of §§ 102-38.100 through 102-38.115 of this title regarding negotiated sales. \* \* \*

\* \* \* \* \*

[FR Doc. 04-5409 Filed 3-10-04; 8:45 am]

BILLING CODE 6820-14-P

**FEDERAL COMMUNICATIONS COMMISSION**

**47 CFR Part 73**

[MM Docket No. 87-97; RM-5598]

**Radio Broadcasting Services; Laughlin, NV**

**AGENCY:** Federal Communications Commission.

**ACTION:** Correcting amendment.

**SUMMARY:** This document contains a correction to Section 73.202(b), FM Table of Allotments, under Nevada for the community of Laughlin.

**DATES:** Effective March 11, 2004.

**FOR FURTHER INFORMATION CONTACT:** Victoria McCauley, Media Bureau (202) 418-2180.

**SUPPLEMENTARY INFORMATION:** In 1987, the Commission allotted Channel 300C1 to Laughlin, Nevada. See 52 FR 38766 (October 19, 1987). The channel is not currently listed in the FM Table of Allotments, Section 73.202(b) under Nevada for the community of Laughlin. Station KVG(S)(FM) obtained a license for this channel on May 13, 1992. See BLH-19910903KD. Station KVG(S)(FM) currently operates on Channel 300C at Laughlin, Nevada because the station was granted a license to specify operation on Channel 300C in lieu of Channel 300C1 at Laughlin, Nevada on June 20, 2001. See BLH-20010327ABN.

**Need for Correction**

The Code of Federal Regulations must be corrected to include Channel 300C at Laughlin, Nevada.

**List of Subjects in 47 CFR Part 73**

Radio, Radio broadcasting.

■ Accordingly, 47 CFR part 73 is corrected by making the following correcting amendment:

**PART 73—RADIO BROADCAST SERVICES**

■ 1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, and 336.

**§ 73.202 [Amended]**

■ 2. Section 73.202(b), the Table of FM Allotments under Nevada, is amended by adding Channel 300C at Laughlin.

Dated: February 12, 2004.

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

[FR Doc. 04-5416 Filed 3-10-04; 8:45 am]

BILLING CODE 6712-01-P

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 223**

[Docket No. 031202301-4067-02; I.D.111403C]

RIN 0648-AR53

**Taking of Threatened or Endangered Species Incidental to Commercial Fishing Operations**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS is issuing a final rule to prohibit shallow longline sets of the type normally targeting swordfish on the high seas in the Pacific Ocean east of 150° W. long. by vessels managed under the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (FMP). This action is intended to protect endangered and threatened sea turtles from the adverse impacts of shallow longline fishing by U.S. longline fishing vessels in the Pacific Ocean and operating out of the west coast. This rule supplements the regulations that implement the FMP that prohibit shallow longline sets on the high seas in the Pacific Ocean west of 150° W. long. by vessels managed under that FMP. The FMP was partially approved by NMFS on February 4, 2004. Together, these two regulations are expected to conserve leatherback and loggerhead sea turtles as required under the Endangered Species Act (ESA).

**DATES:** This final rule is effective April 12, 2004.

**ADDRESSES:** Copies of the FMP, which includes an environmental impact statement (EIS) accompanied by a regulatory impact review (RIR) and an initial regulatory flexibility analysis (IRFA) are available on the internet at <http://www.pcouncil.org/hms/hmsfmp.html> or may be obtained from

Daniel Waldeck, Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, Oregon, 97220-1384,

Daniel.Waldeck@noaa.gov, (503) 820-2280. This final rule corresponds to the High Seas Pelagic Longline Alternative 3 in the Council EIS, RIR, and IRFA.

The final regulatory flexibility analysis (FRFA) is available on the internet at <http://swr.ucsd.edu/> or may be obtained from Tim Price, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, California, 90802-4213,

*Tim.Price@noaa.gov*, (562) 980-4029.

**FOR FURTHER INFORMATION CONTACT:** Tim Price, NMFS, Southwest Region, Protected Resources Division, 562-980-4029.

**SUPPLEMENTARY INFORMATION:**

Additional information about the status of sea turtles and the West Coast-based pelagic longline fishery can be found in the proposed rule published on December 17, 2003 (68 FR 70219). All species of sea turtles that are known to interact with U.S. longline vessels in the Pacific Ocean are listed as either endangered or threatened under the ESA. The incidental take of endangered species may be authorized only by an incidental take statement issued under section 7 of the ESA or an incidental take permit issued under section 10 of the ESA. The incidental take of threatened species may be authorized only by an incidental take statement in a biological opinion issued pursuant to section 7 of the ESA, an incidental take permit issued pursuant to section 10 of the ESA, or regulations under section 4(d) of the ESA.

A number of longline vessels targeting swordfish unload their catch and re-provision in California ports. Participants in the West Coast-based pelagic longline fishery often fish more than 1,000 nautical miles (1,900 km) offshore and are generally prohibited by state regulations from fishing within 200 nautical miles (370 km) of the West Coast. From October 2001 through January 31, 2004, 409 sets were observed on 20 trips, documenting a total of 46 sea turtle interactions, consisting of 3 leatherback sea turtles, 42 loggerhead sea turtles, and 1 olive ridley sea turtle. All of the observed sea turtles were released alive except two recent loggerhead sea turtles which were dead.

On October 31, 2003, the Pacific Fishery Management Council (Council) submitted the FMP to NMFS for review. The FMP includes management measures for the West Coast-based pelagic longline fishery that prohibits shallow longline sets of the type

normally used to target swordfish on the high seas in the Pacific Ocean west of 150° W. long. by vessels managed under the FMP. In addition, to conserve sea turtles, the FMP requires West Coast-based pelagic longline vessels to have on board and to use dip nets, line cutters, and wire or bolt cutters capable of cutting through the vessel's hooks to release sea turtles with the least harm possible to the sea turtles. On February 4, 2004, NMFS partially approved the FMP. NMFS disapproved the provision of the FMP that would allow West Coast-based pelagic longline vessels to make shallow sets east of the 150° W. Long.. The disapproval of that provision was based, in part, on the biological opinion, dated February 4, 2004, which concluded that allowing shallow set fishing east of 150° W. Long. and north of the equator (0°) was likely to jeopardize loggerhead sea turtles.

#### Response to Comments

NMFS published a proposed rule on December 17, 2003 (68 FR 70219). NMFS received 127 comments on the proposed rule. There were 124 comments in support of the proposed rule and 3 comments opposed. Most of the comments received in favor of the proposed rule were emails sent by fax containing identical or similar language. NMFS reviewed and considered all comments received in the development of this rule.

*Comment 1:* Longline vessels departing from California and targeting swordfish on the high seas are not a problem for sea turtles because the fishery is very small, consisting of less than 25 vessels and the fishermen attach their hooks to leaders that are longer than the float lines which allow sea turtles to reach the surface when they are hooked. Moreover, there have been no observed sea turtle mortalities aboard longline vessels departing from California and targeting swordfish on the high seas.

*Response:* Recent observer data indicate that there were two incidental mortalities of loggerhead sea turtles during a fishing trip which departed from California in which the gear consisted of longer leaders than float lines. These data indicate that mortalities do occur on sets in which the leaders are longer than the ball drop. Although there may only be a few active West Coast-based longline vessels, NMFS estimates that if one million hooks are set by the fleet, there may be 23 to 57 leatherback, 126 to 195 loggerhead, and 1 to 11 olive ridley sea turtles captured incidentally.

*Comment 2:* If longline vessels departing from California are prohibited

from making shallow sets and targeting swordfish, the foreign, unregulated, fleet will shift fishing effort to the waters vacated by the U.S. fleet. The shift in effort to foreign fleets may result in more sea turtles interactions and mortality, causing more harm to sea turtle populations.

*Response:* Although there is a possibility that fishing effort may shift to foreign nations, at this time, there are no data to support this claim. Moreover, there are no data that show that longline fishing by foreign vessels have higher sea turtle interaction rates.

*Comment 3:* One commenter indicated that a prohibition on shallow sets was not necessary because West Coast-based longline vessel operators minimize their impact to sea turtles by bringing aboard any hooked sea turtles using a dip net and removing the hook before the animal is released alive back into the ocean. In addition, ARC dehookers for deep hooked turtles are being placed aboard all longline boats fishing out of California.

*Response:* NMFS agrees that use of a dip net to bring a hooked sea turtle aboard a vessel and removing the hook increases the likelihood of its survival when the animal is released. Under the FMP, vessel operators would be required to comply with sea turtle handling, resuscitation, and release requirements, which include the use of dip nets and the removal of hooks. NMFS considered these factors as part of the proposed action in the ESA section 7 consultation and determined that sea turtle handling, alone, would not obviate the need to prohibit fishing shallow sets.

*Comment 4:* Regardless of whether a sea turtle has deeply ingested a hook or has been lightly hooked, there does not appear to be any difference in their behavior based on animals that were released alive with satellite transmitter tags.

*Response:* More recent analyses of satellite telemetry data from transmitters deployed by NMFS' observers were completed to derive survival and hazard functions (transmitted tag defects, battery failure, transmitter detachment, turtle death) for lightly- and deeply-hooked loggerheads by modeling time-to-failure of all transmitters using nonparametric statistical modeling. Based on these analyses, the data indicate that there are significant differences between the survival functions for lightly- and deeply-hooked loggerheads within 90 days after release but no difference between survival functions after this time.

*Comment 5:* One commenter cited the March 2003 National Geographic

magazine which states that 35,000 turtles are illegally killed each year in northwestern Mexico. The commenter felt that when compared to the apparent illegal harvest in Mexico, the longline fishery fishing out of California is not hurting the sea turtle population.

*Response:* NMFS recognizes that other human activities and natural phenomena pose a serious threat to the survival and recovery of threatened and endangered species. We recognize that we will not be able to recover threatened and endangered species without addressing the full range of human activities and natural phenomena that have caused these species to decline or could cause these species to become extinct in the foreseeable future. Recovering threatened and endangered sea turtles, as with other imperilled marine species, will require an international, cooperative effort that addresses the full suite of threats to those species. Nevertheless, NMFS' task is to identify the direct and indirect effects of the FMP fisheries to determine if the proposed management regime is likely to contribute to the endangerment of threatened and endangered species by appreciably reducing their likelihood of both surviving and recovering in the wild. NMFS considered the direct harvest of sea turtles in Mexico as part of the environmental baseline of the biological opinion and concluded that the FMP fishery will jeopardize the continued existence of loggerhead sea turtles.

*Comment 6:* California longliners have been working on implementing a sea turtle recovery program in Mexico. If the longline fishery is closed, the California longliners will likely end their current effort to fund sea turtle restoration projects in Baja, Mexico.

*Response:* NMFS commends the efforts of the West Coast-based longliners to implement a sea turtle recovery program in Mexico. However, NMFS is required to analyze the effects of the West Coast-based longline fishery on listed species and cannot rely upon the potential benefits that are not immediately realized from conservation efforts such as nesting beach protection and educational programs.

*Comment 7:* Prohibiting swordfish fishing will severely impact the annual income of the longline fishermen off the California coast.

*Response:* According to the analyses submitted by the Council, average annual profits of the West Coast-based longline fishery targeting swordfish is estimated at \$6.7 million. Assuming all the vessels ceased fishing, this would be the economic loss to the fishery. NMFS

recognizes that there will be economic consequences to the regulated industry. However, many of the longline vessels have historically fished under the Western Pacific Pelagic fishery management plan's limited entry permit and would likely to return to Hawaii to target tuna or target swordfish under the proposed management plan submitted by the Western Pacific Council.

*Comment 8:* NMFS cannot propose to implement a prohibition on shallow longline sets for swordfish on the high seas in the Pacific Ocean east of the 150° West Longitude because the Council rejected this alternative citing insufficient evidence to justify a prohibition.

*Response:* Under the Magnuson-Stevens Fishery Conservation and Management Act, NMFS may disapprove or partially approve a plan if the plan is not consistent with any applicable law. Based on the ESA section 7 consultation, NMFS concluded that the FMP as proposed by the Council was likely to jeopardize the continued existence of loggerhead sea turtles. Based on that analysis, NMFS partially disapproved the Council's plan. NMFS is now implementing this final rule pursuant to its authority under the ESA.

*Comment 9:* NMFS cannot rely on either the 2001 or 2002 biological opinions on the Western Pacific Pelagics Fishery Management Plan because of the order issued by the United States District Court for the District of Columbia states that NMFS cannot validly rely on either opinion in assisting the effects of a fishery on listed species or elaborating appropriate management measures.

*Response:* NMFS consulted separately on the FMP and concluded in its February 4, 2004, biological opinion that the FMP without this regulation would likely jeopardize loggerhead sea turtles. The Court vacated the November 2002 biological opinion on the Western Pacific Pelagics Fishery Management Plan because NMFS had not treated the plaintiffs (Hawaii Longline Association) as applicants in preparation of the March 2001 biological opinion, and this procedural error affected the preparation of the November 2002 biological opinion. The Court chose not to evaluate or rule on whether the data, analysis and conclusions in those opinions were correct.

*Comment 10:* NMFS cannot issue an anticipatory regulatory proposal such as proposing to prohibit swordfish sets because this raises "the specter of a foregone conclusion" which is impermissible under the ESA.

*Response:* NMFS is authorized to promulgate regulations as may be appropriate to enforce provisions of the ESA. NMFS is promulgating this rule after the biological opinion concluded that the FMP was likely to jeopardize loggerhead sea turtles without this rule.

*Comment 11:* Data used to assess the impacts of the West Coast-based longline fishery are not sufficient to make a decision to prohibit shallow sets targeting swordfish.

*Response:* At the time the Council made its recommendation, there were sufficient data to determine that the fishery was taking numerous sea turtles incidental to fishing operations. In addition, the Council was aware that NMFS had significant concerns about the number of sea turtles that were expected to be captured incidentally to the continued operation of the West Coast-based pelagic longline fishery based on the severe decline and lack of recovery in loggerhead and leatherback sea turtles populations, and the extensive analyses conducted by the agency on existing threats to these populations.

*Comment 12:* Similarities between the West Coast-based and the Hawaii-based pelagic longline fisheries suggest that there should be similar regulatory measures to manage the two fisheries. As a result, NMFS should propose regulations similar to the emergency regulations proposed by the Western Pacific Fishery Management Council that would allow swordfish fishing at 75 percent of historic levels and the use of circle hooks with mackerel bait in place of J hooks baited with squid for the West Coast-based longline vessels.

*Response:* The Council is responsible for providing management and conservation recommendations that address concerns about the effect of the FMP prosecuted off the U.S. West Coast and on ocean resources caught incidentally. NMFS anticipates that the Council will consider alternative management measures similar to those proposed by the Western Pacific Council using the framework procedures in the HMS FMP. NMFS will consider any such proposals that the Council submits which might lessen the burden to fishermen while maintaining adequate protection of sea turtles. NMFS will fully support the Council in examination and selection of appropriate protective measures.

*Comment 13:* One commenter questioned whether the post-hooking mortality estimates used to estimate the level of impacts by the fishery are consistent with the best scientific and commercial data available as required by the ESA. In addition, the commenter

requested that NMFS use the results from the post-hooking mortality workshop scheduled to convene in January.

*Response:* On January 15–16, 2004, a workshop on marine turtle longline post-interaction mortality was convened. Seventeen experts in the area of biology, anatomy/physiology, veterinary medicine, satellite telemetry and longline gear deployment participated in the workshop. Consideration of the workshop discussion, along with a comprehensive review of all of the information available on the issue has led to the modification of the February 2001 criteria. The February 2001 injury categories have been expanded to better describe the specific nature of the interaction. The February 2001 criteria described two categories for mouth hooking: (1) Hook does not penetrate internal mouth structure; and (2) mouth hooked (penetrates) or ingested hook. The new criteria divides the mouth hooking event into three components to reflect the severity of the injury and to account for the probable improvement in survivorship resulting from removal of gear, where appropriate, for each injury. The three components consist of: (1) hooked in esophagus at or below the heart (insertion point of the hook is not visible when viewed through the open mouth); (2) hooked in cervical esophagus, glottis, jaw joint, soft palate, or adnexa (insertion point of the hook is visible when viewed through the open mouth); and (3) hooked in lower jaw (not adnexa). The new criteria, also, separates external hooking from mouth hooking, eliminates the "no injury" category, and adds a new category for comatose/resuscitated sea turtles. NMFS has used these new criteria in the analyses to evaluate the effects of the West Coast-based longline fishery on listed sea turtle populations.

*Comment 14:* One commenter proposed that NMFS implement a single regulation to manage longline fishing in the Pacific Ocean under section 11(f) of the ESA, rather than the Magnuson-Stevens Fishery Conservation and Management Act, that would prohibit U.S. flagged vessels from engaging in shallow set swordfish style longline fishing anywhere in the Pacific, and likewise would prohibit the landing of any longline caught swordfish in any U.S. port in the Pacific.

*Response:* Congress passed the Magnuson-Stevens Fishery Conservation and Management Act as the primary mechanism for managing fisheries of the United States. The regional fishery management councils are to exercise sound judgment in the

stewardship of fishery resources through the preparation, monitoring, and revision of such plans under circumstances which will enable the States, the fishing industry, consumer and environmental organizations and other interested persons to participate in, and advise on, the establishment and administration of such plans. Clearly, Congress envisioned the Magnuson-Stevens Fishery Conservation and Management Act as the tool for NMFS to use to manage fisheries. However, where the Council process fails to address the mandates of the ESA, NMFS can exercise its authority under the ESA. Further, the Western Pacific Fisheries Management Council has proposed a regulation that would allow swordfish fishing but with modified gear that should reduce interactions.

*Comment 15:* One commenter believes that the proposed rule should be further modified to prohibit all pelagic longlining, regardless of whether it targets tuna or swordfish, because pelagic longline fishing has not demonstrated an elimination of all mortality to leatherback sea turtles. An alternative to completely banning longline gear would be to implement a time and area closure that is 100 percent effective at eliminating leatherback sea turtle mortality.

*Response:* Based on the analyses in the biological opinion evaluating the effects of the FMP on listed species, including the leatherback sea turtle, NMFS concluded that longline fishing targeting tuna east of the 150° W. long. would not jeopardize the continued existence of leatherback sea turtles. As a result, NMFS has determined that a complete ban on all longline fishing east of the 150° W. long. is not warranted.

*Comment 16:* Unless gear modifications can eliminate the mortality of leatherback sea turtles, a reduction of 60 percent, 70 percent, or even 90 percent is not sufficient.

*Response:* Under the ESA, NMFS is mandated to insure that any action authorized, funded, or carried out by an agency is not likely to jeopardize the continued existence of any endangered species or threatened species or result in the destruction or adverse modification of habitat of such species. After completing the section 7 consultation, NMFS concludes that some leatherback mortality will not jeopardize the continued existence of the species.

*Comment 17:* NMFS should close the West Coast-based longline fishery immediately via the immediate promulgation of an emergency regulation rather than through an extended notice and comment rulemaking process.

*Response:* NMFS undertook what it determined to be the preferable method of ensuring the fishery is managed in a manner that avoids the likelihood of jeopardizing the continued existence of Pacific sea turtle populations while providing due process.

*Comment 18:* Many commenters urged NMFS to take a more proactive role in promoting international agreements that would close these waters to vessels from other countries that may be catching and killing leatherback and other sea turtles while fishing for swordfish.

*Response:* NMFS is dedicated to protecting and preserving living marine resources and their habitat through scientific research, management, enforcement, and international agreements. Recently, NMFS partnered with the Inter-American Tropical Tuna Commission to conduct training workshops for sea turtle bycatch reduction, attended by over 800 fishermen throughout Ecuador. The agency will participate in similar workshops in Costa Rica this spring. In addition, NMFS continues to promote international collaboration and outreach efforts to share research information on possible new conservation measures for sea turtles. These are all very important issues for NMFS.

#### **West Coast-based Fishing Effort**

At the time when NMFS issued the proposed rule, preliminary data suggested that the West Coast-based longline fishing fleet would set approximately 1.55 million hooks each calendar year. To evaluate whether this preliminary estimate in the FMP EIS was the best available information, NMFS reviewed and analyzed the HSFCA logbook data to determine the number of active vessels and the number of reported sets and hooks. Comparing these data with the NMFS observer program data and records, NMFS determined that the preliminary estimates were too high. As a result, NMFS corrected the information about the number of active vessels during calendar years 2002 and 2003, and decreased the estimated number of expected fishing effort to one million hooks.

#### **Estimated Sea Turtle Take Levels**

There are two sets of data from which rates of sea turtle interactions in the West Coast-based pelagic longline fishery could be derived: (1) Data from observers on Hawaii-based longline vessels operating in the same areas as the West Coast-based pelagic longline vessels; and (2) data from observers on West Coast-based pelagic longline

vessels. Vessels in the West Coast-based pelagic longline fishery fish in the same manner, and frequently in the same area, as vessels that had been targeting swordfish in the Hawaii-based longline fishery. Because of the strong similarities between these two fisheries and the limited amount of observer data available for the West Coast-based pelagic longline fleet alone, NMFS concluded that using the combined observer data from the Hawaii-based and West Coast-based longline fleets for fishing east of 150° W. long. is more representative of the sea turtle interaction rates that can be expected to occur throughout the West Coast-based pelagic longline fishery.

Using the combined observer data, NMFS developed estimates of sea turtle take levels that would result from the West Coast-based pelagic longline fishery. NMFS assumed that the West Coast-based pelagic longline fleet deploys one million hooks east of 150° W. long., NMFS estimates the fishery under the FMP would result in the annual capture of 126 to 195 loggerhead, 23 to 57 leatherback, and 1 to 11 olive ridley sea turtles. Of these, NMFS estimates that the West Coast-based pelagic longline fishery under the management measures proposed by the Council would result in the annual mortality of 42 to 91 loggerhead sea turtles, 4 to 25 leatherback sea turtles, and 1 to 4 olive ridley sea turtles.

#### **Impacts to Sea Turtle Populations**

Based on the analyses in the ESA section 7 consultation, NMFS concluded that if the fisheries under the FMP included shallow longline sets, the FMP is likely to jeopardize the continued existence of loggerhead sea turtles. However, when analyzed in conjunction with the prohibition of shallow longline sets east of the 150° West long. by West Coast-based pelagic longline vessels, the final conclusion for loggerhead sea turtles is that the fisheries operating under the FMP are not likely to jeopardize the continued existence of loggerhead sea turtles.

As a result, NMFS is proposing to implement restrictions in the West Coast-based pelagic longline fishery in waters east of 150° W. long. to conserve leatherback and loggerhead sea turtles as required under the ESA. Under this final rule, West Coast-based pelagic longline vessels will be prohibited from making shallow longline sets on the high seas in the Pacific Ocean east of 150° W. long. The prohibition of shallow longline sets west of 150° W. long. proposed under the FMP would also apply.

There are several other factors that may ultimately affect the management of the West Coast-based pelagic longline fishery. As noted, the FMP contains framework procedures by which adjustments in conservation and management measures may be made through regulatory amendments if warranted by available information and conditions. Further, the FMP recognizes a potential for exempted fishing permits that allow testing of alternative gear and/or techniques that might demonstrate that longline fishing can be conducted in a manner that will not adversely affect protected species or that will result in lower levels of bycatch. NMFS anticipates that the Council will review information as it is generated to consider possible changes in longline fishing regulations and may propose changes. NMFS will consider any such proposals.

#### Classification

NMFS has determined that this final rule is consistent with the ESA and other applicable laws.

The impacts of this action and alternatives are evaluated in accordance with the National Environmental Policy Act as the High Seas Pelagic Longline Alternative 3 in the EIS prepared by the Council (see **ADDRESSES**).

This final rule has been determined to be not significant for purposes of Executive Order 12866.

This final rule does not contain collection-of-information requirements subject to the Paperwork Reduction Act.

A combined RIR/IRFA was prepared that describes the economic impacts of the Council's FMP, which includes an analysis of this proposed action as High Seas Pelagic Longline Alternative 3. The RIR/IRFA is available from the Council (see **ADDRESSES**). No comments were received on the RIR/IRFA. The FRFA is available from NMFS (see **ADDRESSES**).

A summary of the RIR/RFA follows:

The **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this rule provide a description of the action, why it is being considered, and the legal basis for this action. That information is not repeated here.

A fish-harvesting business is considered a "small" business by the Small Business Administration (SBA) if it has annual receipts not in excess of \$3.5 million. For related fish-processing businesses, a small business is one that employs 500 or fewer persons. For marinas and charter/party boats, a small business is one with annual receipts not in excess of \$5.0 million.

This regulation imposes controls on the fleet of approximately 21 longline vessels that fish principally out of

California ports for swordfish and associated species. All of these vessels would be considered small businesses under the SBA standards. Therefore, there would be no financial impacts resulting from disproportionality between small and large vessels under the rule. For most of the longline vessels involved, swordfish caught by longline gear makes up more than half of the total revenue from fish sales. Table 1 presents total ex-vessel revenue and dependence on swordfish landings for the 38 West coast-based vessels with high seas pelagic longline swordfish landings in 2001, broken down by the number of vessels with varying percent dependence on swordfish. NMFS believes these data are representative of 2002 fishing vessel revenues.

TABLE 1: TOTAL EX-VESSEL REVENUE AND DEPENDENCE ON SWORDFISH FOR 38 WEST-COAST-BASED VESSELS WITH HIGH SEAS PELAGIC LONGLINE LANDINGS IN 2001.

Number of Vessels	Dependence on High Seas Longline Caught Swordfish (category of swordfish revenue/total revenue)	Average Total Ex-vessel Revenue (\$/vessel)	Average Percent Longline Swordfish (swordfish revenue/total revenue)
4	<50%	\$228,951	32.57%
3	50-70%	\$170,067	60.99%
3	>70-80%	\$222,089	76.66%
4	>80-90%	\$258,335	86.77%
13	>90-95%	\$182,211	93.26%
11	>95%	\$219,885	97.57%

The impacts of alternatives to this action were evaluated in the RIR/IRFA. Three alternatives were considered for managing the high seas pelagic longline fishery. Under Alternative 1 (Status Quo), the FMP would not impose regulations on this fishery. The Council assumes that in the short-run, the fishery would continue to operate as it currently does, earning average annual profits of \$6.7 million. However, in the long-run, the Council expects that regulations would be established under other authorities, due to concerns over unregulated bycatch, such that over time the fishery would disappear, and long-run profits would become zero as the fishery was phased out.

Alternative 2 (Council Proposed Action) would maintain the fishery, allowing fishermen to continue targeting swordfish east of 150° W. long., but impose some additional costs on longliners targeting swordfish on the high seas. Short-run average annual

profits would remain at \$6.7 million, minus the cost of adopting turtle and sea bird mitigation measures, accommodating observers, and using monitoring equipment. NMFS is developing guidelines for the design and performance standards of equipment required for the handling of incidentally caught sea turtles. The required tools can be purchased, for an estimated maximum cost of \$2,000 per vessel, but vessel owners may also be able use the guidelines to fabricate the equipment with lower cost materials. Vessel owners do not pay an observer's salary, but do bear costs associated with providing room and board for the observer. Additionally, carrying an observer may increase the cost of insurance that the vessel carries. Vessel monitoring equipment costs approximately \$2,000 to purchase and \$500 to install, and would require annual maintenance estimated to cost approximately 20 percent of the purchase price per year. However, despite the equipment costs, the fishery would be able to land swordfish, and so over 25 years, the present value of long-run profits relative to the status quo would range between \$78 and \$105 million, using 7 percent and 4 percent discount rates, respectively. NMFS is not adopting the Council's proposed action because it does not adequately reduce the incidental capture and mortality of loggerhead sea turtles.

Alternative 3, which is the action adopted by NMFS, would prohibit fishermen from targeting swordfish east of 150° W. long. Swordfish are the target species of this fishery. This would effectively eliminate all but incidental swordfish landings and the short- and long-run profits currently associated with landing swordfish (\$6.7 million, and \$78 million to \$105 million, respectively), at least until alternative fishing opportunities are identified. This loss assumes that all vessels in this fishery cease fishing, although longline fishing targeting tuna out of West Coast ports or Hawaii may be an alternative. However, current participants in the fishery indicate that without being able to target swordfish, the high seas longline fishery originating from West Coast ports would cease to exist.

In keeping with the intent of Executive Order 13132 to provide continuing and meaningful dialogue on issues of mutual state and Federal interest, NMFS conferred with the States of California, Oregon, and Washington regarding this rule. NMFS has met with State Council and Plan Development Team representatives throughout the FMP development process. No comments were received

from the States opposing the prohibition of shallow sets east of the 150° W. long. and no objection has been raised by the Council. NMFS intends to continue engaging in informal and formal contacts with these States during the implementation of this final rule and amendments to the FMP.

#### List of Subjects in 50 CFR Part 223

Endangered and threatened species, Exports, Imports, Marine mammals, Transportation.

Dated: March 5, 2004.

#### Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 223 is amended to read as follows:

#### PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 223 is revised to read as follows:

**Authority:** 16 U.S.C. 1531–1543; subpart B, § 223.12 also issued under 16 U.S.C. 1361 *et seq.*; 16 U.S.C. 5503(d) for § 223.206(d)(9).

■ 2. In § 223.206, a new paragraph (d)(9) is added to read as follows:

#### § 223.206 Exceptions to prohibitions relating to sea turtles.

\* \* \* \* \*

(d) \* \* \*

(9) *Restrictions applicable to Pacific pelagic longline vessels.* In addition to the general prohibitions specified in § 600.725 of Chapter VI, it is unlawful for any person who is not operating under a western Pacific longline permit under § 660.21 to do any of the following on the high seas of the Pacific Ocean east of 150° W. long. and north of the equator (0° N. lat.):

(i) Direct fishing effort toward the harvest of swordfish (*Xiphias gladius*) using longline gear.

(ii) Possess a light stick on board a longline vessel. A light stick as used in this paragraph is any type of light emitting device, including any fluorescent *glow bead*, chemical, or electrically powered light that is affixed underwater to the longline gear.

(iii) An operator of a longline vessel subject to this section may land or possess no more than 10 swordfish from a fishing trip where any part of the trip included fishing east of 150° W. long. and north of the equator (0° N. lat.).

(iv) Fail to employ basket-style longline gear such that the mainline is deployed slack when fishing.

(v) When a conventional monofilament longline is deployed by a vessel, no fewer than 15 branch lines

may be set between any two floats. Vessel operators using basket-style longline gear must set a minimum of 10 branch lines between any 2 floats.

(vi) Longline gear must be deployed such that the deepest point of the main longline between any two floats, i.e., the deepest point in each sag of the main line, is at a depth greater than 100 m (328.1 ft or 54.6 fm) below the sea surface.

[FR Doc. 04–5553 Filed 3–10–04; 8:45 am]

BILLING CODE 3510–22–S

#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 679

[Docket No. 031125292–4061–02; I.D. 030504A]

#### Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Offshore Component in the Western Regulatory Area of the Gulf of Alaska

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allocation of the 2004 total allowable catch (TAC) of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component of the Western Regulatory Area of the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), March 8, 2004, through 1200 hrs, A.l.t., June 10, 2004.

**FOR FURTHER INFORMATION CONTACT:** Josh Keaton, 907–586–7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The A season allocation of the 2004 TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area is 1,017 metric tons (mt) as established by the 2004 final harvest specifications of groundfish for the GOA (69 FR 9261, February 27, 2004).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the A season allocation of the 2004 TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component of the Western Regulatory Area of the GOA will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 817 mt, and is setting aside the remaining 200 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels catching Pacific cod for processing by the offshore component in the Western Regulatory Area of the GOA.

#### Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent the Agency from responding to the most recent fisheries data in a timely fashion and would delay the closure of the A season allocation of the 2004 TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component of the Western Regulatory Area of the GOA.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by section 679.20 and is exempt from review under Executive Order 12866.

**Authority:** 16 U.S.C. 1801 *et seq.*

### Reason for Termination

Subsequent to granting the IMS petition, the agency further investigated the installation and operational characteristics of various wheelchair lift and ramp designs. From this, it was found that: (1) wheelchair ramps do not adequately barricade the vehicle doorway to prevent occupant ejection without functional door latches, and (2) since 1998, wheelchair ramp designs have progressed such that it is no longer necessary to disable door retention components when installing wheelchair ramp and lift systems. Therefore, NHTSA is terminating the rulemaking that arose out of the August 1995, IMS petition.

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

Issued on: January 22, 2004.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. 04-1645 Filed 1-27-04; 8:45 am]

BILLING CODE 4910-59-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 040113013-4013-01; I.D. 122403A]

RIN 0648-AR84

#### **Fisheries Off West Coast States and in the Western Pacific; Western Pacific Pelagic Fisheries; Pelagic Longline Fishing Restrictions, Seasonal Area Closure, Limit on Swordfish Fishing Effort, Gear Restrictions, and Other Sea Turtle Take Mitigation Measures**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act, NMFS issues this proposed rule that would establish a number of conservation and management measures for the pelagic fisheries of the western Pacific managed under the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (FMP). This proposed rule is intended to achieve certain objectives of the FMP, particularly achieving optimum yield for FMP-managed species, promoting domestic

harvest and domestic values associated with FMP-managed species, and promoting domestic marketing of FMP-managed species in America Samoa, the Commonwealth of the Mariana Islands, Guam, and Hawaii, while avoiding the likelihood of jeopardizing the continued existence of any species listed as endangered or threatened under the Endangered Species Act (ESA). Species of particular concern include the green, hawksbill, leatherback, loggerhead, and olive ridley sea turtles, all of which have been found to interact with, and be affected by, the pelagic fisheries of the western Pacific region.

This proposed rule would eliminate the prohibition on longline fishing by vessels registered under the FMP for use under Hawaii longline limited access permits ("Hawaii-based longline vessels") and vessels registered for use under longline general permits ("general longline vessels") during April and May in certain waters south of the Hawaiian Islands; eliminate the prohibition on Hawaii-based longline vessels and general longline vessels using longline gear to target swordfish ("shallow-setting") north of the equator; establish an annual limit on the number of shallow-sets that may be conducted north of the equator by the Hawaii-based longline fleet; divide and distribute this effort limit each calendar year in equal portions to interested holders of Hawaii longline limited access permits; require the use of circle hooks sized 18/0 or larger with a 10-degree offset and mackerel-type bait by Hawaii-based longline vessels shallow-setting north of the equator; establish annual limits on the numbers of fishery interactions with leatherback and loggerhead sea turtles; require that the longline-setting procedure be performed during the nighttime when shallow-setting north of 23° N. lat.; require that operators of Hawaii-based longline vessels carry and use NMFS-approved de-hooking devices; eliminate the requirement that operators of general longline vessels annually complete a protected species workshop; eliminate the requirement that general longline vessels and other pelagic fishing vessels using hook-and-line gear employ specified sea turtle handling measures; and eliminate the requirement that certain vessels may be re-registered to Hawaii longline limited access permits only during the month of October.

**DATES:** Comments must be received in writing by February 27, 2004.

**ADDRESSES:** Written comments on this proposed rule or its Initial Regulatory Flexibility Analysis (IRFA) should be mailed to Dr. Samuel Pooley, Acting

Regional Administrator, NMFS, Pacific Islands Regional Office (PIRO), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814-4700; or faxed to 808-973-2941. Written comments will not be accepted if submitted via e-mail or the Internet. Written comments regarding the burden hour estimates or any other aspects of the collection of information requirements contained in this proposed rule may be submitted by mail to NMFS (see ADDRESSES) and to OMB by e-mail at [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov) or faxed to 202-395-7285. Copies of the Draft Supplemental Environmental Impact Statement (DSEIS), Regulatory Impact Review (RIR), and IRFA prepared for this action, as well as the Final Environmental Impact Statement (FEIS) that was prepared for the fisheries managed under the FMP and issued by NMFS on March 30, 2001, may be obtained from Dr. Samuel Pooley at the address above. Requests for such copies should indicate whether a paper copy or electronic copy on CD is preferred. Copies of the FEIS, DSEIS, IRFA, and RIR are also available on the Internet at the website of PIRO, <http://swr.nmfs.noaa.gov/pir/>. The DSEIS, IRFA, and RIR are also available at the website of the Western Pacific Fishery Management Council, <http://www.wpcouncil.org/>.

**FOR FURTHER INFORMATION CONTACT:** Tom Graham, Fishery Management Specialist, PIRO, at 808-973-2937.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On March 29, 2001, NMFS issued a biological opinion under the ESA for the pelagic fisheries of the western Pacific region. The biological opinion included a reasonable and prudent alternative designed to avoid the likelihood of jeopardizing the continued existence of green, leatherback, and loggerhead sea turtles. The requirements of the reasonable and prudent alternative were implemented on an interim basis through an Order issued on March 30, 2001, by the United States District Court for the District of Hawaii in *Center for Marine Conservation v. NMFS* and a subsequent emergency interim rule made effective June 12, 2001 (66 FR 31561), and extended on December 10, 2001 (66 FR 63630). The requirements were implemented on a permanent basis through a final rule published June 12, 2002 (67 FR 40232).

The June 12, 2002, rule prohibits: (1) swordfish-directed fishing by Hawaii-based longline vessels and general longline vessels north of the equator, (2) fishing by Hawaii-based longline vessels and general longline vessels in certain

waters south of the Hawaiian Islands (between the equator and 15° N. lat., and between 145° W. long. and 180° long.), and (3) the landing or possessing of more than 10 swordfish per fishing trip by Hawaii-based longline vessels and general longline vessels fishing north of the equator. The rule allows the re-registration of vessels to Hawaii longline limited access permits only during the month of October; requires all longline vessel operators to annually attend a protected species workshop; and requires Hawaii-based longline vessels, general longline vessels, and non-longline pelagic vessels using hook-and-line gear to use specified sea turtle handling and resuscitation measures.

On December 12, 2001, NMFS reinitiated ESA section 7 consultation on the FMP, based on the reasonable and prudent alternative in the March 29, 2001, biological opinion and new information that could improve NMFS' ability to quantify and evaluate the effects of the FMP-managed fisheries on listed sea turtle populations. At the conclusion of the consultation, on November 15, 2002, NMFS issued a new biological opinion specifying that continued authorization of pelagic fisheries in the western Pacific region under the FMP is not likely to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS or result in the destruction or adverse modification of critical habitat.

On August 31, 2003, the Memorandum Opinion issued in *Hawaii Longline Association v. NMFS* (D.D.C., Civ. No. 01-0765) invalidated the November 15, 2002, biological opinion and the June 12, 2002, final rule (67 FR 40232). On October 6, 2003, the Court stayed the August 31, 2003, Order and reinstated the biological opinion and regulations until April 1, 2004.

In June 2003, at its 118th meeting, the Western Pacific Fishery Management Council (Council) began considering recommendations for new measures for the FMP-managed fisheries, focusing on potential modifications to existing measures aimed at minimizing sea turtle interactions in the FMP-managed longline fisheries.

On October 17, 2003, NMFS published a notice of intent (68 FR 59771) to prepare a supplemental environmental impact statement (SEIS) in accordance with the National Environmental Policy Act of 1969 (NEPA). The SEIS would re-examine the management measures currently in place to minimize interactions between the Hawaii-based longline fishery and protected species, as well as other management issues and options raised

during the public scoping process. The notice also advised that the Court orders would eliminate existing measures designed to avoid the likelihood that FMP-managed fisheries would jeopardize the continued existence of listed species of sea turtles, and that NMFS and the Council were, therefore, considering management measures to protect sea turtles.

On December 3, 2003, NMFS published a supplemental notice of intent (68 FR 67640) regarding the SEIS. This notice furnished additional information on the need for expedited management action on proposed management measures related to the Hawaii-based longline fishery and its potential impact on ESA-listed sea turtles. The accelerated management action schedule is necessary to avoid a lapse in sea turtle conservation measures after the June 12, 2002, final rule is vacated on April 1, 2004.

The supplemental notice (68 FR 67640) also announced the Council's and NMFS' intent to apply alternative procedures approved by the Council on Environmental Quality (CEQ) to facilitate completion of the SEIS on the proposed management measures for the Hawaii-based longline fishery so that necessary turtle conservation rules could be effective by April 1, 2004. The supplemental notice advised that a subsequent phase of the SEIS would be prepared to address other management issues identified in the initial notice of intent (68 FR 59771) and during the subsequent public scoping process. The supplemental notice confirmed the initial scoping meeting schedule and effectiveness of the public input opportunity through December 15, 2003. The Council and NMFS also solicited, recorded, and considered input on issues and possible action options and alternatives received during public Council meetings and public meetings of the Council's Sea Turtle Conservation Special Advisory Committee, which was formed in September 2003.

This proposed rule was developed in response to the urgent need to provide adequate protections for sea turtles and to the promising results of recent research in the Atlantic Ocean on mitigation technologies for sea turtle interactions. The research has identified combinations of hook and bait types with potential to substantially reduce interaction rates in swordfish-directed longline fishing and the adverse impacts of such interactions. Although these combinations have not been tested in Pacific Ocean fisheries, the affected sea turtle species are the same in the Pacific and Atlantic so the positive experimental results obtained in the

Atlantic are expected to be largely replicated if the hook and bait combinations are applied in commercial fisheries in the western Pacific region. The relatively low sea turtle interaction rates expected from these hook and bait types, combined with other mitigation and safeguard measures, would allow the current restrictions on shallow-setting and deep-setting (tuna-targeting) to be eased, enhancing the ability to achieve the objectives of the FMP, particularly the objectives to achieve optimum yield for FMP-managed species, promote domestic harvest and domestic values associated with FMP-managed species, and promote domestic marketing of FMP-managed species in America Samoa, the Commonwealth of the Mariana Islands, Guam, and Hawaii.

This proposed rule would allow shallow-setting to occur at about one half the average annual level of effort during the 1994-1998 period, facilitating the generation of economic benefits in that component of the fishery. This proposed rule would also give the longline fleet year-round access to yellowfin and bigeye tuna stocks in the area currently closed to longline fishing during April and May.

At its 121st meeting, on November 25, 2003, the Council made a recommendation for management action. This proposed rule would implement both the Council's recommended action and the court ruling of August 31, 2003 (vacating the rule published June 12, 2002).

#### *Management Measures to be Eliminated by Court Ruling*

The Court ruling will on April 1, 2004, eliminate: (1) The prohibition on Hawaii-based longline vessels and general longline vessels using longline gear to fish for swordfish north of the equator (as well as several restrictions intended to make this prohibition enforceable, including restrictions on gear configuration, set depth, and the number of swordfish possessed and landed); (2) the prohibition on longline fishing by Hawaii-based vessels and general longline vessels during April and May in certain waters south of the Hawaiian Islands (between the equator and 15° N. lat., and between 145° W. long. and 180° long.); (3) the requirement that operators of general longline vessels annually complete a protected species workshop and have on board a valid protected species workshop certificate; (4) the requirement that owners and operators of general longline vessels and of other vessels using hooks to target Pacific pelagic species employ specified sea turtle handling measures (the handling

measures, which vary among vessel type, include carrying and using line clippers, dip nets, and wire or bolt cutters to disengage sea turtles, and handling, resuscitating, and releasing sea turtles in specified manners; and (5) the requirement that any vessel de-registered from a Hawaii longline limited access permit after March 29, 2001, may only be re-registered to a Hawaii longline limited access permit during the month of October.

#### *Proposed Management Measures*

The Council's proposed action would: (1) Establish an annual limit on the amount of shallow-set longline fishing effort north of the equator that may be collectively exerted by Hawaii-based longline vessels (set at 2,120 shallow-sets per year); (2) divide and distribute this shallow-set effort limit each calendar year in equal portions (in the form of transferable single-set certificates valid for a single calendar year) to all holders of Hawaii longline limited access permits that respond positively to an annual solicitation of interest from NMFS; (3) prohibit any Hawaii-based longline vessel from making more shallow-sets north of the equator during a trip than the number of valid shallow-set certificates on board the vessel; (4) require that operators of Hawaii-based longline vessels submit to the Regional Administrator within 72 hours of each landing of pelagic management unit species one valid shallow-set certificate for every shallow-set made north of the equator during the trip; (5) require that Hawaii-based longline vessels, when making shallow-sets north of the equator, use only circle hooks sized 18/0 or larger with a 10-degree offset; (6) require that Hawaii-based longline vessels, when making shallow-sets north of the equator, use only mackerel-type bait; (7) establish annual limits on the numbers of interactions between leatherback and loggerhead sea turtles and Hawaii-based longline vessels while engaged in shallow-setting (set equal to the annual estimated incidental take for the respective species in the shallow-set component of the Hawaii-based fishery, as established in the prevailing biological opinion issued by NMFS pursuant to section 7 of the ESA); (8) establish a procedure for closing the shallow-setting component of the Hawaii-based longline fishery for the remainder of the calendar year when either of the two limits is reached, after giving 1 week advanced notice of such closure to all holders of Hawaii longline limited access permits (the numbers of interactions will be monitored with respect to the limits using year-to-date

estimates derived from data recorded by NMFS vessel observers); (9) require that operators of Hawaii-based longline vessels notify the Regional Administrator (as defined at 50 CFR 660.236) in advance of every trip whether the longline sets made during the trip will involve shallow-setting or deep-setting and require that Hawaii-based longline vessels make sets only of the type declared (i.e., shallow-sets or deep-sets); (10) require that operators of Hawaii-based longline vessels carry and use NMFS-approved de-hooking devices; and (11) require that Hawaii-based longline vessels, when making shallow-sets north of 23° N. lat., start and complete the line-setting procedure during the nighttime (specifically, no earlier than one hour after local sunset and no later than local sunrise).

These proposed management measures would replace the existing restrictions on longlining north of the equator, which will be eliminated on April 1, 2004, by the Court ruling. Certain measures that will be eliminated by the Court ruling would not be reinstated under the proposed rule. Specifically, the proposed restrictions related to shallow-setting would apply only to Hawaii-based longline vessels, not general longline vessels; Hawaii-based longline vessels and general longline vessels would no longer be prohibited from longlining during April and May in certain waters south of the Hawaiian Islands; operators of general longline vessels would no longer be required to annually complete a protected species workshop; operators of general longline vessels and of other vessels using hooks to target Pacific pelagic species would no longer be required to employ specified sea turtle handling measures; and the period during which vessels de-registered from a Hawaii longline limited access permit after March 29, 2001, would be allowed to be re-registered to Hawaii longline limited access permits would no longer be limited to the month of October.

These measures that would be eliminated were intended to minimize adverse impacts on certain species of sea turtles. The Council's proposed action would not reinstate them because the Council found they are not needed to achieve the objectives of the action, provided that the measures proposed in items (1) through (10) of the above list of proposed measures are implemented. The Council found that it is unlikely that general longline vessels would engage in shallow-setting north of the equator (which would be unrestricted under the proposed rule), primarily due to their being prohibited from longlining

in the EEZ around Hawaii and from landing fish in Hawaii.

The Council's findings with respect to achieving the objectives of the action were predicated on certain off-site sea turtle conservation projects being undertaken. These projects, which are not part of this proposed rule, would be aimed at protecting affected sea turtle populations on their nesting beaches and in their nearshore foraging grounds at sites outside of the United States. The sites include a nesting beach in Papua, coastal foraging grounds in western Papua, nesting beaches in Papua New Guinea, the fishing grounds of the halibut gillnet fishery in Baja California, Mexico, and nesting beaches in Japan. The projects would be undertaken by non-governmental organizations under contract with the Council and/or NMFS. In assessing the likely impacts of its proposed action, the Council considered these projects in conjunction with the regulatory elements of the proposed action.

This proposed rule focuses on managing the Hawaii-based longline fishery with respect to listed sea turtle species. The Council intends to continue to consider management actions that might be needed for the other FMP-managed fisheries, including other longline fisheries and troll and handline fisheries.

The proposed requirement to set longline gear only during the nighttime while shallow-setting north of 23° N. lat. is intended to minimize interactions with seabirds. It would put the FMP in compliance with the terms and conditions contained in a biological opinion issued on November 28, 2000, and amended on November 18, 2002, by the U.S. Fish and Wildlife Service, which are intended to conserve endangered short-tailed albatross.

#### *Expected Effects of Proposed Rule on Sea Turtles*

The rates of sea turtle interactions and mortalities in the Hawaii-based longline fishery resulting from the proposed rule would likely be substantially lower than those under the management regime in place in 1999, prior to the imposition of restrictions on swordfish-directed fishing and the April-May area closure (the regime to which the fishery will revert on April 1, 2004, if management action is not taken before then), and higher than the expected rates under the current management regime. During the 1994–1998 period, which represents an appropriate baseline for the no-action scenario, the estimated annual average numbers of interactions were as follows: leatherback, 112; loggerhead, 418; green, 40; and olive ridley, 146. Under the

proposed rule, the expected numbers of annual average interactions are as follows: leatherback, 35; loggerhead, 21; green, 7; and olive ridley, 42. Under the current management regime, the expected numbers of annual average interactions are as follows: leatherback, 6; loggerhead, 19; green, 3; and olive ridley, 31. The projected sea turtle mortality rates, which are subsets of the interaction rates, are more uncertain than the projected interaction rates because of the difficulty in estimating the numbers of turtles that ultimately die as a result of injuries incurred in interactions with fishing gear.

The projected interaction and mortality rates under the proposed rule are uncertain in part because they are based on research findings regarding the efficacy of a hook-and-bait combination that has not been thoroughly tested in commercial fisheries in the Pacific Ocean.

The proposed hook-and-bait combination (18/0-sized circle hooks with 10-degree offset in combination with mackerel-type bait) is one of a number of gear configurations tested in experiments conducted by NMFS in the Western Atlantic Ocean during the last 3 years. The results available to date indicate substantially reduced sea turtle interaction rates compared with the J-hooks and squid bait that are conventionally used to target swordfish and that served as the experimental controls. In the experiments, the use of the proposed hook-and-bait combination resulted in an average reduction of 92 percent in interactions with loggerhead sea turtles, an average reduction of 67 percent in interactions with leatherback sea turtles, an average increase of 30 percent in swordfish catch, by weight, and an average reduction of 81 percent in bigeye tuna catch, by weight.

Under the proposed rule there is a possibility that greater effective fishing effort per set could increase relative to the no-action scenario (as could the rate of sea turtle interactions per set), since fishermen would have an incentive to fish their limited available sets to maximize harvest levels. This effect, however, as well as the uncertainty of the efficacy of the hook and bait requirements, is unlikely to pose substantial risk to affected sea turtles populations because of the imposition of the annual limits on interactions with leatherbacks and loggerheads in the shallow-set component of the Hawaii-based longline fishery. Further, the requirement that vessel operators use NMFS-approved de-hooking devices is expected to reduce the number of mortalities per interaction.

In addition to direct effects on sea turtles stemming from interactions with longline gear, the proposed rule might also have indirect effects. These include effects stemming from shifts in the production of swordfish and tuna between the U.S.-regulated fisheries and those of other countries and the effects of the Hawaii-based longline fishery serving as a model for sea turtle mitigation techniques that the fleets of other countries can adopt. Effects in both these categories are likely to be positive with respect to populations of affected sea turtles.

This proposed rule has been recommended by the Council. The impacts of this proposed rule with respect to the likelihood of jeopardizing the continued existence of affected species of sea turtles will be assessed by NMFS in the process of the ESA section 7 consultation for the FMP-managed fisheries, which is currently underway. The rule might be revised, as necessary, to comport with the reasonable and prudent alternative, if any, of the biological opinion that is issued as a result of that consultation. If such restrictions exceed the scope of this proposed rule, NMFS will initiate a second round of notice and comment.

NMFS seeks comment on the de-hooking devices that should be required to be carried and used on Hawaii-based longline vessels, including specific minimum design standards, specific required methods of use, and the possibility of requiring that several types of de-hooking devices and related equipment be carried and used, depending on the circumstances. NMFS also seeks comment on more specific definitions or minimum design standards for circle hooks and mackerel-type bait that should be required when shallow-setting north of the equator.

#### **Classification**

The Council and NMFS prepared a draft supplemental environmental impact statement (DSEIS) for this regulatory amendment. While a notice of availability has not yet been published, the DSEIS is scheduled to be filed with the Environmental Protection Agency and distributed in mid-January 2004 for an abbreviated (30-day) comment period as approved by CEQ.

This proposed rule has been determined to be significant for purposes of Executive Order 12866.

The Council prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of why action is being considered, the objectives and legal basis for the action, and a description of the action,

including its reporting, recordkeeping, and other compliance requirements, are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows:

#### *Number of Affected Small Entities*

The proposed rule would apply to all holders of Hawaii longline limited access permits and all holders of longline general permits. The number of Hawaii longline limited access permit holders is 164. Not all such permits are renewed and used every year (approximately 126 were renewed in 2003). Most holders of Hawaii longline limited access permits are based in, or operate out of, Hawaii. Longline general permits are not limited by number. Approximately 67 longline general permits were issued in 2003. In 2003 all but two holders of longline general permits were based in, or operated out of, American Samoa. The remaining two were based in the Northern Mariana Islands.

In a few cases multiple permits are held by a single business, so the number of businesses to whom the rule would apply is slightly smaller than the number of permit holders. All holders of Hawaii longline limited access permits and longline general permits are believed to be small entities (i.e., they are businesses that are independently owned and operated, not dominant in their field, and have no more than \$3.5 million in annual receipts). Therefore, the number of small entities to which the rule would apply is approximately 230.

#### *Duplicating, Overlapping, and Conflicting Federal Rules*

To the extent practicable, it has been determined that there are no Federal rules that may duplicate, overlap, or conflict with the proposed rule.

#### *Alternatives to the Proposed Rule*

A number of alternatives to the proposed rule were considered. Described below are the alternatives and why they were not chosen.

The alternatives included two variations on the seasonal area longline closure, including one that would retain the current April-May closure in certain waters south of the Hawaiian Islands and one that would retain the current April-May closure with the exception of the EEZ waters around Palmyra Atoll (the proposed rule would eliminate the current April-May area closure). The alternatives were rejected because they would unnecessarily constrain the fishing activities and economic performance of holders of longline

general permits and Hawaii longline limited access permits; adverse impacts to sea turtles could be adequately mitigated through other elements of the preferred alternative without having to restrict longline fishing activity by period or area.

The alternatives included five variations on the amount of shallow-setting longline effort north of the equator that would be allowed by Hawaii-based vessels. The levels of shallow-setting effort considered were zero, 1,060 sets per year, 3,179 sets per year, and unlimited, as well as one alternative that would allow only a one-time trial of 1,560 sets (the proposed rule would limit shallow-setting effort at 2,120 sets, about 50 percent of the 1994–1998 annual average level). The selection among alternatives was based on their expected impacts on sea turtles (sea turtle interactions and mortalities are expected to be strongly correlated with the amount of fishing effort) versus their expected impacts on the economic performance of the Hawaii-based longline fishery (economic benefits are expected to be strongly correlated with the amount of fishing effort). The alternatives allowing shallow-setting at levels greater than 50 percent of the 1994–1998 annual average were rejected because they might fail to keep impacts on sea turtles below those required in the biological opinion's incidental take statement. The alternatives allowing shallow-setting at levels less than 50 percent of the 1994–1998 annual average were rejected because they would unnecessarily constrain the fishing activities and economic performance of Hawaii-based longline vessels; adverse impacts to sea turtles could be adequately mitigated through other elements of the preferred alternative without having to restrict shallow-setting to the degree proposed under the rejected alternatives.

The alternatives included several variations on how the allowable level of shallow-setting effort north of the equator would be allocated among holders of Hawaii longline limited access permits. Variations included allocating the available effort by lottery, allocating it equally among all permit holders, allocating it in proportion to the permit holders' historical shallow-setting effort, and not allocating the effort in any particular way, in which case the fishery would be closed each year once the fleet-wide limit is reached (the proposed rule would divide and distribute the limit equally among all interested permit holders in the form of transferable shallow-set certificates). The lottery variation was rejected because it would impose a substantial

amount of uncertainty on fishermen and might be considered inequitable by some fishermen. The equal-distribution variation was rejected because it would give each permit holder too few shallow sets to be able to make it worth investing and participating in the shallow-set component of the fishery, thereby constraining the economic performance of that component. The variation of allocating effort in proportion to the permit holders' historical shallow-setting effort was rejected because it would be excessively costly to implement and because of the contention likely to be generated with respect to the documentation and determination of individuals' historical fishing effort. The fleet-wide limit variation was rejected because it would create an incentive for each permit holder to do as much shallow-setting as possible before the fishery is closed, thereby encouraging fishermen to shallow-set under what would otherwise be sub-optimal conditions (in terms of both economic performance and safety).

The alternatives included two variations on the sea turtle interaction limit(s), including no limit and a limit for every species for which there is an Incidental Take Statement issued under the ESA (the proposed rule would close the shallow-set component of the fishery if either of two calendar-year interaction limits is reached, one for leatherback sea turtles and one for loggerhead sea turtles; the limits would be set equal to the annual estimated incidental take for the respective species in the shallow-set component of the Hawaii-based fishery, as established in the prevailing biological opinion issued by NMFS pursuant to section 7 of the ESA). The no-limit variation was rejected because it might fail to adequately minimize adverse impacts on sea turtles. The variation of establishing limits for all affected species was rejected because it would likely result in the shallow-set component of the fishery being closed more often than is needed to adequately mitigate adverse impacts on sea turtles.

#### *Effects of the Proposed Rule on Small Entities*

The proposed rule is expected to have positive overall economic impacts on the small entities to whom the proposed rule would apply, all of which are individuals and businesses that hold permits for, and participate in, the western Pacific pelagic longline fisheries. These positive impacts would stem from the relaxation of the current restrictions on longlining, including the elimination of the April-May area

closure for longlining and the elimination of the prohibition on shallow-setting north of the equator, thereby providing new fishing opportunities and potential economic benefits. These benefits would be very slightly offset by the need to acquire and use NMFS-approved de-hooking devices.

Holders of Hawaii longline limited access permits that choose not to engage in shallow-setting are likely to further benefit each year by being able to sell their share of shallow-set certificates to other permit holders.

Holders of Hawaii longline limited access permits that choose to engage in shallow-setting are likely to benefit from the required hook-and-bait combination, as it has been found in experiments in the Atlantic Ocean to result in higher catch rates of swordfish relative to conventionally used hook and bait types. These permit holders would also be subject to new costs, which would partly offset the new benefits available from shallow-setting. These include the costs of acquiring an adequate number of shallow-set certificates each year and acquiring and using circle hooks sized 18/0 or larger, with 10-degree offset. There would also be very minor new costs associated with the requirement to notify NMFS each year if they are interested in receiving shallow-set certificates and with the requirement to submit shallow-set certificates to NMFS after each trip. There may also be new costs (relative to the costs associated with conventional practices) associated with the need to use only mackerel-type bait and to conduct the line-setting procedure during the nighttime hours.

Holders of longline general permits would have the opportunity to engage in unrestricted shallow-setting north of the equator, but because general longline vessels are not allowed to fish in the EEZ around Hawaii or land fish in Hawaii, it is unlikely to be a cost-effective option and thus unlikely to yield new economic benefits to fishery participants.

The proposed rule is likely to positively impact small businesses in addition to those to which the rule would apply. These include Hawaii-based businesses that supply goods and services to fishing operations, as fishing activities would expand, and seafood wholesalers and retailers, as the proposed rule is expected to lead to increased landings of swordfish and a more regular supply of tuna.

A copy of the IRFA is available from NMFS (see ADDRESSES).

This proposed rule contains two collection-of-information requirements subject to review and approval by the

Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act (PRA). These requirements have been submitted to the OMB for approval. The first would require that holders of Hawaii longline limited access permits respond to annual requests from NMFS if they are interested in receiving shares of the annual limit on longline shallow-sets (in the form of shallow-set certificates). The second would require that holders of Hawaii longline limited access permits or their agents notify the Regional Administrator prior to each fishing trip whether longline shallow-sets or deep-sets will be made during the trip. The public reporting burden for the first collection-of-information requirement is estimated to average ten minutes per response, and for the second requirement, four minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

Public comment is sought regarding whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS (see ADDRESSES) and to OMB by e-mail at [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov) or faxed to 202-395-7285. Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

In a biological opinion dated November 15, 2002, NMFS determined that fishing activities conducted under the FMP and its implementing regulations are not likely to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS or result in the destruction or adverse modification of critical habitat. Under rulings made by the U.S. District Court for the District of Columbia on August 31, 2003, and October 6, 2003 (*Hawaii Longline Association v. NMFS*), the biological opinion of November 15, 2002, will be

vacated on April 1, 2004. In response to the impending vacatur of the biological opinion and to analyze the management measures in this proposed rule, a request to reinstate formal consultation was made by the NMFS Pacific Islands Region, Office of Sustainable Fisheries, to the NMFS Office of Protected Resources on December 11, 2003.

#### List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, and Reporting and recordkeeping requirements.

Dated: January 23, 2004.

**Rebecca Lent,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 660 is proposed to be amended as follows:

#### PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

2. In § 660.12, the definition of “Pelagics FMP” is revised and new definitions for “Deep-set or Deep-setting”, “Shallow-set or Shallow-setting”, and “Shallow-set certificate”, are added alphabetically to read as follows:

#### § 660.12 Definitions.

*Deep-set or Deep-setting* means the deployment of, or deploying, respectively, longline gear in a manner consistent with all the following criteria: with all float lines at least 20 meters in length; with a minimum of 15 branch lines between any two floats (except basket-style longline gear which may have as few as 10 branch lines between any two floats); without the use of light sticks; and resulting in the possession or landing of no more than 10 swordfish (*Xiphias gladius*) at any time during a given trip. As used in this definition “float line” means a line used to suspend the main longline beneath a float and “light stick” means any type of light emitting device, including any fluorescent “glow bead”, chemical, or electrically powered light that is affixed underwater to the longline gear.

*Pelagics FMP* means the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region.

*Shallow-set or Shallow-setting* means the deployment of, or deploying, respectively, longline gear in a manner that does not meet the definition of deep-set or deep-setting as defined in this section.

*Shallow-set certificate* means an original paper certificate that is issued by NMFS and valid for one shallow-set of longline gear (more than one nautical mile of deployed longline gear is a complete set) for sets that start during the period of validity indicated on the certificate.

#### § 660.21 [Removed]

3. In § 660.21, paragraphs (m) and (n) are removed.

4. In § 660.22, paragraph (hh) is added, paragraphs (ff), (gg), (jj), (kk), (ll), (mm), (nn), (oo), (pp), (qq), (rr), and (ss) are revised, and paragraph (tt) is removed and reserved, to read as follows:

#### § 660.22 Prohibitions.

(ff) Own or operate a vessel registered for use under a Hawaii longline limited access permit and fail to attend and be certified for completion of a workshop conducted by NMFS on mitigation, handling, and release techniques for turtles and seabirds and other protected species in violation of § 660.34(a).

(gg) Operate a vessel registered for use under a Hawaii longline limited access permit without having on board a valid protected species workshop certificate issued by NMFS or a legible copy thereof in violation of § 660.34(d).

(hh) From a vessel registered for use under a Hawaii longline limited access permit, make any longline set not of the type (shallow-setting or deep-setting) indicated in the notification to the Regional Administrator pursuant to § 660.23(a), in violation of § 660.33(h).

(jj) Fail to carry and use a line clipper, dip net, dehooker, and wire or bolt cutters on a vessel registered for use under a Hawaii longline limited access permit in violation of § 660.32(a).

(kk) Engage in shallow-setting without a valid shallow-set certificate for each shallow-set made in violation of § 660.33(c).

(ll) Fail to attach a valid shallow-set certificate for each shallow-set to the original logbook form submitted to the Regional Administrator under § 660.14, in violation of § 660.33(c).

(mm) Fail to comply with the sea turtle handling, resuscitation, and release requirements when operating a vessel registered for use under a Hawaii longline limited access permit in violation of § 660.32(b), (c), or (d).

(nn) Engage in the line-setting process from a vessel registered for use under a Hawaii limited access longline permit while shallow-setting north of 23° N. lat. during daylight hours in violation of § 660.35(a)(10).

(oo) Engage in shallow-setting from a vessel registered for use under a Hawaii longline limited access permit north of the equator (0° lat.) with hooks other than circle hooks sized 18/0 or larger, with 10° offset, in violation of § 660.33(f).

(pp) Engage in shallow-setting from a vessel registered for use under a Hawaii longline limited access permit north of the equator (0° lat.) with bait other than mackerel-type bait in violation of § 660.33(g).

(qq) Engage in shallow-setting from a vessel registered for use under a Hawaii longline limited access permit after the shallow-set component of the longline fishery has been closed pursuant to § 660.33(b)(3)(ii), in violation of § 660.33(i).

(rr) Have on board a vessel registered for use under a Hawaii longline limited access permit, at any time during a trip for which notification to NMFS under § 660.23(a) indicated that deep-setting would be done, float lines less than 20 meters in length or light sticks, in violation of § 660.33(d).

(ss) Transfer a shallow-set certificate to a person other than a holder of a Hawaii longline limited access permit in violation of § 660.33(e).

(tt) [Reserved]

\* \* \* \* \*

5. In § 660.23, paragraph (a) is revised to read as follows:

**§ 660.23 Notifications.**

(a) The permit holder for a fishing vessel subject to the requirements of this subpart, or an agent designated by the permit holder, shall provide a notice to the Regional Administrator at least 72 hours (not including weekends and Federal holidays) before the vessel leaves port on a fishing trip, any part of which occurs in the EEZ around Hawaii. The vessel operator will be presumed to be an agent designated by the permit holder unless the Regional Administrator is otherwise notified by the permit holder. The notice must be provided to the office or telephone number designated by the Regional Administrator. The notice must provide the official number of the vessel, the name of the vessel, trip type (either

deep-setting or shallow-setting), the intended departure date, time, and location, the name of the operator of the vessel, and the name and telephone number of the agent designated by the permit holder to be available between 8 a.m. and 5 p.m. (Hawaii time) on weekdays for NMFS to contact to arrange observer placement.

\* \* \* \* \*

6. In § 660.32, paragraph (a)(1) is revised, paragraphs (a)(2) and (a)(3) are removed, paragraphs (a)(4) and (a)(5) are redesignated as paragraphs (a)(2) and (a)(3), respectively, and new paragraph (a)(4) is added, to read as follows:

**§ 660.32 Sea turtle take mitigation measures.**

(a) \* \* \*

(1) Owners and operators of vessels registered for use under a Hawaii longline limited access permit must carry aboard their vessels line clippers meeting the minimum design standards as specified in paragraph (a)(2) of this section, dip nets meeting the minimum standards prescribed in paragraph (a)(3) of this section, dehookers meeting the minimum design standards prescribed in paragraph (a)(4) of this section, and wire or bolt cutters capable of cutting through the vessel's hooks. These items must be used to disengage any hooked or entangled sea turtles with the least harm possible to the sea turtles and as close to the hooks as possible in accordance with the requirements specified in paragraphs (b) through (d) of this section.

\* \* \* \* \*

(4) *Dehookers.* Dehookers are devices intended to remove embedded hooks from sea turtles and other animals in a manner that minimizes injury and trauma to the animals. The minimum design standards are that the device or devices can be used to grasp or engage a hook embedded in a sea turtle or other animal on board the vessel or in the water alongside the vessel and remove the hook with little injury or trauma to the animal.

\* \* \* \* \*

7. Section 660.33 is revised to read as follows:

**§ 660.33 Western Pacific longline fishing restrictions.**

(a) *Limit on shallow-setting by Hawaii longline vessels.*

(1) A maximum annual limit of 2,120 is established on the number of shallow-set certificates that will be made available each calendar year to vessels registered for use under Hawaii longline limited access permits.

(2) The Regional Administrator will divide the 2,120-set limit each calendar

year into equal shares such that each holder of a Hawaii longline limited access permit who provides notice of interest to the Regional Administrator no later than November 1 prior to the start of the calendar year, pursuant to paragraph (a)(3) of this section, receives a share. If such division would result in shares containing a fraction of a set, the limit will be adjusted downward such that each share consists of a whole number of sets.

(3) Any permit holder who provides notice according to this paragraph is eligible to receive shallow-set certificates. In order to be eligible to receive shallow-set certificates for a given calendar year, holders of Hawaii longline limited access permits must provide written notice to the Regional Administrator of their interest in receiving such certificates no later than November 1 prior to the start of the calendar year, except for 2004, the notification deadline for which is May 1, 2004.

(4) No later than June 1, 2004, and in every year subsequent, no later than December 1, the Regional Administrator will send shallow-set certificates valid for the upcoming calendar year to all holders of Hawaii longline limited access permits that provided notice of interest to the Regional Administrator pursuant to paragraph (a)(3) of this section.

(b) *Limits on sea turtle interactions.*

(1) Maximum annual limits are established on the numbers of physical interactions that occur each calendar year between vessels registered for use under Hawaii longline limited access permits while shallow-setting and:

- (i) Leatherback sea turtles (*Dermodochelys coriacea*); and
- (ii) Loggerhead sea turtles (*Caretta caretta*).

(2) The two sea turtle interaction limits are set equal to the Annual Estimated Incidental Takes for the respective species in the shallow-setting component of the Hawaii-based longline fishery, as indicated in the latest Incidental Take Statement issued by NMFS in association with a Biological Opinion pursuant to section 7 of the Endangered Species Act.

(3) Upon determination by the Regional Administrator that, based on data from NMFS observers, either of the two interaction limits has been reached during a given calendar year:

(i) As soon as practicable, the Regional Administrator will file for publication at the Office of the Federal Register a notification of the limit having been reached. The notification will include an advisement that the shallow-set component of the longline

fishery shall be closed and shallow-setting north of the equator by vessels registered for use under Hawaii longline limited access permits will be prohibited beginning at a specified date, not earlier than 7 days after the date of filing of the notification of the closure for public inspection at the Office of the Federal Register, until the end of the calendar year in which the limit was reached. Coincidental with the filing of the notification of the limit having been reached at the Office of the Federal Register, the Regional Administrator will also provide notice that the shallow-set component of the longline fishery shall be closed and shallow-setting north of the equator by vessels registered for use under Hawaii longline limited access permits will be prohibited beginning at a specified date, not earlier than 7 days after the date of filing of a notification of the closure for public inspection at the Office of the Federal Register, to all holders of Hawaii longline limited access permits via electronic mail, facsimile transmission, or post.

(ii) Beginning on the fishery closure date indicated in the notification published in the **Federal Register** under paragraph (b)(3)(i) of this section until the end of the calendar year in which the limit was reached, the shallow-set component of the longline fishery shall be closed.

(c) Owners and operators of vessels registered for use under a Hawaii longline limited access permit may engage in shallow-setting north of the equator (0° lat.) providing that there is on board one valid shallow-set certificate for every shallow-set that is made during the trip. For each shallow-set made north of the equator (0° lat.) vessel operators must submit one valid shallow-set certificate to the Regional Administrator. The certificate must be attached to the original logbook form that corresponds to the shallow-set and

that is submitted to the Regional Administrator within 72 hours of each landing of management unit species as required under § 660.14.

(d) Vessels registered for use under a Hawaii longline limited access permit may not have on board at any time during a trip for which notification to NMFS under § 660.23(a) indicated that deep-setting would be done any float lines less than 20 meters in length or light sticks. As used in this paragraph "float line" means a line used to suspend the main longline beneath a float and "light stick" means any type of light emitting device, including any fluorescent "glow bead", chemical, or electrically powered light that is affixed underwater to the longline gear.

(e) Shallow-set certificates may be transferred only to holders of Hawaii longline limited access permits.

(f) Owners and operators of vessels registered for use under a Hawaii longline limited access permit must use only circle hooks sized 18/0 or larger, with 10° offset, when shallow-setting north of the equator (0° lat.).

(g) Owners and operators of vessels registered for use under a Hawaii longline limited access permit must use only mackerel-type bait when shallow-setting north of the equator (0° lat.).

(h) Owners and operators of vessels registered for use under a Hawaii longline limited access permit may make sets only of the type (shallow-setting or deep-setting) indicated in the notification to NMFS pursuant to § 660.23(a).

(i) Vessels registered for use under Hawaii longline limited access permits may not be used to engage in shallow-setting north of the equator (0° lat.) any time during which the shallow-set component of the longline fishery is closed pursuant to paragraph (b)(3)(ii) of this section.

8. Section 660.34 is revised to read as follows:

#### § 660.34 Protected species workshop.

(a) Each year both the owner and the operator of a vessel registered for use under a Hawaii longline limited access permit must attend and be certified for completion of a workshop conducted by NMFS on mitigation, handling, and release techniques for turtles and seabirds and other protected species.

(b) A protected species workshop certificate will be issued by NMFS annually to any person who has completed the workshop.

(c) An owner of a vessel registered for use under a Hawaii longline limited access permit must maintain and have on file a valid protected species workshop certificate issued by NMFS in order to maintain or renew their vessel registration.

(d) An operator of a vessel registered for use under a Hawaii longline limited access permit and engaged in longline fishing must have on board the vessel a valid protected species workshop certificate issued by NMFS or a legible copy thereof.

9. In § 660.35, new paragraph (a)(10) is added to read as follows:

#### § 660.35 Pelagic longline seabird mitigation measures.

(a) \* \* \*

(10) When shallow-setting north of 23° N. lat., begin the line-setting process at least one hour after local sunset and complete the setting process no later than local sunrise, using only the minimum vessel lights necessary for safety.

\* \* \* \* \*

#### § 660.36 [Removed and reserved]

10. Section 660.36 is removed and reserved.

[FR Doc. 04-1811 Filed 1-27-04; 8:45 am]

BILLING CODE 3510-22-S

FISHERY MANAGEMENT PLAN AMENDMENT FOR  
LIMITED ENTRY IN THE HIGH SEAS PELAGIC LONGLINE FISHERY

Situation: At the November 2003 meeting the Pacific Fishery Management Council (Council) formally initiated development of a fishery management plan amendment to limit entry in the high seas pelagic longline fishery. In developing the initial recommendations (such as, qualifying criteria), the Council directed the Highly Migratory Species Management Team (HMSMT) to use Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requirements for limited access programs and several recommendations made by the Highly Migratory Species Advisory Subpanel (HMSAS). This guidance is described in the draft summary of the January 27-28, 2004 HMSMT meeting (Exhibit G.3.a, Attachment 1). The draft summary also provides initial considerations for developing alternatives for a limited entry program in the high seas pelagic longline fishery.

National Marine Fisheries Service (NMFS) will provide information to the Council about how a limited entry program for the longline fishery could be incorporated into the management measures to address sea turtle jeopardy concerns as discussed under Agenda item G.2.

The HMSMT will meet Tuesday, April 6<sup>th</sup> to discuss guidance from NMFS and work-to-date on developing data systems and analyses for alternative limited entry programs. The HMSMT will provide information to the HMSAS at their meeting Wednesday, April 7<sup>th</sup>. Both committees will report to the Council on their respective recommendations for proceeding with development of an amendment to the HMS FMP.

**Council Task:**

**1. Provide guidance on amendment development.**

Reference Materials:

1. Exhibit G.3.a, Attachment 1: Draft HMSMT Meeting Summary.
2. Exhibit G.3.c, Supplemental HMSMT Report.
3. Exhibit G.3.c, Supplemental HMSAS Report.

Agenda Order:

- a. Agendum Overview
- b. NMFS Report
- c. Reports and Comments of Advisory Bodies
- d. Public Comment
- e. Council Recommendations for Proceeding with Implementation of Limited Entry in the High Seas Pelagic Longline Fishery

Dan Waldeck  
Svein Fougner

PFMC  
03/18/04

**DRAFT MEETING SUMMARY**  
**Highly Migratory Species Management Team**  
Pacific Fishery Management Council  
National Marine Fisheries Service  
Southwest Fisheries Science Center  
Large Conference Room  
January 27-28, 2004

Highly Migratory Species Management Team (HMSMT) Members Present:

Dr. Norm Bartoo, NMFS, La Jolla, CA  
Mr. Steve Croke, co-chair, CDFG, Los Alamitos, CA  
Dr. Sam Herrick, NMFS, La Jolla, CA  
Ms. Susan Smith, NMFS, La Jolla, CA  
Dr. Dale Squires, co-chair, NMFS, La Jolla, CA

Others Attending:

Ms. Donna Dealy, NMFS, La Jolla, CA  
Mr. Pete Dupuy, HMSAS  
Mr. August Felando, HMSAS  
Mr. Svein Fougner, NMFS, Long Beach, CA  
Dr. Heidi Gjertsen, NMFS, La Jolla, CA  
Mr. Craig Heberer, NMFS, Long Beach, CA  
Dr. Russell Nelson, The Billfish Foundation  
Mr. Bob Osborn, HMSAS  
Mr. Dan Waldeck, PFMC staff, Portland, OR

**Call to Order, Agenda, Minutes**

The meeting was called to order by Mr. Steve Croke (co-chair). After introductions, the agenda was reviewed and discussed. Several items were added under Other Matters, these include: PacFIN data issues related to coding of Highly Migratory Species (HMS) fisheries, coordination of HMS fishery management plan (FMP) activities with Inter-American Tropical Tuna (IATTC) activities, the role of the Pacific Fishery Management Council (Council) and National Marine Fisheries Service (NMFS) in development of new fishing gear and techniques, and the draft application for permits to participate in HMS FMP managed commercial fisheries.

The October 2003 HMSMT meeting summary was approved.

## Limited Entry – Initial Considerations

Dr. Herrick presented information on considerations for limiting entry to the West Coast-based high seas longline fishery including data sources and compilations (for complete information, see *Considerations for Limited Entry in the West Coast-based High Seas Longline Fishery* – attached).

He reviewed Magnuson-Stevens Fishery Conservation and Management Act requirements for limited entry programs and Council guidance to the HMSMT about potential qualifying criteria.

Dr. Herrick noted that in previous discussion, the HMSMT had considered including information on the total number of hooks set in the fishery as a means to estimate fishery effort. However, consideration of the number of hooks was not included in the Council guidance. Information on the number of hooks set would be garnered from at-sea observer data. This would provide an incomplete measure of fleet fishing effort because information would not be available from un-observed vessels. Therefore, this information is not included in the current analysis and is not being pursued further. Dr. Herrick uses the number of landings (a proxy for number of trips) as an effort indicator.

In reviewing the sources of data, Dr. Herrick suggested that the West Coast-based high seas longline fishery that targets swordfish is a somewhat distinct fishery relative to other high seas longline fisheries (including the Hawaii-based longline fishery managed by the Western Pacific Fishery Management Council [WPFMC]). This is principally because the West Coast-based fishery is a shallow set fishery that targets swordfish, rather than the deeper setting fisheries targeting tuna.

Next, Dr. Herrick described several data compilation exercises. Based on initial analyses, he identified 92 vessels that had PacFIN records of West Coast landings of HMS caught outside the U.S. EEZ during 1993 through 2002.

The data compilations also provided information about “dependence” upon the West Coast-based high seas longline swordfish fishery relative to other fisheries in which a vessel participated. The initial analysis compared high seas longline caught swordfish landings and revenue with landings and revenue derived from landings of non-swordfish catch (e.g., HMS, groundfish, crab, CPS, shrimp, etc.) and/or gears other than high seas longline. The HMSMT requested that the analysis also include information comparing swordfish landings relative to landings of non-swordfish HMS (e.g., tuna and tuna-like species).

Generally, the PacFIN database provides adequate information to estimate the fleet of West Coast vessels participating in the high seas longline swordfish fishery, and their history of landings and revenue during 1993 through 2002. However, because landings from some “set longline” gear fishing that occurred within the U.S. EEZ and/or on the high seas may have been erroneously coded as “pelagic longline” gear fished on the high seas, some work needs to be done to address apparent data coding issues.

Per Council guidance, information on past participation of vessels fishing under California drift gill net (DGN) fishery permits is also included. To ensure the entirety of the West Coast DGN fleet is considered in the analysis, there is a need to clarify that vessels that participated in the Oregon DGN fishery also participated in the California DGN fishery. Principally, there is a need to clarify that

vessels participating in the Oregon DGN fishery also fish under permits for the California DGN fishery. California DGN fishery permits are issued to individual fishermen rather than vessels. Permit holders are required to be onboard during fishing operations, and fishermen are required to declare the fishing vessel being operated under the California DGN permit.

*[After the HMSMT meeting, ODFW staff clarified that indeed vessels participating in the Oregon DG fishery also fish under California DGN permits.]*

Recently, Dr. Herrick and Ms. Dealy began working with data sets from NMFS-Southwest Region (SWR) and NMFS-Pacific Islands Region (PIR). The Southwest Region provided data from at-sea observers working aboard West Coast-based high seas longline vessels. It appears that approximately 20 vessels have participated in this fishery in recent years (i.e., data is limited because the observer program was implemented only recently, in late 2001).

*[Mr. Don Petersen (NMFS-SWR observer program) spoke with Dr. Herrick and Ms. Dealy the day after the HMSMT meeting and provided interpretation, clarifications, and in depth fishery characteristic differences between Hawaii and California longline fisheries (e.g., fishing target strategies and techniques, and permits and regulations) and California/Oregon swordfish drift gillnet. Also, while the MMPA permit is only required for participation in the Category II California pelagic longline fishery, the MMPA permit could be held by either Hawaii or California pelagic longline vessels.]*

The Pacific Islands Region provided information on permits issued under the WPFMC Pelagic Fishery Management Plan. One specific issue discussed by the HMSMT was the apparent conflict for three vessels that appeared to have held both a MMPA longline permit and WPFMC FMP longline fishery permit during 2002, which should not have occurred given that to participate in the swordfish-targeting West Coast-based fishery (under the MMPA permit) a vessel would have to de-register its WPFMC FMP longline permit.

Relative to the SWR observer program data on past protected species interactions, it was suggested that the observer data should also be used more broadly to present information on bycatch more generally. That is, if a vessel's history of bycatch is to be considered as a qualifying criteria, the bycatch history should include non-target fish species, seabirds, marine mammals, and sea turtles. The HMSMT generally agreed with this suggestion and will endeavor to incorporate this information into the analysis.

As both of these data sets had been only recently been received, Dr. Herrick and Ms. Dealy are reviewing the information and working with the respective regional offices to clarify aspects of the data sets. An update on the SWR observer data and PIR permit data will be provided at the April HMSMT meeting.

A summary of action items follows:

- There is a need to clarify aspects of the PIR permit and SWR observer data sets before than can be incorporated into the analysis.
- Clarification of PacFIN gear coding issues need to be finalized.

- Fishery dependence information will be expanded to include a comparison of high seas swordfish landings versus landings of non-swordfish HMS (e.g., tuna and tuna-like species).
- Use of observer data should be expanded beyond history of protected species interactions to include a review of high seas longline bycatch more generally (i.e., include non-target fish species, marine mammals, and sea turtles).
- Need to resolve several occurrences of vessels holding both an MMPA fishery permit for the West Coast-based fishery and WPFMC FMP longline permit during 2002.
- Develop ranking criteria for use by the Council. If the Section 7 consultation determines some limited level of swordfish targeting could occur (because it would not jeopardize protected species) there would be a need for decision making criteria for reducing the number of vessels from the current fleet down to an acceptable number of vessels.
- Expand information on possession of an WPFMC FMP longline permit for the entire 1993-2002 period.
- Expand information on possession of a California DGN permit for the entire 1993-2002 period.
- Given the developing American Samoa-based tuna longline fishery, which will be issued permits under the WPFMC Pelagics FMP, need to clarify that the HMSAS criteria “possession of a Western Pacific Fishery Management Council Pelagics FMP limited entry permit” is meant to apply to WPFMC Pelagics FMP fisheries operating in the North Pacific.
- After data and other issues are clarified, HMSMT will develop matrices (or some other decision analysis tool) that will facilitate development of alternative limited entry participation levels.

### **FMP Update and Other NOAA Fisheries Activities**

Mr. Fougner provided an update on the NMFS review of the HMS FMP, development of ESA-based regulations for the high seas longline fishery, and other matters.

[[[Svein – Please take a hard look at my summaries of your comments. Thanks!]]]

#### HMS FMP Review

Mr. Fougner reported that the NMFS review of the HMS FMP and FEIS was ongoing. The 95<sup>th</sup> day of the review is February 4, 2004, which is the day NMFS is scheduled to take action on the Council’s HMS FMP. NMFS is also completing the final rule for regulations to implement the HMS FMP. Notably, NMFS is developing the responses to comments received about the FMP and regulations. The comments are generally supportive of the FMP.

NMFS is also finalizing the Endangered Species Act (ESA) Section 7 consultation for determining if fisheries managed under the FMP would result in jeopardy to any protected resources. Mr. Fougner noted that preliminary indications show a likelihood that the swordfish target high seas

longline fishery will be found to jeopardize sea turtles if the FMP were fully approved as submitted by the Council.

NMFS intends to take make a decision on the FMP by February 4, 2004. The Council would be notified soon after and, if deficiencies are found, NMFS will provide guidance to the Council about various means to remedy those problems.

#### ESA-based Regulation

NMFS continues to develop regulations that will be implemented concurrent to the HMS FMP. These regulation will promulgated under the authority of the ESA and are intended to address anticipated impacts on sea turtles from the swordfish target high seas longline fishery. The ESA-based regulations would prohibit swordfish targeted longline fishing on the high seas East of 150° W longitude. These regulations would be in effect until the HMS FMP is amended.

NMFS intends to implement the ESA-based regulations concurrent to the FMP regulations on February 4.

#### NE Atlantic longline research

Research in the Atlantic longline swordfish fishery demonstrated positive results using circle hooks (size 18 hook with 10 degree offset) used with mackerel bait. The results showed this gear reduced sea turtle hooking incidents, and, when hooking occurred, reduced impact to the sea turtle. These results were achieved without a decrease in swordfish CPUE.

#### IATTC Bycatch Working Group

Mr. Fougner also presented information on recent discussions within the IATTC about gear modifications relative to the IATTC conservation area. The working group discussed implementation of a circle hook requirement for fishing in IATTC areas. A resolution did not pass at the recent meeting, however, the parties are continuing to work toward an agreement. Mr. Fougner noted interest within the IATTC to get parties to agree to improved conservation measures, these could include catch limits and gear modifications.

#### NMFS Post-Release Mortality Policy

Recently, NMFS held a workshop with veterinarians and sea turtle experts to review NMFS post-release mortality policy for sea turtles. The current policy is: if turtle released with no fishing line trailing, no mortality assumed; if hooked (at all), 27% mortality assumed; if hooked in esophagus, 48% mortality assumed; and dead. The workshop was held to consider if current categories are too broad or general. The workshop participants generally agreed that more categories would be beneficial. Tentative results from the workshop indicate that past sea turtle/fishery interactions would be characterized such that less mortality would be assumed, and estimates of future mortality are expected to be lower. A formal policy declaration is anticipated by January 31, 2004.

[[[Please verify.]]]

## WPFMC

The Western Pacific Fishery Management Council (WPFMC) has proposed a package of management measures for fishing under their Pelagics FMP. Because of a recent court decision, new regulations for WPFMC Pelagic FMP fisheries are needed by April 1, 2004. The WPFMC is asking for consideration of several management measures, including required use of circle hooks (size 18 with 10 degree offset) and mackerel bait; differential mortality rates; effort limit for the fleet; vessel-specific transferable effort limits; and fleet wide limit (cap) on sea turtle takes.

The WPFMC proposed measures also includes offsite mitigation proposals (e.g., protection of turtle nesting beaches and increased protection of sea turtles from nearshore fisheries) to offset fishery takes under the Pelagics FMP. Mr. Fougner stated, that while NMFS acknowledges offsite measures could be beneficial to sea turtles, NMFS would not consider them mitigation to WPFMC fishery impacts on sea turtles.

NMFS has not completed their review of the WPFMC management proposals. By court order, management regulations need to be in place by April 2004. The ESA Section 7 consultation should be completed by February 15, 2004. If the WPFMC package of management measures satisfies ESA requirements it could serve as a model for the Pacific Council in developing amendments to the HMS FMP, (i.e., if changes are needed to remedy problems with the FMP).

Dr. Squires asked if a formal simulation-based population model was being used for the ESA Section 7 consultations (both the Pacific Council and WPFMC consultations)? Mr. Fougner noted that formal simulation models are not the basis for the current consultations. Algorithms are being used to estimate impacts by combining various factors and risk analysis components. Mr. Fougner discussed the need to convene a workshop to develop simulation models to estimate population impacts from sea turtle takes.

## HSFCA

Mr. Fougner briefly discussed the recent court decision related to the High Seas Fishing Compliance Act (HSFCA). He noted that the court found that the NOAA Fisheries action of issuing HSFCA permits required "Section 7" consultation per the ESA. In response, NOAA Fisheries notified the court that they are currently reviewing the PFMC HMS FMP and that NOAA Fisheries also intended, as a precautionary measure, to promulgate regulations (via the formal rulemaking process) to prohibit swordfish-style sets in the PFMC-managed high seas pelagic long line fishery.

NMFS recently notified high seas fishery permits about changes to the permit issuance process.

## Next Steps

- Section 7 consultation completed by January 31.
- Decision day is February 4.
- Decision letter will be sent to the Pacific Council.
- Remedy letter will be sent to the Council, which could include instructions to look to the WPFMC management package as model for Pacific Council action to bring the HMS FMP into compliance.
- Finish and publish final rule for HMS FMP regulation (including responses to comments).
- If jeopardy determined, finish and publish final rule for ESA-based regulations.

## **Other Matters**

### Permit for Scientific Research and Exempted Fishing

The HMSMT briefly discussed NMFS' intention to revise federal rules for issuance of scientific permits and exempted fishing permits (EFP). The proposed rule for these revisions is expected to be published soon. A rationale for the changes is to clarify the distinction between activities that are "research" and those that are "fishing." It is anticipated that proposed changes to the regulatory approach would seek to encourage research to find gears that reduce bycatch and other fishery impacts. The proposed rule would also provide more regional control over the EFP process, including transfer of decision authority to NMFS regional offices. The aim is to provide more flexibility and an operationally simpler process.

### PacFIN

The HMSMT discussed the need to review and comment on data issues related to the PacFIN database. The HMS FMP contains a summary list of issues that emerged during development of the FMP. Currently, the HMSMT is being asked to engage in a further review. Issues could include – gear codes, transshipment of fish, filters, conversion factors (e.g., dressed weight).

Ms. Dealy will present information at the HMSMT April meeting to facilitate further discussion.

One issue that emerged was the need to include transhipped fish in records of total catch. Transhipped fish are not currently recorded in PacFIN, which is based on landing receipts. The HMSMT will compile transhipped fish information for inclusion in the annual HMS SAFE document. It was suggested that a flag be added to PacFIN that notes catch figures might not represent total catch because of transhipped fish; and reference to the HMS SAFE for complete catch (transhipped and landed) information.

Mr. Waldeck noted the Council is expected to update the Research and Data Needs document. HMSMT recommendations about PacFIN (and other data issues) could be incorporated into Council's Research and Data Needs Document. Mr. Waldeck will inform the HMSMT of the timing for completing the Research and Data Needs document during 2004.

## IATTC

The HMSMT discussed the need to closely coordinate management issues with the IATTC. Mr. Fougner regularly updates the Council on IATTC activities and implications for the Pacific Council and West Coast HMS fisheries. It was suggested that the Council may want to consider mechanisms for getting a formal Pacific Council representative on the IATTC.

The HMSMT also discussed more generally international issues. As the HMS FMP is implemented, it is likely the Pacific Council will need to become more involved at the international level.

## Gear Development

Gear development in HMS fisheries was briefly discussed, notably whether industry is primarily responsible for developing new gears or if management agencies should provide incentives for developing new gear and/or actively pursue cooperative research with fishery participants. Dr. Bartoo will compile a brief report on recent cooperative research initiatives. He will present the information to the HMSMT at their April 2004 meeting.

## FMP Amendment

The scope of the current FMP amendment was also discussed. There may be a need to broaden the scope beyond limited entry in the high seas longline fishery include changes to the FMP to bring the into accord with NMFS recommendations for remedying deficiencies in the HMS FMP.

### **Items Needed for April HMSMT Meeting**

- Tentative schedule for completion of the FMP amendment.
- Further work on data issues, data compilations, and limited entry analyses.
- Guidance from NMFS on fit with regulatory streamlining.
- Guidance from NMFS on whether an EA or EIS will be required; if limited entry and amending the FMP to comply with the ESA are combined into one FMP amendment, what form would the amendment take.
- Biological opinion/Section 7 consultation should be provided to the HMSMT for their information.

### **Adjournment**

Adjourned at 11:15 am 1/28/2004

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PFMC  
draft – 02/20/04

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# Preliminary Considerations for Limited Entry in the West-Coast-Based HMS High Seas Longline Fishery

## Preliminary Considerations

### Magnuson-Stevens Act

Section 303 (b) DISCRETIONARY PROVISIONS.--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may...

(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account--

- (A) present participation in the fishery,
- (B) historical fishing practices in, and dependence on, the fishery,
- (C) the economics of the fishery,
- (D) the capability of fishing vessels used in the fishery to engage in other fisheries,
- (E) the cultural and social framework relevant to the fishery and any affected fishing communities;
- (F) any other relevant considerations.

The Highly Migratory Species Advisory Subpanel (HMSAS) recommended considering the following criteria, much of which overlaps that required under the Magnuson-Stevens Act:

- (A) Recent landings of HMS to West Coast ports, e.g., the past 10 years;
- (B) minimum landing requirements;
- (C) possession of a Western Pacific Fishery Management Council Pelagics FMP limited entry permit (Hawaii longline limited access permit);
- (D) possession of a California pelagic drift gillnet permit;
- (E) history of individual vessel observer coverage;
- (F) history of individual vessel catch of protected resources, e.g, sea turtles;
- (G) vessel length.

## Procedures to Address Considerations

To address the considerations contained in the Magnuson-Stevens Act, and recommended by the HMSAS information was compiled from the data sources listed below. This information is summarized and presented in the accompanying tables: Table 1, Limited entry qualifying considerations for West-Coast-Based

high seas longline vessels based on their fishing activity from, 1993-2002; Table 2, annual HMS longline landings (mt) from outside the EEZ by species, 1993-2002; Table 3, annual HMS longline permit activity, 1993-2002; and, Table 4. longline limited entry scenarios under different window period alternatives.

#### Data Sources:

- (A) Pacific Fisheries Information Network (PacFIN) state landings receipts (fish tickets) – individual vessel participation, landings, revenues;
- (B) National Marine Fisheries Service, Southwest Region (SWR) – Marine Mammal Protection Act (MMPA) drift gillnet (DGN) vessel and longline vessel marine mammal authorization permits;
- (C) SWR - protected species interaction data from observed West-Coast-based, high seas longline trips;
- (D) National Marine Fisheries Service, Pacific Islands Region – Hawaii longline registered vessels;
- (E) Coast Guard – documented vessel lengths.

#### Data Compilations:

Note: numbers in parentheses correspond to the column headings in Table 1.

#### PacFIN:

- (A) Identify West-Coast-based high seas longline<sup>1</sup> vessels based on their having longline landings of HMS, from outside<sup>2</sup> the EEZ over the period 1981-2002. There were 92 vessels that satisfied this criteria (“the 92 vessels”).
- (B) For the 92 vessels compile **all** (all species, gears, areas) of their fish tickets over the 1993-2002 period.
- (C) From fish ticket data for the 1993-2002 period, ascertain:
  - a. Number of years fished all species, gears, areas (1);
  - b. Number of years longlined for swordfish outside the west coast EEZ (2);
  - c. Quantities landed (mt), totaled over the entire 1993-2002 period (see also Table 2):
    - i. Quantity of longline-caught swordfish from outside EEZ (3);
    - ii. Quantities of longline-caught, non-swordfish HMS from outside the EEZ (4);
    - iii. Quantities of non-longline HMS all areas (5);

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<sup>1</sup> Longline includes California set longline (state gear code 5), Oregon pelagic longline (state gear code 150) and Washington set line/longline (state gear code 43).

<sup>2</sup> PacFIN area codes 3028 (outside the EEZ off California), 3900 (outside the EEZ off Mexico), CS (Cobb Seamount off Oregon).

- iv. Quantities of non-HMS, all gears, all areas (6);
- v. Total landings all areas, gears, species (7).
- d. Exvessel revenues, totaled over the entire 1993-2002 period:
  - i. Exvessel revenues from longline-caught, swordfish from outside EEZ (8);
  - ii. Exvessel revenues from longline-caught, non-swordfish HMS from outside the EEZ (9);
  - iii. Exvessel revenues from non-longline HMS all areas (10);
  - iv. Exvessel revenues from non-HMS, all gears, all areas (11);
  - v. Total exvessel revenues from all areas, gears, species (12).
- e. Effort as measured by a vessels number of landings<sup>3</sup> totaled over the entire 1993-2002 period:
  - i. Number of landings with longline-caught swordfish from outside EEZ (13);
  - ii. Number of landings with longline-caught, non-swordfish HMS from outside the EEZ (14);
  - iii. Number of landings with non-longline HMS all areas (15);
  - iv. Number of landings with non-HMS all gears, all areas (16);
  - v. Total number of landings, all areas, gears, species (17).
- f. Dependence on longline swordfish landings (mt), revenues and fishing effort from outside EEZ relative to overall fishing activity for the entire 1993-2002 period:
  - i. Percentage of longline swordfish landings (mt) from outside EEZ of total landings (18);
  - ii. Percentage of longline swordfish exvessel revenues from outside EEZ of total revenues (19);
  - iii. Percentage of landings with longline swordfish from outside EEZ of total number of landings (20).
- g. Control Date (March 3, 2000):
  - i. Percentage of longline swordfish landings (mt) from outside EEZ prior to the control date (21);
  - ii. Percentage of longline swordfish exvessel revenues from outside EEZ prior to the control date (22);
  - iii. Percentage of number of landings with longline swordfish from outside EEZ prior to control date (23).

SWR

(A) Of the 92 vessels identify those with 2002 Drift gillnet marine mammal authorization permits (MMA<sup>4</sup>) (24).

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<sup>3</sup> Number of landings serves as a proxy for number of trips. Each nonconsecutive date for which there is a fish ticket denotes a landing.

- (B) Of the 92 vessels identify those with 2002 longline marine mammal authorization permits (25). (See also Table 3)

### Pacific Islands Region

- (A) Of the 92 vessels identify those registered to fish under a Hawaii longline permit<sup>5</sup> in 2002 (26). (See also Table 3)

### SWR

- (A) Of the 92 vessels identify those that carried observers to monitor turtle interactions through January 2004 (27).  
(B) Of the 92 vessels identify those that had observed turtle takes through January 2004 (28). (See also Table 3)

### Coast Guard

- (A) Obtain documented vessel lengths for the 92 vessels (29).

### **Minimum Landings Requirements:**

High-seas, HMS landings by West-coast-based longline vessels were summarized over annual intervals ranging from 1993-2002 to 2002 only, to develop minimum landings requirements for different longline limited entry window period scenarios. Minimum HMS landings were determined for each hypothetical window period based on the distribution of high-seas HMS landings for the number of West-coast-based longline vessels accounting for: 1) 100% of the total window period landings; 2) 95% of the total window period landings; and, 3) 90% of the total window period landings (Table 4).

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<sup>4</sup> One of the qualifying considerations was possession of a California drift gillnet limited entry permit. California issues DGN limited entry permits to individuals, who then designate the vessel(s) upon which the permit will be used. Designated vessels then have to receive a MMAP to participate in the west coast DGN fishery. Therefore, vessels with a DGN MMAP are assumed to be in compliance with California's DGN limited entry program.

<sup>5</sup> One of the qualifying considerations was possession of a Hawaii longline limited access permit. Hawaii issues longline limited access permits to individuals, who then have to register a vessel upon which the permit will be used. Owners and operators of vessels registered for use under a Hawaii longline limited access permit or a longline general permit may not use longline gear to fish for or target swordfish north of the equator (0° lat.). Therefore, in any year a West-coast-based longline vessel targeted swordfish outside the EEZ it would have deregistered its Hawaii permit.

Table 1. Limited entry qualifying considerations for West-Coast-Based high seas longline vessels based on their fishing activity from, 1993-2002.

Vessel	Participation	Landings (mt), 1993-2002												Exvessel Revenues, 1993-2002											
		(1)		(2)		(3)		(4)		(5)		(6)		(7)		(8)		(9)		(10)		(11)		(12)	
Number of Years Fished (all species, gears, areas), 1993-2002	93	94	95	96	97	98	99	00	01	02	Total Landings (mt)		Total Landings (mt) Non-Longline		Total Landings (mt) Non-Swordfish		Total Exvessel Revenues		Total Exvessel Revenues Non-Longline		Total Exvessel Revenues Non-Swordfish		Total Exvessel Revenues All Areas		
											Longline	Outside EEZ	Longline	Outside EEZ	Longline	Outside EEZ	Longline	Outside EEZ	Longline	Outside EEZ	Longline	Outside EEZ	Longline	Outside EEZ	Longline
1	1										0.09	2.29	0.00	0.00	2.38			\$2,027						\$2,313	
2	1										0.40	0.25	1.91	0.14	2.70			\$2,291						\$2,45	
3	1										0.43	0.22	2.22	0.32	3.19			\$1,643						\$13,261	
4	1										2.38	1.35			3.73			\$7,238						\$3,07	
5	1										0.51	0.23	3.37	0.23	4.34			\$3,034						\$13,224	
6	1										3.99	1.49		0.06	5.54			\$5,223						\$16,037	
7	1										4.67	1.22		0.65	6.54			\$18,910						\$24,256	
8	1										1.92	4.83		6.75	6.75			\$8,763						\$22,135	
9	2										3.27	2.94		0.77	6.98			\$14,257						\$48,026	
10	1										6.25	0.86		0.03	7.14			\$33,275						\$23,119	
11	2										3.67	1.73		1.91	7.31			\$16,743						\$67	
12	1										4.18	6.34		0.02	10.54			\$21,218						\$19,479	
13	1										9.14	2.91			12.05			\$35,303						\$49,032	
14	1										10.97	0.83		0.40	12.20			\$48,257						\$49,138	
15	1										13.22	0.29		0.07	13.51			\$54,333						\$50,525	
16	1										12.10	1.87		0.09	14.04			\$36,784						\$56,325	
17	1										15.29	2.06		0.09	17.44			\$58,110						\$67,200	
18	1										17.12	1.05		0.29	18.17			\$65,085						\$72,009	
19	1										18.18	10.77		0.91	22.66			\$46,957						\$305	
20	2										11.58	3.57		0.84	24.61			\$78,197						\$113,291	
21	1										20.54	5.55		0.17	26.26			\$61,690						\$629	
22	1										29.72			0.17	29.72			\$74,456						\$2,060	
23	2										20.17	11.56		0.15	31.88			\$92,542						\$364	
24	2										32.16	0.11		0.08	32.27			\$93,854						\$82	
25	2										35.86	0.77		0.08	36.71			\$104,740						\$147,969	
26	2										32.32	4.83		0.89	38.04			\$158,612						\$105,451	
27	1										33.99	4.75		0.13	38.87			\$138,710						\$161,832	
28	2										33.70	7.07		0.83	41.60			\$197,978						\$155,747	
29	2										30.30	10.13		1.20	41.63			\$130,042						\$212,110	
30	3										26.44	11.60		3.66	41.70			\$139,662						\$173,990	
31	2										35.30	7.59		0.28	43.17			\$162,707						\$1,307	
32	2										34.75	3.02		0.14	51.07			\$134,900						\$186,857	
33	1										56.72	7.91		60.54	68.17			\$217,504						\$7,792	
34	2										66.53	2.78		69.31	72.15			\$278,075						\$382	
35	2										26.10	5.34		1.64	72.15			\$116,777						\$188,888	
36	2										26.68	6.34		0.52	76.42			\$149,476						\$144	
37	2										79.97	7.27		0.30	87.54			\$233,706						\$42,190	
38	3										83.48	2.96		0.79	87.54			\$282,422						\$55,820	
39	2										86.81	2.03		0.29	89.55			\$290,645						\$292,767	
40	4										74.17	4.75		0.29	93.62			\$337,523						\$2,275	
41	3										11.73	1.55		0.23	97.01			\$250,910						\$387,045	
42	2										1.73	61.70		24.25	99.23			\$31,428						\$435	
43	4										2.47	0.41		0.19	101.82			\$14,615						\$307,638	
44	3																							\$171	
45	3																							\$296,960	
46	4																							\$302,305	
																								\$385,410	
																								\$316,826	
																								\$373	
																								\$468,745	
																								\$220,498	

Table 1. Limited entry qualifying considerations for West-Coast-Based high seas longline vessels based on their fishing activity from, 1993-2002.

Vessel	Participation	Years Longlined for Swordfish Outside EEZ												Landings (mt), 1993-2002												Exvessel Revenues, 1993-2002											
		93	94	95	96	97	98	99	00	01	02	Total Number of Years Longlined for Swordfish Outside EEZ, 1993-2002	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	Total Exvessel Revenues Caught Longline Non-Swordfish HMS All Areas	Total Exvessel Revenues Caught Longline Non-Swordfish HMS All Areas	Total Exvessel Revenues Non-HMS All Areas	Total Exvessel Revenues All Areas											
47	X	X	X								3	47.25	6.52	48.67	1.17	103.61	\$186,865	\$38,782	\$283,639	\$1,994	\$521,260																
48	X	X	X	X							2	89.07	12.82	2.46	1.10	105.45	\$390,409	\$48,357	\$15,441	\$1,391	\$455,598																
49	X	X	X	X	X						4	80.42	15.28	9.96	0.81	106.47	\$301,105	\$107,093	\$50,359	\$1,477	\$460,034																
50	X										1	11.77	0.46	43.97	50.50	106.70	\$80,951	\$957	\$203,152	\$82,919	\$327,979																
51	X	X	X	X	X	X					4	70.27	6.56	30.65	0.20	107.68	\$235,373	\$24,156	\$115,271	\$160	\$374,960																
52	X	X	X	X	X	X	X				3	57.10	7.70	43.63	0.07	108.50	\$239,843	\$52,995	\$164,437	\$66	\$457,341																
53	X	X	X	X	X	X	X	X			4	121.98	14.11		0.11	136.20	\$475,702	\$65,983	\$98	\$541,783																	
54	X	X	X	X	X	X	X	X			4	95.35	10.53	31.82	0.25	137.95	\$374,910	\$44,329	\$120,211	\$236	\$539,686																
55	X	X	X	X	X	X	X	X			4	115.49	4.21	21.03		140.73	\$432,899	\$21,212	\$59,530	\$512,141																	
56	X	X	X	X	X	X	X	X			2	99.51	19.68	25.86	2.26	147.31	\$358,201	\$68,717	\$92,572	\$3,247	\$522,737																
57	X	X	X	X	X	X	X	X			2	7.60	125.32	125.32	1.27	155.54	\$43,097	\$44,601	\$414,180	\$1,768	\$503,646																
58	X	X	X	X	X	X	X	X			2	94.01	19.32	45.82	0.05	159.20	\$430,303	\$92,409	\$136,068	\$134	\$658,914																
59	X	X	X	X	X	X	X	X			4	129.01	7.33	24.74		161.08	\$458,188	\$42,046	\$81,638	\$749,239	\$801,075																
60	X	X	X	X	X	X	X	X			1	6.98	0.87		155.09	162.94	\$44,192	\$7,644		\$49,836	\$51,480																
61	X	X	X	X	X	X	X	X			5	126.35	8.59	48.49	0.26	183.69	\$454,108	\$43,104	\$152,404	\$319	\$649,935																
62	X	X	X	X	X	X	X	X			5	165.16	19.13		0.76	185.05	\$554,053	\$71,724		\$1,266	\$627,043																
63	X	X	X	X	X	X	X	X			4	151.91	14.01	36.07	0.81	202.80	\$561,576	\$64,050	\$134,791	\$1,114	\$761,531																
64	X	X	X	X	X	X	X	X			3	185.48	2.81	17.12	0.11	205.52	\$725,562	\$18,181	\$63,262	\$209	\$807,214																
65	X	X	X	X	X	X	X	X			1	0.32		134.15	86.93	221.40	\$1,225			\$478,933	\$858,855																
66	X	X	X	X	X	X	X	X			1	5.99	4.55	213.82	5.92	230.28	\$25,025	\$9,581	\$647,543	\$16,541	\$698,680																
67	X	X	X	X	X	X	X	X			4	252.08	9.22		0.14	261.44	\$947,805	\$39,831		\$173	\$887,809																
68	X	X	X	X	X	X	X	X			3	249.39	12.73		0.57	262.69	\$846,568	\$41,666		\$985	\$889,119																
69	X	X	X	X	X	X	X	X			7	273.91	23.09	0.35	0.60	297.95	\$1,004,696	\$98,321	\$116	\$834	\$1,103,967																
70	X	X	X	X	X	X	X	X			6	244.91	19.31	50.10	1.21	315.53	\$814,716	\$72,278	\$193,991	\$877	\$1,081,962																
71	X	X	X	X	X	X	X	X			1	3.42	1.78	22.06	289.02	316.28	\$12,990	\$9,060	\$29,442	\$1,417,921																	
72	X	X	X	X	X	X	X	X			3	240.70	4.58	77.50	1.15	323.93	\$839,637	\$25,177	\$299,885	\$1,615	\$1,166,334																
73	X	X	X	X	X	X	X	X			3	299.34	7.47	17.34	0.66	324.81	\$1,037,464	\$40,189	\$59,146	\$1,289	\$1,138,088																
74	X	X	X	X	X	X	X	X			4	310.34	13.17	0.71	2.41	326.63	\$1,189,264	\$58,500	\$234	\$13,130	\$1,261,128																
75	X	X	X	X	X	X	X	X			6	229.59	51.08	52.06	0.27	333.00	\$847,240	\$81,455	\$153,296	\$516	\$1,082,507																
76	X	X	X	X	X	X	X	X			5	261.76	16.42	69.63	1.09	338.90	\$1,019,201	\$82,923	\$285,753	\$1,177	\$1,389,054																
77	X	X	X	X	X	X	X	X			5	266.30	5.88	73.31	0.15	339.35	\$965,916	\$15,656	\$300,618	\$218	\$1,282,408																
78	X	X	X	X	X	X	X	X			4	94.18	48.71	203.58	4.70	351.17	\$499,995	\$298,106	\$428,517	\$8,913	\$1,235,531																
79	X	X	X	X	X	X	X	X			5	308.83	19.34	23.32	3.19	354.68	\$1,092,476	\$111,133	\$77,186	\$1,505	\$1,282,289																
80	X	X	X	X	X	X	X	X			5	289.17	21.58	57.12	3.58	371.45	\$1,075,189	\$116,656	\$263,442	\$6,953	\$1,462,240																
81	X	X	X	X	X	X	X	X			8	120.59	31.98	243.22	1.72	397.51	\$478,254	\$156,032	\$437,318	\$2,498	\$1,075,098																
82	X	X	X	X	X	X	X	X			5	5.02	497.06		1.93	504.01		\$6,505	\$1,020,503	\$2,518	\$1,029,526																
83	X	X	X	X	X	X	X	X			10	399.63	75.68	57.80	4.29	537.40	\$1,431,254	\$290,487	\$274,462	\$6,828	\$2,003,029																
84	X	X	X	X	X	X	X	X			6	356.07	34.16	152.38	3.92	546.53	\$1,308,209	\$113,271	\$575,905	\$7,217	\$2,005,602																
85	X	X	X	X	X	X	X	X			3	98.41	9.80	266.06	281.33	596.80	\$160,053	\$29,253	\$596,991	\$1,071,727	\$1,858,024																
86	X	X	X	X	X	X	X	X			5	107.34	39.15	452.63	6.21	605.33	\$449,079	\$253,173	\$1,544,628	\$13,565	\$2,260,446																
87	X	X	X	X	X	X	X	X			1	0.21	542.53	163.59	706.76	\$1,701	\$894	\$1,231,383	\$302,260	\$2,536,238																	
88	X	X	X	X	X	X	X	X			3	70.58	16.06	817.31	1.78	905.73	\$358,067	\$107,059	\$1,612,599	\$2,780	\$2,080,505																
89	X	X	X	X	X	X	X	X			1	2.94	5.73	617.55	432.89	1,059.01	\$1,214	\$33,035	\$1,801,199	\$116,965	\$1,962,413																
90	X	X	X	X	X	X	X	X			1	0.15	2.83	1,154.99	18.61	1,176.58	\$705	\$2,771	\$1,919,505	\$16,445	\$1,939,426																
91	X	X	X	X	X	X	X	X			1	0.57	4.00	915.03	15,643.09	16,562.69	\$4,012	\$3,573	\$1,914,789	\$3,293,774	\$5,216,148																
92	X	X	X	X	X	X	X	X			1																										

Table 1. Limited entry qualifying considerations for West-Coast-Based high seas longline vessels based on their fishing activity from, 1993-2002.

Vessel	Participation		Landings (mt), 1993-2002					Exvessel Revenues, 1993-2002				
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
Number of Years Fished (all species, gears, areas), 1993-2002	93 94 95 96 97 98 99 00 01 02	Total Number of Years Longlined for Swordfish Outside EEZ <sup>1</sup> , 1993-2002	Total Landings (mt) Longline-Caught Non-Swordfish HMS Outside EEZ	Total Landings (mt) Longline-Caught Non-Swordfish HMS Outside EEZ	Total Landings (mt) Non-HMS All Areas	Total Landings (mt) Non-HMS All Areas	Total Landings (mt) All Gears, All Areas	Total Exvessel Revenues Longline-Caught Non-Swordfish HMS Outside EEZ	Total Exvessel Revenues Longline-Caught Non-Swordfish HMS Outside EEZ	Total Exvessel Revenues Non-HMS All Areas	Total Exvessel Revenues Non-HMS All Areas	Total Exvessel Revenues All Gears, All Areas

<sup>1</sup>All references to outside the EEZ includes the EEZ off Mexico. Vessel not on current CG documentation list.

Table 1. Lir

Vessel	Number of Landings, 1993-2002			Dependence			Control Date (3/9/2000)			Permits, 2002			Turtles				
	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)	(23)	(24)	(25)	(26)	(27)	(28)	(29)
	Number of Longline, Swordfish Landings Outside EEZ	Number of Non-Longline HMS Landings Outside EEZ	Number of Non-HMS Landings, All Areas	Total Number of Landings	% of Longline Swordfish Landings Outside EEZ of Total	% Longline Swordfish Revenues Outside EEZ of Total Revenues	% Longline Swordfish Landings Outside EEZ of Total Landings	Quantity of Longline Swordfish Landings Outside EEZ Before Control Date	Quantity of Longline Swordfish Revenues Outside EEZ Before Control Date	% Longline Swordfish Revenues Outside EEZ Before Control Date	Number of Longline Swordfish Landings Outside EEZ Before Control Date	2002 MMPA Drift Gillnet Authorization	2002 MMPA Longline Authorization	Registered for the 2002 Hi Longline Fishery	Observed Trips	Observed Turtle Takes	Vessel Length (ft)
1	1	1	1	3	4%	12%	100%	100%	100%	100%	100%						80.5
2	1	1	2	3	15%	17%	33%	100%	100%	100%							83.0
3	1	1	3	3	13%	11%	33%	100%	100%	100%							92.3
4	1	1	4	1	64%	55%	100%	100%	100%	100%			Yes				68.4
5	1	1	2	2	12%	19%	50%	100%	100%	100%							78.3
6	3	3	2	3	72%	78%	100%	100%	100%	100%							72.0
7	1	1	1	1	71%	64%	100%	100%	100%	100%			Yes				92.7
8	1	1	1	1	28%	18%	100%	100%	100%	100%			Yes				62.1
9	3	3	3	3	47%	62%	100%	100%	100%	100%			Yes				96.8
10	1	1	1	1	88%	93%	100%	100%	100%	100%							73.9
11	1	1	3	4	50%	34%	25%	100%	100%	100%			Yes				77.9
12	2	3	2	3	40%	80%	67%	100%	100%	100%							93.1
13	1	1	1	1	78%	72%	100%	100%	100%	100%			Yes				76.0
14	1	1	1	1	78%	73%	100%	100%	100%	100%			Yes				84.0
15	3	3	3	3	90%	96%	100%	100%	100%	100%							67.6
16	2	1	2	2	98%	96%	100%	100%	0%	0%			Yes				78.4
17	1	1	1	1	86%	76%	50%	100%	100%	100%			Yes				77.9
18	2	2	1	2	86%	86%	100%	100%	100%	100%							75.0
19	1	1	1	1	94%	90%	100%	100%	100%	100%			Yes				76.0
20	5	5	4	4	51%	41%	100%	100%	100%	100%			Yes				74.9
21	4	6	5	7	80%	94%	57%	100%	100%	100%			Yes				89.4
22	4	4	2	5	47%	43%	67%	100%	100%	100%							85.0
23	3	3	2	3	78%	77%	100%	100%	100%	100%			Yes				89.7
24	4	4	4	4	100%	100%	100%	100%	0%	0%		Yes					57.5
25	4	4	2	2	63%	63%	100%	100%	100%	100%							57.8
26	2	2	2	2	100%	99%	100%	100%	0%	0%			Yes				72.0
27	3	2	1	3	98%	98%	100%	100%	0%	0%			Yes				83.3
28	6	6	6	6	85%	89%	100%	100%	100%	100%			Yes				75.0
29	4	4	2	2	87%	93%	100%	100%	100%	100%			Yes				63.1
30	3	2	1	4	81%	75%	75%	100%	100%	100%			Yes				72.0
31	10	10	9	10	73%	75%	100%	100%	100%	100%							79.0
32	12	12	12	15	63%	80%	80%	100%	100%	100%							61.9
33	8	9	6	9	82%	86%	89%	100%	100%	100%							79.1
34	2	2	2	3	68%	71%	67%	100%	100%	100%							77.0
35	4	4	2	4	88%	83%	100%	100%	100%	100%							82.3
36	1	1	3	3	0%	0%	0%	100%	0%	0%							98.0
37	4	2	4	4	96%	95%	100%	100%	0%	0%			Yes				75.0
38	8	8	4	8	36%	30%	30%	100%	100%	100%							70.0
39	3	4	1	4	35%	28%	38%	100%	100%	100%		Yes					68.7
40	6	7	2	8	91%	91%	75%	100%	28%	21%			Yes				77.1
41	6	5	1	3	95%	95%	86%	100%	24%	17%			Yes				75.0
42	4	3	1	5	97%	96%	80%	100%	0%	0%			Yes				72.8
43	10	10	8	11	85%	88%	91%	100%	71%	72%			Yes				83.3
44	5	3	1	6	76%	79%	83%	100%	100%	100%							87.4
45	2	2	8	18	12%	17%	11%	100%	100%	100%							34.9
S. Herfink	1	1	6	7	2%	7%	14%	100%	100%	100%		Yes					68.0

Table 1. Lir

Vessel	Number of Landings, 1993-2002				Dependence				Control Date (3/9/2000)				Permits, 2002			Turtles		Vessel Length (ft)
	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)	(23)	(24)	(25)	(26)	(27)	(28)	(29)	
	Number of Longline, Swordfish HMS Landings Outside EEZ	Number of Longline, Swordfish HMS Landings Outside EEZ	Number of Non-Longline HMS Landings All Areas	Number of Non-HMS Landings, All Areas	Total Number of Landings	% Quantity of Longline Swordfish Landings Outside EEZ of Total Landings	% Longline Swordfish Revenues Outside EEZ of Total Revenues	% Longline Swordfish Landings Outside EEZ of Total Landings	% Quantity of Longline Swordfish Landings Outside EEZ of Total Landings	% Longline Swordfish Revenues Outside EEZ Before Control Date	% Longline Swordfish Revenues Outside EEZ Before Control Date	2002 MMPA Drift Gillnet Authorization	2002 MMPA Longline Authorization	Registered for the 2002 HI Longline Fishery	Observed Trips	Observed Turtle Takes		
47	11	10	8	9	21	46%	38%	52%	100%	100%	100%						70.0	
48	11	11	1	9	12	84%	86%	92%	100%	100%	100%						83.3	
49	7	10	1	5	11	76%	65%	64%	100%	100%	100%	Yes	Yes	Yes			63.1	
50	2	2	13	14	25	11%	19%	8%	100%	100%	100%						58.5	
51	7	5	3	1	11	65%	63%	64%	60%	49%	43%						74.0	
52	5	6	3	1	10	53%	52%	50%	52%	39%	40%						78.9	
53	8	8	1	1	8	90%	88%	100%	100%	45%	50%						75.0	
54	13	8	2	1	18	69%	69%	72%	13%	10%	8%	Yes					62.0	
55	5	4	1	1	8	82%	84%	63%	30%	26%	40%						83.3	
56	19	19	1	18	24	68%	69%	79%	100%	100%	100%						79.9	
57	3	5	12	5	19	5%	9%	16%	100%	100%	100%						80.4	
58	8	9	1	2	14	59%	65%	57%	65%	67%	63%	Yes	Yes	Yes			75.0	
59	6	6	1	1	7	80%	79%	86%	100%	100%	100%	Yes	Yes	Yes	Yes	Yes	86.3	
60	2	2	410	509	806	4%	6%	0%	0%	0%	0%						31.2	
61	11	9	1	2	16	69%	70%	69%	36%	42%	27%	Yes					82.3	
62	9	10	1	5	11	89%	88%	82%	65%	61%	67%						83.6	
63	15	12	5	3	23	75%	74%	65%	29%	25%	20%	Yes	Yes	Yes			71.0	
64	9	7	1	2	11	90%	90%	82%	17%	23%	11%	Yes	Yes	Yes	Yes	No	74.6	
65	1	1	725	472	739	0%	0%	0%	100%	100%	100%						37.0	
66	1	1	43	24	45	4%	3%	2%	0%	0%	0%						69.0	
67	15	11	1	2	15	96%	95%	100%	24%	27%	20%	Yes	Yes	Yes	Yes	Yes	84.3	
68	13	11	1	2	14	96%	95%	93%	6%	8%	8%	Yes	Yes	Yes	Yes	Yes	74.6	
69	21	19	1	7	22	92%	91%	95%	62%	65%	76%						81.6	
70	16	12	1	3	20	78%	75%	80%	24%	24%	38%	Yes	Yes	Yes	Yes	Yes	83.3	
71	1	1	14	17	25	1%	1%	4%	100%	100%	100%						63.1	
72	17	9	5	5	24	74%	72%	71%	7%	7%	12%	Yes	Yes	Yes	Yes	Yes	72.8	
73	14	9	1	3	16	92%	91%	88%	0%	0%	0%	Yes	Yes	Yes	Yes	Yes	74.9	
74	14	9	1	2	16	95%	94%	88%	27%	25%	29%	Yes	Yes	Yes	Yes	No	73.4	
75	13	12	1	1	17	69%	78%	76%	38%	39%	38%	Yes	Yes	Yes	Yes	Yes	72.0	
76	13	10	2	5	19	74%	73%	68%	28%	30%	31%	Yes	Yes	Yes	Yes	No	78.5	
77	12	8	1	2	16	77%	75%	75%	19%	21%	17%	Yes	Yes	Yes	Yes	Yes	83.3	
78	12	8	1	3	16	77%	77%	75%	36%	38%	33%	Yes	Yes	Yes	Yes	Yes	84.8	
79	18	17	14	24	39	27%	40%	46%	26%	22%	17%	Yes	Yes	Yes	Yes	Yes	79.7	
80	19	14	1	3	20	87%	85%	95%	41%	48%	37%	Yes	Yes	Yes	Yes	Yes	72.0	
81	25	22	5	15	32	78%	74%	78%	41%	46%	56%	Yes	Yes	Yes	Yes	Yes	85.2	
82	12	12	9	6	21	30%	45%	57%	100%	100%	100%						77.0	
83	1	1	51	16	54	0%	0%	0%	0%	0%	0%	Yes	Yes	Yes	Yes	Yes	56.9	
84	52	48	6	34	58	74%	71%	90%	68%	67%	79%	Yes	Yes	Yes	Yes	Yes	78.0	
85	33	29	11	29	51	65%	65%	65%	47%	47%	70%	Yes	Yes	Yes	No	Yes	78.7	
86	10	12	24	33	63	7%	9%	16%	19%	21%	50%						72.1	
87	16	17	37	30	65	18%	20%	25%	31%	34%	44%	Yes	Yes	Yes	Yes	Yes	73.6	
88	1	1	262	269	381	0%	0%	0%	100%	100%	100%	Yes	Yes	Yes	Yes	Yes	53.5	
89	6	7	21	7	32	8%	17%	19%	46%	40%	50%						79.2	
90	1	3	107	75	156	0%	0%	1%	100%	100%	100%	Yes	Yes	Yes	Yes	Yes	55.2	
91	1	1	34	3	35	0%	0%	3%	100%	100%	100%						68.2	
S. Herick	1	1	46	448	484	0%	0%	0%	100%	100%	100%	Yes	Yes	Yes	Yes	Yes	64.9	

Table 1. Lir

Vessel	Number of Landings, 1993-2002				Dependence				Control Date (3/9/2000)				Permits, 2002				Turtles	
	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)	(23)	(24)	(25)	(26)	(27)	(28)	(29)	
	Number of Longline, Swordfish Landings Outside EEZ	Number of Non-Longline HMS Landings Outside EEZ	Number of HMS Landings All Areas	Number of Non-HMS Landings, All Areas	Total Number of Landings	% Quantity of Longline Swordfish Landings Outside EEZ of Total Landings	% Longline Swordfish Revenues Outside EEZ of Total Exvessel Revenues	% Longline Swordfish Landings Outside EEZ of Total Number of Landings	Quantity of Longline Swordfish Landings Outside EEZ Before Control Date	% Longline Swordfish Revenues Outside EEZ Before Control Date	% Longline Swordfish Landings Outside EEZ Before Control Date	2002 MMPA Drift Gillnet Authorization	2002 MMPA Longline Authorization	Registered for the 2002 HI Longline Fishery	Observed Trips	Observed Turtle Takes	Vessel Length (ft)	

All references to outside the EEZ includes the EEZ off Mexico. Vessel not Vessel not on current CG documentation list.

Table 2. Annual HMS longline landings (mt) from outside the EEZ by species, 1993-2002.

Vessel	Swordfish										Albacore									
	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
1	-	-	-	0.09	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
2	-	0.4	-	-	-	-	-	-	-	-	-	0.08	-	-	-	-	-	-	-	-
3	-	0.43	-	-	-	2.38	-	-	-	-	-	-	-	-	0.15	-	-	-	-	-
4	-	-	-	-	-	0.51	-	-	-	-	-	-	-	-	-	-	-	-	-	-
5	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
6	-	3.99	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
7	-	-	-	-	-	4.67	-	-	-	-	-	-	-	-	0.14	-	-	-	-	-
8	-	-	-	1.67	-	1.92	-	-	-	-	-	-	-	-	0.07	-	-	-	-	-
9	-	-	1.6	-	-	-	-	-	-	-	-	-	0.12	-	-	-	-	-	-	-
10	-	6.25	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
11	-	-	-	-	-	3.67	-	-	-	-	-	-	-	-	-	-	-	-	-	-
12	-	4.18	-	-	-	-	-	-	-	-	0.09	-	-	-	-	0.1	-	-	-	-
13	-	-	-	9.14	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
14	-	-	-	-	-	9.54	-	-	-	-	-	-	-	-	-	-	-	-	-	-
15	-	10.97	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
16	-	-	-	-	-	-	-	13.22	-	-	-	-	-	-	-	-	-	-	-	-
17	-	-	-	-	-	12.1	-	-	-	-	-	-	-	-	0.11	-	-	-	-	-
18	-	-	15.29	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
19	-	-	-	-	-	-	17.12	-	-	-	-	-	-	-	-	-	-	-	-	-
20	-	-	7.22	4.2	-	-	-	-	-	-	-	0.59	0.03	-	-	-	-	-	-	-
21	-	18.18	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
22	-	11.58	-	-	-	-	-	-	-	-	0.11	-	-	-	-	-	-	-	-	-
23	-	-	7.2	13.34	-	-	-	-	-	-	-	0.39	-	-	-	-	-	-	-	-
24	-	-	-	-	-	-	-	11.81	17.91	-	-	-	-	-	-	-	-	-	-	-
25	-	-	-	17.55	2.62	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
26	-	-	-	-	-	-	-	13.72	18.44	-	-	-	-	-	-	-	-	0.32	-	-
27	-	-	-	-	-	-	-	35.86	-	-	-	-	-	-	-	-	-	-	-	-
28	-	23.63	8.69	-	-	-	-	-	-	-	0.17	-	-	-	-	-	-	-	-	-
29	-	-	7.05	26.94	-	-	-	-	-	-	-	0.39	0.21	-	-	-	-	-	-	-
30	-	-	-	5.28	16.33	12.09	-	-	-	-	-	-	-	-	-	-	-	-	-	-
31	-	25.38	4.92	-	-	-	-	-	-	-	0.52	-	-	-	-	-	-	-	-	-
32	-	19.1	7.34	-	-	-	-	-	-	-	0.02	-	-	-	-	-	-	-	-	-
33	-	35.3	-	-	-	-	-	-	-	-	0.19	-	-	-	-	-	-	-	-	-
34	-	-	-	-	-	-	-	34.75	-	-	-	-	-	-	-	-	0.33	-	-	-
35	-	-	-	-	-	13.95	42.77	-	-	-	-	-	-	-	-	-	-	-	-	-
36	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
37	-	-	-	-	-	-	-	47.91	18.62	-	-	-	-	-	-	-	-	-	-	-
38	1.6	20.77	3.73	-	-	-	-	-	-	-	0.02	-	-	-	-	-	-	-	-	-
39	-	-	-	-	-	-	15.99	10.69	-	-	-	-	-	-	-	-	0.59	-	-	-
40	-	-	-	12.95	8.19	-	-	27.23	31.6	-	-	-	0.04	-	-	-	-	-	-	-
41	-	-	-	-	-	-	19.72	25.23	38.53	-	-	-	-	-	-	-	-	0.86	-	-
42	-	-	-	-	-	-	-	43.87	42.94	-	-	-	-	-	-	-	-	-	-	-
43	-	45.02	11.35	-	-	-	-	23.49	-	-	0.55	-	-	-	-	-	-	-	-	-
44	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
45	-	10.75	0.98	-	-	26.79	30.53	16.85	-	-	-	-	-	-	1.8	0.39	-	-	-	-
46	-	2.47	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

Table 2. Annual HMS longline landings (mt) from outside the EEZ by species, 1993-2002.

Vessel	Swordfish										Albacore									
	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
47	1.74	25.09	20.42	-	-	-	-	-	-	-	-	0.02	-	-	-	-	-	-	-	-
48	-	78.72	10.35	-	-	-	-	-	-	-	-	0.83	0.1	-	-	-	0.94	-	-	-
49	-	-	12.13	28.12	-	-	12.19	27.98	-	-	-	-	-	-	-	-	-	-	-	-
50	-	11.77	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
51	-	-	-	-	-	16.04	10.92	24.47	18.84	-	-	-	-	-	-	-	-	-	-	-
52	-	-	-	-	-	18.61	-	16.83	21.66	-	-	-	-	-	-	-	-	0.2	-	-
53	-	-	-	-	25.93	16.63	-	47.11	32.31	-	-	-	-	-	-	-	-	0.49	-	-
54	-	-	-	-	-	12.13	-	28.22	28.28	26.72	-	-	-	-	-	-	-	-	-	-
55	-	-	-	-	-	-	-	97.84	17.65	-	-	-	-	-	-	-	-	0.14	-	-
56	-	26.95	17.65	39.09	15.82	-	-	-	-	-	-	0.94	-	0.24	-	-	-	-	-	-
57	-	6.92	0.68	-	-	-	-	-	-	-	-	12.99	-	-	-	-	-	-	-	-
58	-	-	-	-	-	-	49.02	44.99	-	-	-	-	-	-	-	-	-	0.79	-	-
59	-	-	-	27.85	-	17.28	58.15	25.73	-	-	-	-	-	-	-	-	-	-	-	-
60	-	-	-	-	-	-	-	6.98	-	-	-	-	-	-	-	-	-	0.02	-	-
61	-	-	-	-	16.77	-	12.7	25.46	32.6	38.82	-	-	-	-	-	-	-	-	0.29	-
62	-	-	9.5	-	50.59	-	46.47	39.41	19.19	-	-	-	-	-	0.08	-	1.25	0.11	-	-
63	-	-	-	-	-	-	25.87	34.82	34.13	57.09	-	-	-	-	-	-	-	-	-	-
64	-	-	-	-	-	-	-	60.62	93.35	31.51	-	-	-	-	-	-	-	0.45	0.01	-
65	-	0.32	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
66	-	-	-	-	-	-	-	5.99	-	-	-	-	-	-	-	-	-	-	-	-
67	-	25.09	-	-	-	-	61.63	36.62	62.75	91.08	-	-	-	-	-	-	0.07	0.03	0.43	-
68	-	-	-	-	-	-	-	72.24	80.63	96.52	-	-	-	-	-	-	-	0.38	-	-
69	-	55.54	5.26	-	52.11	17.35	16.4	58.36	68.89	-	-	0.46	-	-	-	-	-	0.6	-	-
70	-	-	-	29.12	12.64	-	15.87	29.73	97.11	60.44	-	-	-	-	-	-	-	0.51	-	-
71	-	3.42	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
72	-	-	-	-	-	-	-	59.54	85.8	95.36	-	-	-	-	-	-	-	0.29	-	-
73	-	-	-	-	-	-	-	62.56	111.57	125.21	-	-	-	-	-	-	-	-	-	-
74	-	-	-	-	-	-	65.57	71.1	84.1	89.57	-	-	-	-	-	-	-	0.6	0.68	-
75	-	-	-	-	21.93	20.21	24.27	61.37	56.12	45.69	-	-	-	-	-	0.09	-	-	-	-
76	-	-	-	-	20.22	-	51.25	37.52	93.2	49.57	-	-	-	-	-	-	-	0.21	0.54	-
77	-	-	-	-	-	-	49.87	49.73	48.37	112.04	-	-	-	-	-	-	-	-	0.53	-
78	-	-	-	-	18.33	-	48.21	69.07	56.1	74.59	-	-	-	-	-	-	0.27	0.42	-	-
79	-	-	-	-	-	-	7.51	42.77	29.52	14.38	-	-	-	-	-	-	5.29	7.17	4.03	0.79
80	-	-	-	-	22.21	-	85.58	49.82	71.16	80.06	-	-	-	-	-	-	0.43	0.09	-	-
81	9.47	52.73	2.42	-	-	13.64	27.91	37.49	68.92	76.59	-	0.59	-	-	0.37	-	-	0.11	-	-
82	-	-	13.61	35.07	13.48	23.92	34.51	-	-	-	-	-	0.95	0.64	0.68	-	-	-	-	-
83	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
84	2.89	50.29	42.32	52.98	50.33	57.02	15.45	48.82	11.83	67.7	-	2.53	0.04	0.66	-	-	-	-	-	-
85	-	-	41.27	40.26	48.65	-	-	89.25	74.1	62.54	-	-	0.1	0.5	0.61	-	-	0.78	1.6	-
86	-	-	-	-	-	-	7.31	11.28	20.82	-	-	-	-	-	0.31	0.07	1.34	2.61	0.87	-
87	-	-	-	-	8.02	20.67	2.85	45.13	30.67	-	-	-	-	-	-	-	-	2.82	0.87	-
88	-	0.21	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
89	-	-	-	-	-	-	18.74	36.97	14.87	-	-	-	-	-	-	-	0.75	0.05	0.22	-
90	-	-	-	-	-	2.84	-	-	-	-	-	-	-	-	0.03	-	-	-	-	-
91	-	0.15	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
92	-	-	-	-	-	0.57	-	-	-	-	-	-	-	-	-	-	-	-	-	-

Table 2. Ar

Vessel	Bluefin													Tropical Tuna												
	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002						
1																										
2													0.15													
3																										
4						0.85									0.22											
5						0.08																				
6												0.64														
7						0.88																				
8						4.49																				
9																										
10																										
11						0.49																				
12		0.23																								
13																										
14						0.45																				
15																										
16																										
17																										
18																										
19																										
20					1.17	0.11																				
21																										
22		0.21																								
23					0.07	0.11																				
24																										
25																										
26																										
27																										
28		0.2																								
29					0.17																					
30																										
31		0.2																								
32																										
33		0.2																								
34																										
35																										
36																										
37																										
38																										
39																										
40																										
41																										
42																										
43		0.5				0.17																				
44						1.03																				
45																										
46																										

Table 2. At

Vessel	Bluefin										Tropical Tuna									
	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002
47	-	0.65	-	-	-	-	-	-	-	-	0.37	4.4	0.66	-	-	-	-	-	-	-
48	-	1.04	0.09	-	-	-	-	-	-	-	-	4.51	1.12	-	-	-	-	-	-	-
49	-	-	0.77	0.26	-	-	0.08	1.64	-	-	-	-	3.23	2.69	-	-	2.14	2.47	-	-
50	-	-	-	-	-	-	-	-	-	-	-	0.4	-	-	-	-	-	-	-	-
51	-	-	-	-	-	-	-	0.28	0.09	-	-	-	-	-	-	-	0.44	2.13	0.99	-
52	-	-	-	-	-	-	-	-	0.16	-	-	-	-	-	-	2.67	2.37	1.48	-	-
53	-	-	-	-	-	1.54	-	0.79	-	-	-	-	-	1.49	2.68	-	-	1.94	2.7	-
54	-	-	-	-	-	0.04	-	0.22	-	-	-	-	-	-	3.28	-	-	1.44	1.54	0.38
55	-	-	-	-	-	-	-	0.22	-	-	-	-	-	-	-	-	-	3.11	0.65	-
56	-	0.46	-	0.31	-	-	-	-	-	-	-	1.49	4.63	3.11	3.55	-	-	-	-	-
57	-	0.35	-	-	-	-	-	-	-	-	-	1.35	0.32	-	-	-	-	-	-	-
58	-	-	-	-	-	-	1.43	0.5	-	-	-	-	-	-	-	5.75	2.36	-	-	-
59	-	-	-	-	-	0.16	0.05	0.08	-	-	-	-	0.1	-	2.56	3.15	1.1	-	-	-
60	-	-	-	-	-	-	-	0.09	-	-	-	-	-	-	-	-	0.76	-	-	-
61	-	-	-	-	0.12	-	0.2	0.4	-	-	-	-	-	-	2.92	-	0.9	3.45	0.26	-
62	-	-	-	-	-	-	0.28	0.15	0.1	-	-	-	0.1	-	6.46	-	6.29	0.48	0.53	-
63	-	-	-	-	-	-	2.15	0.68	-	-	-	-	-	-	-	0.98	1.68	1.48	1.48	0.07
64	-	-	-	-	-	-	-	0.24	-	-	-	-	-	-	-	-	1.66	0.09	0.14	-
65	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
66	-	-	-	-	-	-	-	0.18	-	-	-	-	-	-	-	-	-	0.44	-	-
67	-	-	-	-	-	-	0.79	0.07	0.1	-	-	-	-	-	-	4.08	0.35	0.9	0.53	-
68	-	-	-	-	-	-	-	-	0.19	-	-	-	-	-	-	-	2.07	3.14	0.57	-
69	-	-	-	-	-	-	-	0.27	0.28	-	-	5.24	-	5.35	1.02	0.64	2.89	1.49	-	-
70	-	0.07	-	0.23	-	-	-	0.16	-	-	-	-	10.2	1.62	-	1.84	1.11	1.22	0.07	-
71	-	-	-	-	-	-	-	-	-	-	-	1.78	-	-	-	-	-	-	-	-
72	-	-	-	-	-	-	-	0.38	-	-	-	-	-	-	-	-	1.82	1.5	0.07	-
73	-	-	-	-	-	-	-	0.37	-	0.06	-	-	-	-	-	-	3.79	1.09	0.66	-
74	-	-	-	-	-	-	1.42	0.08	-	-	-	-	-	-	-	5.9	1.63	1.85	-	-
75	-	-	-	-	-	-	0.23	0.26	-	0.12	-	-	-	1.76	2.54	1.34	2.33	1.39	0.13	-
76	-	-	-	-	-	-	0.7	-	0.36	-	-	-	-	4.09	-	5.47	1.73	0.85	-	-
77	-	-	-	-	-	-	-	0.45	-	0.15	-	-	-	-	-	2.27	0.04	1.74	-	-
78	-	-	-	-	0.16	-	0.28	0.34	-	-	-	-	-	1.43	-	1.88	0.63	1.44	1.43	-
79	-	-	-	-	-	-	1	1.17	0.1	0.05	-	-	-	-	-	-	10.1	8.08	5.92	-
80	-	-	-	-	-	-	-	-	-	0.08	-	-	-	1.21	-	-	9.86	1.37	2.17	0.21
81	-	0.3	-	0.4	0.09	0.09	0.3	0.76	-	-	1.99	2.34	-	-	1.79	4.11	3.22	0.56	1.19	-
82	-	-	-	-	-	-	-	-	-	-	-	-	1.43	6.59	2	5.78	8.7	-	-	-
83	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
84	0.36	1.03	1.3	0.89	-	0.09	0.19	0.49	-	0.08	1.25	4.41	14.88	11.99	10.65	10.61	0.71	2.14	0.48	-
85	-	-	0.21	0.09	-	-	0.07	0.14	0.38	-	-	-	6.72	4.74	8.16	-	-	1.84	1.86	0.13
86	-	-	-	-	-	-	-	0.11	0.34	-	-	-	-	-	-	-	1.31	0.05	1.48	-
87	-	-	-	-	0.37	16.01	7.75	0.11	0.34	-	-	-	-	-	0.74	-	-	2.47	2.09	-
88	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
89	-	-	-	-	-	-	0.63	0.09	-	-	-	-	-	-	-	-	2.33	5.95	1.46	-
90	-	-	-	-	-	4.82	-	-	-	-	-	0.27	-	-	0.25	-	-	-	-	-
91	-	-	-	-	-	-	-	-	-	-	-	0.59	-	-	-	-	-	-	-	-
92	-	-	-	-	-	3.95	-	-	-	-	-	-	-	-	-	-	-	-	-	-

Table 2. Ar

Vessel	Shark												Other HMS												All HMS											
	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002						
1																																				
2																																				
3		0.22																																		
4						0.13																														
5						0.14																														
6		0.85																																		
7						0.18																														
8						0.22																														
9			0.52	0.16																																
10		0.16																																		
11						0.29																														
12		5.57																																		
13																																				
14						0.57																														
15		0.55																																		
16																																				
17						0.14																														
18			0.2																																	
19			0.56	1.07																																
20		3.26																																		
21		0.49																																		
22			0.19	0.63																																
23																																				
24																																				
25																																				
26																																				
27																																				
28		0.72	0.14																																	
29			0.53	0.38																																
30																																				
31		0.4	0.43																																	
32		8.33	0.37																																	
33		0.66																																		
34																																				
35																																				
36		7.45																																		
37																																				
38	0.05	0.98	0.07																																	
39																																				
40																																				
41																																				
42																																				
43		1.57	0.14		2.19																															
44																																				
45		0.03																																		
46		0.12																																		

Table 2. Ar

Vessel	Shark										Other HMS										All HMS															
	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002						
47	0.27	-	-	-	-	-	-	-	-	-	0.14	0.01	0.00	-	-	-	-	-	-	-	2.25	30.44	21.08	-	-	-	-	-	-	-						
48	1.37	0.08	-	-	-	-	-	-	-	-	-	3.68	0.00	-	-	-	-	-	-	-	-	-	90.15	11.74	-	-	-	-	-	-	-					
49	-	0.24	-	-	-	-	-	-	-	-	-	-	0.05	0.00	-	-	0.03	0.00	-	-	-	-	17.16	31.07	-	-	15.38	32.09	-	-	-					
50	0.06	-	-	-	-	-	-	-	-	-	-	0.00	-	-	-	-	-	-	-	-	-	-	12.23	-	-	-	-	-	-	-	-	-				
51	-	-	-	-	-	-	0.04	0.28	-	-	-	-	-	-	-	-	0.00	2.31	0.00	-	-	-	-	-	-	16.04	11.36	29.23	20.20	-	-	-				
52	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0.00	-	0.82	0.00	-	-	-	-	-	-	-	21.28	20.22	23.30	-	-	-	-				
53	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0.00	0.00	-	2.48	0.00	-	-	-	-	-	-	27.42	20.85	52.81	35.01	-	-	-				
54	-	-	-	-	-	-	-	1.14	-	-	-	-	-	-	-	0.00	-	2.49	-	-	-	-	-	-	-	15.45	32.37	30.96	27.10	-	-	-				
55	-	-	-	-	-	-	0.09	-	-	-	-	-	-	-	-	-	-	0.00	0.00	-	-	-	-	-	-	-	-	-	-	-	-	-	-			
56	0.48	0.47	0.48	0.14	-	-	-	-	-	-	-	3.16	0.06	0.16	0.00	-	-	-	-	-	-	-	33.48	22.81	43.39	19.51	-	-	-	-	-	-	-			
57	1.39	4.73	-	-	-	-	-	-	-	-	-	0.08	0.14	-	-	-	-	-	-	-	-	-	23.08	5.87	-	-	-	-	-	-	-	-	-	-		
58	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-		
59	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
60	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
61	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
62	-	-	0.07	-	-	-	-	0.18	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
63	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
64	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
65	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
66	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
67	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
68	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
69	1.03	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
70	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
71	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
72	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
73	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
74	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
75	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
76	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
77	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
78	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
79	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
80	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
81	0.41	1.35	0.18	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
82	-	-	0.3	0.37	0.43	0.46	0.98	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
83	-	-	5.02	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
84	0.09	1.94	0.74	0.62	0.3	0.06	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
85	-	-	1.42	0.62	0.34	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
86	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
87	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
88	0.36	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
89	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
90	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
91	2.24	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
92	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-

Table 3. Annual HMS longline permit activity, 1993-2002.

Vessel	Years with MMPA Drift Gillnet Authorization										Years Registered for the HI Longline Fishery										Observed West-Coast- Based Longline Turtle Take 2002-2004	
	93	94	95	96	97	98	99	00	01	02	93	94	95	96	97	98	99	00	01	02		Observed West-Coast- Based Longline Turtle Trip 2002-2004
1	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	Yes	-	-	-	-	-	-	-	-
2	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-
3	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-
4	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-							
5	Yes	Yes	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-
6	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-
7	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-							
8	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-							
9	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-
10	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-
11	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-							
12	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-
13	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-							
14	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-							
15	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-
16	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-							
17	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-							
18	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-
19	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-							
20	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-							
21	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-
22	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-
23	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-							
24	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-							
25	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	Yes	-	-	-	-	-	-	-	-
26	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-							
27	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-							
28	-	-	-	-	-	-	-	-	-	-	NA	NA	-	Yes	-	-						
29	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	Yes	-	-	-	-	-	-	-	-
30	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-							
31	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-
32	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-
33	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-
34	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	Yes	-	Yes	Yes	-	-	-	-	-
35	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-							
36	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-
37	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-
38	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-
39	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-							
40	-	-	-	-	-	-	-	-	-	-	NA	NA	-	Yes	Yes	Yes	Yes	-	-	-	-	-
41	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-
42	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-
43	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-							
44	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	Yes	Yes	Yes	-	-	-	-	-	-
45	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-
46	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-							

Table 3. Annual HMS longline permit activity, 1993-2002.

Vessel	Years with MMPA Drift Gillnet Authorization										Years Registered for the HI Longline Fishery										Observed West Coast-Based Longline Trip 2002-2004	Observed West-Coast-Based Longline Turtle Take 2002-2004				
	83	94	95	96	97	98	99	00	01	02	93	94	95	96	97	98	99	00	01	02						
47	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-	-	-		
48	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-	-	-	-								
49	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-	-	-	-								
50	Yes	Yes	Yes	-	-	-	-	-	-	-	NA	NA	Yes	-	-	-	-	-								
51	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-	-	-	-								
52	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-	-	-	-								
53	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-	-	-	-								
54	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-	-	-	-								
55	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-	-	-	-								
56	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-	-	-	-	
57	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-	-	-	-	-	-	-	-	-	-	-	
58	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-	-	-	-								
59	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-	-	-	-								
60	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-	-	-	-	
61	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-	-	-	Yes								
62	-	-	-	-	-	-	-	-	-	-	NA	NA	-	Yes	-	-	-	-	-							
63	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-	-	-	-								
64	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-	-	-	No	
65	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	NA	NA	-	-	-	-	-	-	-	-	-	-	-	-	-	
66	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-	-	-	-	-
67	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-	-	-	Yes								
68	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-	-	-	Yes	
69	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-	-	-	Yes								
70	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-	-	-	Yes								
71	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-	-	-	Yes								
72	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-	-	-	Yes	
73	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-	-	-	Yes	
74	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-	-	-	-	-	-	-	-	-	-	No	
75	-	-	-	-	-	-	-	-	-	-	NA	NA	-	Yes	-	-	-	-	-							
76	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-	-	-	No								
77	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-	-	-	Yes								
78	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-	-	-	Yes								
79	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-	-	-	Yes	
80	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-	-	-	Yes								
81	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-	-	-	Yes								
82	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-	-	-	Yes								
83	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	NA	NA	-	-	-	-	-	-	-	-	-	-	-	-	-	
84	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-	-	-	-	
85	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-	-	-	-	
86	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-	-	-	-	
87	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-	-	-	-	
88	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	NA	NA	Yes	-	-	-	-	-								
89	-	-	-	-	-	-	-	-	-	-	NA	NA	Yes	-	-	-	-	-								
90	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	NA	NA	Yes	-	-	-	-	-								
91	-	-	-	-	-	-	-	-	-	-	NA	NA	-	-	-	-	-	-	-	-	-	-	-	-	-	

Table 3. Annual HMS longline permit activity, 1993-2002.

Vessel	Years with MMPA Drift Gillnet Authorization					Years Registered for the HI Longline Fishery					Observed West-Coast-Based Longline Trip <sup>1</sup> 2002-2004	Observed West-Coast-Based Longline Turtle Take 2002-2004										
	93	94	95	96	97	98	99	00	01	02			93	94	95	96	97	98	99	00	01	02
92	Yes	Yes	Yes	Yes	Yes	-	-	Yes	Yes	Yes	NA	NA	Yes	-	-							

<sup>1</sup>Trips with observers through January 10, 2004.

Table 4. Longline limited entry scenarios under different window period alternatives.

Window Period	Total HMS Landings for Period	100% Per			95% Per			90% Per	
		#Vessels Accounting for 100% of Landings	Vessel Minimum Landings Requirement (MT)	#Vessels Accounting for 95% of Landings	Vessel Minimum Landings Requirement (MT)	#Vessels Accounting for 90% of Landings	Vessel Minimum Landings Requirement (MT)	Vessel Minimum Landings Requirement (MT)	
1993-2002	7,452	90	<0.1	50	30.0	40	57.0	57.0	
1994-2002	7,436	90	<0.1	50	30.0	40	57.0	57.0	
1995-2002	6,886	75	<0.1	43	34.0	35	70.0	70.0	
1996-2002	6,635	66	<0.1	41	35.0	34	68.0	68.0	
1997-2002	6,291	60	0.5	38	39.0	32	70.0	70.0	
1998-2002	5,860	58	0.5	38	39.0	32	59.0	59.0	
1999-2002	5,532	48	6.0	36	39.0	30	67.0	67.0	
2000-2002	4,672	44	6.0	33	36.0	28	59.0	59.0	
2001-2002	2,940	34	15.0	26	30.0	22	39.0	39.0	
2002-2002	1,313	20	14.0	17	32.0	15	46.0	46.0	

HIGHLY MIGRATORY SPECIES ADVISORY SUBPANEL REPORT ON  
THE FISHERY MANAGEMENT PLAN AMENDMENT FOR  
LIMITED ENTRY IN THE HIGH SEAS PELAGIC LONGLINE FISHERY

The Highly Migratory Species Advisory Subpanel (HMSAS) received information from National Marine Fisheries Service (NMFS) about research in the Atlantic longline fishery and recent implementation of management measures for the Western Pacific Fishery Management Council (WPFMC) Hawaii-based longline fishery. The HMSAS also received a report from the Highly Migratory Species Management Team (HMSMT) about fleet composition and participation in the West Coast-based high seas longline fishery.

Based on this information, the HMSAS recommends the Pacific Fishery Management Council (Council) direct the HMSMT to develop, in conjunction with NMFS -- Protected Resources Division, estimates of acceptable thresholds of species specific sea turtle takes under the HMS FMP. This information could be used to develop a regulatory package for re-structuring fisheries under the highly migratory species (HMS) fishery management plan (FMP).

The HMSAS also recommends adding information from the FMP-managed drift gillnet (DGN) fishery to the fleet profile database developed by the HMSMT. The HMSAS suggests adding information on current DGN permit holders and active fishery participants, and landings history for the period 1997 through the present. This additional information could provide a means to consider re-structuring the DGN fishery in concert with the high seas longline fishery. The rationale for this request is that both of these fisheries might need to be re-structured if the shallow set longline fishery were to be re-opened *and* sea turtle takes are to be kept within the bounds of the HMS FMP biological opinion.

The HMSAS concurs with the HMSMT recommendation that this information be presented to the Council for consideration at the September 2004 meeting.

The HMSAS was also presented information about testing of mercury levels in West Coast troll caught albacore. As reported to the HMSAS, the results of this testing showed low levels of mercury relative to tests done on albacore from other fisheries and well below the Food and Drug Administration levels of concern. It was reported that expanded testing will be conducted during 2004. In the future and as warranted, the HMSAS will report this information to the Council.

Finally, the HMSAS requests the Council encourage NMFS -- Southwest Regional Office to expedite work on the biological opinion for the south Pacific albacore fishery. Issuance of High Seas Fishing Compliance Act permits is currently delayed pending completion of the biological opinion, which is reported to be impacting fishery participants.

PFMC  
04/07/04

HIGHLY MIGRATORY SPECIES MANAGEMENT TEAM REPORT  
ON THE FISHERY MANAGEMENT PLAN AMENDMENT FOR LIMITED ENTRY  
IN THE HIGH SEAS PELAGIC LONGLINE FISHERY

The Highly Migratory Species Management Team (HMSMT) discussed recent events related to highly migratory species (HMS) fisheries and HMSMT work-to-date. Based on Council direction to initiate development of a limited entry program, the HMSMT has developed a data framework to describe participation in the high seas longline fishery. The database will inform decisionmaking for selecting qualifying window periods and landings. One goal of the limited entry program is to reduce fishing effort to a level that minimizes protected resource impacts, notably "take" of Endangered Species Act (ESA) listed sea turtles.

Per National Marine Fisheries Service (NMFS) guidance to the Council, the HMSMT also discussed results from research in the Atlantic longline fishery and an amendment to the Western Pacific Fishery Management Council (WPFMC) pelagics FMP. This recent information indicates that a cap on overall fleet effort and gear/bait requirements may also provide a means to reduce impacts on ESA-listed sea turtles. In materials provided to the Council, NMFS expresses strong support for this new information. The HMSMT recommends expanding the scope of the FMP amendment to include effort cap alternatives (for example, number of hooks per year; number of sets per year). However, this alternative approach could delay development of a limited entry program.

If the Council wants expeditious development of a limited entry program, the HMSMT recommends a two-phase approach. The first phase would involve developing limited entry solely based on qualifying window periods and landings. This would result in a suite of alternative fleet profiles for a limited entry high seas longline fishery. The second phase would use these fleet profiles to project alternative sea turtle impact levels to inform decisionmaking about the most appropriate limited entry fleet composition. Under the two-phase approach, the HMSMT would request Council action at the June 2004 meeting to determine alternative qualifying window periods and landing amounts.

Conversely, the Council could choose to address limited entry and overall fleet effort caps concurrently. At the September 2004 Council meeting, the HMSMT could provide information about a suite of alternative fleetwide effort caps and gear/bait restrictions. These alternatives could be similar to those recently implemented for the WPFMC longline fishery. Under this approach, the HMSMT would develop alternative fleetwide effort caps that result in sea turtle takes below the HMS FMP biological opinion jeopardy threshold. These could include projected alternative sea turtle takes under various sets per vessel or hooks per vessel scenarios, and comprehensive consideration of turtle takes in HMS FMP managed fisheries.

In sum, if the Council thinks limited entry is urgently needed, the HMSMT requests a decision on qualifying criteria at the June 2004 meeting. If the Council prefers combining limited entry with effort caps and gear/bait requirements, the HMSMT would continue to work on the FMP amendment, but not report to the Council until the September 2004 meeting.

The HMSMT recommends the latter approach, reporting to the Council at the September 2004 meeting.