

tuna; and dorado. Other groupings of species (e.g., excluding dorado or excluding bigeye and pelagic thresher sharks) are included in the FMP as alternatives to the preferred alternative, 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 United States, 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 Inter-American Tropical Tuna Commission (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 on international management 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. Unilateral harvest limits for these species would have no practical effect, given the international nature of the fisheries for these species and the low portion of total catches for which the U.S. fleet is responsible in most cases. However, if international action to limit harvests is agreed to, then the Pacific Council may play a role in implementing such limits with respect to U.S. fisheries.

### *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 of 340 metric tons (mt) and shortfin mako of 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 a more conservative approach in the FMP 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. Again, unilateral limits for U.S. fisheries would have no beneficial effect, given the international nature of the fisheries and the small share of total catch made by U.S. vessels. Like many HMS, striped marlin off the Pacific coast is at the northern limit of its range off California. The sale of striped marlin would be prohibited to prevent commercial targeting of this species, which has such high value for recreational fisheries. 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*

HMS are harvested off the West Coast by five commercial gear groups and various recreational fisheries. Under the FMP, the authorized commercial gears are surface hook-and-line, drift gillnet, longline, purse seine, and harpoon. Recreational anglers would be allowed to 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 regulations implementing the FMP 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 (35.56 cm), which is the proposed action in the FMP, 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**

### *1. Management of Longline Fishery*

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

The restrictions preventing shallow sets for swordfish in the central and western Pacific were designed to reduce the impact on threatened and endangered sea turtles taken incidental to swordfish sets. After being presented with available information on the frequency of sea turtle interactions expected under different fishing scenarios, however, the Pacific Council felt that there was not sufficient information available in the eastern Pacific to justify prohibiting swordfish sets east of 150° W. long. Further, the Pacific Council concluded that it could not reasonably estimate the impacts (reduced sea turtle takes, reduced swordfish catches, etc.) if there were partial limits such as time/area closures. Therefore, the FMP proposes that longline vessels be able to target swordfish in the eastern Pacific east of 150° W. long. These vessels would have to comply with all other restrictions, including the requirements to maintain a vessel monitoring system (VMS) on board the vessel, use line clippers and dip nets for turtle release, and use seabird avoidance gear and techniques as in waters west of 150° W. long., as well as complying with the proper handling of sea turtles and seabirds.

This approach would establish consistency with regulations in waters west of 150° W. long. while minimizing the economic impact on vessels fishing from West Coast ports; however, regulations east of 150° W. long. would be different. This is a serious issue for NMFS. Based on available observer data, NMFS is concerned that allowing shallow sets for swordfish east of 150° W. long. may not comply with the ESA; therefore, this measure is at risk of not being approved.

A formal consultation under section 7 of the ESA has been initiated on the effects of the fisheries as they would