

operate under the FMP. 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 and trends of sea turtle populations. A biological opinion will be written, and if a jeopardy conclusion is reached, a reasonable and prudent alternative will be provided to the Pacific Council that will be designed to provide sufficient protection for endangered and threatened sea turtles. Even if there is not a jeopardy conclusion, the biological opinion may include reasonable and prudent measures and conservation recommendations to reduce or mitigate sea turtle interactions. Also, an incidental take statement will be issued that may set terms and conditions on fishing to reduce or mitigate sea turtle interactions. The biological opinion will thus provide NMFS and the Pacific Council with information that could be used to develop framework measures under the FMP that would further address the impact of longline fishing on endangered and threatened sea turtles. Finally, it is noted that the observer coverage anticipated under the FMP will greatly improve the information base for future management actions.

A section 7 consultation also has been initiated concerning the potential impacts of the fisheries under the FMP on other species. The FMP requires that longline fishers use seabird avoidance gear and techniques, as is required for central and western Pacific longline fishers. This consultation is scheduled to end on the same time frame as the consultation with respect to species under NMFS jurisdiction.

2. Management of Drift Gillnet Fishing

Drift gillnet fishing is currently regulated by the states and by regulations implementing the MMPA and the ESA. The preferred alternative in the FMP is to incorporate under Magnuson-Stevens Act authority the gear and time/area closures currently in state and ESA regulations into the regulations implementing the FMP. Therefore, state area closures that extend into the U.S. EEZ are included in this proposed rule. Gear restrictions in state regulations and in NMFS regulations under the ESA to protect sea turtles 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.

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 and would not be moved to the section of the CFR that implements the FMP. However, it is anticipated that the Pacific Council will be provided the opportunity to participate in the Take Reduction Team process to ensure that the Take Reduction Team process and recommendations and the FMP process and actions are carried out in a coordinated manner.

Endangered and threatened sea turtles are defined as fish by 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 ESA section 7 consultations will address the impacts of drift gillnet fishing on all listed species.

The FMP defines drift gillnet gear as 14-inch (35.56-cm) stretched mesh or greater. A drift gillnet vessel with a mesh size less than 14 inches (35.56 cm) would not be able to target HMS. An incidental landing of 10 HMS per trip, other than swordfish, would be allowed to minimize bycatch of HMS while fishing for state managed species.

3. Permits

This proposed rule would require all commercial vessels fishing for HMS to obtain a permit with an endorsement for the specific gear to be used. A permit would also be required for all recreational charter vessels and commercial passenger carrying fishing vessels (CPFV) fishing for HMS. Other alternatives analyzed 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 Pacific 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; however, the Pacific Council has assigned its HMS Management Team to begin evaluating a limited entry program for longline vessels fishing from West Coast ports. 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 of 1995 and for longline vessels fishing under the authority of the Pelagics FMP. In compliance with United States obligations under the Tuna Conventions Act of 1950, NMFS is also providing information to the Inter-American Tropical Tuna Commission (IATTC) for an international vessel register including all U.S. vessels that fish tuna in the eastern Pacific Ocean. Thus, a list of vessels that would likely fall under the jurisdiction of the FMP has been completed by the Southwest Region, NMFS. The regulations propose issuing HMS permits to all individuals on this list. 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.

4. Recording and Recordkeeping

The proposed rule would require all commercial and recreational charter vessels and CPFV to maintain a logbook of catch and effort statistics for their HMS fishing under their permits to be submitted to the Regional Administrator following the end of a fishing trip. The proposed rule allows state logbooks to meet the Federal reporting requirement if those logbooks are submitted on time and provide the required information and if the information is available to the Regional Administrator by agreement with that state. Federal logbooks are now required for: vessels fishing on the high seas under the authority of the High Seas Fishing Compliance Act of 1995, vessels fishing tuna under the authority of the Tuna Conventions Act of 1950, and vessels fishing under the authority of the regulations implementing the Pelagics FMP. A Federal logbook for troll vessels fishing albacore, which is currently voluntary,