



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
**Pacific Islands Regional Office**  
**1601 Kapiolani Boulevard, Suite 1110**  
**Honolulu, HI 96814-0047**

**Southwest Regional Office**  
**501 West Ocean Blvd., Suite 4200**  
**Long Beach, CA 90802-4213**

Roy Morioka, Chairman  
Western Pacific Fishery Management Council  
1164 Bishop Street, Suite 1400  
Honolulu, Hawaii 96813

DEC 15 2004

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

RECEIVED

DEC 16 2004

PFMC

Dear Chairmen Morioka and Hansen,

This letter is to advise the Western Pacific Fishery Management Council and the Pacific Fishery Management Council (Councils) that the National Marine Fisheries Service (NMFS), on behalf of the Secretary of Commerce (Secretary), has determined that overfishing is occurring Pacific-wide on bigeye tuna (Thunnus obesus), and to request the Councils to take appropriate action to end overfishing.

#### Determination

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that the Secretary report annually on the status of fisheries within each regional fishery management council's geographical area of authority and identify those fisheries that are overfished or approaching a condition of being overfished (16 U.S.C. 1854(e)(1)). According to the guidelines for National Standard 1 of the Magnuson-Stevens Act (50 CFR 600.310), fishery stock status is assessed with respect to two status determination criteria, one of which is used to determine whether a stock is "overfished" and the second of which is used to determine whether the stock is subject to "overfishing." A stock is considered to be overfished if its biomass falls below the minimum stock size threshold (MSST). A stock is subject to overfishing if the fishing mortality rate exceeds the maximum fishing mortality threshold (MFMT) for one year. The MSST and MFMT for particular stocks are specified in fishery management plans.

Based on the MFMT specifications for bigeye tuna in the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region, effective July 3, 2003 (68 FR 46112, August 5, 2003), and in the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species, approved February 4, 2004, the MFMT would be exceeded if the fishing mortality rate exceeded the rate associated with maximum sustainable yield (MSY). Recent assessments of the status of bigeye tuna in the Pacific, described below, indicate that the fishing mortality rate has, for at least one year, been greater than the rate associated with MSY. According to these assessments and the MFMT specifications in the two fishery management plans, therefore, overfishing is occurring.





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The stock structure of bigeye tuna in the Pacific Ocean is unresolved. Bigeye tuna in the Pacific has been assessed using two different approaches, one that treats it as a single Pacific-wide stock and the other that treats it as two stocks, one in the western and central Pacific, corresponding to the area of interest of the Secretariat of the Pacific Community (SPC), and the other in the eastern Pacific, corresponding to the area of authority of the Inter-American Tropical Tuna Commission (IATTC). This overfishing determination relies on assessment results from both these approaches but it does not rely on any assumptions or conclusions about stock structure.

The most recent stock assessments continued the separate stock approach used by IATTC and SPC. An assessment for the western and central Pacific was completed in July 2004<sup>1</sup> and an assessment for the eastern Pacific was completed in May 2004.<sup>2</sup> A Pacific-wide stock assessment, including comparisons with results from separate stock assessments, was completed in July 2003.<sup>3</sup>

The July 2004 assessment for the western and central Pacific indicates that there is a probability of at least 67 percent that the recent fishing mortality rate exceeded the fishing mortality rate associated with MSY.

The May 2004 assessment results for the eastern Pacific indicate that in all scenarios considered, the recent fishing mortality rate exceeded the rate associated with average MSY.

The results of the collaborative July 2003 assessment for the western and central Pacific and for the Pacific Ocean as a whole were similar in that the recent fishing mortality rate in both cases exceeded the fishing mortality rate associated with MSY. While the results with respect to fishing mortality were uncertain for both stock assumptions, there was a high degree of correspondence between the estimates of stock trends for the western and central Pacific and those for the Pacific as a whole.

Based on these assessment results for bigeye tuna in the Pacific Ocean, NMFS, relying on the expertise and advice of its regional Fisheries Science Centers, has determined that overfishing is occurring Pacific-wide on bigeye tuna.

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<sup>1</sup> Hampton, J., P. Kleiber, A. Langley, and K. Hiramatsu. 2004. Stock assessment of bigeye tuna in the western and central Pacific Ocean. SCTB17 Working Paper SA-2. 17th Meeting of the Standing Committee on Tuna and Billfish, Majuro, Marshall Islands, 9-18 August 2004. July 2004.

<sup>2</sup> Harley, S.J. and M.N. Maunder. 2004. Status of Bigeye Tuna in the Eastern Pacific Ocean in 2003 and Outlook for 2004. Working Group on Stock Assessments, 5<sup>th</sup> Meeting, La Jolla, California (USA), 11-13 May 2004, Document SAR-5-05 BET. Inter-American Tropical Tuna Commission.


<sup>3</sup> Hampton, J., P. Kleiber, Y. Takeuchi, H. Kurota, and M. Maunder. 2003. Stock assessment of bigeye tuna in the western and central Pacific Ocean, with comparisons to the entire Pacific Ocean. SCTB16 Working Paper BET-1. Sixteenth Meeting of the Standing Committee on Tuna and Billfish, Mooloolaba, Queensland, Australia, 9-16 July 2003.

## Notification

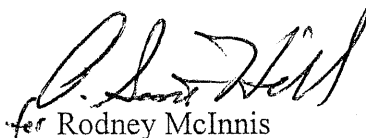
As required by the Magnuson-Stevens Act (16 U.S.C. 1854(e)(2)) and the implementing regulations at 50 CFR 600.310(e)(2), the Councils are notified by way of this letter that the Secretary has determined that overfishing is occurring Pacific-wide on bigeye tuna. The Councils must take appropriate action to address this overfishing. As required by the Magnuson-Stevens Act (16 U.S.C. 1854(e)(3)) and the implementing regulations at 50 CFR 600.310(e)(3), the Councils must take remedial action to end overfishing within one year of an identification by the Secretary that overfishing is occurring. In the case of Pacific bigeye tuna, such an identification was made in the annual report to the Congress and the Council on the status of fisheries in 2003. This report was transmitted to the Congress on June 15, 2004, so the one-year period for Councils to take remedial action ends June 14, 2005.

Pacific bigeye tuna occurs in the waters of multiple nations and the high seas and is fished by the fleets of other nations in addition to those of the U.S. The capacity for unilateral action by the U.S. to prevent overfishing, as required under National Standard 1 of the Magnuson-Stevens Act (16 U.S.C. 1851(a)(1)), is limited, as is the capacity for action taken by the Councils to end overfishing, as required under 50 CFR 600.310(e)(4)(i). Multilateral management action is essential to ensure that overfishing on bigeye tuna in the Pacific Ocean ends. NMFS will work with the Department of State, the regional fishery management councils, industry, and other interests to promote conservation and management measures in international and regional fishery management organizations to prevent further overfishing and ensure that bigeye tuna in the Pacific Ocean does not become overfished.

Sincerely,



William L. Robinson  
Regional Administrator, Pacific Islands Region



Rodney McInnis  
Regional Administrator, Southwest Region

cc: William Hogarth - NMFS  
John Dunnigan - NMFS  
Judson Feder - GCSW



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**United States Department of State**

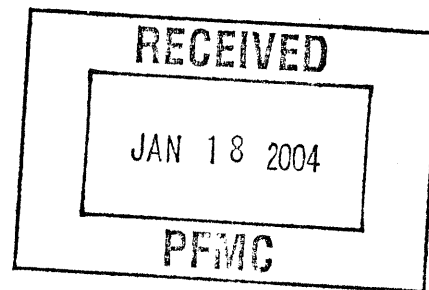
*Bureau of Oceans and International  
Environmental and Scientific Affairs*

*Washington, D.C. 20520*

JAN 14 2005

Mr. Rod McInnis  
Regional Administrator  
Southwest Region  
National Marine Fisheries Service  
501 West Ocean Boulevard  
Long Beach, California 90802

Mr. William Robinson  
Regional Administrator  
Pacific Islands Region  
National Marine Fisheries Service  
1601 Kapiolani Boulevard, Suite 110  
Honolulu, Hawaii 96814



Dear Bill and Rod:

I am writing in regard to the notice published in the Federal Register on December 30, containing the text of a December 15, 2004, letter to the Chairmen of the Pacific and Western Pacific Fishery Management Councils concerning the determination of the National Marine Fisheries Service (NMFS) on the conservation status of bigeye stocks in the Pacific Ocean. Both the letter and the FR Notice were developed without consultation with the Department of State.

According to the FR notice, the letter "notifies the Councils of a determination that overfishing is occurring Pacific-wide on bigeye tuna, provides the legal background on how NMFS made the determination, provides the legal basis for the Councils to act in response to a determination that overfishing is occurring, and requests the Councils to take appropriate action to end overfishing of bigeye tuna." Leaving aside the matter of the legal basis for the notification, the call to the Councils to take action to stop overfishing of bigeye tuna, in particular the deadline of June 14 for the Councils to take remedial action, raises important questions that warrant further consideration.

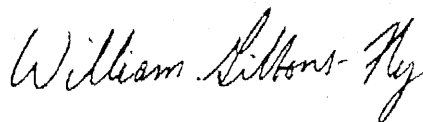
- 2 -

In essence, the question arises as to what action NMFS is asking or expecting the Councils to take. As the Notice itself recognizes, "Pacific bigeye tuna occurs not only in waters under the jurisdiction of the Council, but in the waters of multiple nations and on the high seas and is fished by the fleets of other nations in addition to those of the United States. The capacity for unilateral action by the United States to prevent overfishing...is limited, as is the capacity for action by the Councils to end overfishing."

As a result, a solution to the overfishing of Pacific bigeye tuna can be achieved only through concerted and coordinated action by the United States Government working with other governments, in particular through the multilateral organizations established by international treaties to conserve and manage tuna and other highly migratory fish stocks in the Pacific Ocean. As part of this process, it will be important to consider the views of the Councils and other affected interests and constituent groups. The Councils have an important role to play in this process by providing input, advice and guidance with respect to waters and fisheries under the Councils' jurisdiction. At the same time, such views must be considered within the context of our broader international fisheries policy, developed and implemented through close cooperation between the Departments of Commerce and State.

I look forward to working closely with both of you, the Councils, appointed US Commissioners, members of the respective advisory committees and other affected interests, including conservation organizations with an interest in these issues, as the U.S. delegations develop negotiating positions and strategies to implement effective management regimes for Pacific bigeye tuna, other highly migratory species, and the ecosystems they inhabit.

Sincerely,



William Gibbons-Fly

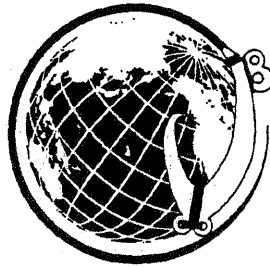
Director

Office of Marine Conservation

- 3 -

Cc: William Hogarth  
Rebecca Lent  
Jean-Pierre Ple  
Roy Morioka  
Donald Hansen ✓  
Kitty Simonds ✓  
Donald McIsaac





**Western  
Pacific  
Regional  
Fishery  
Management  
Council**

RECEIVED

NOV 19 2004

PFMC

November 9, 2004

Mr Don McIsaac  
Pacific Fishery Management Council  
7700 NE Ambassador Pl., Ste 200  
Portland  
Oregon 97220-1384

Dear Don:

At its 124<sup>th</sup> meeting, this Council made the following recommendation concerning the level of fishing mortality on bigeye and yellowfin tunas in the Pacific Ocean.

**The Council noted that the Standing Committee on Tuna and Billfish (SCTB) has expressed concern over the past 4 years about the level of fishing mortality of yellowfin tuna (YFT) and particularly bigeye tuna (BET) in the Western and Central Pacific Ocean (WCPO), and has suggested that effort should not increase. Nevertheless overall fishing effort has increased and the most recent stock assessment shows a greater than 60% risk of overfishing for BET in the WCPO. In the Eastern Pacific Ocean (EPO) BET is judged by Inter American Tropical Tuna Commission (IATTC) to be in an overfished condition, because of high fishing mortality and recent low recruitment. Therefore the Council recommended that:**

- i. pursuant to its responsibilities under MSFCMA, that the US delegation to the Western and Central Pacific Fishery Commission request the Commission take action to reduce overall regional fishing mortality on BET and YFT.**
- ii. the BET quota estimation for the area to the east of 150W should be based on multi year averages, rather than on a single year's catch.**
- iii. a formal process should be implemented by the Pacific and Western Pacific Councils for allocating the BET quota between different longline fishing sectors.**
- iv. NMFS should investigate the potential for using the Vessel Monitoring (VMS) system for reporting BET catches in real time for both the California and Hawaii longline fleets.**

**v. The NMFS should also be cognizant of the aspirations of Guam and Commonwealth of the Northern Marianas to develop their own longline fisheries. It was also noted that should such fisheries develop they would almost certainly be limited entry fisheries in line with Hawaii and American Samoa longline fisheries.**

The Council has strongly communicated its concerns to both NMFS and the State Department to ensure that both agencies are aware of the gravity of the situation concerning Pacific bigeye tuna. We have also noted the less parlous state of yellowfin, which still generates concerns due to gross under-reporting of catches in the Western Pacific by the Philippines and Indonesia, and the level of fishing mortality in this region of the Pacific. Further, our missive to the State department has included mention of blue marlin, which appears to be fully exploited in the Pacific, and which, like bigeye, will require longline effort reduction or at least no major increases in longlining.

As you are aware, the latest stock assessments for bigeye in the Western and Eastern Pacific show that the overfishing is likely occurring and the stock will be overfished within this decade unless action is taken immediately. The Council is pleased that action has been taken by the IATTC to address this issue in the Eastern Pacific Ocean, but was concerned in the manner by which NMFS implemented the US longline quota, which impacts longline vessels from Hawaii. We hope that in the future there is better communication between the Pacific Islands and Southwest Regions, and that quotas are developed with more consultation, with both the Western Pacific and Pacific Councils to avoid the confusion surrounding this issue earlier this year.

Further, developing a quota is simply one of several steps which need Council input, namely monitoring and reporting bigeye catches, and allocating the quota between Hawaii-based and California-based longline fleets. For this reason, this issue should be high on the agenda to be discussed when our Councils convene a joint meeting in 2005. Mahalo!

Sincerely,

A handwritten signature in cursive script, appearing to read "Kitty".

Kitty M. Simonds  
Executive Director

or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

#### Comments Invited

Interested parties are invited to participate in this rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2005-20061/Airspace Docket No. 05-ACE-3." The postcard will be date/time stamped and returned to the commenter.

#### Agency Findings

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation—(1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44

FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart I, section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority since it contains aircraft executing instrument approach procedures to Air Park South Airport.

#### List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

#### Adoption of the Amendment

■ Accordingly, the Federal Aviation Administration amends 14 CFR 71 as follows:

#### PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

#### § 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9M, dated August 30, 2004, and effective September 16, 2004, is amended as follows:

*Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.*

\* \* \* \* \*

#### ACE MO E5 Ozark, MO

Ozark, Air Park South Airport, MO  
(Lat. 37°03'34" N., long. 93°14'03" W.)  
Springfield VORTAC  
(Lat. 37°21'21" N., long. 93°20'03" W.)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Air Park South Airport and within 2 miles each side of the Springfield VORTAC 165° radial extending from the 6.8-mile radius of the airport to 10 miles south of the VORTAC.

\* \* \* \* \*

Issued in Kansas City, MO, on January 25, 2005.

Elizabeth S. Wallis,

Acting Area Director, Western Flight Services Operations.

[FR Doc. 05-2554 Filed 2-9-05; 8:45 am]

BILLING CODE 4910-13-M

#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 15 CFR Part 902 and 50 CFR Part 660

[Docket No. 031125294-5018-03; I.D. 102903C]

RIN 0648-AP42

#### Fisheries Off West Coast States and in the Western Pacific; Highly Migratory Species Fisheries; Data Collection Requirements for U.S. Commercial and Recreational Charter Fishing Vessels

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

**ACTION:** Final rule; effectiveness of collection-of-information requirements.

**SUMMARY:** NMFS announces approval by the Office of Management and Budget (OMB) of collection-of-information requirements pertaining to permits, logbooks, vessel monitoring systems (VMS), and pre-trip notifications contained in the final rule to implement the approved portions of the U.S. West Coast Highly Migratory Species Fishery Management Plan (HMS FMP). The HMS FMP was partially approved on February 4, 2004, and the final rule to implement the approved portions of the HMS FMP was published in the **Federal Register** on April 7, 2004. At that time, the HMS FMP final rule contained collection-of-information requirements subject to the Paperwork Reduction Act (PRA) that were undergoing OMB review. This action announces receipt of OMB approval of data collections in the HMS FMP final rule for HMS permits, recordkeeping and reporting (daily logbooks), VMS, and pre-trip notification requirements for West Coast based U.S. fishing vessels targeting HMS. The intent of this notice is to inform the public of the effective date of the requirements approved by OMB.

**DATES:** This rule is effective February 10, 2005. Title 50 § 660.707 permits, § 660.708 reporting and recordkeeping, § 660.712(d) VMS, and § 660.712(f) pre-trip notification of the final rule for the U.S. West Coast Highly Migratory Species Fishery Management Plan

published on April 7, 2004 (69 FR 18444), are effective on April 11, 2005.

**ADDRESSES:** Copies of the HMS FMP may be obtained from Donald O. McIsaac, Executive Director, Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220-1384. Copies of the HMS FMP final rule, the Final Environmental Impact Statement (FEIS), the Final Regulatory Impact Review (RIR), and the Final Regulatory Flexibility Analysis (FRFA) are available from NMFS, Southwest Regional Office, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802. Copies of the Small Entity Compliance Guide for the HMS FMP final rule are available on the Southwest Region, NMFS website <http://swr.nmfs.noaa.gov>. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule should be submitted to Rodney A. McInnis, Regional Administrator, NMFS, Southwest Regional Office at the above address. These comments may also be submitted by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or to the Federal e-rulemaking portal <http://www.regulations.gov>, or faxed to 202-395-7285.

**FOR FURTHER INFORMATION CONTACT:** Craig Heberer, Sustainable Fisheries Division, Southwest Region, NMFS, 562-980-4034 or 760-431-9440, ext. 303.

**SUPPLEMENTARY INFORMATION:** On April 7, 2004 (69 FR 18444), NMFS published a final rule that implemented the approved portion of the HMS FMP establishing, among other measures, data collection and reporting requirements for U.S. West Coast commercial and recreational charter fishing vessels targeting HMS. The HMS FMP final rule contained collection-of-information requirements that could not be enforced prior to approval by the OMB under the PRA. Delayed enforcement of these sections were announced in the April 7, 2004, HMS FMP final rule pending OMB approval of the proposed collections-of-information. In the HMS FMP final rule, NMFS requested comments on the reporting burden estimate or any other aspect of the collection-of-information requirements. No comments were received on the collection-of-information requirements. OMB has approved the collections-of-information requirements codified at 50 CFR 660.707 for permits; § 660.708 for recordkeeping and reporting; § 660.712(d) for a vessel monitoring system, and § 660.712(f) for pre-trip

notification. These sections are effective April 11, 2005 and will be enforced beginning on that date. Section 660.707 requires a HMS permit with an endorsement for a specific gear for all commercial and recreational charter fishing vessels fishing for HMS. Section 660.708 requires all HMS permit holders to maintain and submit to NMFS a daily logbook of catch and effort in the HMS fisheries. Section 660.712(d) requires the holder of a HMS permit registered for use of longline gear to carry a vessel monitoring system (VMS) onboard the vessel after the date scheduled for installation by the NMFS. Section 660.712(f) requires that an operator of a vessel registered for use of longline gear must notify NMFS at least 24 hours prior to embarking on a fishing trip regardless of the intended area of fishing. The OMB has not yet cleared the vessel identification requirements detailed in 50 CFR 660.704, and those requirements will be dealt with in a future **Federal Register** document. Pursuant to the PRA, part 902 of title 15 CFR displays control numbers assigned to NMFS information collection requirements by OMB. This part fulfills the requirements of section 3506(c)(1)(B)(i) of the PRA, which requires that agencies display a current control number, assigned by the Director of OMB, for each agency information collection requirement. This final rule codifies OMB control numbers for 0648-0204 for § 660.707 and 0648-0498 for §§ 660.708, 660.712(d), and 660.712(f).

#### Classification

The Regional Administrator, NMFS, Southwest Region determined that the data collection requirements implemented by this final rule are necessary for the conservation and management of the U.S. West Coast HMS fisheries and are consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable law.

The data collection requirements implemented by this final rule have been determined to be not significant for purposes of Executive Order 12866.

NMFS, pursuant to section 604 of the Regulatory Flexibility Act (RFA), prepared a FRFA in support of the HMS FMP final rule published April 7, 2004. The FRFA described the economic impact that this final rule, along with other non-preferred alternatives, will have on small entities, including HMS commercial and recreational charter fishing vessels affected by this action. The contents of the FRFA and the incorporated documents (the IRFA, the RIR, and the FEIS) are not repeated here.

A copy of these documents is available upon request (see **ADDRESSES**).

Under this HMS FMP final rule there will be no Federal fee borne by the fishing industry for the required HMS permit. Industry costs arise from the time required to recover the necessary information and complete the permit forms. The permit requirement under this final rule will establish an initial one-time reporting burden of 562.9 hours for the 1,337 participating vessels (an average of 0.42 hours/per vessel). Permits are valid for 2 years, so the additional annualized burden is 281.5 hours for initial permit issuance.

This final rule requires all surface hook and line fishing vessels targeting HMS to maintain and submit logbooks for fishing in the U.S. EEZ and on the adjacent high seas areas covered under the HSFCA if they do not already submit logbooks under another regulation. This final rule establishes an annual reporting burden of 2,661 hours for the 887 participating vessels (887 vessels x 3 trips per year x 1 hour per trip to report).

For VMS, the reporting burden for the longline fleet is estimated to be 324.6 hours based on 20 longline vessels making 6 trips each year, with an average of 15 days at sea for each trip (24 reports/day x 24 sec/report).

This final rule contains new collection-of-information requirements approved by OMB under the PRA. Public reporting burden for these collections of information are estimated to average as follows:

1. Twenty to thirty five minutes for a permit application depending on the extent of correction of information on application forms and of new information to be submitted on those forms,
2. Five minutes for filling out the HMS log each day,
3. Five minutes for a pre-trip notification by longline vessel operators,
4. Four hours for installation of a VMS on longline vessels,
5. Two hours for maintenance of the VMS system,
6. Twenty four seconds for each electronic report submitted via the satellite based VMS.

These estimates include the 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 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 or any other aspects of the collections of information to NMFS (see **ADDRESSES**).

Notwithstanding any other provisions 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.

#### Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide was prepared for the HMS FMP final rule. This guide will be posted on the NMFS SWR website (<http://swr.nmfs.noaa.gov>) and a hard copy will be sent to all interested parties upon request (see **FOR FURTHER INFORMATION CONTACT**).

#### List of Subjects

##### 15 CFR Part 902

Reporting and recordkeeping requirements.

##### 50 CFR Part 660

Permits and Reporting and recordkeeping requirements.

Dated: February 4, 2005.

**Rebecca Lent,**

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

■ For the reasons set out in the preamble, 15 CFR chapter IX, Part 902, is amended as follows:

#### 15 CFR Chapter IX

#### PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

**Authority:** 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, the table in paragraph (b) under 50 CFR is amended by adding in numerical order entries for § 660.707, 660.708, and 660.712(d) and (f) as follows:

#### § 902.1 OMB Control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *				
(b) * * *				
CFR part or section where the information collection requirement is located				Current OMB control number (All numbers begin with 0648-)
* * * *				
50 CFR	*			*
660.707				-0204
660.708				-0498
660.712(d) and (f)	*	*	*	-0498
	*			*

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**BILLING CODE 3510-22-S**

#### DEPARTMENT OF HOMELAND SECURITY

##### Coast Guard

##### 33 CFR Part 117

[CGD01-05-008]

#### Drawbridge Operation Regulations: Long Island, New York Inland Waterway From East Rockaway Inlet to Shinnecock Canal, NY

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of temporary deviation.

**SUMMARY:** The Commander, First Coast Guard District, has issued a temporary deviation from the drawbridge operation regulations governing the operation of the Long Beach Bridge, at mile 4.7, across Reynolds Channel New York. This temporary deviation allows the bridge to remain in the closed position from February 21, 2005 through February 27, 2005. This temporary deviation is necessary to facilitate scheduled bridge maintenance.

**DATES:** This temporary deviation is effective from February 21, 2005 through February 27, 2005.

**FOR FURTHER INFORMATION CONTACT:** Judy Leung-Yee, Project Officer, First Coast Guard District, at (212) 668-7165.

**SUPPLEMENTARY INFORMATION:** The Long Beach Bridge has a vertical clearance of

20 feet at mean high water and 24 feet at mean low water. The existing regulations are listed at 33 CFR 117.799(g).

The bridge owner, Nassau County Department of Public Works, requested a temporary deviation for the Long Beach Bridge to facilitate scheduled maintenance repairs, gear rack repairs, at the bridge.

Under this temporary deviation the Long Beach Bridge need not open for vessel traffic from February 21, 2005 through February 27, 2005.

This deviation from the operating regulations is authorized under 33 CFR 117.35, and will be performed with all due speed in order to return the bridge to normal operation as soon as possible.

Dated: January 31, 2005.

**Gary Kassof,**

*Bridge Program Manager, First Coast Guard District.*

[FR Doc. 05-2557 Filed 2-9-05; 8:45 am]

**BILLING CODE 4910-15-P**

#### ENVIRONMENTAL PROTECTION AGENCY

##### 40 CFR Part 52

[WV100-6030; FRL-7861-3]

#### Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Revised Format of 40 CFR Part 52 for Materials Being Incorporated by Reference

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; notice of administrative change.

**SUMMARY:** EPA is revising the format for materials submitted by West Virginia that are incorporated by reference (IBR) into its State implementation plan (SIP). The regulations affected by this format change have all been previously submitted by West Virginia and approved by EPA. This format revision will primarily affect the "Identification of plan" section, as well as the format of the SIP materials that will be available for public inspection at the National Archives and Records Administration (NARA), the Air and Radiation Docket and Information Center located at EPA Headquarters in Washington, DC, and the EPA Regional Office. EPA is also adding a table in the "Identification of plan" section which summarizes the approval actions that EPA has taken on the non-regulatory and quasi-regulatory portions of the West Virginia SIP.

## **National Marine Fisheries Report Highly Migratory Species Fishery Management Plan Activities**

### Clearance of Data Collection Elements Contained in the HMS FMP Final Rule

The Office of Management and Budget (OMB) announced clearance of the Paperwork Reduction Act (PRA) request for the data collection elements contained in the HMS FMP final rule. The announcement was published in Federal Register on February 10, 2005 (70FR7022) and contains a 60 day wait period before becoming effective on April 11, 2005. After April 11, logbooks, permits, and observer requirements, as well as several other mandatory management measures will be required as specified under the HMS FMP final rule.

### Status of HMS Permit Issuance

NOAA Fisheries Service has mailed out over 1,000 HMS Permit applications to a comprehensive list of vessel owners who have been identified as participants in U.S. West Coast HMS commercial and recreational charter fisheries. Completed applications are being processed and HMS permits will be mailed out shortly. Application requests have been received, and packets mailed out, for several new entrants as well as current HMS vessel owners who were not on the original mail out list. HMS Permit applications can be obtained by calling 562 980-4034 or by downloading from the NOAA Fisheries Southwest Region website at: <http://swr.nmfs.noaa.gov>. We welcome hearing from HMS vessel owners that may have been overlooked in this initial notification process.

### Status of HMS Observer Sampling Plan and Expected Coverage Levels

Per Council recommendation, and by way of a NOAA Fisheries grant, a final report entitled "Recommendations for U.S. West Coast Highly Migratory Species Observer Programs with Options for Levels of Significance" has been submitted to NOAA Fisheries. The report is currently undergoing in-house review at the Region and Science Center level and will be delivered to the HMS Management Team at the next scheduled meeting.

Funding for observing HMS gear types in FY 05 has been secured as part of the Region's Observer Program Budget. The FY 05 observer placements will be coordinated in close cooperation with industry as part of a "pilot" program designed to gather needed data for under-observed sectors. Final decisions on HMS observer coverage by gear type will be deliberated and decided in close cooperation with the Council and co-managers with the states.

Several voluntary albacore troll observer trips have been completed thanks to assistance by the albacore troll fishermen and industry representatives.

### HMS FMP Voluntary Informational Port Meetings

NOAA Fisheries Service, in consultation with state fishery representatives and several HMS Advisory Subpanel members, will be scheduling a series of Voluntary Informational Meetings at strategic HMS West Coast ports during the months of April and May. The meeting dates and

times will be published in the Federal Register and through local media and industry information outlets. The meetings will be held at key ports in California, Oregon, and Washington to provide participants an opportunity to receive answers to questions regarding implementation of the HMS FMP. In addition, NOAA Fisheries will hold a series of mandatory skipper workshops at selected sites for vessel owners and captains required to possess a Marine Mammal Certification under the MMPA.

A tentative list of port sites for the meetings include: Westport, Washington.; Newport, Coos Bay, and Astoria, Oregon; Eureka, Monterey, Morro Bay, Santa Barbara, Long Beach, and San Diego, California. The expanded number of California port sites is required to cover the mandatory Skipper Education Workshops for HNS Drift Gillnet Marine Mammal Certifications.

#### HMS FMP Small Entity Compliance Guide

As required under Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996, NOAA Fisheries has prepared a Small Entity Compliance Guide that provides guidance on the rules and regulations contained in the HMS FMP final rule. The Compliance Guide will be mailed out to HMS vessel owners and operators with the HMS permit. Copies of the Compliance Guide will be available at the April Council meetings. Copies can also be requested directly from NOAA Fisheries or by downloading from the NOAA Fisheries Southwest Region website (<http://swr.nmfs.noaa.gov>).

#### Receipt of Exempted Fishing Permit Applications

NOAA Fisheries Service has received two Exempted Fishing Permit (EFP) applications for limited pelagic longline fishing out of Southern California ports. National guidelines for EFPs, as well as guidance in the HMS FMP, recommend that EFP applications be reviewed by the Council. NOAA Fisheries intends to submit the EFP applications to the Council for discussion and recommendations (e.g., at the next scheduled meeting date of the Advisory Subpanel). A decision on whether to proceed with processing the EFP applications will follow the Council review and recommendation.

#### HMS SAFE Report

An HMS Stock Assessment and Fishery Evaluation Report (SAFE) is scheduled to be presented by the HMS Management Team to the Council at the June and September meetings. The HMS Management Team will coordinate the development of the HMS SAFE report with delivery of final report expected to meet the September target.

The SAFE report will provide information to the Council and NOAA Fisheries for determining, among other things, significant trends or changes in the resource, marine ecosystems, and fishery over time, and assessing the relative success of existing state and Federal fishery management programs. Information on bycatch and safety for each fishery will also be summarized along with relevant information on the social and economic condition of the recreational and commercial fishing industry.

## NOAA Fisheries Recreational Fisheries Strategic Plan FY 2005-FY 2010

With input from recreational fishing constituents, NOAA Fisheries has developed a plan defining a common vision for recreational fisheries and a strategy to achieve that vision. The Plan was presented at the Fred Hall Fishing Tackle, Boat & Travel Show in Long Beach, California last week. The Plan sets out short and long range goals for Management, Science, and Outreach components. A Regional Recreational Plan Implementation Team will be formed to help guide the final National Strategy and Implementation elements. The Council will be a vital partner in developing the National Implementation elements and will be kept abreast of meeting dates and other pertinent notices.

Attachment: NOAA Recreational Fisheries Strategic Plan, FY 2005-FY 2010





## COUNCIL RESPONSE TO BIGEYE TUNA OVERFISHING

On December 15, 2004, the National Marine Fisheries Service (NMFS) informed the Council that overfishing is occurring Pacific-wide on bigeye tuna (*Thunnus obesus*) (Attachment 1, the letter is also published at 69 FR 78397). According to the letter, the Councils must take appropriate action to address overfishing within one year of the identification, meaning that the Councils must take remedial action by June 14, 2005.

Because of the multinational nature of Highly Migratory Species (HMS) fisheries, international management conventions play an important role in their management. In the Pacific, the Inter-American Tropical Tuna Commission (IATTC) is concerned with fisheries in the Eastern Pacific Ocean (EPO), defined by the meridian at 150° W longitude. The newly established Western and Central Pacific Fisheries Commission (WCPFC) has similar responsibility in the Western and Central Pacific Ocean (WCPO). As noted in a letter from Mr. William Gibbons-Fly of the Department of State to the aforementioned Regional Administrators (Attachment 2), any action taken by the Councils would need to be considered in the context of these organizations and their roles in HMS management.

Historically, fisheries in the Pacific subject to the HMS fishery management plan (FMP) have landed only small amounts of bigeye tuna, in comparison to other national and international fleets and most, if not all, of these landings have been from catches in the EPO. The largest U.S. HMS fishery is the purse seine fishery, which is generally not subject to the FMP, because landings are rarely made into West Coast ports. The longline fishery out of the West Coast is almost inactive, due to the regulations prohibiting swordfish targeting; and this fishery has not demonstrated an ability to fish profitably for bigeye tuna. However, fleet behavior is sensitive to the regulatory environment. For example, if the measures established by the Western Pacific Fishery Management Council (WPFMC) for the model swordfish fishery west of 150° W longitude were implemented in the EPO, operations out of the West Coast might increase.

IATTC Resolution C-03-12 (October 2003) and C-04-09 (June 2004) call upon Parties to the Convention to limit purse seine fisheries by means of a time/area closure and national bigeye tuna quotas for large-scale (>23 m) tuna longline vessels (LSTLVs), based on 2001 catch. The U.S. LSTLV bigeye tuna quota is 150 mt annually, through 2006, which is less than 0.26% of the overall quota. Most of bigeye catches by U.S. longliners have been made by vessels operating out of Hawaii. Managing to this quota has proved difficult for the U.S. because most catches are concentrated in the July-September time period and there is no system for rapid catch reporting. The final rule implementing these measures in 2004 for U.S. fisheries was not published until December 12 (69 FR 65383). U.S. bigeye catches in 2001 were at a low point for recent years while other nations had higher than average catches in 2001. Since the quota is based on 2001 catches it could inordinately constrain future U.S. catches, if kept in place unchanged. If a West Coast longline fishery develops, it may be necessary to allocate quota between West Coast and Hawaii fleets.

A letter dated November 9, 2004, from Ms. Kitty Simonds, Executive Director, WPFMC, to Dr. Donald McIsaac, summarizes recommendations made by the WPFMC in regard to EPO bigeye catches (Attachment 3). The WPFMC recommends using multi-year averages for computing national quotas, which would better reflect historic catch, and establishing a formal allocation

process between WPFMC and Pacific Fishery Management Council HMS fisheries. The WPFMC also recommends implementing a vessel monitoring system (VMS) for HMS vessels that would allow real-time reporting of catches. This would make compliance with the quota easier. NMFS published a final rule on February 10, 2005, (70 FR 7022, Agenda Item I.1.b, Attachment 1) approving regulations for information collection requirements in the HMS FMP, which include permits (50 CFR 660.707), recordkeeping and reporting (§ 660.708), VMS (§ 660.712(d)), and pre-trip notification (§ 660.712(f)). These requirements are effective April 11, 2005.

In the short-term, the overfishing declaration for bigeye tuna will have little effect on West Coast HMS fisheries, and the Council has limited means to control current total fishing mortality on the bigeye stock. However, in the long term measures taken by the IATTC and WCPC could affect the future development of West Coast HMS fisheries. (Although the WCPFC is concerned with WCPO stocks, bigeye may be treated as a single stock for the purpose of controlling total fishing mortality, which could affect activities in the EPO.) In formulating a response to the overfishing declaration, the Council may wish to consider recommendations to the U.S. delegation to the IATTC in regards to controlling bigeye fishing mortality in the EPO, since any such agreements (such as current national quotas for LSTLVs) are likely to have the greatest impact on West Coast HMS fisheries. Coordination with the WPFMC is another consideration, given that Hawaii-based longliners currently account for most of the bigeye fishing mortality in the EPO. Finally, limiting fishing capacity is one of the more feasible means of limiting fishing mortality in HMS fisheries. The Council may wish to consider planned development of limited entry programs part of a strategy responsive to the bigeye overfishing declaration.

### **Council Task:**

### **Council Discussion and Guidance**

### **Reference Materials:**

1. Agenda Item I.1.a, Attachment 1: Letter from RAs Robinson and McInnis to Chairs Morioka and Hansen on overfishing determination for bigeye tuna
2. Agenda Item I.1.a, Attachment 2: Letter from Gibbons-Fly, Dept. of State, to RAs Robinson and McInnis about coordination between Departments of Commerce and State on bigeye overfishing response
3. Agenda Item I.1.a, Attachment 3: Letter from ED Simonds to ED McIsaac advising on WPRFMC recommendations concerning bigeye tuna fishing mortality
4. Agenda Item I.1.b, Attachment 1: 70 FR 7022, Final rule; effectiveness of collection-of-information requirements.

### **Agenda Order:**

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

Kit Dahl  
Mark Helvey

PFCMC  
02/22/05