

Scoping Information for a Potential Fishery Management Plan Amendment to Authorize Shallow-Set Longline Gear in West Coast Highly Migratory Species Fisheries Outside the U.S. EEZ

The purpose of this document is to provide background information for the Pacific Fishery Management Council (Council) to examine the potential authorization of shallow-set longline (SSLL) fishing gear to target swordfish off the West Coast outside the U.S. exclusive economic zone (EEZ). The conventional method for targeting swordfish with SSLL involves setting pelagic longline gear at night in less than 100 meters of water. At this time the Council is considering the issues to be addressed and the potential need for action to pursue an amendment to the Highly Migratory Species Fishery Management Plan (HMS FMP). This document describes background information regarding past actions to develop a permit for SSLL gear on the West Coast, where the Council is at in the process to consider an amendment, a draft list of issues and potential policy questions, and a draft purpose and need statement. Appendix A contains fishing effort for Hawaii permitted vessels and HMS FMP permitted vessels landing swordfish on the West Coast, 2015-2018.

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CHAPTER 1 PAST ACTIONS TO DEVELOP SWORDFISH FISHERY ON WEST COAST

1.1 Fishery Management Plan Actions and Considerations

Table 1 provides a brief history of actions taken to date since development of the Fishery Management Plan for West Coast Fisheries for Highly Migratory Species (HMS FMP). In November 2002 the Council made its final recommendation to NMFS to adopt an FMP for HMS fisheries. The HMS FMP was finalized in 2004 by NMFS; however, the portion of the FMP permitting shallow-set longline¹ (SSLL) was disapproved because the proposed action lacked sufficient mitigation measures to minimize bycatch of sea turtles ([Exhibit G.2 Situation Summary](#)). At that time, it was determined that the gear configuration and requirements as proposed for SSLL was likely to jeopardize the continued existence of loggerhead sea turtles, which were listed as threatened under the Endangered Species Act (ESA). Since then, the global population has been divided into Distinct Population Segments. The North Pacific Ocean DPS is currently listed as endangered. Based on the 2004 decision, the use of SSLL by vessels permitted under the Pacific Council’s FMP is prohibited. In addition, as specified by the Council in the HMS FMP, the use of longline gear (both shallow and deep-set) to target HMS is prohibited within the West Coast Exclusive Economic Zone (EEZ). However, if a vessel that is authorized to fish using SSLL gear under the Western Pacific Fishery Management Council’s (WPFMC) [Pelagic Fishery Ecosystem Plan](#), that vessel may fish outside the U.S. EEZ off the West Coast.

Table 1. Timeline Table for Considering Shallow-set Longline Fishery off the West Coast

Council Meeting	Scheduled Council Action	Decision/Discussion
November 2002 – D.2	Adopt Final HMS FMP	The Council adopted an FMP for West Coast HMS fisheries. The adoption motion included the selection of specific alternatives to 23 different management actions. Key provisions include: • Prohibiting the use of pelagic longline gear within the U.S. EEZ; • Defining legal drift gillnet gear as having a minimum stretched mesh size of 14 inches; • Applying certain restrictions on west coast-based longline fishing vessels operating outside the U.S. EEZ; • Requiring permits for commercial and commercial passenger fishing vessels. See Decision Document
April 2004 – G.2	Discussion of Letter of FMP Approval and Partial Disapproval (G2a Attachment 1, April 2004)	Action for establishing SSLL in FMP disapproved because the Biological Opinion issued from a consultation under section 7 of the ESA concluded this fishery would have taken sea turtles and resulted in sea turtle mortality that “would appreciably reduce the likelihood of survival and recovery” of ESA-

¹ A shallow set is defined as one where 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 less than or equal to 100 m (328.1 ft or 54.6 fm) below the sea surface. See Section 6.6.2 of the [HMS FMP](#).

		listed species of sea turtles. See Meeting Minutes for discussion of moving forward with FMP amendment to address SSSL.
April 2009 – D.2	Adopt a preferred alternative to amend the HMS FMP (draft Amendment 2) to authorize a west coast-based SSSL fishery seaward of the EEZ in the North Pacific Ocean.	No Action – Status Quo See Decision Document and Voting Log . Rationale and discussion for ‘No Action’ vote is in Minutes of Meeting (Item starts on page 10).
September 2015 – G.3	Identify Issues to be Addressed in FMP Amendment and Provide Guidance for Developing Alternatives.	Agenda Item was cancelled. See Scoping Document for background, policy questions, and other information.
September 2018 – H.6	Adopt a Revised Preliminary Swordfish Management and Monitoring Plan for Public Review.	The Council recommended that edits identified in the Highly Migratory Species Management Team report be added to the Swordfish Management Monitoring and Plan (SMMP), and then hold the plan in draft form. Further revision or adoption of the SMMP for public review was not scheduled. (See Decision Document and Meeting Record)

In 2009, the Council revisited authorizing a West Coast permit to use SSSL to target swordfish; however, the Council voted for status quo (No Action). Some of the reasons given for not authorizing the fishery are summarized from the [2009 meeting minutes](#) (Source info from Minutes of the April 2009 PFMC meeting, pp. 12-13):

- The proposed action would not sufficiently limit fishing effort when considering both an authorized SSSL fishery and the current large-mesh drift gillnet (DGN) fishery given the number of latent permits in the latter
 - Cost of observer coverage and the impact on coverage levels in other fisheries
 - The proposed fishery would not provide enough swordfish to make any appreciable difference in meeting U.S. demand, especially if foreign providers compensate with lower prices
 - Concern about incidental catch / bycatch of vulnerable/overfished finfish
 - In light of the current status of bigeye, yellowfin, and albacore tuna, the U.S. should not increase fishing effort on these stocks
 - Concern that any increase in protected species takes in the proposed fishery would have to be compensated for by reductions of takes in other fisheries
- (Source: Minutes of the April 2009 PFMC meeting, pp. 12-13)

The Council should consider whether these concerns remain pertinent to the current discussion and identify other issues and concerns. See Section 3.2 for further discussion of policy questions to consider when scoping a potential fishery amendment.

1.2 Goals and Objectives of the Draft Swordfish Monitoring and Management Plan

In 2014 the Council began developing a draft Swordfish Monitoring and Management Plan (SMMP) (See Agenda Item J.3 Attachment 2, November 2019) as a subplan under the Council's HMS FMP. The SMMP is meant to articulate the Council's vision and future actions for the West Coast swordfish fishery. The SMMP reflects the Council's intent to look at all feasible gear types, including DGN, for targeting swordfish with a goal of bycatch minimization. In June 2014, the Council agreed on a list of policy objectives intended to guide management of the West Coast swordfish fishery with the dual goals of minimizing bycatch while maintaining or enhancing its economic viability (See [Agenda Item E.2](#) and [Council Decision Summary](#)).

Elements of the draft SMMP appeared in Highly Migratory Species Management Team (HMSMT) reports for the March and June 2015 Council meetings. These reports also included alternatives and analyses for proposed actions for bycatch minimization in the DGN fishery. The Council reviewed the SMMP in September 2015, June 2018, and again in September 2018 where it adopted language modifications proposed by the HMSMT and a revised timeline for SSLL scoping ([September 2018 Meeting Record, H.6. Motion](#)). At that time the Council elected to hold the plan in draft form and intends to schedule public review of the SMMP in the future. Even though in draft form, the plan states the Council's intent to manage the swordfish stock, its dependent fisheries, and to minimize protected species impacts as a result of fishing activity.

Section 2 of the draft SMMP provides the overarching purpose of guiding the Council in development of the swordfish fishery in support of the HMS FMP. In addition, Section 3.E outlines the actions which the Council currently considers part of the development of a West Coast SSLL permit. These items were initially identified by the Council and its advisory bodies in recognition of the gear changes made in SSLL fishing activity since 2009, the Council's desire to develop fisheries that minimize bycatch (domestically and internationally), a desire to meet the U.S. demand for swordfish via a domestic fishery, and to address recent changes in the DGN fishery.

SMMP - Section 2:

“Purpose of the Plan:

This SMMP serves as a guide for the Council to manage the West Coast swordfish fishery based on four fishery management goals:

1. Minimize protected species bycatch to the extent practicable in the swordfish fishery through mitigation, gear innovation, and individual accountability.
2. Minimize unmarketable and prohibited finfish catch to the extent practicable in the swordfish fishery through mitigation, gear innovation, and individual accountability.
3. Support the economic viability of the swordfish fishery so that it can meet demand for a fresh, high quality, locally caught product and reduce reliance on imported seafood.
4. Promote and support a wide range of harvest strategies for swordfish off the West Coast.

These goals will be achieved through a variety of mitigation and management measures outlined in this SMMP (See Section 3).”

SMMP - Section 3.E

“E. Develop longline fisheries

1. Revisit the 2009 proposed action to authorize a SSSL fishery outside the West Coast EEZ in light of current conditions including West Coast landings by Hawaii-permitted SSSL vessels.
2. Revisit the current FMP prohibition on the use of pelagic longline gear inside the West Coast EEZ.
3. Consider qualification criteria for a Federal limited entry SSSL permit in the context of Federal permitting for other swordfish gear types.
4. Explore the feasibility of, through exempted fishing permits, new pelagic longline gear designs or management strategies.”

CHAPTER 2 COUNCIL OPERATING PROCEDURE FOR DEVELOPMENT OF AN AMENDMENT, TIMELINE, AND NEXT STEPS

2.1 Council Operating Procedure 11

Since 2015, members of the Council’s Highly Migratory Species Advisory Subpanel and the fishing industry have repeatedly requested that the Council discuss the use of SSSL to target swordfish off the West Coast. Development of a West Coast SSSL permit to target swordfish would require an amendment to the HMS FMP. Council Operating Procedure 11 (COP 11) serves “as a guide to fishery management plan (FMP) amendment sponsors and establishes a general schedule for FMP amendments conducted by the Council, its advisory entities, and staff.” Under the present timeline and process the Council is assessing “the need for pursuing an amendment”.

As described in Council Operating Procedure 11:

“The Council may initiate the amendment process at any time as management needs are identified. Potential amendments should be clearly identified by the sponsoring parties and address the criteria below which will be used by the Council and its advisory entities to assess the need for pursuing the amendment:

- a. Assessment of need for action and compatibility with the objectives of the pertinent fishery management plan
- b. Alternative ways to address the problem without plan amendment
- c. Potential impacts from the proposed action
- d. Possible amendment alternatives
- e. Complexity or controversial nature of the proposed action

Technically complex amendment issues may require special meetings or assignments to advisory entities to develop basic data or modeling tools before the Council determines whether or not to proceed with the amendment process.”

At this time the Council is scheduled to focus on the request for scoping and should use items ‘a’ through ‘e’ in the COP to inform the Council decision on whether or not to proceed with an amendment. The Council may decide if special meetings or assignments to advisory entities are necessary to help gather the desired information before proceeding with the amendment process.

The Council may continue to discuss the issues and concerns at several Council meetings until the appropriate information is gathered for decision making to pursue an amendment. As noted in COP 11: “The first Council meeting listed in the schedule below occurs after the preliminary identification described above has occurred. The subsequent meetings are not necessarily consecutive meetings, but depend on the specific amendment schedule the Council develops at the first meeting.” Under the “First Meeting” section, the Council would need to take action and “formally identif[y] pertinent amendment issues based on input from advisory entities and the

public.” The Council has not yet taken action to pursue an amendment; therefore, the November 2019 meeting is not considered to be the “First Meeting.” Although a three-meeting-process is identified in COP 11, this is a minimum number of meetings necessary for the Council to take action. The Council may add more meetings as needed to complete the action.

2.2 Timeline and Next Steps

The Council has tentatively scheduled the following topics on its year at a glance agenda for further discussions and possible action.

- March 2020 (March 3-9, 2020 Rohnert Park, CA): Amendment Authorizing SS-Longline Fishery Outside EEZ: Continue Scoping/Preliminary ROA
- June 2020 (June 11-18, 2020 San Diego, CA): Amendment Authorizing SS-Longline Fishery Outside EEZ

However, the next steps are dependent on the Council. As noted for the March 2020 meeting, the Council may choose to continue scoping the issues to be addressed and develop the proposed action (or proposal) with possible development of a preliminary range of alternatives. The Council could decide to pursue an amendment at any time per COP 11; however, in order to pursue an amendment, the Council would need to identify the need for action and develop a purpose and need statement, with a proposed action. It would be best to conduct that discussion prior to development of a full range of range of alternatives. The current schedule may be moved as needed to accommodate the scoping process; however, a decision to start the amendment process with specific tasks for the HMSMT, NMFS and Council staff would be desirable in order to plan HMS workload for the coming year.

CHAPTER 3 POTENTIAL ISSUES AND POLICY QUESTIONS

3.1 Draft List of Issues to Consider

Below is a draft list of issues the Council may want to consider – it is not exhaustive; these are concerns identified by the public, industry, advisory bodies and the Council in previous discussions. This list provides a starting point for the Council to consider when addressing the need for further information and to continue discussion. These concerns and issues could be developed prior to or after a proposed action is developed.

1. What is the stock status of target and non-target species and recovery efforts/timelines
2. Expected level of participation and effort from west coast-based and Hawaii-based fishermen
3. Development of a limited entry permit and the associated processes for HMS permits (e.g., endorsements, multiple gears on board, latent permits)
4. Expected bycatch of all species (esp. sea turtles, marine mammals, seabirds, sharks)
5. International fishing effort and market transfer effects
6. Market demand for swordfish and other information (e.g., local and domestic needs, exports, marketing strategies of target species and bycatch)
7. Expectations of NMFS ESA consultation process for Council fisheries and the consideration of other ESA consultations

New information regarding the status of Leatherback and Loggerhead sea turtles can be found in NMFS new [biological opinion](#) for the continued operation of the Hawaii shallow-set longline fishery that was signed on Jun 26, 2019.

3.2 Policy Questions Regarding Development of a Fishery

The Council should develop policy questions and identify additional needed information in order to facilitate the further development of the need for action and the proposed action. In September 2015 the Council was scheduled to scope the potential development of a SSLL permit amendment. Section 8 of the [Scoping Document](#) provides a list of scoping questions and issues at that time (See Items 1 through 4 below). Although the September agenda item was cancelled and the Council never discussed these questions, some of them may still be relevant and should be discussed before proceeding with an amendment process.

1. Should the Council authorize a West Coast SSLL permit outside the EEZ?
2. What measures should be considered when developing the proposed action?
3. What should be the objective of any proposed limited entry program?
4. What is the relation between the proposed action and the Council's interest in allowing the use of pelagic longline gear inside the West Coast EEZ?

Also, in November 2015 the Council reviewed several policy questions regarding general swordfish fishery management ([Agenda Item G.2, Supplemental Attachment 1](#)). These questions were developed as a possible catalyst to advisory body deliberations, public comment and

Council discussion on how to manage the swordfish fishery on the West Coast. Some of the questions that are germane to the request to develop a SSSL permit on the West Coast are repeated here with some updated text. After review of that agenda item, the Council noted that initiating a Council process to authorize SSSL gear outside the Exclusive Economic Zone was given lower priority, but still judged to be important in recognition that Hawaii-permitted SSSL vessels are currently landing significant amounts of swordfish on the West Coast. Appendix A contains recent landings information for Hawaii permitted vessels targeting swordfish and west coast HMS permitted vessels targeting tuna landing swordfish on the West Coast.

What is the policy connection between the use of pelagic longline gear (both deep-set for tuna and shallow-set for swordfish) inside the West Coast exclusive economic zone (EEZ) versus outside the EEZ?

In terms of ecosystem and habitat, the EEZ boundary is somewhat arbitrary. The prohibitions on DSSL and SSSL inside the EEZ and SSSL outside the EEZ at the time the HMS FMP was adopted were related to ESA permitting problems outside the EEZ and gear prohibitions in state waters (in Washington and California) However, since implementation of the HMS FMP in 2004, gear improvements have reduced catch and bycatch mortality of sea turtles in the Hawaii SSSL fishery. Both of these fleets have achieved ESA coverage based on these changes. Over the course of several Council discussions, and in several Council motions, the Council has clearly indicated that its intent is to only scope the use of SSSL outside of the EEZ, and it will not consider deep-set longline gear under this action.

Why is it important to coordinate with the Western Pacific Fishery Management Council (WPFMC) on a longline fishery outside the EEZ authorized under the Pacific Council's HMS FMP?

Pelagic longline vessels permitted under the WPFMC's Pelagic Fishery Ecosystem Plan seasonally fish adjacent to the West Coast EEZ and can make landings in West Coast ports. Traditionally, the segment of this fleet targeting swordfish primarily lands their fish in Hawaii; however, these Hawaii-permitted vessels account for the majority of West Coast swordfish landings, in effect meaning that the bulk of the "West Coast" swordfish fishery is made up of vessels managed by the WPFMC. Please note that Appendix A contains recent landings information for Hawaii permitted vessels targeting swordfish and west coast HMS permitted vessels targeting tuna landing swordfish on the west coast.

As the Council considers establishing a SSSL permit to fish outside the EEZ under the West Coast HMS FMP, it necessary to coordinate regulatory approaches with the other U.S. fleet that could be fishing in the same general area and to discuss any issues that either Council can identify at an early stage in planning activity.

What is the connection between potential bycatch in a West Coast swordfish longline fishery based on pelagic longline fisheries in other regions of the United States, and bycatch impacts in foreign fisheries?

In March 2015 the HMSMT reported ([Agenda Item H.4.b, HMSMT Report](#)) on a study comparing bycatch metrics for U.S. fisheries catching swordfish.² This work offers a broad-scale

² The study authors are Heidi Gjertsen (SWFSC contractor), Stephen Stohs (SWFSC), Heidi Dewar (SWFSC), Craig Heberer (NMFS WCR), Chugey Sepulveda (PIER) and Scott Aalbers (PIER).

comparison of protected species and finfish bycatch among several longline fisheries. The Hawaii pelagic longline fishery is perhaps the most comparable fishery for assessing bycatch from a pelagic longline fishery off the West Coast, because these vessels operate, at least part of the time, adjacent to the West Coast EEZ and always operate under MSA sanctioned regulations. The figures below illustrate the magnitude of difference in sea turtle impacts in WPFMC managed fisheries and some foreign fisheries.

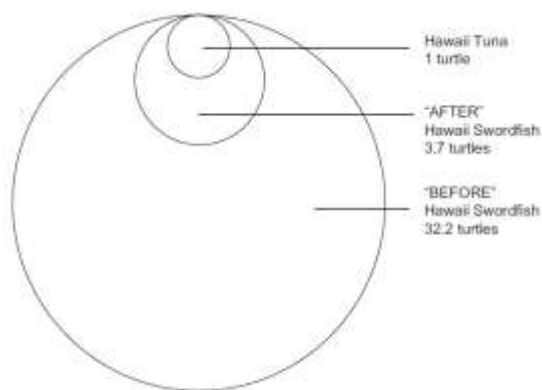


Fig. 1. Sea turtle bycatch to catch ratios in Hawaii longline fisheries (per 190,000 kg of catch). The benchmark of one turtle per 190,000 kg of fish is established by Hawaii’s tuna longline sector. B/C ratios are compared before (1994–1999) and after (2004) a suite of management measures were implemented in Hawaii’s swordfish longline sector to reduce sea turtle interactions.

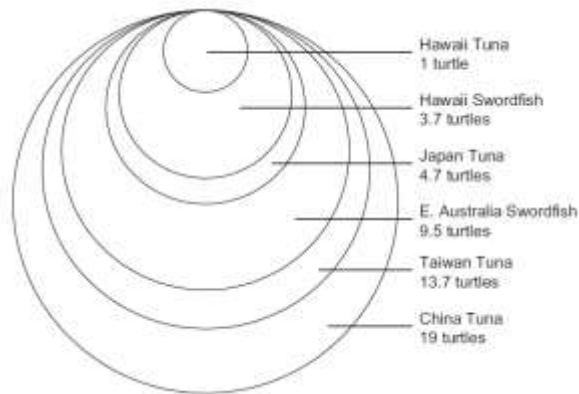


Fig. 2. Comparison of sea turtle bycatch to catch ratios in selected central and western Pacific pelagic longline fisheries (per 190,000 kg of catch). The benchmark of one turtle per 190,000 kg of fish is established by Hawaii’s tuna longline sector.

Source: Bartram, P. K., J. J. Kaneko, and K. Kucey-Nakamura. 2010. Sea turtle bycatch to fish catch ratios for differentiating Hawaii longline caught seafood products. *Marine Policy*, 34:145–149.

CHAPTER 4 POTENTIAL ACTION AREA AND PURPOSE AND NEED FOR ACTION

4.1 Potential Action Area

At this time the Council has narrowed the potential use of SSSL gear outside the Exclusive Economic zone (EEZ). However, item number 2 in the SMMP identifies the potential to revisit the prohibition of pelagic longline gear inside the EEZ; therefore, the action area could be expanded while scoping the issues to be addressed. Currently, two EFPs authorize two vessels to fish for swordfish and other HMS using SSSL and deep set longline gear to fish inside the EEZ in support of item 4 of the SMMP. Results of this activity are preliminary and not available at this time.

4.2 Draft Purpose and Need Statement

Based on the decision and guidance provided by NMFS in 2004, the Council developed Amendment 2 with gear and species impact mitigation measures.

“NMFS advised the Council that possible use of alternative gear and bait requirements, effort limits, time/area limits, turtle take limits, or other measures that would limit sea turtle mortality to low levels by any future west-coast-based SSSL fishery might provide the necessary conservation and management measures to operate a fishery without jeopardizing the continued existence of ESA-listed sea turtles.”

The Council then developed a purpose and need statement for Amendment 2 that focused on developing a SSSL fishery with mitigation measures that could minimize impacts to listed species, especially sea turtles, seabirds and marine mammals. The Council could use this purpose and need statement as a starting point for developing a new proposal.

From Amendment 2:

“The proposed action is to amend the HMS FMP to authorize a West Coast based shallow-set longline (SSLL) fishery seaward of the EEZ in the North Pacific Ocean.”

“The proposed action is intended to allow for an economically viable shallow-set longline fishery to be reestablished, supplying fresh fish to West Coast markets while complying with ESA requirements to avoid taking ESA-listed species. Establishing a management framework under the HMS FMP would allow the Council to control design and implementation of the program, and enables West Coast stakeholders to be more involved in the process, compared to the current situation where only Hawaii-permitted vessels may make landings on the West Coast using SSSL gear.”

“The fishery authorized through Amendment 2 to the HMS FMP would incorporate the use of innovative longline gear and methodologies, described in more detail below, and will be subject to a range of restrictions and mitigation measures designed to minimize the likelihood of the action jeopardizing the continued existence of any species listed under the ESA. Other restrictions and mitigation measures could also be applied to minimize the take of seabirds and other species of concern, consistent with other applicable law. Impacts to

non-ESA-listed marine mammals will also be evaluated and mitigated to the extent practicable, consistent with the Marine Mammal Protection Act (MMPA).”

APPENDIX A

West Coast Pelagic Longline Landings

The following information was obtained from the Pacific Fishery Information Network (PacFIN) landing database (comprehensive_ft table) on October 15, 2019.

Seasonal distribution of SSLL landings

Figure 1 shows the distribution of the number of shallow-set longline (SSLL) landings by month, 2014-2018. A SSLL landing is defined as one where swordfish greater than 20% of the landing by weight. For confidentiality reasons it is not possible to report the volume and value of landings classified as shallow-set longline using this method. (Generally, only two processors have handled these types of landings.) Since only Hawaii permitted vessels are allowed to use SSLL gear, only landings by those vessels are included here.

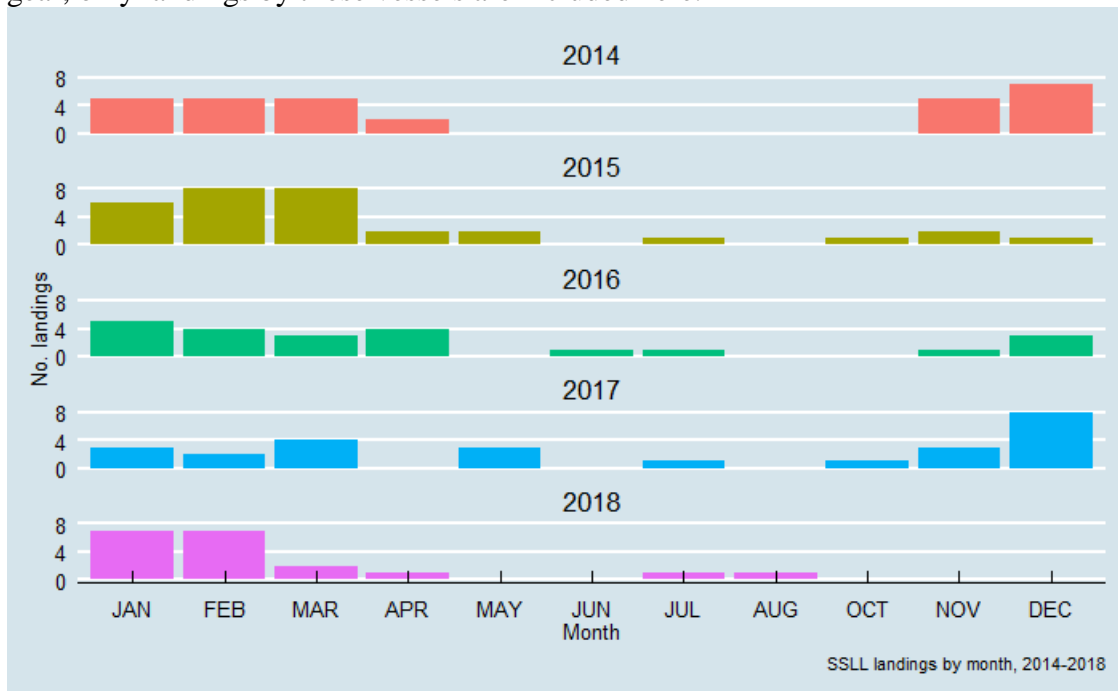


Figure 1. Number of shallow-set longline landings to west coast ports per month, 2014-2018.

Number of landings and vessels by fishing method

Table 2 below show the number of landings categorized as shallow-set or deep-set and the number of vessels using each method. Note that Hawaii-permitted vessels may make landings of both types so there is likely some overlap in the number of vessels across the two landing types.

Table 2. Number of landings and vessels making landings to west coast ports using deep-set (DSL) or shallow-set (SSL) longline gear configurations, 2014-2018.

Year	SSL		DSL	
	Landings	Vessels	Landings	Vessels
2014	29	11	49	8
2015	31	14	92	12
2016	22	8	103	14
2017	27	10	109	10
2018	19	11	123	17

Landings volume and value

While landings volume and value by pelagic longline gear cannot be reported specifically for shallow-set longline landings (using the 20% threshold described above), they can be reported on an annual basis if the landing type categories are not applied. Figure 2 and Figure 3 show volume (metric tons) and value (inflation adjusted dollars) of landings for selected species and species groups, 2014-2018.

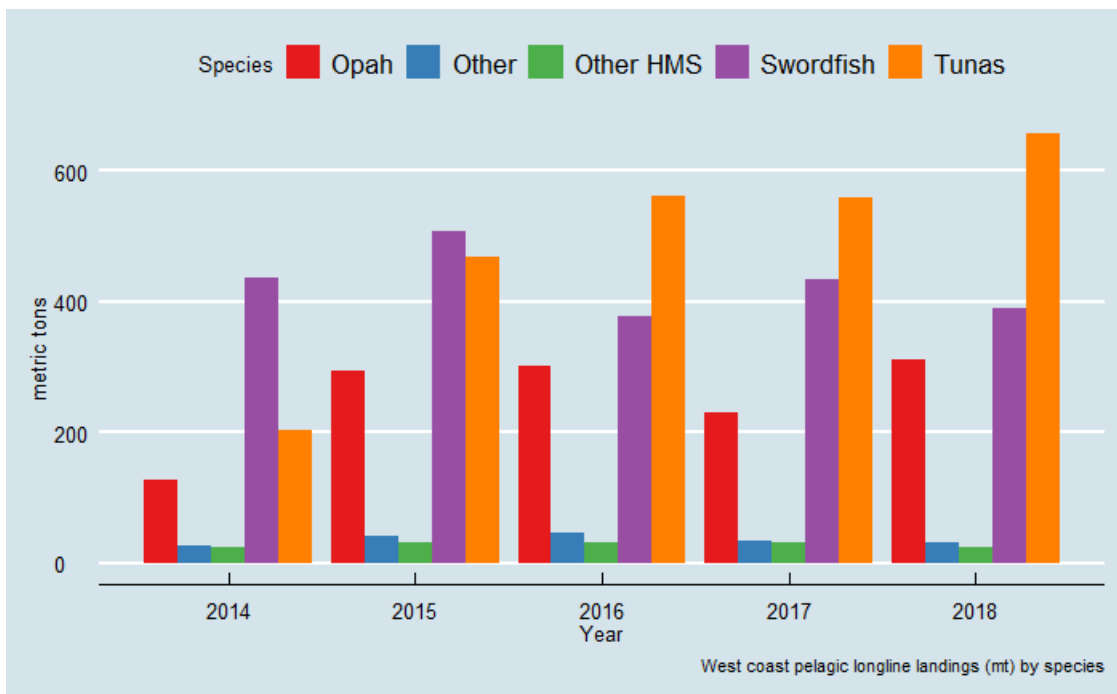


Figure 2. West coast landings (metric tons) by pelagic longline gear for species and species groups, 2014-2018.

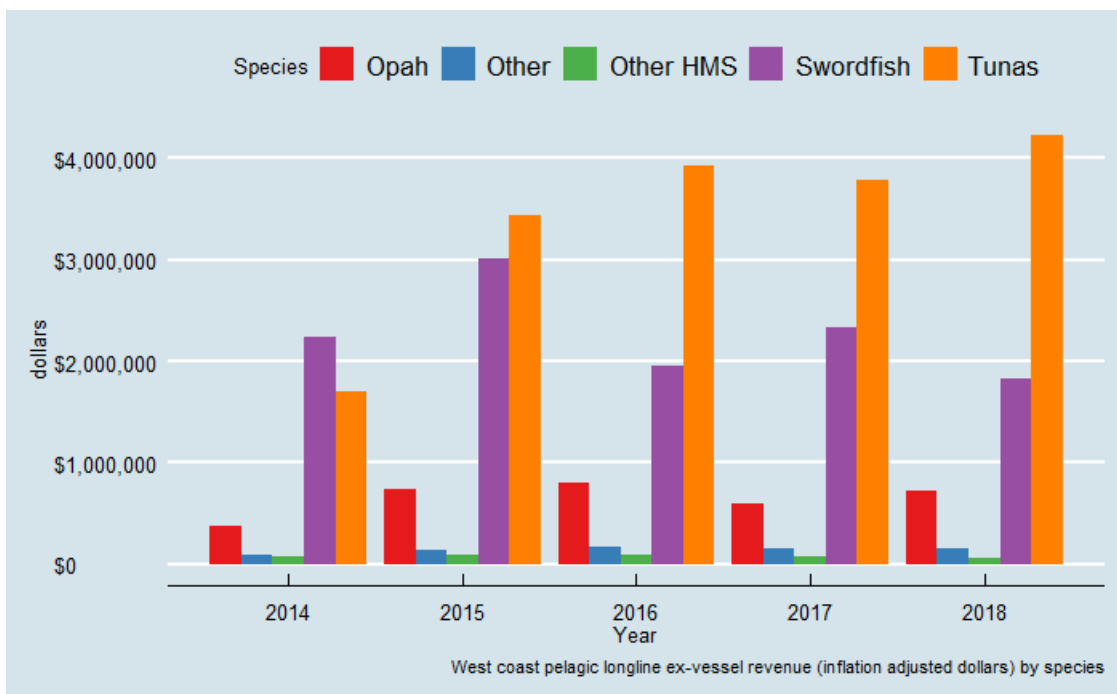


Figure 3. West coast landings (inflation adjusted dollars) by pelagic longline gear for species and species groups, 2014-2018.

Shallow-set longline landings since 2000

Figure 4 shows the number of west coast landings categorized as shallow-set (using the threshold of swordfish comprising at least 20% of landings) per year since 2000. This provides a long-term perspective of the evolution of the fishery starting prior to implementation of the HMS FMP.

Between 2000 and 2004 the Hawaii fishery was closed and the HMS FMP was under development. Many Hawaii-based pelagic longline vessels deregistered from their Hawaii permit and moved to the west coast to be able to fish for swordfish. In 2004 the Hawaii fishery reopened and the HMS FMP was implemented. This prompted the Hawaii based fishery to resume fishing under their Hawaii permits and relocate back to Hawaii. At the same time, implementation of the HMS FMP prohibited using SSL gear without a Hawaii permit.

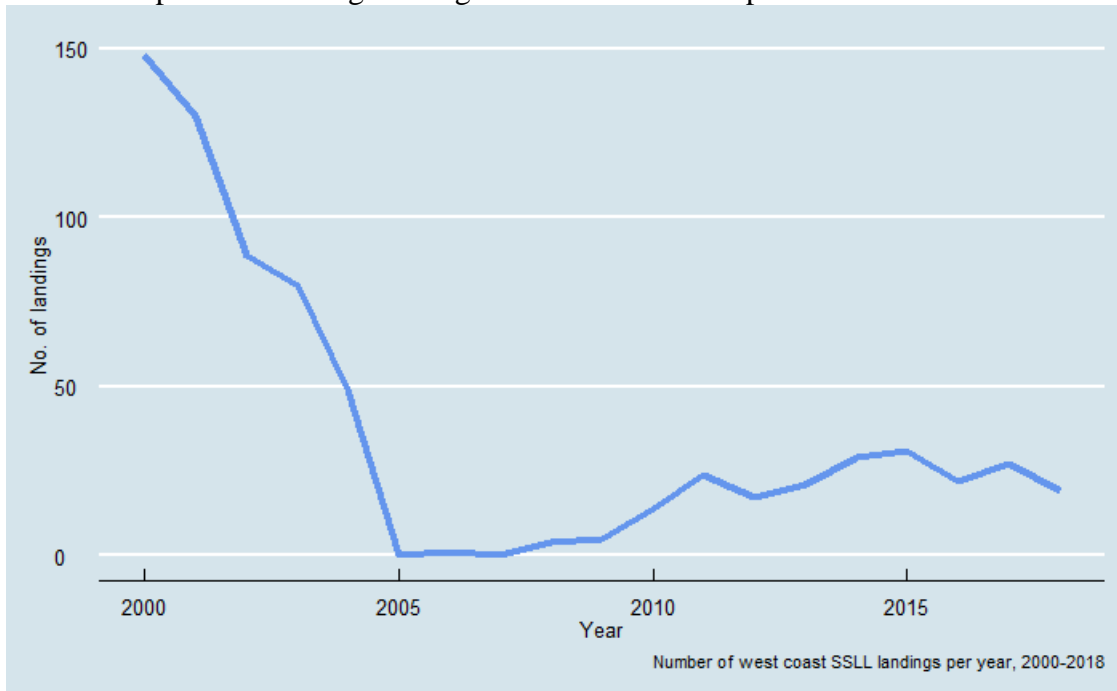


Figure 4. Annual number of west coast shallow-set landings, 2000-2018.