

FOR FURTHER INFORMATION CONTACT: Amy Algoe-Eakin at (913) 551-7942, or by e-mail at algoe-eakin.amy@epa.gov.

SUPPLEMENTARY INFORMATION: In the final rules section of the **Federal Register**, EPA is approving the state's SIP revision and Title V revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of this rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

Dated: February 27, 2007.

John B. Askew,

Regional Administrator, Region 7.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[I.D. 020807A]

RIN 0648-AV24

Fisheries off West Coast States; Highly Migratory Species Fishery; Amendment 1 to the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species

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

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: NMFS announces that the Pacific Fishery Management Council

(Pacific Council) has submitted Amendment 1 to the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP) for review by the Secretary of Commerce. Amendment 1, in combination with the Western Pacific Fishery Management Council's (Western Pacific Council) proposed Amendment 14, address overfishing of bigeye tuna (*Thunnus obesus*) Pacific-wide as required under the Magnuson-Stevens Fishery Management Act (Magnuson-Stevens Act). The specific actions to end overfishing would be implemented by multilateral cooperation through appropriate regional fishery management organizations (RFMOs) - the Inter-American Tropical Tuna Commission (IATTC) in the Eastern Pacific Ocean (EPO) and the Western and Central Pacific Fisheries Commission (WCPFC) in the Western and Central Pacific Ocean (WCPO). Specifically, Amendment 1 would recommend that fishing mortality on Pacific bigeye in the EPO by longline vessels be reduced immediately by 30 percent and by purse seine fishing vessels by 38 percent from 2003-2004 fishing levels, and in the WCPO by longline and purse seine vessels by 20 percent from 2001-2003 levels for each gear type. Taken together, these proposed reductions in fishing mortality would end overfishing of Pacific bigeye tuna. Amendment 1 would also reorganize the West Coast HMS FMP to create a more user-friendly document as the current FMP is combined with a lengthy Final Environmental Impact Statement (FEIS).

DATES: Comments on Amendment 1 must be received by May 8, 2007.

ADDRESSES: You may submit comments on this action identified by [I.D. 0220807A], by any of the following methods:

- E-mail: 0648-AV24.SWR@noaa.gov. Include the I.D. number in the subject line of the message.
- Federal e-Rulemaking portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802.
- Fax: (562)980-4047

Copies of Amendment 1 are available by contacting Donald O. McIsaac, Executive Director, Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220-1384. Copies of Amendment 14 to the Pelagics FMP, and the Environmental Assessment (EA) for Amendment 14, which addresses

potential effects for actions proposed under both Amendments 1 and 14, may be obtained by contacting Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Heidi Taylor, Sustainable Fisheries Division, NMFS, at 562-980-4039, or Christopher Dahl, Pacific Fishery Management Council, at 503-820-2280.

SUPPLEMENTARY INFORMATION: The HMS fishery in the Exclusive Economic Zone off the West Coast is managed under the HMS FMP, which was developed by the Pacific Council pursuant to the Magnuson-Stevens Act. The HMS FMP was approved by the Secretary of Commerce and implemented by regulation at 50 CFR part 660.

The Magnuson-Stevens Act requires each regional fishery management council to submit any amendment to an FMP to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an amendment to an FMP, publish notification in the **Federal Register** that the amendment is available for public review and comment. NMFS will consider public comment received during the comment period in determining whether to approve, disapprove, or partially approve Amendment 1.

Amendment 1 to the HMS FMP was developed by the Pacific Council, in coordination with the development of Amendment 14 to the Western Pacific Council's Pelagics FMP. Both Amendments have been submitted to NMFS for review under the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* This document announces that Amendment 1 is available for public review and comment. A similar announcement for Amendment 14 was published on February 15, 2007, in the **Federal Register**.

On December 15, 2004, NMFS notified both Councils that overfishing was occurring on bigeye tuna Pacific-wide. As required by the Magnuson-Stevens Act, the Councils were requested to take appropriate action to end overfishing. The Pacific Council, having fisheries for bigeye tuna in the EPO only, and the Western Pacific Council, having fisheries in both the EPO and the WCPO, worked to develop an international strategy that addresses overfishing Pacific-wide.

According to the guidelines for National Standard 1 of the Magnuson-Stevens Act, fishery stock status is assessed to determine if the stock is

subject to “overfishing.” Overfishing occurs when the maximum fishing mortality threshold (MFMT) is exceeded for one year or more and when the ratio of the current fishing mortality F_{current} to $F_{\text{maximum sustainable yield (MSY)}}$, or $F_{\text{current}}/F_{\text{MSY}}$, exceeds one. Stock assessments leading up to the overfishing determination for bigeye tuna in the Pacific concluded that current fishing mortality on the bigeye stock exceeded MFMT, that is, the ratio of $F_{\text{current}}/F_{\text{MSY}}$ has been exceeded for one year or more. Therefore, the Secretary of Commerce determined that overfishing is occurring on bigeye tuna throughout the Pacific.

The Pacific Council adopted Amendment 1 to the HMS FMP at its November 2006 Council meeting following a lengthy process that fully considered various drafts of an alternatives analysis. The Pacific Council also considered actions taken by the Western Pacific Council, input from Council advisory bodies, and public comment before adopting Amendment 1. Because bigeye tuna are targeted by many nations, including the United States, and taking into consideration the comparatively small proportion of total fishing mortality on the stock contributed by the United States, no Federal regulations to limit fishing effort by West Coast vessels managed under the HMS FMP have been proposed. Rather, Amendment 1 would revise the HMS FMP to include a multilateral strategy where the Pacific Council would transmit recommendations for the immediate reduction in fishing mortality of bigeye tuna in the EPO to the U.S. delegation to the IATTC. A similar international strategy has been proposed in Amendment 14 for the WCPO, and thus any combined fishery conservation and management recommendation from the Pacific and Western Pacific Councils to the relevant RFMOs, will end overfishing of bigeye tuna Pacific-wide.

Amendment 1 outlines general principals that would be adhered to when proposing management measures to the U.S. delegation to the IATTC intended to meet the goal of ending overfishing. For example, conservation and management recommendations would focus on fisheries with the greatest impacts and on regions with the highest catch rate and on spawning areas; reducing surplus capacity; restrict the use of purse seines fishing on fish aggregating devices; and support the identification of those measures that

will have a measurable impact on bigeye tuna conservation.

The Pacific Council would develop management goals, to the extent practicable, that are consistent with IATTC staff scientist recommendations. Specifically, Amendment 1 would recommend that fishing mortality on Pacific bigeye be reduced immediately: (1) in the EPO, by longline vessels by 30 percent and by purse seine fishing vessels by 38 percent from 2003–2004 fishing levels; and (2) in the WCPO, by longline and purse seine vessels by 20 percent from 2001–2003 levels for each gear type. However, as part of its strategy the Pacific Council recognizes that conservation and management goals may need to be revised to reflect changes in stock status and the best available science. These recommendations would be communicated to the relevant U.S. delegations to RFMOs and thus comprise the international strategy to end overfishing of bigeye tuna Pacific-wide.

Amendment 1 is consistent with section 406 of the Magnuson-Stevens Reauthorization Act (MSRA, Public Law 109–479), which added section 304(i) to the Magnuson-Stevens Act. This section requires the Secretary to, among other things, in cooperation with the Secretary of State, immediately take appropriate action at the international level to end overfishing for fisheries that NMFS has determined: (a) to be overfished or approaching a condition of being overfished due to excessive international fishing pressure, and (b) for which there are no management measures to end overfishing under an international agreement to which the United States is a party. NMFS interprets “no management measures” to mean the absence of management measures that are adequate to stop overfishing for purposes of the Magnuson-Stevens Act and its implementing regulations. NMFS has made a determination that both of these conditions are present, and therefore subsection 304(i) governs the MSA mandate to end overfishing in the case of Pacific bigeye tuna.

Pacific bigeye tuna are fished in waters under U.S. jurisdiction, waters under the jurisdiction of other nations, and on the high seas by foreign fishing fleets. U.S. fisheries account for only a small percentage of the Pacific bigeye tuna harvests. Thus, fishing mortality of the bigeye stock stems predominantly from non-U.S. fleets in the region, and any unilateral management to end

overfishing by the U.S. would have a proportionally small effect in terms of reducing fishing mortality and ending overfishing.

Since 1998, the U.S. has addressed the relative impacts of U.S. fishing on Pacific bigeye tuna by implementing annual or multi-annual conservation and management resolutions under the Tuna Conventions Act (16 U.S.C. 951–961 and 971 *et seq.*). Additionally, in Amendment 1, the Pacific Council proposes to recommend to NMFS and the Secretary of State, international management actions to end overfishing in fisheries for Pacific bigeye tuna. Finally, NMFS, in collaboration with the Pacific and Western Pacific Councils and Department of State, is working to end overfishing through the RFMOs.

Existing HMS and Pelagics FMP measures for bigeye tuna have been implemented to address the relative impact of U.S. fishing vessels within the meaning of the MSRA section 304(i)(2)(A). Depending on the region, these measures include limited access programs, mandatory data collection, scientific observers, vessel size limits and gear specifications, and a vessel monitoring system.

Amendment 1 would also reorganize the original HMS FMP in a manner that calls attention to elements specific to the FMP and would move much of the lengthy background material in the original FMP/FEIS to a series of appendices. Amendment 1 thus includes new chapters and headings for the FMP. Cross references to chapters, sections, tables, and figures would be renumbered to reflect the reorganization proposed without referencing such changes in the text. The preface of Amendment 1 further explains the reorganization of the HMS FMP. The original FMP/FEIS will remain a publicly available document.

Though Amendment 1 incorporates elements of Amendment 14, it does not require NMFS to promulgate implementing regulations. NMFS seeks public comment on Amendment 1, which must be received by May 8, 2007 to be considered by NMFS in the decision whether to approve, partially approve, or disapprove the Amendment 1.

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

Dated: March 5, 2007.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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