

NATIONAL MARINE FISHERIES SERVICE (NMFS) REPORT

Highly Migratory Species Management

Regulatory Updates

Final Rule on Fish Aggregating Devices (FADs), Silky Sharks, and Observer Safety

At the March 2020 Pacific Fishery Management Council (Council) meeting, NMFS reported the publication of the proposed rule on January 24, 2020 ([85 FR 4250](#)). The final rule was published on May 19, 2020 ([85 FR 29666](#)). This rule implements provisions in Inter-American Tropical Tuna Commission (IATTC) Resolutions C-19-01 (*FADs*), C-19-05 (*Conservation of Silky Sharks*), and C-18-07 (*Improving Observer Safety At Sea: Emergency Action Plan*), and Agreement on the International Dolphin Conservation Program (AIDCP) Resolution A-18-03 (*Improving Observer Safety At Sea: Emergency Action Plan*). The rule revises existing regulations for FAD data collection to remove the reporting requirements for captains of large purse seine vessels fishing on FADs in the IATTC Convention Area that have observers onboard. Captains are still required to provide observers with the FAD identification code and, as appropriate, other information in the standard format. The rule prohibits the retention of silky shark caught by U.S. longline vessels in the IATTC Convention Area. The rule also designates a protocol for retention of silky shark on purse seine vessels fishing in the IATTC Convention Area, and requires reporting of these incidents. Finally, the rule strengthens protections for observers in longline and transshipment observer programs required by the IATTC, and on purse seine vessels required by the AIDCP.

The prohibition of retention of silky shark caught on longline vessels will be effective on June 17, 2020. The remaining rule amendments are delayed and NMFS will publish a Federal Register Notice when they become effective.

Exempted Fishing Permit (EFP) Updates

In line with Council Operating Procedures 20 (COP 20), fishermen submitted reports for deep-set buoy gear (DSBG) EFPs active in 2019 to the June Briefing Book under the Informational Reports section. The reports detail DSBG EFP holder experiences during their EFP activity. Table 1 below contains a preliminary summary of 2019 DSBG EFP observer data. The summary only includes days fished for which an observer was on board, as NMFS is in the process of assessing logbook completeness. Note that no protected species interactions were recorded by observers in DSBG EFP fishing in 2019.

Table 1. Preliminary 2019 DSBG EFP observer data summary.

| Standard Deep-Set Buoy Gear (SBG) | | | Linked Deep-Set Buoy Gear (LBG) | | |
|-----------------------------------|-----|-------|---------------------------------|----|-------|
| # of Vessels | 22 | | # of Vessels | 5 | |
| # of Days Fished | 211 | | # of Days Fished | 32 | |
| Catch Composition* | | | Catch Composition | | |
| Swordfish | 248 | 94.3% | Swordfish | 47 | 92.2% |
| Bigeye Thresher Shark | 11 | 4.2% | Bigeye Thresher Shark | 1 | 2.0% |
| Shortfin Mako Shark | 1 | 0.4% | Shortfin Mako Shark | 1 | 2.0% |
| Blue Shark | 2 | 0.8% | Blue Shark | 0 | 0.0% |
| Escolar | 1 | 0.4% | Escolar | 2 | 3.9% |

*Catch composition reported in numbers of individual fish. Note that no protected species interactions were observed in 2019.

The previously-issued Endangered Species Act (ESA) Section 7(a)(2) letter of concurrence concluding that the proposed action is not likely to adversely affect ESA-listed species for DSBG EFPs was valid for 2018 through 2019. In December 2019, this ESA coverage was renewed for 2020 through 2021 for the same level of effort (i.e., up to 62 standard and 15 linked DSBG vessels each fishing up to 100 days annually with up to 10 buoys or 10 sections fished per day). During the ESA consultation period, and as a result of discussions with NMFS Protected Resources Division, NMFS lowered required observer coverage in DSBG EFPs. This was necessary in order to prioritize NMFS’ observer program budget and improve observer deployment flexibility among the various fleets covered by the West Coast Region Observer Program, while maintaining data collection for analyzing future authorization of the gear type. NMFS concluded that EFP fishing under the revised observer coverage levels is not likely to adversely affect ESA-listed species.

The 2020 - 2021 observer coverage rates are as follows:

- For new standard DSBG EFPs, 100 percent for the first 3 fishing days and then a minimum of 10 percent
- For linked DSBG EFPs with no effort to date, 100 percent in the first year, then a minimum of 10 percent in the second year
- For continuing standard and linked DSBG EFPs (i.e., those that had activity in 2018 - 2019), a minimum of 10 percent of fishing days

A report from the longline EFP that was active in 2019, prepared by the EFP holders and consultants, can be found in the June Briefing Book under Informational Reports. Between September 5 and December 10, 2019, the vessels authorized to fish under the EFP with longline gear in the west coast Exclusive Economic Zone made 20 deep-set longline (DSL) and 59 shallow-set longline (SSL) sets off of California. 100 percent of longline EFP fishing trips were observed.

All the DSL and SSL sets took place outside of the no fishing-zone (i.e., the Southern California Bight and seaward of 50 miles from shore) as defined in the terms and conditions of the EFP. Approximately 45 percent of DSL sets and 90 percent of SSL sets were performed off of northern and central California. About 30 percent of DSL sets and about 80 percent of SSL sets

occurred in the Pacific Leatherback Conservation Area (PLCA), which is closed to drift gillnet fishing between August 15 and November 15.

Although the EFP did not operate for the entire period for which the EFP was issued (i.e., 24 months), the data collected indicate higher swordfish catch relative to the proxy data NMFS used for analyzing these EFPs prior to issuance (i.e., data from the Hawaii longline fishery east of 140° W longitude from 2004 to 2014). DSLL swordfish catch per unit effort (CPUE; in this case catch per 1,000 hooks) was 1.4 under the EFP versus 0.12 in the Hawaii data. The SSLL swordfish CPUE was 12.1 versus 10.4 in the Hawaii data. Throughout the EFP activities, there were no observed interactions with protected species other than two California sea lions caught with SSLL gear, which were released alive.

However, the CPUE for blue sharks and shortfin mako sharks was higher than the proxy data from the Hawaii fisheries. Observer records indicate that on DSLL trips approximately 11 percent of blue shark and 26 percent of shortfin mako shark catch was kept, while approximately 87 percent and 72 percent, respectively, was released alive. Similarly, on SSLL trips, approximately 10 percent of blue shark and 37 percent shortfin mako shark catch was kept, while approximately 88 percent and 59 percent, respectively, was released alive.

Swordfish CPUE increased 5 to 7 fold when fishing inside the PLCA. DSLL swordfish CPUE was 4.2 for sets made inside versus 0.8 outside of the PLCA. Similarly, SSLL swordfish CPUE was 14.4 sets made inside versus 1.9 outside of the PLCA.

Groundfish Management

Regulatory Updates

We have included our usual Groundfish rulemakings and other activities table at the end of this report (Table 2).

Pacific Whiting, Cowcod, Shortbelly Rockfish Proposed Rule [85 FR 21372, April 17, 2020](#)

NMFS reported at the April 2020 Council meeting on the upcoming publication of the proposed rule on 2020 harvest specifications and management measures for Pacific whiting, cowcod south of 40° 10' N. latitude, and shortbelly rockfish. The proposed rule published on April 17, 2020, and the public comment period closed on May 4, 2020 ([85 FR 21372](#)). The final rule is expected to publish in early June.

For Pacific whiting, this final rule would establish a 2020 coast-wide total allowable catch (TAC) of 575,000 metric tons (mt), which results in a U.S. TAC of 424,810 mt (73.88 percent of 575,000 mt). In determining the 2020 coastwide TAC, NMFS followed the procedures outlined in the Whiting Act of 2006. The final rule would also set the 2020 tribal allocation at 17.5 percent of the U.S. TAC (74,342 mt), research set-aside of 1,500 mt, and the U.S. Harvest Guideline of 348,968 mt.

To ensure the Pacific whiting fishery would be able to operate at the start of the season on May 15, 2020, we used existing regulatory provisions to issue interim Pacific whiting allocations for the Shorebased Individual Fishing Quota Program and the at-sea Mothership Coop and Catcher-Processor Coop sectors. We notified these sectors on May 1, 2020, that the interim allocations would be available to fish at the start of the Pacific whiting fishery on May 15, 2020. The interim

allocations are based on the lowest value of the coastwide TAC (555,000 mt) analyzed in the proposed rule. We will allocate additional Pacific whiting to each sector to match the allocations set in the final rule.

This final rule would also adjust the 2020 harvest specifications for shortbelly rockfish and cowcod. The rule increases the 2020 annual catch limit for shortbelly rockfish from 500 mt to 3,000 mt, and eliminates the annual catch target of 6 mt and reduces the research catch set-aside to 1 mt for cowcod south of 40° 10' N. latitude. The catch limits in this rule are intended to ensure the long-term sustainability of the Pacific whiting, shortbelly rockfish, and cowcod stocks.

Table 2. National Marine Fisheries Service Schedule for Groundfish Rulemakings and Other Major Activities

| Action | Category | Council Staff | Primary NMFS Staff | PPA | FPA | PR | FR | Target implementation | May | Jun | Jul | Aug | Sep | Oct | Nov | Dec | Jan '21 | |
|---|------------------------|------------------------|---------------------|-------------------------------|-------------------|-------------------|--------|-----------------------|-----|-----------|-----|-----|-----|-----|-----|-----|---------|--|
| 2021-22 groundfish harvest specifications and management measures | Harvest specifications | DeVore/Phillips | Palmigiano | Sep-19 , Nov-19 | Nov-19, Jun-20 | Sep-20 | Dec-20 | Jan 1-2021 | | MM FPA | | | PR | | FR | | | |
| Whiting specifications & Tribal allocation (paired with 2020 Shortbelly and Cowcod) | | N/A | Miller | | | Apr-20 | Jun-20 | June 2020 | | FR | | | | | | | | |
| Salmon bycatch mitigation measures | ESA obligations | Phillips | B. Hooper | Sep-19 | Nov-19 | Jun-20 | Aug-20 | TBD | | PR | | FR | | | | | | |
| Humpback whale ESA consultation | | N/A | B. Hooper | TBD-target final in Fall 2020 | | | | | | | | | CM | | | | | |
| Whiting treaty administration | Treaty | N/A | Miller | ongoing | | | | | | | | | | | | | | |
| Inseason management of groundfish fishery | Inseason management | Phillips | Palmigiano | ongoing | | | | | FR | | | | FR | | FR | | | |
| Groundfish Management Team participation | | Phillips | Palmigiano & Harley | ongoing | | | | | mtg | | | | mtg | | mtg | | | |
| Non-trawl logbooks | Other | N/A | Hanshew | | | Aug-20 | Nov-20 | Jan 1-2021 | | | | PR | | | FR | | | |
| 2020 Shortbelly and Cowcod Spex (paired with Whiting specifications) | | DeVore | Miller | Sep-19 | Nov-19 | Apr-20 | Jun-20 | June 2020 | | FR | | | | | | | | |
| Vessel movement and monitoring | | Wiedoff | Penna | | | Oct-19 | Jun-20 | June 2020 | | FR | | | | | | | | |
| Sablefish Management and Trawl Allocation Committee (SaMTAAC) | | Seger/ Doerpinghaus | Kent/Sayre | TBD | TBD | TBD | TBD | TBD | | | | | | | | PPA | | |
| Non-trawl EFP | Research | Seger | Massey | ongoing | | | | | | | | | | | | | | |
| Trawl EFPs | | Seger | Massey | ongoing | | | | | | | | | | | | | | |
| Scientific research permitting and letters of authorization | | N/A | Massey | ongoing | | | | | | | | | | | | | | |
| Bottom trawl/non-whiting midwater trawl EM rulemaking | Monitoring | N/A | Hooper/Sayre | | Apr-17 | June-20 | Oct-20 | Jan 1-2021 | PR | | | | FR | | | | | |