
FISHERY MANAGEMENT PLAN FOR U.S. WEST COAST FISHERIES FOR HIGHLY MIGRATORY SPECIES AS AMENDED APPENDIX I

Draft Proposed Regulations

Originally Appendix I to the August 2003 HMS FMP FEIS.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. ; I.D.]

RIN: 0648-

Fisheries Off West Coast States and in the Western Pacific;
Highly Migratory Species Fisheries.

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

ACTION: Proposed rule.

SUMMARY: NMFS proposes regulations to implement the Fishery
Management Plan for U.S. West Coast Fisheries for Highly
Migratory Species (FMP), which was submitted by the Pacific
Fishery Management Council (Pacific Council) for review and
approval by the Secretary of Commerce.

DATES: Comments must be received by [insert date 45 days
following publication in the FEDERAL REGISTER].

ADDRESSES: Comments should be sent to Rodney R. McInnis, Acting
Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard,
Suite 4200, Long Beach, CA 90802.

Copies of the FMP, which includes an environmental impact
statement accompanied by a regulatory impact review and an
initial regulatory flexibility analysis may be obtained from
Donald O. McIsaac, Executive Director, Pacific Fishery
Management Council, 7700 NE Ambassador Place, Suite 200,
Portland, Oregon, 97220-1384.

FOR FURTHER INFORMATION CONTACT: Svein Fougner Sustainable
Fisheries Division, NMFS, at 562-980-4040.

SUPPLEMENTARY INFORMATION:

On January 18, 2002, a notice of availability of a Draft
Environmental Impact Statement (DEIS) for the FMP was published
in the Federal Register (67 FR 2651). The Pacific Council held
7 public hearings on the FMP from January 28, 2002, to February

4, 2002, in the States of Washington, Oregon, and California. At its March 2002 meeting in Sacramento, California, the Pacific Council reviewed public comments received at the hearings, considered written and oral comments, and adopted preliminary preferred options for some issues, leaving its decision on other options for a future meeting. At its October-November 2002 meeting in Foster City, California, the Pacific Council adopted all of its preferred options, including a preferred option that would allow longline fishing east of 150° W. long., and voted to submit the FMP for Secretarial review. However, at the Pacific Council's March 2003 meeting in Sacramento, California, NMFS, based on recent observer data that indicated take rates of sea turtles in the longline fishery in the eastern Pacific were similar to those in the western Pacific, informed the Pacific Council about potential impacts of the fishery on endangered sea turtles and asked the Council to delay submission of the FMP following an analysis of the data. At its June 2003 meeting in Foster City, California, NMFS presented reports on the catch rates of turtles in the longline fishery obtained from the most recent observer data and informed the Pacific Council that allowing longline fishing east of 150° W. long. may not be approvable. The Pacific Council heard reports from its advisory bodies and heard public comments and decided to submit the FMP without changing any of its preferred alternatives. The Pacific Council submitted the FMP for Secretarial review by a letter dated **[insert date]**. On **[insert date]**, a notice of availability of the Final Environmental Impact Statement (FEIS) on the FMP was published in the Federal Register **[insert cite]**.

The FMP and this proposed rule is a response to increasing concern about the effect of fishing on highly migratory species (HMS) off the U.S. West Coast and on ocean resources caught incidentally to fishing HMS. Numerous species of tuna, billfish, oceanic sharks and other species range throughout the Pacific Ocean. A significant amount of information exists on some species of tuna, a moderate amount on other species of tunas, lesser amounts of information on swordfish and other billfishes, and scant information on sharks and other highly migratory fishes. Comprehensive stock assessments are needed for many of these species, which are harvested by numerous coastal and distant-water fishing nations throughout the Pacific. United States fishermen fish HMS in the U.S. Exclusive Economic Zone (EEZ), in the exclusive economic zones of other nations, and on the high seas.

Marine mammals, sea turtles, and sea birds caught incidentally to fishing are also affected by some of the fishing gear used to target HMS. The effect of fishing gear on protected resources is a problem throughout the Pacific Ocean,

and the U.S. has taken actions to minimize the impact of U.S. vessels fishing longline, drift gillnet, and purse seine gear on these resources.

The FMP, if approved, would implement management measures necessary for basic management of the fisheries. This would provide a foundation for future management actions that might be necessary as the international and U.S. fisheries change.

Management Unit Species

The FMP is intended to ensure conservation and promote the achievement of optimum yield of those HMS that are defined as management unit species in the FMP. The FMP is designed to conserve HMS throughout their individual ranges, both within and beyond the EEZ to the extent practicable, recognizing that management authority of all species falls within many jurisdictions. The FMP and its implementing regulations are designed to control fishing for HMS by vessels based in California, Oregon, and Washington within the West Coast EEZ and on the high seas. The Pacific Council reviewed 6 options for designating management unit species. The preferred option of the species to be managed by the FMP are: striped marlin, swordfish, common thresher shark, pelagic thresher shark, bigeye thresher shark, shortfin mako (bonito shark), blue shark, north Pacific albacore, yellowfin tuna, bigeye tuna, skipjack tuna, northern bluefin tuna, and dorado (also commonly referred to as mahi mahi and dolphinfish). Other groupings of species are included in the FMP as alternatives to the preferred option, and public comment is sought on what species should be in the management unit.

Tuna

Some tuna species are highly productive and are harvested by fishing fleets of many countries. For example, yellowfin and bigeye tuna are harvested by the U.S., Mexico, Costa Rica, and other coastal states in Central and South America. Harvest limits for yellowfin and bigeye tuna in the eastern Pacific are set by the IATTC and not by NMFS through the FMP. However, the decisions made by the IATTC regarding harvest limits and the basis for those decisions would be available to the Pacific Council for its review. Opinions of the Pacific Council would be forwarded to the U.S. State Department through NMFS. If allocations among U.S. fishermen became necessary as a result of decisions by the IATTC, the Pacific Council would be the body with the responsibility to make recommendations to NMFS regarding implementation. A similar arrangement would be utilized by NMFS for any fishery in which an international organization is involved. No harvest limits for bluefin tuna, skipjack tuna, or north Pacific albacore are proposed by the FMP at this time, although a maximum sustainable yield for each

species of tuna is contained in the FMP.

Sharks

Most sharks are less productive than other HMS and are vulnerable to overfishing. Although shark species included in the management unit range throughout the Pacific Ocean and are not being overfished, the FMP proposes to adopt harvest limits off the Pacific coast for common thresher at 340 metric tons (mt) and shortfin mako at 150 mt to prevent local depletion. The thresher shark harvest guideline is lower than the recommended harvest limit set in the tri-state fishery management plan for this species developed by the States of California, Oregon, and Washington. The justification for this approach is the result of an analysis of historical harvests explained in Chapter 3 of the FMP, which contains an estimate of a local maximum sustainable yield that is less than that contained in the tri-state plan. No harvest limit is proposed for pelagic thresher shark, bigeye thresher shark or blue shark. Public comment is sought on this approach and whether harvest limits should be placed on other species.

Other species

No harvest limits are proposed for striped marlin, dorado, or swordfish, although the sale of striped marlin would be prohibited. Like many HMS, striped marlin off the Pacific coast is at the northern limit of its range off California. This species has been a target of recreational fisheries for decades. The proposed limit on the sale of marlin contained in the FMP continues a prohibition that has been in California law since the 1930s.

Fishing Gear Employed

Off the West Coast, HMS are harvested by five commercial gear groups and various recreational fisheries. Commercial gear in the FMP includes surface hook-and-line, drift gillnet, longline, purse seine, and harpoon. Recreational anglers pursue HMS from commercial passenger fishing vessels and from private boats with hook-and-line gear.

The definition of fishing gear is important because gear not defined in Federal regulations would not be legal gear. For example, mousetrap gear, which is a free floating hook-and-line gear is not defined in this proposed rule and would not be legal. Likewise, if a drift gillnet is defined as having a mesh size of at least 14 inches, which is the preferred option of the Pacific Council, any net with a smaller mesh size would not be legal and could not be fished from Pacific coast ports for HMS. This issue is discussed in section 9.2.4.1 of the FMP and in Major Issues below.

Major Issues

The preferred option with regard to longline fishing is to

(1) Prohibit longline fishing in the EEZ, (2) For longline vessels fishing outside the EEZ and east of 150° W. long., adopt the same restrictions as those that apply to longline vessels fishing with a limited entry permit under the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region, except that the restrictions that prevent shallow sets for swordfish would not apply, and (3) For longline vessels fishing west of 150° W. long., adopt all of the restrictions that apply to longline vessels fishing with a limited entry permit under the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region.

The restrictions preventing shallow sets for swordfish were designed to reduce the impact of fishing on threatened and endangered sea turtles, not swordfish; however, the Pacific Council felt that there was not sufficient information available in the eastern Pacific to justify restricting swordfish sets east of 150° W. long. Owners of longline vessels fishing out of Hawaii who removed their limited entry permits from their vessels to fish from Pacific coast ports beyond the jurisdiction of the western Pacific fishery management plan would be able to target swordfish in the eastern Pacific east of 150° W. long., but would have to comply with all other restrictions, including the requirement to maintain a vessel monitoring system on board the vessel, line clippers, and dip nets, as well as complying with the proper handling of sea turtles and seabirds.

This approach establishes a consistency with regulations in the western Pacific while minimizing the economic impact on vessels fishing from West Coast ports; however, allowing shallow sets for swordfish east of 150° W. long. may not comply with the Endangered Species Act and is likely not to be approved as proposed. A formal consultation under section 7 of the Endangered Species Act has been initiated between the Sustainable Fisheries Division of NMFS, Southwest Region, and the Protected Resources Division of NMFS, Southwest Region. A biological opinion will be written and management recommendations will be provided to the Pacific Council that will be designed to provide sufficient protection for endangered and threatened sea turtles. The consultation will include a review of the impact of all fishing gear regulated by the FMP, the impact of other domestic fishing fleets as they now operate, and the most recent information on the status of sea turtle populations.

Drift gillnet fishing is regulated by the states and by regulations implementing the Marine Mammal Protection Act and the Endangered Species Act. The preferred option in the FMP is to adopt gear and area closures currently in state regulations as a part of the regulations implementing the FMP. Therefore,

state area closures that extend into the EEZ are included in this proposed rule. Gear restrictions in state regulations are included as well. The California limited entry program for drift gillnet gear is not included in this proposed rule because the Pacific Council decided not to address overcapitalization issues at this time; however, the California limited entry program would remain in effect under State of California regulations.

Marine mammals are not included as management species in the Magnuson-Stevens Act. Regulations establishing a Take Reduction Plan for drift gillnet vessels that includes specifications for extender lines and pingers, an acoustical device attached to the net, and skipper education workshops can be found at 50 CFR 229.30 and 229.31. These regulations would remain in effect when the FMP is implemented, but would not be moved to a new section of the CFR.

Endangered and threatened sea turtles are included as fish under the authority of the Magnuson-Stevens Act. Area and seasonal closures designed to protect sea turtles in the drift gillnet fishery that are currently in effect at 50 CFR 223.206 would be moved to CFR 660 subpart K.

The Pacific Council defined drift gillnet gear as 14 inch stretched mesh or greater. A drift gillnet vessel with a mesh size less than 14 inches would not be able to target HMS, although an incidental landing of 10 HMS per landing, other than swordfish, would be allowed to minimize bycatch of HMS while fishing for state managed species.

Permits

The preferred option in the FMP is to require a permit with an endorsement for a specific gear for all commercial vessels. A permit would also be required for all recreational charter vessels. Other options for review in the FMP include a general permit without a gear specification and a permit system that includes all recreational vessels. The purpose of a permit is to identify the vessels in the HMS fisheries so that surveys can be made when management information is required and to notify all participants of potential management actions affecting the fisheries. Permits based on gear type make surveys more efficient because landing and economic information is often needed for specific gear types. Permits would be issued to the owner of a specific vessel. Data would be maintained so that landings by the permitted vessel or by the owner of the vessel can be summarized, which would give the Pacific Council flexibility in determining qualifications for limited entry permits if the Council should decide to develop a limited entry program. No Federal limited entry program is being proposed at this time because the Pacific Council does not have sufficient

information to determine the need for such a program. A limited entry program would require substantial analysis and an amendment to the FMP.

Permits are currently required for vessels fishing on the high seas under the authority of the High Seas Fishing Compliance Act, for vessels fishing tuna under the authority of the Tuna Conventions Act of 1950, and for longline vessels fishing under the authority of the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region. Many participants in the HMS fisheries have these permits; therefore, the regulations propose issuing HMS permits to all individuals on lists of vessels maintained by NMFS. There would be no qualification requirements for a permit. Vessel owners who have not received a permit to harvest HMS by 60 days following the effective date of the final regulations would have to apply for an HMS permit. All vessels would need an HMS permit by January 1, 2005. There would be no cost to fishermen for this permit.

Recording and Recordkeeping

The preferred option in the FMP is to have all commercial fishing vessels and recreational charter vessels maintain a logbook to be submitted to the Regional Administrator or the appropriate state agency following the end of a fishing trip. Federal logbooks are now required for: vessels fishing on the high seas under the authority of the High Seas Fishing Compliance Act, vessels fishing tuna under the authority of the Tuna Conventions Act of 1950, and vessels fishing under the authority of the regulations implementing the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region. A Federal logbook for troll vessels fishing albacore, which is currently voluntary, would be required. The State of California requires a logbook for harpoon vessels, drift gillnet vessels, and recreational charter vessels. The State of Oregon requires a logbook for drift gillnet vessels. These logbooks, tailored to specific gear, would be acceptable under these regulations. Duplicate logbooks would not be required.

Bycatch

A number of provisions are included in the FMP to measure and reduce bycatch; however, the FMP recognizes that better information is needed to assess the amount and type of bycatch in HMS fisheries. The preferred option is to initially require observer programs for the longline, surface hook-and-line, small purse seine, and charter fisheries. The current program for the drift gillnet fishery would continue. In consultation with the Pacific Council, its advisory bodies, and the fishery participants, NMFS will develop initial observer coverage plans for these fisheries, which will be completed 60 days following approval of the FMP. The observer coverage plans for these

fisheries may be adjusted as the initial data is assessed and more is learned about the levels of coverage necessary to obtain statistically reliable data on bycatch in these fisheries. In the longer term NMFS will develop an observer sampling plan for the private recreational fishery to assess potential ways of improving information on the species and the quantity of bycatch in that fishery.

Management Organizations

There is no single, pan-Pacific institution that manages all HMS throughout their ranges. The Inter-American Tropical Tuna Commission (IATTC) adopts conservation measures for yellowfin and bigeye tunas in the eastern Pacific Ocean. Member nations of the IATTC, including the U.S., are obligated to implement IATTC conservation measures for their national fisheries. On September 5, 2000, the Convention on Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean was opened for signature by the coastal nations of the western and central Pacific and nations fishing in that region. The Convention, which is subject to ratification by the U.S. Congress, would establish a commission that adopts management measures for HMS throughout their ranges in the central and western Pacific. The IATTC and the new western Pacific commission would affect West Coast-based fisheries.

In 1981, the United States and Canada signed the Treaty on Pacific Coast Albacore Tuna Vessels and Port Privileges, which permits fishing vessels of each nation to fish for albacore tuna in waters of the other nation beyond 12 miles. Recently, U.S. albacore fishermen have become concerned about the increased effort by Canadian vessels in U.S. waters and the lack of information on the amount of albacore taken by Canada. The U.S. has been engaged in consultations with Canada on these issues, which were resolved at an international meeting in July 2002. Congress must pass legislation to implement the agreement.

Within the U.S., three regional fishery management councils have management responsibility for HMS in the Pacific Ocean: the Pacific Council, the North Pacific Fishery Management Council, and the Western Pacific Fishery Management Council. The Western Pacific Fishery Management Council manages highly migratory species in the western Pacific under the authority of the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region. Many of the same stocks of HMS are harvested in separate jurisdictions. In some cases vessels are fishing in the same areas but landing in different jurisdictions, where there may be different management objectives and management measures.

Effective management of HMS in the Pacific will require the

Pacific Council to be fully informed of management actions being considered in the international organizations affecting HMS and will require the Pacific Council to coordinate its activities with the Western Pacific Fishery Management Council and North Pacific Fishery Management Council. Although management objectives may differ in the respective areas, consistency is expected to be achieved by NMFS to meet the requirements of the Magnuson-Stevens Act while giving full consideration to local needs.

Protected Species and the Framework Process

Drift gillnet and longline vessels encounter endangered and threatened sea turtles and marine mammals during fishing operations, and longline vessels encounter significant numbers of birds. Minimizing the impacts on these species has required regulatory action under the authority of the Marine Mammal Protection Act and the Endangered Species Act. Area closures and special equipment apply to drift gillnet and longline vessels. A possibility exists that other fishing gear used to harvest highly migratory species may also have an impact when more data is obtained. The FMP recognizes that the Pacific Council is the body best suited to weigh and consider all potential impacts on fishing for HMS. Section 118 (f) (9) of the Marine Mammal Protection Act authorizes the Assistant Administrator for Fisheries to promulgate regulations governing commercial fishing operations to implement a take reduction plan to protect or restore a marine mammal stock or species. Likewise, vessels fishing for highly migratory species may have an impact on threatened or endangered species, which could require action by the Assistant Administrator under the authority of the Endangered Species Act. The Take Reduction Team established by the Marine Mammal Protection Act reports to NMFS and biological opinions provide guidance to NMFS on actions needed to protect threatened and endangered species. The Assistant Administrator will also look to the Council for recommendations on how best to implement any necessary measures. If appropriate, the Council will utilize the framework processes in the FMP to address these issues. This process does not prevent the Assistant Administrator from taking action under the authority of the Marine Mammal Protection Act and the Endangered Species Act independent of the Council process.

Classification

At this time, NMFS has not determined that the FMP this rule would implement is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

The Council prepared a final environmental impact statement

for this FMP; a notice of availability was published on **[insert date]**. The FMP contains a framework management process that makes changes and modifications of management measures by the Council possible in a timely manner without amending the FMP. This will allow the Council to act quickly to address resource conservation and ecological issues. Maximum sustainable yield is established for all managed species to ensure compliance with the Magnuson-Stevens Act, although some species are also managed by international organizations and come within the jurisdiction of other fishery management councils. Consistency of management to ensure effective conservation and management is a goal of the FMP. Harvest limits are established for common thresher and mako shark to prevent local depletion. Although highly migratory, evidence indicates that local depletion of these sharks can occur and would have an impact on these species and the fisheries involved. Rules governing drift gillnet fishing issued under the authority of the Marine Mammal Protection Act and the Endangered Species Act are incorporated in the FMP. Incorporating rules in the FMP issued under other authorities will ensure wider public review of management issues and broader analysis. Permit and reporting requirements of the FMP build on existing programs to obtain sufficient information needed for management while minimizing duplication.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

NMFS prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. The IRFA is available from NMFS (see ADDRESSES). A summary of the IRFA follows:

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.

Fishing vessels targeting HMS are expected to be the only types of small entities directly impacted by the proposed actions. Any regulatory action under the FMP that would result in a reduction in domestic landings of HMS are expected to be offset at the processor level by imports at comparative prices. None of the initial regulatory alternatives considered are expected to add to the costs or reduce revenues of marinas and charter/party boats. Only the permit and logbook requirements described below would add additional reporting. The following abbreviations are used in the analysis: NQ+ = non-quantifiable positive, NQ- = non-quantifiable negative, NC = no change from status quo, and UN = unknown.

A description of the action, why it is being considered, and the legal basis for this action are contained in the SUMMARY and in the SUPPLEMENTARY INFORMATION of this proposed rule and are not repeated here.

The FMP proposes management of 5 commercial fishing fleets and a fleet of recreational charter vessels. Each fleet has its own gear requirements, each has a differential impact on ocean resources, and each has different economic circumstances. The FMP authorizes commercial legal HMS gear as harpoon, surface hook and line, drift gillnet of at least 14 inch stretched mesh or greater, purse seine, and pelagic longline. The FMP authorizes rod and reel, spear, and hook and line as recreational gear. An alternative for drift gillnet gear was to allow stretched mesh less than 14 inches. The proposed alternative of requiring 14 inch stretched mesh or larger is consistent with the historic use of drift gillnet used to target swordfish and sharks. Fishermen estimated that there may be as many as 8-10 vessels that occasionally use small-mesh drift gillnets when albacore and bluefin tuna are available. Landings data indicate that there could be as many as 20 vessels that might have fished small-mesh drift gillnets based on landing receipts for drift gillnet vessels landing albacore and bluefin tuna, but not swordfish. Vessels fishing small mesh drift

gillnet gear would be restricted to landing HMS only as an incidental catch. The economic impact on the four vessels that have been documented as using small mesh drift gillnets amounts to between 20 percent and 48 percent of gross receipts. These vessels landed between 1.0 and 15.0 mt of albacore and 0.0 to 3.0 mt of bluefin tuna during the 2001 season. The vessels might make up for the lost revenue through other small mesh gillnet fisheries or simply return to using large mesh nets because all four vessels also currently possess permits for use of the larger mesh gear. Vessels currently fishing large mesh nets would suffer no economic loss under this option as they would not need to modify their gear or current fishing practices. The opportunity for albacore surface hook-and-line vessels to deploy small mesh drift gillnet gear to target albacore while on overnight trips would be preempted under this alternative. Loss of this opportunity would prevent realization of potential efficiency gains from landing more albacore per unit of time on the water.

For drift gillnet vessels of 14 inch stretched mesh or greater, the FMP adopts all Federal conservation and management measures in place under the Marine Mammal Protection Act and Endangered Species Act; adopts all state regulations for drift gillnet fishing under Magnuson-Stevens Act authority, except limited entry programs, which will remain under state authority; modifies an Oregon closure inside 1000 fathoms to be in effect year round; closes EEZ waters off Washington to all drift gillnet vessels; and continues the current turtle protection closure north of Point Sur, California to 45° N. lat. (August 15 to November 15), and south of Pt. Conception to 120° W. long. during a forecasted or occurring El Niño event (June, July, and August).¹ Existing Federal and state regulations, including current state drift gillnet time-area closures and gear restrictions were deemed appropriate for adopting. However, the Pacific Council concluded that implementing the existing state limited entry programs, which would significantly increase Federal costs and administrative burdens, was premature. Closures off Washington and Oregon are intended to protect the common thresher shark, sea turtles and marine mammals. This alternative modifies the current state regulations to prohibit, year round, drift gillnet fishing for swordfish and sharks in EEZ waters off Oregon east of a line approximating the 1,000 fm

1 This reflects the modified rule currently being considered by NMFS, which revises the closure timing from January 1-31 and August 15-31 to the months of June, July, and August.

curve (deleting an existing May-August prohibition within 75 nautical miles) and prohibits drift gillnet fishing in all EEZ waters off Washington. The state of Washington currently does not allow the use of drift gillnet gear and Oregon does not allow drift gillnets to target thresher shark, although drift gillnet vessels have fished off both states and landed their catch in California.

Approximately 64 vessels actively participate in the drift gillnet fishery off the U.S. West Coast (see table below). 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 proposed action.

Total exvessel revenue and dependence on swordfish for the 64 drift gillnet vessels with landings in 2001.			
Number of Vessels	Dependence on Drift Gillnet Caught Swordfish (category of swordfish revenue/total revenue)	Average Total Exvessel Revenue (\$/vessel)	Average Percent Drift Gillnet Swordfish (swordfish revenue/total revenue)
9	< 5%	\$131,171	2.07%
3	< 5 - 10%	\$80,661	6.51%
6	> 10 - 15%	\$204,164	12.48%
8	> 15 - 20%	\$113,173	17.88%
8	> 20 - 25%	\$78,063	22.43%
4	> 25 - 30%	\$58,497	26.78%
5	> 30 - 40%	\$88,168	37.37%
4	> 40 - 50%	\$142,637	43.72%
5	> 50 - 60%	\$85,076	55.02%
8	> 60 - 70%	\$57,054	65.62%
4	> 70%	\$3,834	87.43%

Financial or private costs, and measures of fishing performance are those costs and performance measures faced by individual vessel owners. Short-run, financial or private profit realized by vessel owners from participation in the swordfish/shark gillnet fishery was calculated as the difference between the annual private costs incurred during swordfish/shark fishing operations -- the annual variable costs associated with swordfish/shark fishing -- and the total exvessel revenue generated from the vessel's annual landings from swordfish/shark

fishing. Only short-run measures of financial and economic performance were calculated because many vessels typically engage in other types of fishing, and fixed and common costs are not allocated across types of fishing, i.e. across drift gillnet, surface hook-and-line, or others. Although drift gillnet vessels harvest a number of species and will use alternative gears, no attempt was made to evaluate potential changes in fishing strategies by these vessels in response to different opportunities to harvest HMS under each of the regulatory alternatives, and what this would mean in terms of operating costs and exvessel revenues under alternative fishing strategies.

Financial impacts of each drift gillnet regulatory alternative were evaluated based on incremental changes from the status quo; i.e., the difference between drift gillnet exvessel private profits under the proposed action and drift gillnet private profits under the status quo. The following table reports the estimated incremental changes in short-run financial profits for drift gillnet vessels for each regulatory alternative relative to the status quo. Financial impacts are evaluated as the present value of changes in short-run financial profits over a 25 year time period discounted at 7 percent and 4 percent discount rates. The estimated changes in financial profit are based on cost and earnings surveys of industry members.

Alternative	Change in the Present Value of Short-Run Financial Profits Relative to the Status Quo (25-Year Time Horizon)	Average Annual Change in Short-Run Financial Profits Relative to the Status Quo
Drift Gillnet Alternative 1: Continues the swordfish/shark DGN fishery regulations under current state and federal authorities. (Status quo/No action)	NC	NC
Drift Gillnet Alternative 2: Differs from status quo with the imposition, on all DGN fishers, of a year round Oregon closure inside 1000 fm (or way point equivalent), elimination of the May-August closure inside 75 miles off Oregon, and the closure of EEZ waters off Washington. (Proposed Action)		-\$56,769
7% Discount Rate	-\$661,557	

Alternative	Change in the Present Value of Short-Run Financial Profits Relative to the Status Quo (25-Year Time Horizon)	Average Annual Change in Short-Run Financial Profits Relative to the Status Quo
<p>4% Discount Rate</p> <p>Drift Gillnet Alternative 3: Endorses or adopts only existing federal (MMPA, ESA) DGN regulations into FMP; defers to state regulations; no difference from status quo.</p>	-\$886,843	NC
<p>7% Discount Rate</p> <p>4% Discount Rate</p>	NC	
<p>Drift Gillnet Alternative 4: Endorses or adopts all federal conservation and management measures in place under the MMPA and ESA, and adopts state regulations under MSFCMA authority, but also includes and federalizes the states' limited entry programs; differs from status quo by the impact of federalizing states' limited entry programs.</p>		UN
<p>7% Discount Rate</p> <p>4% Discount Rate</p>	UN	
<p>Drift Gillnet Alternative 5: Adopts turtle time/area closures per Biological Opinion, including larger area closure north of Point Conception; differs from status quo by the impact of enlarging the closed area.</p> <p>7% Discount Rate</p>	-\$2,887,333	-\$247,764
<p>4% Discount Rate</p> <p>Drift Gillnet Alternative 6: Prohibits the use of drift gillnets to take swordfish and sharks in any exclusive economic zone (EEZ) waters less than 1000 fm off Oregon and Washington; differs from status quo by the impact of closing this area.²</p>	-\$9,052,347	\$310
<p>7% Discount Rate</p> <p>4% Discount Rate</p> <p>Drift Gillnet Alternative 7: Drift gillnets could not be used to take swordfish and sharks in any exclusive economic zone (EEZ) waters north of 45° N latitude year round, including times when the northern turtle closure is not in effect (Nov 16 to Aug 14); differs from status quo by the impact of closing this area.</p>	\$3,617	-\$8,612

Alternative	Change in the Present Value of Short-Run Financial Profits Relative to the Status Quo (25-Year Time Horizon)	Average Annual Change in Short-Run Financial Profits Relative to the Status Quo
7% Discount Rate	-\$100,365	
4% Discount Rate	-\$134,544	
Drift Gillnet Alternative 8: Drift gillnetting would be prohibited inside 75 nm off Oregon from May 1 to August 14 and inside the 1,000 fm curve the rest of the year, and EEZ waters off Washington would be closed year round to all, including Oregon- and California-based DGN fishers; differs from the status quo by the impact of the closures off Oregon and Washington to all fishers.		-\$56,769
7% Discount Rate	-\$661,557	
4% Discount Rate	-\$886,843	

The impact on drift gillnet vessels under Alternative 2, the proposed action, primarily stems from rescinding the closure of the EEZ to fishing by Oregon vessels inside 75 nautical miles off Oregon from May 1 to August 14, closing waters inside the 1,000 fathom curve off Oregon, and the entire EEZ off Washington to all fishermen year round. These closures alone reduce the discounted value of short-run financial profits available to the fleet formerly fishing in those areas by \$661,557 over 25 years at a 7 percent discount rate; \$886,843 over 25 years at a 4 percent discount rate. (The data used for the financial analysis of the Oregon and Washington closures were provided by fishermen operating in these areas.)

Although the absolute level of decline in short-run financial profits from this measure is comparatively small in relation to the entire fishery, the entire burden is borne by the 2-3 vessels that currently fish both swordfish and thresher sharks, but especially the latter using drift gillnet gear in these waters. Their lost opportunity represents a decline of 51percent in their short-run financial profits.

The FMP establishes a prohibition on the use of pelagic longline gear in the EEZ. The proposed action continues the de facto longline prohibition throughout the EEZ and minimizes potential bycatch of fish and protected species, and reduces fishery competition problems. There are no vessels

participating in a pelagic longline fishery within the EEZ off the U.S. West Coast. Although Oregon is the only state that allows pelagic longlining within the EEZ on a case by case basis, no landings have occurred. All of the Oregon 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 proposed action.

Financial impacts of each pelagic longline regulatory alternative within the EEZ were evaluated based on incremental changes from the status quo; i.e., the difference between pelagic longline exvessel private profits under the proposed action and pelagic longline private profits under the status quo. Because there are no empirical financial data available for this fishery, comparisons are based on the application of economic theory to potential fishing opportunities arising from the regulatory alternatives. The following table reports the estimated incremental qualitative changes in short-run financial profits for vessels for each regulatory alternative relative to the status quo. Financial impacts are evaluated as the present value of changes in short-run financial profits over a 25 year time period discounted at 7 percent and 4 percent discount rates. The annual average change in short-run financial profits is also shown.

Alternative	Change in the Present Value of Short-Run Financial Profits Relative to the Status Quo (25-Year Time Horizon)	Average Annual Change in Short-Run Financial Profits Relative to the Status Quo
Pelagic Longline w/i the EEZ Alternative 1: Current state measures would remain in place under states' authorities and there would be no new federal regulations governing longline use in the EEZ. (Status Quo/No Action)	NC	NC
Pelagic Longline w/i the EEZ Alternative 2: Establishes a general prohibition on the use of pelagic longline gear in the EEZ. (Proposed Action)	NC	NC
Pelagic Longline w/i the EEZ Alternative 3: Prohibits longlining within the West Coast EEZ by indefinite moratorium, with the potential for re-evaluation by the Council following completion of a bycatch reduction research program with pre-established strict protocols.	NQ+	NQ+

Alternative	Change in the Present Value of Short-Run Financial Profits Relative to the Status Quo (25-Year Time Horizon)	Average Annual Change in Short-Run Financial Profits Relative to the Status Quo
Must prove negligible impact on protected and bycatch species. (Ocean Wildlife Campaign Proposal)		
Pelagic Longline w/i the EEZ Alternative 4: Authorizes a limited entry pelagic longline fishery for tunas and swordfish within the EEZ, with effort and area restrictions, to evaluate longline gear as an alternative to DGN gear to reduce bycatch or bycatch mortality and protected species interactions. (Industry Proposal)	NQ+	NQ+
Pelagic Longline w/i the EEZ Alternative 5: Prohibits longlining within the West Coast U.S. EEZ with the potential for re-evaluation by the Council following completion of a tuna-swordfish-bycatch research experiment carried out under a qualified EFP to determine if longline gear can be fished in ways that produce bycatch and protected species interaction levels that are significantly less than by drift gillnets ($\alpha=0.05$). (Plan Team Proposal)	NQ+	NQ+

There are not expected to be any financial impacts associated with alternative 2 because it essentially represents the status quo. It would eliminate the Oregon longline fishery, authorized outside 25 miles under the state's developmental fisheries program permit system. However, there are no active Oregon permits at the present time. This alternative would also eliminate the potential opportunity now available to West Coast-based commercial fishermen for fishing off Oregon and California and landing in Oregon, which is currently not being exercised. The other alternatives offer potential increases in financial profits if it can be scientifically determined that there would not be an adverse impact on bycatch and protected species interactions.

Beyond the EEZ, the FMP applies to West Coast-based longline vessels all of the restrictions applied to Hawaii-based longline vessels when fishing west of 150° W. long., but applies selected restrictions to vessels fishing east of 150° W. long., which allows West Coast-based vessels to target swordfish

east of 150° W. long. (except for a partial closure in April and May). Restrictions control sea turtle and seabird interactions and improve monitoring of the fishery. Swordfish targeting would be allowed east of 150° W. long. for most of the year, unless a comprehensive analysis of protected species risks results in a finding of jeopardy to one or more species listed under the Endangered Species Act. The objectives of the proposed action provide for a longline fishing opportunity, giving due consideration to traditional participants in the fisheries, while providing adequate protection to sea turtles and seabirds.

A total of 38 vessels participated in the West Coast-based, high seas pelagic longline fishery during 2001 (see table below). 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 proposed action.

Total exvessel revenue and dependence on swordfish for the 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 Exvessel 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%

Financial impacts of each high seas pelagic longline regulatory alternative were evaluated based on incremental changes from the status quo; i.e., the difference between pelagic longline exvessel private profits under the proposed action and pelagic longline private profits under Alternative 1, the status quo. The following table reports the estimated incremental changes in short-run financial profits for pelagic longline vessels for each regulatory alternative relative to the status quo. Financial impacts are evaluated as the present value of changes in short-run financial profits projected over a 25 year time period, discounted at 7 percent and 4 percent discount rates. The annual average change in short-run

financial profits is also shown. The changes in financial profit were estimated using cost and earnings data voluntarily provided by industry members.

Under the status quo, the FMP would not impose regulations on the high seas, West Coast-based pelagic longline fishery. Fishing could continue without regulations until regulations are established under other authorities. Therefore, without the FMP, the future of the West Coast-based pelagic longline fishery operating on the high seas is expected to be different from recent conditions. Swordfish is the target species of this fishery, and swordfish sets may be prohibited; gear restrictions (no light sticks, minimum depth of sets, line clippers to release sea turtles) would apply; and seabird avoidance methods would be required. Longline fishing targeting tuna on the high seas out of West Coast ports might then be an alternative if swordfish targeting is prohibited, but 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 view of this likelihood, the estimated financial impacts relative to Alternative 1 assume that regulations are likely in the future that would prohibit West Coast-based pelagic longliners from targeting swordfish on the high seas, and that under those circumstances the fishery would cease to exist. Alternative 2 would allow the fishery to continue under selected restrictions, and the financial impact of Alternative 2, shown below, is based on a projection of current private profits in the fishery. Estimates of current private profits do not include the private costs that might be incurred in adopting turtle and seabird saving measures, placement of observers, and the installation and use of vessel monitoring systems, and any lost revenues from being unable to fish from 15° N. lat. to the equator, and from 145° W. long. to 180° W. long. during April and May. Therefore, private profits under Alternative 2 in the table below may be overstated. While some West Coast-based, high seas pelagic longliners harvest species other than swordfish, no attempt was made to evaluate potential changes in fishing strategies by these vessels in response to different harvest opportunities under each of the regulatory alternatives, and what this would mean in terms of operating costs and exvessel revenues under alternative fishing strategies. Alternative 3 would prohibit swordfish targeting with implementation of the FMP. Under Alternative 3 the assumption is that the fishery would disappear in the long run, in which case there is no difference from the status quo.

Alternative	Change in the Present Value of Short-Run Financial Profits Relative to the Status Quo (25-Year Time Horizon)	Average Annual Change in Short-Run Financial Profits Relative to the Status Quo
<p>High Seas Pelagic Longline Alternative 1: States' regulations would apply to longline fishing and landings and federal regulations may be developed under other authorities. Vessels would have to obtain HSFCA permits and file HSFCA logbooks, as is now the case. (Status Quo/No Action)</p> <p>High Seas Pelagic Longline Alternative 2: Applies to West Coast-based longline vessels fishing west of 150° W longitude all of the restrictions applied to Hawaii-based longline vessels, but east of 150° W longitude, applies selected restrictions, allowing West Coast-based vessels to target swordfish east of that line. (Proposed Action)</p> <p>7% Discount Rate</p>	<p>NC</p> <p>\$78,225,581</p>	<p>NC</p> <p>\$6,712,558</p>
<p>4% Discount Rate</p> <p>High Seas Pelagic Longline Alternative 3: Applies to West Coast-based longline vessels <u>all</u> conservation and management measures applied to Hawaii-based longline vessels to control sea turtle and seabird interactions and to monitor the fishery.</p>	<p>\$105,645,527</p>	<p>NC</p>
<p>7% Discount Rate</p>	<p>NC</p>	
<p>4% Discount Rate</p>	<p>NC</p>	

Alternative 2 would maintain the fishery, but impose some slight additional costs on West Coast-based longliners targeting swordfish on the high seas. Fishermen would have to incur some of the cost of adopting turtle and seabird saving measures, accommodating observers and using monitoring equipment such as a vessel monitoring system. Therefore, under Alternative 2 there would be a slight reduction in annual short-run, financial profits from those reported above. There may also be reductions in swordfish catch rates due to the adoption of turtle and seabird mitigation measures. This could further reduce short-run, financial profits. If subsequent analyses prove that swordfish longlining on the fishing grounds of the West Coast-based, high seas pelagic longline fleet results in less impact on turtles and other protected species (or that these

interactions can be avoided), its further development could lead to increased short run financial profits. If on the other hand, subsequent analyses prove that swordfish longlining in the fishing grounds in the eastern north Pacific action area has potential for the same or greater impact on protected species, the fishery may not be able to continue operating unless ways to prevent jeopardy to protected species can be developed. In the latter case there are likely to be additional harvesting costs involved to perform the prevention measures which in the absence of any improvements in harvest rates, or other efficiency gains, would reduce short-run financial profits.

The fishery will probably be subject to regulations promulgated under other authorities, which are expected to result in its disappearance in time. This is reflected in the long-term status quo, Alternative 1, where financial profits become zero with a phase out of the fishery. In the near term however, the fishery may persist under existing state regulations, in which case short-run financial profits are expected to be \$6.8 million per year under the status quo. These are the same as the annual average financial profits that would be expected under Alternative 2 minus the cost of adopting turtle and seabird saving measures, accommodating observers and using monitoring equipment such as vessel monitoring systems. Short and long-term profits would disappear under Alternative 3 with the prohibition on targeting swordfish. Therefore, in the long term, Alternative 3 is the same as the status quo.

The FMP opens the entire EEZ to purse seine fishing, although there has been little interest in such fishing for highly migratory species off Oregon and Washington. The objectives of the proposed action are to provide for additional purse seine fishing opportunities. There were 27 vessels on average participating in the West Coast-based, coastal purse seine fishery during the 1995-99 period. 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 proposed action.

Financial impacts of each purse seine regulatory alternative were evaluated based on incremental changes from the status quo; i.e., the difference between expected purse seine exvessel private profits under the proposed action and private profits under the status quo. The following table reports the estimated incremental qualitative changes in short-run financial profits for pelagic longline vessels for each regulatory alternative relative to the status quo. There are no cost and earnings data available for purse seine fishing for highly

migratory species off Oregon and Washington.

Alternative	Change in the Present Value of Short-Run Financial Profits Relative to the Status Quo (25-Year Time Horizon)	Average Annual Change in Short-Run Financial Profits Relative to the Status Quo
Purse Seine Alternative 1: State area closures would remain in effect under states' authorities. (Status Quo/No Action)	NC	NC
Purse Seine Alternative 2: Opens the entire EEZ to purse seine fishing. (Proposed Action)	NQ+	NC
Purse Seine Alternative 3: Closes the area within the EEZ north of 45° N latitude to purse seine fishing to address bycatch and protected species concerns, and possible adverse impacts on other fisheries.	NQ-	NC
Purse Seine Alternative 4: Closes the EEZ off Washington to purse seine fishing, but allows it off Oregon and California.	NQ-	NC

Under the proposed action the purse seine fishery for HMS could operate throughout the EEZ. This would provide more opportunity to fish for bluefin tuna in those years when they travel in fishable schools as far north as Oregon and Washington, and could raise the potential for purse seining for albacore.

Because northern bluefin tuna do not generally occur in significant numbers that far north except during periods of elevated water temperature, this would likely only result in an increase in purse seine fishing activity for northern bluefin tuna during El Niño-like conditions. By occasionally providing an additional fishing opportunity, these conditions would likely increase short-run financial profits for purse seiners when projected over the 25-year period. However, in most years there would be no change from the status quo. The financial impact of an albacore purse seine fishery developing in northern waters is likely to be positive for purse seiners, but could be negative for surface hook-and-line vessels.

Alternatives 3 and 4 would preclude existing fishing opportunities above 45° N latitude for California and Oregon vessels. This could reduce their potential financial profits in years of exceptionally good bluefin fishing in these waters, but on average there would be little change from the status quo.

The FMP would prohibit the sale of striped marlin by all

vessels. The objectives are to provide for continued recreational fishing opportunities. Prohibiting sale removes the incentive for commercial fishermen to take striped marlin.

Financial impacts of each regulatory alternative pertaining to the sale of striped marlin were evaluated based on incremental changes from the status quo; i.e., the difference between expected exvessel private profits under the proposed action and private profits under the status quo. The following table reports the estimated incremental qualitative changes in short-run financial profits for each regulatory alternative relative to the status quo.

Alternative	Change in the Present Value of Short-Run Financial Profits Relative to the Status Quo (25-Year Time Horizon)	Average Annual Change in Short-Run Financial Profits Relative to the Status Quo
Marlin Sales Alternative 1: The sale of striped marlin would not be prohibited by federal regulation in this FMP, but would continue to be prohibited by the state of California. (Status Quo/No Action)	NC	NC
Marlin Sales Alternative 2: Prohibits the sale of striped marlin by vessels under PFMC jurisdiction. (Proposed Action)	NC	NC

The proposed action will have little impact on private profits because there is virtually no change from the status quo. Striped marlin cannot now be sold, so no revenue impacts to the fishermen will ensue.

The FMP would require a Federal permit with a specific endorsement for each gear type (harpoon, drift gillnet, surface hook and line, purse seine, and pelagic longline). The permits and endorsements are subject to sanctions, including revocation, as provided by Section 308 (g) of the Magnuson-Stevens Act. Permits are a standard tool used to support management by facilitating collection of biological, economic or social data, facilitating enforcement of laws and regulations, identifying those who would be affected by actions to prevent or reduce excess capacity in the fishery, and providing information to meet international obligations.

A review of NMFS data base indicates that there are an estimated 1,114 vessels likely to harvest highly migratory species. All 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 proposed action. The proposed action is duplicative in the sense that permit requirements implemented for other purposes may require a vessel to have more than one permit to fish highly migratory species.

Financial impacts of each regulatory alternative pertaining to commercial fishing permits were evaluated based on incremental changes from the status quo; i.e., the difference between expected exvessel private profits under the proposed action and private profits under the status quo. The following table reports the estimated incremental qualitative changes in short-run financial profits for each regulatory alternative relative to the status quo. Financial impacts are evaluated as the present value of changes in short-run financial profits over a 25 year time period discounted at 7 percent and 4 percent discount rates. The annual average change in short-run financial profits is also shown.

Alternative	Change in the Present Value of Short-Run Financial Profits Relative to the Status Quo (25-Year Time Horizon)	Average Annual Change in Short-Run Financial Profits Relative to the Status Quo
Commercial Permit Alternative 1: Require no new federal permits. Federal permits under other laws would remain in place, as would state permit requirements. (Status Quo/No Action)	NC	NC
Commercial Permit Alternative 2: Requires a federal permit for HMS vessels with a specific endorsement for each gear type (harpoon, DGN, surface hook and line, purse seine, and pelagic longline). The permit is to be issued to a vessel owner for each specific fishing vessel used in commercial HMS fishing. (Proposed Action)	NQ-	NQ-
Commercial Permit Alternative 3: Requires a federal permit for all vessels engaged in commercial HMS fisheries within and outside the EEZ. One permit would cover all HMS fisheries for a given vessel.	NQ-	NQ-
Commercial Permit Alternative 4: Requires a federal permit for all vessels engaged in selected commercial fisheries. Initial candidates for permits would be vessels engaged in DGN and longline fisheries.	NQ-	NQ-

Under Alternative 2 there would be a slight reduction in financial profits due to the cost of acquiring a commercial permit. Estimates of permit costs for commercial vessels are about \$60.00 per vessel; a \$40 permit fee and \$20 for the time involved in filling out or confirming information on the permit registration form. The same costs would be entailed under Alternatives 3 and 4, no matter what the scope of the permit. This is an additional fixed cost, and although minor, may be disproportionate across smaller vessels engaged in HMS fisheries.

The FMP requires a Federal permit for all commercial passenger recreational fishing vessels that fish for highly migratory species, but an existing state permit or license for recreational vessels could meet this requirement. As with commercial fishing permits, this measure would provide a mechanism for identifying the scope of the recreational fishery and the participants so that data collection and research could be more focused and effective. The number of vessels on the West Coast is 300. All 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 proposed action. The proposed action would not require new reporting, record-keeping, or other compliance requirements. However, permit processing and periodic permit renewal would be necessary.

Financial impacts of each regulatory alternative pertaining to recreational fishing permits were evaluated based on incremental changes from the status quo; i.e., the difference between expected vessel private profits under the proposed action and private profits under the status quo. The following table reports the estimated incremental qualitative changes in short-run financial profits for each regulatory alternative relative to the status quo. Financial impacts are evaluated as the present value of changes in short-run financial profits over a 25 year time period discounted at 7 percent and 4 percent discount rates. The annual average change in short-run financial profits is also shown.

Alternative	Change in the Present Value of Short-Run Financial Profits Relative to the Status Quo (25-Year Time Horizon)	Average Annual Change in Short-Run Financial Profits to the Status Quo
Recreational Permit Alternative 1 Requires no new federal permits for recreational vessels, private or party/charter. (Status Quo/No Action)	NC	NC
Recreational Permit Alternative 2: Requires a federal permit for all CPFVs that fish for HMS, but an existing state permit or license for recreational vessels could meet this requirement. The Council would, however, request states to incorporate in their existing CPFV permit systems an allowance for an HMS species endorsement on permits, so that statistics could be gathered on that segment of the HMS fishery. (Proposed Action)	NQ-	NQ-
Recreational Permit Alternative 3: Requires a separate federal permit for all CPFVs that fish for HMS; a state permit could not be used to fill this requirement, as in Alternative 2.	NQ-	NQ-
Recreational Permit Alternative 4: Requires a federal permit for all recreational fishing vessels (private, party and charter/CPFV) that fish for HMS within and outside the EEZ.	NQ-	NQ-

Under Alternative 2, recreational vessels without a state permit would experience a slight reduction in financial profits due to the cost of acquiring a federal recreational permit, which is estimated to be about \$50.00 per vessel. This is an additional fixed cost, and even though minor, may be disproportionate across smaller vessels engaged in commercial passenger recreational fishing for highly migratory species. The same costs would be entailed under Alternatives 3 and 4, no matter what the scope of the permit. Alternative 3 could be somewhat duplicative if it were to overlap state requirements. If a vessel has a choice between a state and a federally issued permit to meet this requirement, there could be some cost savings, improved financial profits, if there is a difference in costs between state and federal permits.

The FMP would require all commercial and recreational party or charter fishing vessels to maintain and submit logbooks to NMFS. State or existing Federal logbooks could meet this

requirement as long as essential data elements are present and data are available to NMFS subject to a data exchange agreement. This measure would facilitate the monitoring of commercial and recreational vessel activities and enhance data collection. This measure would effect about 1,354 commercial and recreational vessels. The number of vessels for which this requirement poses an increased record keeping burden is unknown, but many vessels already are required to maintain state or existing Federal logbooks that would satisfy this requirement. The proposed action would impose new reporting and record-keeping requirements for some vessels. The proposed action is designed to avoid duplication of existing Federal reporting requirements.

Financial impacts of each regulatory alternative pertaining to fishing vessel reporting requirements were evaluated based on incremental changes from the status quo; i.e., the difference between expected exvessel private profits under the proposed action and private profits under the status quo. The following table reports the estimated incremental qualitative changes in short-run financial profits for each regulatory alternative relative to the status quo. Financial impacts are evaluated as the present value of changes in short-run financial profits over a 25 year time period discounted at 7 percent and 4 percent discount rates. The annual average change in short-run financial profits is also shown.

Alternative	Change in the Present Value of Short-Run Financial Profits Relative to the Status Quo (25-Year Time Horizon)	Average Annual Change in Short-Run Financial Profits Relative to the Status Quo
Reporting Requirements Alternative 1: There would be no new federal requirements for reporting, including federal provisions for filling out Far Offshore Fishing Declarations. Existing federal reporting requirements (e.g., HSFCA reports for fishing on the high seas) and state reporting requirements would apply. (Status Quo/No Action)	NC	NC
Reporting Requirements Alternative 2: Requires all commercial and recreational party or charter/CPFV fishing vessels to maintain and submit logbooks to NMFS. State or existing federal logbooks could meet this requirement as long as essential data elements are present, and data are available to NMFS subject to a data exchange agreement. (Proposed Action)	NQ-	NQ-
Reporting Requirements Alternative 3 Limits new federal reporting requirements to those commercial vessels that are not already required to report under existing federal laws.	NQ-	NQ-

Under Alternative 2 there would be a slight reduction in financial profits due to the cost of satisfying the proposed reporting requirements for logbooks for those vessels that do not already meet these requirements. There are also additional reporting requirements associated with the use of vessel monitoring systems and vessel markings. Vessel monitoring systems would be required of longline vessels, but there are not expected to be any costs to vessels under this requirement. All vessels would be required to have identifying numbers, which would impose some additional fixed costs, and although minor, may be disproportionate across smaller vessels engaged in fisheries for highly migratory species. Under Alternative 3, financial impacts would be less because many vessels already maintain logbooks under existing federal laws.

This FMP contains collection-of-information requirements for 6 separate fisheries subject to review and approval by OMB under the Paperwork Reduction Act (PRA). These requirements will be submitted to OMB for approval. The public reporting

burden for these requirements is estimated to be 15 minutes for a permit application, 6 minutes for filling out a log each day, and 45 minutes to affix the official number of a vessel to its bow and weather deck. In addition, for longline vessels, 4 hours for installation of a vessel monitoring system, 2 hours for maintenance of the system, and 24 seconds for electronic reporting via the satellite based vessel monitoring system. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding whether these proposed collections of information are 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 information technology. The proposed rule will request that comments on these or any other aspects of the collection of information should be sent to NMFS, Southwest Region and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirement of the PRA, unless that collection of information displays a currently valid OMB control number.

A formal consultation with NMFS Protected Resources under the Endangered Species Act was initiated on **[insert date]**. Based on the conclusions of the consultation, the Regional Administrator will determine if fishing activities under this rule are likely to affect adversely endangered or threatened species or their critical habitat under NMFS jurisdiction.

A formal consultation with the Fish and Wildlife Service under the Endangered Species Act was initiated on **[insert date]**. Based on the conclusions of the consultation, the Fish and Wildlife Service will determine if fishing activities under this rule are likely to affect adversely endangered or threatened species or their critical habitat under its jurisdiction.

The Regional Administrator determined that fishing activities conducted under this rule would have no adverse impacts on marine mammals.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements
50 CFR Part 223

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

50 CFR Part 224

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements.

50 CFR Part 660

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

Dated:

William T. Hogarth

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR part 902, 50 CFR part 223, 50 CFR part 224, 50 CFR 229, and 50 CFR part 660, are proposed to be amended as follows:

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.

§ 902 [Amended]

50 CFR Chapter VI

PART 223--THREATENED MARINE AND ANADROMOUS SPECIES

2. The authority citation for part 223 continues 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.

3. In § 223.206, paragraph (d)(6) is removed.

§ 223.206 Exceptions to prohibitions relating to sea turtles.

* * * * *

(d) * * *

(6) [Removed]

PART 224--ENDANGERED MARINE AND ANADROMOUS SPECIES

4. The authority citation for part 224 continues to read as follows:

Authority: 16 U.S.C. 1531-1543 and 16 U.S.C. 1361 et seq.

5. In § 224.104, paragraph (c) is revised to read as follows:

* * * * *

(c) Special prohibitions relating to leatherback sea turtles are provided at § 223.206 (d)(2)(iv) and § 660.713

7. The authority citation for part 660 continues to read

as follows:

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

8. Add Subpart K to read as follows:

Subpart K-Highly Migratory Fisheries

Sec.

660.701 Purpose and scope.

660.702 Definitions.

660.703 Management area.

660.704 Vessel identification.

660.705 Prohibitions.

660.706 Treaty Indian rights.

660.707 Permits.

660.708 Reporting.

660.709 Annual specifications.

660.710 Closure of directed fishery.

660.711 General catch restrictions.

660.712 Longline.

660.713 Drift net.

660.714 Purse seine.

660.715 Harpoon.

660.716 Surface hook-and-line.

660.717 Framework for revising regulations.

660.718 Exempted fishing.

660.719 Scientific observers.

Subpart K--Highly Migratory Fisheries

§ 660.701 Purpose and scope.

This subpart implements the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (FMP). These regulations govern commercial and recreational fishing for HMS in the U.S. EEZ off the coasts of Washington, Oregon, and California.

§ 660.702 Definitions.

Basket-style longline gear means a type of longline gear that is divided into units called baskets, each consisting of a segment of main line to which 10 or more branch lines with hooks are spliced. The mainline and all branch lines are made of multiple braided strands of cotton, nylon, or other synthetic fibers impregnated with tar or other heavy coatings that cause the lines to sink rapidly in seawater.

Closure, when referring to closure of a fishery, means that taking and retaining, possessing, or landing the particular species or species group is prohibited.

Commercial fishing gear includes the following types of gear and equipment used in the highly migratory species fisheries:

- (1) Harpoon. Gear consisting of a pointed dart or iron

attached to the end of a pole or stick that is propelled only by hand and not by mechanical means.

(2) Surface hook-and-line. Fishing gear, other than longline gear, with one or more hooks attached to one or more lines (includes troll, rod and reel, handline, albacore jig, live bait, and bait boat). Surface hook and line is always attached to the vessel.

(3) Drift gillnet. A panel of netting, 14 inch stretched mesh or greater, suspended vertically in the water by floats along the top and weights along the bottom. A drift gillnet is not stationary or anchored to the bottom.

(4) Purse seine. An encircling net that may be closed by a purse line threaded through the bottom of the net. Purse seine gear includes ring net, drum purse seine, and lampara nets.

(5) Pelagic longline. A main line that is suspended horizontally in the water column and not stationary or anchored, and from which dropper lines with hooks (gangions) are attached. Legal longline gear also includes basket-style longline gear.

Commercial fishing means (1) Fishing by a person who possesses a commercial fishing license or is required by law to possess such license issued by one of the states or the Federal Government as a prerequisite to taking, landing and/or sale; or

(2) Fishing that results in or can be reasonably expected to result in sale, barter, trade or other disposition of fish for other than personal consumption.

Council means the Pacific Fishery Management Council, including its Highly Migratory Species Management Team (HMSMT), Scientific and Statistical Committee (SSC), Highly Migratory Species Advisory Subpanel (HMSAS), and any other committee established by the Council.

Fishing trip is a period of time between landings when fishing is conducted.

Fishing year is the year beginning at 0801 GMT (0001 local time) on April 1 and ending at 0800 GMT on March 31 (2400 local time on September 30) of the following year.

Fishery management area means the U.S. EEZ off the coasts of Washington, Oregon, and California between 3 and 200 nautical miles offshore, and bounded on the north by the Provisional International Boundary between the United States and Canada, and bounded on the south by the International Boundary between the United States and Mexico.

Harvest guideline means a specified numerical harvest objective that is not a quota. Attainment of a harvest guideline does not require closure of a fishery.

Highly Migratory species (HMS) means species managed by the FMP, specifically:

Billfish/Swordfish:

striped marlin (Tetrapturus audax)
swordfish (Xiphias gladius)

Sharks:

common thresher shark (Alopias vulpinus)
pelagic thresher shark (Alopias pelagicus)
bigeye thresher shark (Alopias superciliosus)
shortfin mako or bonito shark (Isurus oxyrinchus)
blue shark (Prionace glauca)

Tunas:

north Pacific albacore (Thunnus alalunga)
yellowfin tuna (Thunnus albacares)
bigeye tuna (Thunnus obesus)
skipjack tuna (Katsuwonus pelamis)
northern bluefin tuna (Thunnus orientalis)

Other:

dorado or dolphinfish (Coryphaena hippurus)

Highly Migratory Species Advisory Subpanel (HMSAS) means the individuals comprised of members of the fishing industry and public appointed by the Council to review proposed actions for managing highly migratory species fisheries.

Highly Migratory Species Fishery Management Plan (FMP) means

the Fishery Management Plan for the U.S. West Coast Fisheries for Highly Migratory Species developed by the Pacific Fishery Management Council and approved by the Secretary and amendments to the FMP.

Highly Migratory Species Management Team (HMSMT) means the individuals appointed by the Council to review, analyze, and develop management measures for highly migratory species fisheries.

Incidental catch or incidental species means HMS caught while fishing for the primary purpose of catching other species with gear not authorized by the FMP.

Land or landing means offloading fish from a fishing vessel or arriving in port to begin offloading fish or causing fish to be offloaded from a fishing vessel.

Mesh size means the opening between opposing knots in a net. Minimum mesh size means the smallest distance allowed between the inside of one knot to the inside of the opposing knot when the mesh is stretched, regardless of twine size.

Offloading means removing HMS from a vessel.

Permit holder means a permit owner.

Permit owner means a person who owns an HMS permit for a specific vessel fishing with specific authorized fishing gear.

Person, as it applies to fishing conducted under this

subpart, means any individual, corporation, partnership, association or other entity (whether or not organized or existing under the laws of any state), and any Federal, state, or local government, or any entity of any such government that is eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a).

Processing or to process means the preparation or packaging of HMS to render it suitable for human consumption, industrial uses or long-term storage, including, but not limited to, cooking, canning, smoking, salting, drying, filleting, freezing, or rendering into meal or oil, but does not mean heading and gutting unless additional preparation is done.

Prohibited species means those species and species groups whose retention is prohibited unless authorized by other applicable law (for example, to allow for examination by an authorized observer or to return tagged fish as specified by the tagging agency).

Quota means a specified numerical harvest objective, the attainment (or expected attainment) of which causes closure of the fishery for that species or species group.

Recreational fishing means fishing with authorized recreational fishing gear for personal use only and not for sale or barter.

Recreational charter vessel means a vessel that carries fee-paying passengers for the purpose of recreational fishing.

Regional Administrator means the Administrator, Southwest Region, NMFS, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213, or a designee.

Special Agent-In-Charge (SAC) means the Special Agent-In-Charge, NMFS, Office of Enforcement, Southwest Region, or a designee of the Special Agent-In-Charge.

Sustainable Fisheries Division (SFD) means the Assistant Regional Administrator for Sustainable Fisheries, Southwest Region, NMFS, or a designee.

Tranship means offloading or otherwise transferring HMS or products thereof to a receiving vessel.

Vessel monitoring system unit (VMS unit) means the hardware and software equipment owned by NMFS, installed on vessels by NMFS, and required by subpart K of this part to track and transmit the positions from fishing vessels.

§ 660.703 Management area.

The fishery management area for the regulation of fishing for HMS has the following designations and boundaries:

(1) Southern boundary--the United States-Mexico International Boundary, which is a line connecting the following coordinates:

32°35'22" N. lat. 117°27'49" W. long.
32°37'37" N. lat. 117°49'31" W. long.
31°07'58" N. lat. 118°36'18" W. long.
30°32'31" N. lat. 121°51'58" W. long.

(2) Northern boundary--the United States-Canada Provisional International Boundary, which is a line connecting the following coordinates:

48°29'37.19" N. lat. 124°43'33.19" W. long.
48°30'11" N. lat. 124°47'13" W. long.
48°30'22" N. lat. 124°50'21" W. long.
48°30'14" N. lat. 124°54'52" W. long.
48°29'57" N. lat. 124°59'14" W. long.
48°29'44" N. lat. 125°00'06" W. long.
48°28'09" N. lat. 125°05'47" W. long.
48°27'10" N. lat. 125°08'25" W. long.
48°26'47" N. lat. 125°09'12" W. long.
48°20'16" N. lat. 125°22'48" W. long.
48°18'22" N. lat. 125°29'58" W. long.
48°11'05" N. lat. 125°53'48" W. long.
47°49'15" N. lat. 126°40'57" W. long.
47°36'47" N. lat. 127°11'58" W. long.
47°22'00" N. lat. 127°41'23" W. long.
46°42'05" N. lat. 128°51'56" W. long.
46°31'47" N. lat. 129°07'39" W. long.

§ 660.704 Vessel Identification.

(a) Official number. Each fishing vessel subject to this subpart must display its official number on the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck so as to be visible from enforcement vessels and aircraft.

(b) Numerals. The official number must be affixed to each vessel subject to this subpart in block Arabic numerals at least 14 inches (35.56 cm) in height. Markings must be legible and of a color that contrasts with the background.

§ 660.705 Prohibitions.

In addition to the general prohibitions specified in § 600.725 of this chapter, it is unlawful for any person to do any of the following:

(a) Fish for HMS in the U.S. EEZ off the Pacific coast without a permit issued under § 660.707 for the use of authorized fishing gear.

(b) Fish with gear in any closed area specified in this subpart that prohibits the use of such gear.

(c) Land HMS at Pacific coast ports without a permit issued under § 600.707 for the use of authorized fishing gear.

(d) Sell HMS without an applicable commercial state fishery

license.

(e) When fishing for HMS, fail to return a prohibited species to the sea immediately with a minimum of injury.

(f) Falsify or fail to affix and maintain vessel markings as required by § 660.704.

(g) Fish for HMS in violation of any terms or conditions attached to an exempted fishing permit issued under § 600.745 of this chapter.

(h) When a directed fishery has been closed for a specific species, take and retain, possess, or land that species after the closure date.

(i) Refuse to submit fishing gear or fish subject to such person's control to inspection by an authorized officer, or to interfere with or prevent, by any means, such an inspection.

(j) Falsify or fail to make and/or file any and all reports of fishing, landing, or any other activity involving HMS, containing all data, and in the exact manner, required by the applicable state law, as specified in § 660.708(b).

(k) Fail to carry aboard a vessel that vessel's permit issued under § 660.707 or exempted fishing permit issued under § 660.718.

(l) Fail to carry a VMS unit as required under Sec. 660.712 (d).

(m) Interfere with, tamper with, alter, damage, disable, or impede the operation of a VMS unit or to attempt any of the same; or to move or remove a VMS unit without the prior permission of the SAC.

(n) Make a false statement, oral or written, to an authorized officer, regarding the use, operation, or maintenance of a VMS unit.

(o) Fish for, catch, or harvest HMS with longline gear without a VMS unit on board the vessel after installation of the VMS unit by NMFS.

(p) Possess on board a vessel without a VMS unit HMS harvested with longline gear after NMFS has installed the VMS unit on the vessel.

(q) Direct fishing effort toward the harvest of swordfish (Xiphias gladius) using longline gear deployed west of 150° W. long. and north of the equator (0° lat.) on a vessel registered for use of longline gear in violation of § 660.712(a)(1).

(r) Possess a light stick on board a longline vessel when fishing west of 150° W. long. and north of the equator (0° lat.) in violation of § 660.712(a)(6)

(s) Possess more than 10 swordfish on board a longline vessel from a fishing trip where any part of the trip included fishing west of 150° W. long. and north of the equator (0° lat.)

in violation of § 660.712(a)(9).

(t) Interfere with, impede, delay, or prevent the installation, maintenance, repair, inspection, or removal of a VMS unit.

(u) Interfere with, impede, delay, or prevent access to a VMS unit by a NMFS observer.

(v) Connect or leave connected additional equipment to a VMS unit without the prior approval of the SAC.

(w) Fish for HMS with a vessel registered for use of longline gear within closed areas or by use of unapproved gear configurations in violation of § 660.712(a)(2), (a)(3), (a)(7), or (a)(8).

(x) Fail to use a line setting machine or line shooter, with weighted branch lines, to set the main longline when operating a vessel that is registered for use of longline gear and equipped with monofilament main longline, when making deep sets north of 23° N. lat. in violation of Sec. 660.712 (c)(1)(i) and (c)(1)(ii).

(y) Fail to employ basket-style longline gear such that the mainline is deployed slack when operating a vessel registered for use of longline gear north of 23° N. lat. in violation of Sec. 660.712 (c)(1)(iii).

(z) Fail to maintain and use blue dye to prepare thawed bait when operating a vessel registered for use of longline gear that is fishing north of 23° N. lat., in violation of Sec. 660.712 (c)(2) and (c)(3).

(aa) Fail to retain, handle, and discharge fish, fish parts, and spent bait strategically when operating a vessel registered for use of longline gear that is fishing north of 23° N. lat. in violation of Sec. 660.712 (c)(4) through (c)(7).

(bb) Fail to handle short-tailed albatrosses that are caught by pelagic longline gear in a manner that maximizes the probability of their long-term survival, in violation of Sec. 660.712 (c)(8).

(cc) Fail to handle seabirds other than short-tailed albatross that are caught by pelagic longline gear in a manner that maximizes the probability of their long-term survival in violation of § 660.712 (c)(17).

(dd) Own a longline vessel registered for use of longline gear that is engaged in longline fishing for HMS without a valid protected species workshop certificate issued by NMFS or a legible copy thereof in violation of Sec. 660.712(e)(3).

(ee) Fish for HMS on a vessel registered for use of longline gear without having on board a valid protected species workshop certificate issued by NMFS or a legible copy thereof in violation of § 660.712(e).

(ff) Fail to carry line clippers, dip nets, and wire or bolt cutters on a vessel registered for use as a longline vessel in violation of § 660.712(b).

(gg) Fail to comply with sea turtle handling, resuscitation, and release requirements specified in § 660.712(b)(5) through (8) when operating a vessel.

(hh) Fail to comply with seabird take mitigation or handling techniques required under § 660.712(c)

(ii) Fish for HMS with a vessel registered for use as a longline vessel without being certified by NMFS for completion of an annual protected species workshop as required under § 660.712(e).

§ 660.706 Pacific Coast Treaty Indian Rights.

(a) Pacific Coast treaty Indian tribes have treaty rights to harvest HMS in their usual and accustomed (u&a) fishing areas in U.S. waters.

(b) Pacific Coast treaty Indian tribes means the Hoh, Makah, and Quileute Indian Tribes and the Quinault Indian Nation.

(c) The NMFS recognizes the areas set forth below as marine u&a fishing grounds of the four Washington coastal tribes. The Makah u&a grounds were adjudicated in U.S. v. Washington, 626 F.Supp. 1405, 1466 (W.D. Wash. 1985), affirmed 730 F.2d 1314 (9th Cir. 1984). The u&a grounds of the Quileute, Hoh, and Quinault tribes have been recognized administratively by NMFS. See, e.g., 64 Fed. Reg. 24087-24088 (May 5, 1999) (u&a grounds for groundfish); 50 C.F.R. 300.64(i) (u&a grounds for halibut). The u&a grounds recognized by NMFS may be revised as ordered by a federal court.

(d) Procedures. The rights referred to in paragraph (a) will be implemented by the Secretary of Commerce, after consideration of the tribal request, the recommendation of the Council, and the comments of the public. The rights will be implemented either through an allocation of fish that will be managed by the tribes, or through regulations that will apply specifically to the tribal fisheries. An allocation or a regulation specific to the tribes shall be initiated by a written request from a Pacific Coast treaty Indian tribe to the NMFS Northwest Regional Administrator, at least 120 days prior to the time the allocation is desired to be effective, and will be subject to public review through the Council process. The Secretary recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. Accordingly, the Secretary will develop tribal allocations and regulations in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

(e) Identification. A valid treaty Indian identification

card issued pursuant to 25 CFR Part 249, Subpart A, is prima facie evidence that the holder is a member of the Pacific Coast treaty Indian tribe named on the card.

(f) Fishing (on a tribal allocation or under a federal regulation applicable to tribal fisheries) by a member of a Pacific Coast treaty Indian tribe within that tribe's usual and accustomed fishing area is not subject to provisions of the HMS regulations applicable to non-treaty fisheries.

(g) Any member of a Pacific Coast treaty Indian tribe must comply with any applicable federal and tribal laws and regulations, when participating in a tribal HMS fishery implemented under paragraph (d) above.

(h) Fishing by a member of a Pacific Coast treaty Indian tribe outside that tribe's usual and accustomed fishing area, or for a species of HMS not covered by a treaty allocation or applicable federal regulation, is subject to the HMS regulations applicable to non-treaty fisheries.

§ 660.707 Permits.

(a) General. This section applies to fishing for or landing HMS in the States of California, Oregon, and Washington.

(1) By January 1, 2004, a commercial fishing vessel of the United States must be registered for use under a HMS permit that authorizes the use of specific gear, and a recreational charter vessel must be registered for use under a HMS permit if that vessel is used:

(i) To fish for HMS in the U.S. EEZ off the States of California, Oregon, and Washington; or

(ii) To land or transship HMS shoreward of the outer boundary of the U.S. EEZ off the States of California, Oregon, and Washington.

(2) The permit must be on board the vessel and available for inspection by an authorized officer, except that if the permit was issued while the vessel was at sea, this requirement applies only to any subsequent trip.

(3) A permit is valid only for the vessel for which it is registered. A permit not registered for use with a particular vessel may not be used.

(4) Only a person eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a) may be issued or may hold (by ownership or otherwise) an HMS permit.

(b) Application. (1) Following publication of the final rule implementing the FMP, NMFS will issue permits to the owners of those vessels on a list of vessels obtained from owners previously applying for a permit under the authority of the High Seas Fishing Compliance Act, the Tuna Conventions Act of 1950, and the Fishery Management Plan for Pelagic Fisheries of the

Western Pacific Region.

(2) All permits issued by NMFS in accordance with paragraph (b)(1) of this section will be issued by **[insert date 60 days following effective date of final rule]** and for commercial fishing vessels will authorize the use of specific fishing gear.

(3) Beginning on **[insert date 60 days following effective date of final rule]**, vessel owners who have not received an HMS permit must apply to the SFD for the required permit in accordance with the following:

(i) A Southwest Region Federal Fisheries application form may be obtained from the SFD to apply for a permit to fish for HMS off the coasts of California, Oregon, and Washington. A completed application is one that contains all the necessary information and signatures required. A copy of the application may be attained at <http://swr.nmfs.noaa.gov/permits.htm>.

(ii) A minimum of 15 days should be allowed for processing a permit application. If an incomplete or improperly completed application is filed, the applicant will be sent a notice of deficiency. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(4) Permits issued under this subpart will remain valid for five years unless revoked or suspended. The first renewal date will be January 1, 2009.

(5) Replacement permits may be issued without charge to replace lost or mutilated permits. An application for a replacement permit is not considered a new application.

(6) Any permit that has been altered, erased, or mutilated is invalid.

(c) Display. Any permit issued under this subpart, or a facsimile of the permit, must be on board the vessel at all times while the vessel is fishing for, taking, retaining, possessing, or landing HMS shoreward of the outer boundary of the fishery management area. Any permit issued under this section must be displayed for inspection upon request of an authorized officer.

(d) Sanctions. Procedures governing sanctions and denials are found at subpart D of 15 CFR part 904.
§ 660.708 Reporting and recordkeeping.

(a) Logbooks. The operator of any commercial fishing vessel and any recreational charter vessel fishing for HMS in the management area must maintain on board the vessel an accurate and complete record of catch, effort, and other data on report forms provided by the Regional Administrator or a state agency. All information specified on the forms must be recorded on the forms within 24 hours after the completion of each

fishing day. The original logbook form for each day of the fishing trip must be submitted to either the Regional Administrator or the appropriate state management agency within 30 days of each landing or transshipment of HMS. Each form must be signed and dated by the fishing vessel operator.

(1) Logbooks acceptable to meeting the reporting requirement may be found at <http://swr.nmfs.noaa.gov/logbooks.htm>, and include:

(i) The logbook required under § 300.21 implementing the Tuna Conventions Act of 1950;

(ii) The logbook required under § 660.14 implementing the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region;

(iii) The logbook required by § 300.17 implementing the High Seas Fishing Compliance Act of 1995.

(iv) Any logbook required by the fishery management agency of the States of California, Oregon, or Washington.

(2) Any holder of a permit that does not provide logbooks under any of the above authorities must, by written request, apply to the SFD for the appropriate logbook. The applicant must provide his or her name and address, the name of the vessel, and the type of fishing gear used.

(3) The Regional Administrator may, after consultation with the Council, initiate rulemaking to modify the information to be provided on the fishing record forms.

(b) Any person who is required to do so by the applicable state law must make and/or file, retain, or make available any and all reports of HMS containing all data, and in the exact manner, required by the applicable state law.

§ 660.709 Annual specifications.

(a) Procedure. (1) In June of each year, the HMSMT will deliver a preliminary SAFE report to the Council for all HMS with any necessary recommendations for harvest guidelines, quotas or other management measures to protect HMS.

(2) In September of each year, the HMSMT will deliver a final SAFE report to the Council. The Council will adopt any necessary harvest guidelines, quotas or other management measures for public review.

(3) In November each year, the Council will take final action on any necessary harvest guidelines, quotas, or other management measures and make its recommendations to NMFS.

(4) The Regional Administrator will implement through rulemaking any necessary and appropriate harvest guidelines, quotas, or other management measures based on the SAFE report, recommendations from the Council, and the requirements contained

in the FMP.

(b) Fishing seasons for all species will begin on April 1 of each year at 0001 hours local time and terminate on March 31 of each year at 2400 hours local time.

(c) Harvest guidelines, quotas, and other management measures announced for a particular year will be in effect the following year unless changed through the public review process described in paragraph (a) of this section.

(d) Irrespective of the normal review process, the Council may take management action to protect HMS at any time. The Council may adopt a management cycle different from the one described in this section provided that such change is made by a majority vote of the Council and a six-month notice of the change is given. NMFS will implement the new schedule through rulemaking.

§ 660.710 Closure of directed fishery.

(a) When a quota has been taken, the Regional Administrator will announce in the Federal Register the date of closure of the fishery for the species of concern.

(b) When a harvest guideline has been taken, the Regional Administrator will initiate review of the species of concern according to section 8.4.8 of the FMP and publish in the Federal Register any necessary and appropriate regulations following Council recommendations.

§ 660.711 General catch restrictions.

(a) Prohibited species. HMS under the FMP for which quotas have been achieved and the fishery closed are prohibited species. In addition, the following are prohibited species:

- (1) Any species of salmon
- (2) Great white shark
- (3) Basking shark
- (4) Megamouth shark
- (5) Pacific halibut

(b) Incidental landings. HMS caught by gear not authorized by this subpart may be landed in incidental amounts as follows:

(1) Drift gillnet vessels with stretched mesh less than 14 inches may land up to 10 HMS per trip, except that no swordfish may be landed.

(2) Bottom longline vessels may land up to 20 percent by weight of management unit sharks in landings of all species or 3 management unit sharks, whichever is greater by weight.

(3) Trawl and pot gear may land up to 1 percent by weight of management unit sharks in a landing of all species or 2 management unit sharks, whichever is greater.

(c) Marlin prohibition. The sale of striped marlin is prohibited.

§ 660.712 Longline Fishery.

(a) Gear and fishing restrictions. (1) Owners and operators of vessels registered for use of longline gear may not use longline gear to fish for or target HMS within the EEZ.

(2) Owners and operators of vessels registered for use of longline gear may not use longline gear to fish for or target swordfish (Xiphias gladius) west of 150° W. long. and north of the equator (0° N. lat.).

(3) A person aboard a vessel registered for use of longline gear fishing for HMS west of 150° W. long. and north of the equator (0° N. lat.) may not possess or deploy any float line that is shorter than or equal to 20 m (65.6 ft or 10.9 fm). As used in this paragraph, float line means a line used to suspend the main longline beneath a float.

(4) From April 1 through May 31, owners and operators of vessels registered for use of longline gear may not use longline gear in waters bounded on the south by 0° lat., on the north by 15° N. lat., on the east by 145° W. long., and on the west by 180° long.

(5) From April 1 through May 31, owners and operators of vessels registered for use of longline gear may not receive from another vessel HMS that were harvested by longline gear in waters bounded on the south by 0° lat., on the north by 15° N. lat., on the east by 145° W. long., and on the west by 180° long.

(6) From April 1 through May 31, owners and operators of vessels registered for use of longline gear may not land or transship HMS that were harvested by longline gear in waters bounded on the south by 0° lat., on the north by 15° N. lat., on the east by 145° W. long., and on the west by 180° long.

(7) No light stick may be possessed on board a vessel registered for use of longline gear during fishing trips that include any fishing west of 150° W. long. and north of the equator (0° N. lat.). 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.

(8) When a conventional monofilament longline is deployed in waters west of 150° W. long. and north of the equator (0° N. lat.) by a vessel registered for use of longline gear, 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 when fishing in waters north of the equator.

(9) Longline gear deployed west of 150° W. long. and north of the equator (0° N. lat.) by a vessel registered for use of 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.

(10) Owners and operators of longline vessels registered for use of longline gear may land or possess no more than 10 swordfish from a fishing trip where any part of the trip included fishing west of 150° W. long. and north of the equator (0° N. lat.).

(b) Sea turtle take mitigation measures. (1) Owners and operators of vessels registered for use of longline gear must carry aboard their vessels line clippers meeting the minimum design standards specified in (b)(2) of this section, dip nets meeting minimum standards specified in (b)(3) 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 hook as possible in accordance with the requirements specified in (b)(4) through (b)(6) of this section.

(2) Line clippers are intended to cut fishing line as close as possible to hooked or entangled sea turtles. NMFS has established minimum design standards for line clippers. The Arceneaux line clipper (ALC) is a model line clipper that meets these minimum design standards and may be fabricated from readily available and low-cost materials (see figure 1 of this subpart). The minimum design standards are as follows:

(i) The cutting blade must be curved, recessed, contained in a holder, or otherwise afforded some protection to minimize direct contact of the cutting surface with sea turtles or users of the cutting blade.

(ii) The blade must be capable of cutting 2.0-2.1 mm monofilament line and nylon or polypropylene multistrand material commonly known as braided mainline or tarred mainline.

(iii) The line clipper must have an extended reach handle or pole of at least 6 ft (1.82 m).

(iv) The cutting blade must be securely fastened to the extended reach handle or pole to ensure effective deployment and use.

(3) Dip nets are intended to facilitate safe handling of sea turtles and access to sea turtles for purposes of cutting lines in a manner that minimizes injury and trauma to sea turtles. The minimum design standards for dip nets that meet the requirements of this section are:

(i) The dip net must have an extended reach handle of at least 6 ft (1.82 m) of wood or other rigid material able to

support a minimum of 100 lbs (34.1 kg) without breaking or significant bending or distortion.

(ii) The dip net must have a net hoop of at least 31 inches (78.74 cm) inside diameter and a bag depth of at least 38 inches (96.52 cm). The bag mesh openings may be no more than 3 inches x

3 inches (7.62 cm x 7.62 cm).

(4) All incidentally taken sea turtles brought aboard for dehooking and/or disentanglement must be handled in a manner to minimize injury and promote post-hooking survival.

(i) When practicable, comatose sea turtles must be brought on board immediately, with a minimum of injury, and handled in accordance with the procedures specified in paragraphs (b) (5) and (b) (6) of this section.

(ii) If a sea turtle is too large or hooked in such a manner as to preclude safe boarding without causing further damage/injury to the turtle, line clippers described in paragraph (b) (2) of this section must be used to clip the line and remove as much line as possible prior to releasing the turtle.

(iii) If a sea turtle is observed to be hooked or entangled by longline gear during hauling operations, the vessel operator must immediately cease hauling operations until the turtle has been removed from the longline gear or brought on board the vessel.

(iv) Hooks must be removed from sea turtles as quickly and carefully as possible. If a hook cannot be removed from a turtle, the line must be cut as close to the hook as possible.

(5) If the sea turtle brought aboard appears dead or comatose, the sea turtle must be placed on its belly (on the bottom shell or plastron) so that the turtle is right side up and its hindquarters elevated at least 6 inches (15.24 cm) for a period of no less than 4 hours and no more than 24 hours. The amount of the elevation depends on the size of the turtle; greater elevations are needed for larger turtles. A reflex test, performed by gently touching the eye and pinching the tail of a sea turtle, must be administered by a vessel operator, at least every 3 hours, to determine if the sea turtle is responsive. Sea turtles being resuscitated must be shaded and kept damp or moist but under no circumstance may be placed into a container holding water. A water-soaked towel placed over the eyes, carapace, and flippers is the most effective method to keep a turtle moist. Those that revive and become active must be returned to the sea in the manner described in paragraph (b) (6) of this section. Sea turtles that fail to revive within the 24-hour period must

also be returned to the sea in the manner described in paragraph (b) (6) (i) of this section.

(6) Live turtles must be returned to the sea after handling in accordance with the requirements of paragraphs (b) (4) and (b) (5) of this section:

(i) By putting the vessel engine in neutral gear so that the propeller is disengaged and the vessel is stopped, and releasing the turtle away from deployed gear; and

(ii) Observing that the turtle is safely away from the vessel before engaging the propeller and continuing operations.

(7) In addition to the requirements in paragraphs (b) and (c) of this section, a vessel operator shall perform sea turtle handling and resuscitation techniques consistent with Sec. 223.206 (d) (1) of this title, as appropriate.

(c) Longline Seabird mitigation measures. (1) Seabird mitigation techniques. Owners and operators of vessels registered for use of longline gear must ensure that the following actions are taken when fishing north of 23° N. lat.:

(i) Employ a line setting machine or line shooter to set the main longline when making deep sets west of 150° W. long. using monofilament main longline;

(ii) Attach a weight of at least 45 g to each branch line within 1 m of the hook when making deep sets using monofilament main longline;

(iii) When using basket-style longline gear, ensure that the main longline is deployed slack to maximize its sink rate;

(2) Use completely thawed bait that has been dyed blue to an intensity level specified by a color quality control card issued by NMFS;

(3) Maintain a minimum of two cans (each sold as 0.45 kg or 1 lb size) containing blue dye on board the vessel;

(4) Discharge fish, fish parts (offal), or spent bait while setting or hauling longline gear, on the opposite side of the vessel from where the longline gear is being set or hauled;

(5) Retain sufficient quantities of fish, fish parts, or spent bait, between the setting of longline gear for the purpose of strategically discharging it in accordance with paragraph (a) (6) of this section;

(6) Remove all hooks from fish, fish parts, or spent bait prior to its discharge in accordance with paragraph (c) (4) of this section; and

(7) Remove the bill and liver of any swordfish that is caught, sever its head from the trunk and cut it in half vertically, and periodically discharge the butchered heads and

livers in accordance with paragraph (a) (6) of this section.

(8) If a short-tailed albatross is hooked or entangled by a vessel registered for use of longline gear, owners and operators must ensure that the following actions are taken:

(i) Stop the vessel to reduce the tension on the line and bring the bird on board the vessel using a dip net;

(ii) Cover the bird with a towel to protect its feathers from oils or damage while being handled;

(iii) Remove any entangled lines from the bird;

(iv) Determine if the bird is alive or dead.

(A) If dead, freeze the bird immediately with an identification tag attached directly to the specimen listing the species, location and date of mortality, and band number if the bird has a leg band. Attach a duplicate identification tag to the bag or container holding the bird. Any leg bands present must remain on the bird. Contact NMFS, the Coast Guard, or the U.S. Fish and Wildlife Service at the numbers listed on the Short-tailed Albatross Handling Placard distributed at the NMFS protected species workshop, inform them that you have a dead short-tailed albatross on board, and submit the bird to NMFS within 72 hours following completion of the fishing trip.

(B) If alive, handle the bird in accordance with paragraphs (c) (9) through (c) (14) of this section.

(9) Place the bird in a safe enclosed place;

(10) Immediately contact NMFS, the Coast Guard, or the U.S. Fish and Wildlife Service at the numbers listed on the Short-tailed Albatross Handling Placard distributed at the NMFS protected species workshop and request veterinary guidance;

(11) Follow the veterinary guidance regarding the handling and release of the bird.

(12) Complete the short-tailed albatross recovery data form issued by NMFS.

(13) If the bird is externally hooked and no veterinary guidance is received within 24-48 hours, handle the bird in accordance with paragraphs (c) (17) (iv) and (v) of this section, and release the bird only if it meets the following criteria:

(i) Able to hold its head erect and respond to noise and motion stimuli;

(ii) Able to breathe without noise;

(iii) Capable of flapping and retracting both wings to normal folded position on its back;

(iv) Able to stand on both feet with toes pointed forward;
and

(v) Feathers are dry.

(14) If released under paragraph (c)(13) of this section or under the guidance of a veterinarian, all released birds must be placed on the sea surface.

(15) If the hook has been ingested or is inaccessible, keep the bird in a safe, enclosed place and submit it to NMFS immediately upon the vessel's return to port. Do not give the bird food or water.

(16) Complete the short-tailed albatross recovery data form issued by NMFS.

(17) If a seabird other than a short-tailed albatross is hooked or entangled by a vessel registered for use of longline gear, owners and operators must ensure that the following actions are taken:

(i) Stop the vessel to reduce the tension on the line and bring the seabird on board the vessel using a dip net;

(ii) Cover the seabird with a towel to protect its feathers from oils or damage while being handled;

(iii) Remove any entangled lines from the seabird;

(iv) Remove any external hooks by cutting the line as close as possible to the hook, pushing the hook barb out point first, cutting off the hook barb using bolt cutters, and then removing the hook shank;

(v) Cut the fishing line as close as possible to ingested or inaccessible hooks;

(vi) Leave the bird in a safe enclosed space to recover until its feathers are dry; and

(vii) After recovered, release seabirds by placing them on the sea surface.

(d) Vessel monitoring system.

(1) Only a VMS unit owned by NMFS and installed by NMFS complies with the requirement of this subpart.

(2) After the holder of a permit to use longline gear has been notified by the SAC of a specific date for installation of a VMS unit on the permit holder's vessel, the vessel must carry the VMS unit after the date scheduled for installation.

(3) During the experimental VMS program, a longline permit holder shall not be assessed any fee or other charges to obtain and use a VMS unit, including the communication charges related directly to requirements under this section. Communication charges related to any additional equipment attached to the VMS unit by the owner or operator shall be the responsibility of the owner or operator and not NMFS.

(4) The holder of a longline permit and the master of the vessel operating under the permit must:

(i) Provide opportunity for the SAC to install and make

operational a VMS unit after notification.

(ii) Carry the VMS unit on board whenever the vessel is at sea.

(iii) Not remove or relocate the VMS unit without prior approval from the SAC.

(5) The SAC has authority over the installation and operation of the VMS unit. The SAC may authorize the connection or order the disconnection of additional equipment, including a computer, to any VMS unit when deemed appropriate by the SAC.

(e) Protected species workshop. (1) Each year both the owner and the operator of a vessel registered for use of longline gear 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.

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

(3) An owner of a vessel registered for use of longline gear must have on file a valid protected species workshop certificate or copy issued by NMFS in order to maintain or renew their vessel registration.

(4) An operator of a vessel registered for use of longline gear must have on board the vessel a valid protected species workshop certificate issued by NMFS or a legible copy thereof.

§ 660.713 Drift Gillnet Fishery

(a) Take Reduction Plan Gear Restrictions. Gear restrictions resulting from the Pacific Offshore Cetacean Take Reduction Plan established under the authority of the Marine Mammal Protection Act of 1972 can be found at 50 CFR 229.31.

(b) Other gear restrictions. (1) The maximum length of a drift gillnet on board a vessel shall not exceed 6,000 feet.

(2) Up to 1,500 feet of drift gillnet in separate panels of 600 feet may be on board the vessel in a storage area.

(c) Protected Resource Area Closures. (1) No person may fish with, set, or haul back drift gillnet gear in U.S. waters of the Pacific Ocean from August 15 through November 15 in the area bounded by straight lines connecting the following coordinates in the order listed (see figure 3 of this section):

(i) Pt. Sur at 36° 18.5' N. lat., to

(ii) 34° 27' N. lat. 123° 35' W. long.;

(iii) 34° 27' N. lat. 129° W. long.;

(v) 45° N. lat. 129° W. long., thence

(vii) to the point where 45° N. lat. intersects the Oregon coast.

(2) No person may fish with, set, or haul back drift gillnet gear in U.S. waters of the Pacific Ocean south of 34° 27' N. lat. (Pt. Conception) and east of 120° W. long. from June 1

through August 31 during a forecasted or occurring El Niño event.²

(A) The Assistant Administrator will publish a notification in the Federal Register that an El Niño event is occurring off, or is forecast for off, the coast of southern California and the requirement for time area closures in the Pacific loggerhead conservation zone. The notification will also be announced in summary form by other methods as the Assistant Administrator determines necessary and appropriate to provide notice to the California/Oregon drift gillnet fishery.

(B) The Assistant Administrator will rely on information developed by NOAA offices that monitor El Niño events, such as NOAA's Coast Watch program, and developed by the State of California, to determine if such a notice should be published. The requirement for the area closures from January 1 through January 31 and from August 15 through August 31 will remain effective until the Assistant Administrator issues a notice that the El Niño event is no longer occurring.

(d) Mainland area closures. The following areas off the Pacific coast are closed to driftnet gear:

(1) Within the U.S. EEZ from the United States-Mexico International Boundary to the California-Oregon border from February 1 through April 30.

(2) In the portion of the U.S. EEZ within 75 nautical miles from the mainland shore from the United States-Mexico International Boundary to the California-Oregon border from May 1 through August 14.

(3) In the portion of the U.S. EEZ within 25 miles of the coastline from December 15 through January 31 of the following year from the United States-Mexico International Boundary to the California-Oregon border.

(4) In the portion of the U.S. EEZ from August 15 through September 30 within the area bounded by line extending from Dana Point to Church Rock on Santa Catalina Island, to Point La Jolla.

(5) In the portion of the U.S. EEZ within 12 nautical miles from the mainland shore north of a line extending west of Point Arguello to the California-Oregon border.

(6) In the portion of the U.S. EEZ within the area bounded by a line from the lighthouse at Point Reyes, California to Noonday Rock, to Southeast Farallon Island to Pillar Point.

(7) In the portion of the U.S. EEZ off the Oregon coast

2 This reflects the modified rule currently being considered by NMFS, which revises the closure timing from January 1-31 and August 15-31 to the months of June, July, and August.

east of a line approximating 1000 fathoms as defined by the following coordinates:

42° 00' 00" N. lat. 125° 10' 30" W. long.
42° 25' 39" N. lat. 124° 59' 09" W. long.
42° 30' 42" N. lat. 125° 00' 46" W. long.
42° 30' 23" N. lat. 125° 04' 14" W. long.
43° 02' 56" N. lat. 125° 06' 57" W. long.
43° 01' 29" N. lat. 125° 10' 55" W. long.
43° 50' 11" N. lat. 125° 19' 14" W. long.
44° 03' 23" N. lat. 125° 12' 22" W. long.
45° 00' 06" N. lat. 125° 16' 42" W. long.
45° 25' 27" N. lat. 125° 16' 29" W. long.
45° 45' 37" N. lat. 125° 15' 19" W. long.
46° 04' 45" N. lat. 125° 24' 41" W. long.
46° 16' 00" N. lat. 125° 20' 32" W. long.

(8) In the portion of the U.S. EEZ north of 46° 16' N. latitude (Washington coast).

(e) Channel Islands area closures. The following areas off the Channel Islands are closed to driftnet gear:

(1) San Miguel Island closures. (i) Within the portion of the U.S. EEZ north of San Miguel Island between a line extending 6 nautical miles west of Point Bennett and a line extending 6 nautical miles east of Cardwell Point.

(ii) Within the portion of the U.S. EEZ south of San Miguel Island between a line extending 10 nautical miles west of Point Bennett and a line extending 10 nautical miles east of Cardwell Point.

(2) Santa Rosa Island Closure. Within the portion of the U.S. EEZ north of San Miguel Island between a line extending 6 nautical miles west from Sandy Point and a line extending 6 nautical miles east of Skunk Point from May 1 through July 31.

(3) San Nicolas Island closure. In the portion of the U.S. EEZ within a radius of 10 nautical miles of 33° 16' 41" N. lat., 119° 34' 39" W. long. (west end) from May 1 through July 31.

(4) San Clemente Island closure. In the portion of the U.S. EEZ within 6 nautical miles of the coastline on the easterly side of San Clemente Island within a line extending 6 nautical miles west from 33° 02' 16" N. lat., 118° 35' 27" W. long. and a line extending 6 nautical miles east from the light at Pyramid Head from August 15 through September 30.

(f) Sea turtle handling and resuscitation. All sea turtles taken incidentally in fishing operations must be handled in accordance with 50 CFR part 223.206(d)(1).

§ 660.714 Purse Seine. [Reserved]

§ 660.715 Harpoon. [Reserved]

§ 660.716 Surface hook-and-line. [Reserved]

§ 660.717 Framework for revising regulations.

(a) General. NMFS will establish and adjust specifications and management measures in accordance with procedures and standards in the FMP.

(b) Annual actions. Annual specifications are developed and implemented according to Sec. 660.709.

(c) Routine management measures. Consistent with section 3.4 of the FMP, management measures designated as routine may be adjusted during the year after recommendation from the Council, approval by NMFS, and publication in the Federal Register.

(d) Changes to the regulations. Regulations under this subpart may be promulgated, removed, or revised. Any such action will be made according to the framework measures in section 8.3.4 of the FMP and will be published in the Federal Register.

§ 660.718 Exempted Fishing.

(a) In the interest of developing an efficient and productive fishery for HMS, the Regional Administrator may issue exempted fishing permits (EFP) for the harvest of HMS that otherwise would be prohibited.

(b) No exempted fishing for HMS may be conducted unless authorized by an EFP issued for the participating vessel in accordance with the criteria and procedures specified in § 600.745 of this chapter.

§ 660.719 Scientific observers.

(a) All fishing vessels operating in HMS fisheries, including catcher/processors, at-sea processors, and vessels that harvest in Washington, Oregon, or California and land catch in another area, may be required to accommodate NMFS certified observers on board to collect scientific data. Any observer program will be implemented in accordance with the procedures at § 660.717.

(b) All vessels with observers on board must comply with the safety regulations at 50 CFR 600.746.

(c) NMFS shall advise the permit holder or the designated agent of any observer requirement at least 24 hours (not including weekends and Federal holidays) before any trip.

(d) When NMFS notifies the permit holder or designated agent of the obligation to carry an observer in response to a notification under this subpart or as a condition of an EFP issued under 50 CFR 660.718, the vessel may not engage in the fishery without taking the observer.

(e) A permit holder must accommodate a NMFS observer assigned under these regulations. The Regional Administrator's office, and not the observer, will address any concerns raised over accommodations.

(f) The permit holder, vessel operator, and crew must cooperate with the observer in the performance of the observer's duties, including:

(1) Allowing for the embarking and debarking of the observer.

(2) Allowing the observer access to all areas of the vessel necessary to conduct observer duties.

(3) Allowing the observer access to communications equipment and navigation equipment as necessary to perform observer duties.

(4) Allowing the observer access to VMS units to verify operation, obtain data, and use the communication capabilities of the units for official purposes.

(5) Providing accurate vessel locations by latitude and longitude or loran coordinates, upon request by the observer.

(6) Providing sea turtle, marine mammal, or sea bird specimens as requested.

(7) Notifying the observer in a timely fashion when commercial fishing operations are to begin and end.

(g) The permit holder, operator, and crew must comply with other terms and conditions to ensure the effective deployment and use of observers that the Regional Administrator imposes by written notice.

(h) The permit holder must ensure that assigned observers are provided living quarters comparable to crew members and are provided the same meals, snacks, and amenities as are normally provided to other vessel personnel.