



**WESTERN
PACIFIC
REGIONAL
FISHERY
MANAGEMENT
COUNCIL**

ACTION MEMORANDUM

179th Council Meeting

August 8, 2019

Council Office and by Webconference

Honolulu, Hawaii

Regarding the Management of Loggerhead and Leatherback Turtle Interactions in the Hawaii-based Shallow-set Longline Fishery, the Council:

1. Recognized that NMFS partially addressed the Council's recommendation from the 177th Meeting to revise the draft Reasonable and Prudent Measures (RPMs) for consistency with the Council's recommended action by incorporating individual trip limits. Nevertheless, the Council finds that the RPMs and associated Terms and Conditions continue to be overly conservative and not commensurate with the Biological Opinion's conclusion that the Hawaii shallow-set longline fishery is not likely to jeopardize the continued existence of ESA-listed species, including the leatherback turtles and North Pacific distinct population segment (DPS) of loggerhead turtles. In particular, the Council has serious concerns that the additional restrictions on vessels that reach trip limit twice are punitive and not likely to contribute to meaningful conservation benefit beyond those expected from the simple trip limits previously recommended by the Council.

The Council noted that the Hawaii shallow-set longline fishery, which accounts for approximately half of the nation's domestic production of swordfish, experienced an unnecessary closure in 2019 due to NMFS' delay in completing the BiOp under the statutory timeline. In 2019, the fishery operated under a loggerhead fleet-wide hard cap limit of 17 based on a 2004 BiOp, pursuant to a stipulated settlement agreement and court order. The court order states that NMFS may not increase the allowable incidental take of loggerhead turtles above 17 loggerhead turtles except through a new regulation issued under applicable authority and after issuance of a new BiOp. The new BiOp completed on June 26, 2019, found that the anticipated level of interactions with up to 36 loggerhead turtles in a year is not likely to jeopardize the continued existence of the North Pacific DPS.

The Council recognized that the status of the North Pacific DPS of loggerhead turtles have improved since the Council first recommended implementing hard caps for this species in 2004. At the time, the population was projected to decline, whereas the most recent scientific assessment of the population indicates that the North Pacific DPS is increasing at a long-term average rate of 2.4% per year, and that the total abundance is approximately 340,000 turtles. In light of the RPM T&C 1b requiring additional restrictions on vessels that reach a trip limit twice in a calendar year on top of the simple individual trip limit measure developed by the Council, and considering the population growth of the North Pacific loggerhead turtles, the Council finds that the fleet-wide hard

cap limit for this species is not necessary at this time for the conservation of the loggerhead turtles.

The Council further recognized that the Western Pacific leatherback turtle population is exhibiting a long-term decline at an average rate of 5.3% per year, but notes that the BiOp concludes that the impacts from the Hawaii shallow-set longline fishery would be inconsequential and are not likely to appreciably reduce the species' chances of survival and recovery in the wild. The Council further noted that the underlying leatherback population data show an increase in the last few years of the dataset, suggesting some rebound capacity that may be reflective of the conservation efforts undertaken at nesting beaches over the past two decades by the Council, NMFS, and various other entities.

2. Recommended amending the Pelagic FEP to modify loggerhead and leatherback turtle mitigation measures for the Hawaii shallow-set longline fishery as follows:
 - a. Set an annual fleet-wide hard cap limit on the number of leatherback turtle interactions at 16, consistent with RPMs and Terms and Conditions 1a under the 2019 BiOp. A limit of 16 represents an approximately 25 percent reduction from the Incidental Take Statement (ITS) of 21. Once this interaction limit is reached, the fishery closes for the remainder of the calendar year.
 - b. Do not set an annual fleet-wide hard cap limit on the number of North Pacific loggerhead turtle interactions. If the fishery exceeds the ITS in the current valid BiOp, Section 7 consultation would be reinitiated as required by ESA. The Council retains the authority for setting an annual fleet-wide hard cap limit on the number of North Pacific loggerhead turtle interactions under the Pelagic FEP if necessary.
 - c. Establish individual trip interaction limits for loggerhead and leatherback turtles for the Hawaii limited entry permit vessels that declare their trips as a shallow-set trip, consistent with RPMs and Terms and Conditions 1b under the 2019 BiOp as follows:
 - i. Set limits of 5 loggerhead turtles and 2 leatherback turtles per trip.
 - ii. Upon determining that a vessel has reached either the loggerhead or leatherback turtle trip interaction limit based on data from NMFS observers, shallow-set vessels will be required to return to port without making additional sets.
 - iii. The vessel will be prohibited from engaging in shallow-set longline fishing for 5 days after returning to port.
 - iv. Vessels that reach the trip limit for either leatherback or loggerhead sea turtles twice in a calendar year shall be prohibited from shallow-set longline fishing for the remainder of the calendar year. Such vessels shall have an annual vessel limit equivalent to a single trip limit for the following calendar year.
 - v. The Council may make recommendations to NMFS to revise the individual trip limits upon periodic review of the effectiveness of the limits and consistent with the RPM of the current valid BiOp.

Further, the Council deems that the regulations implementing the recommendations are necessary or appropriate in accordance with Section 303(c) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA). In doing so, the Council directs Council staff to work with NMFS to complete regulatory language to implement the Council's final action. Unless otherwise explicitly directed by the Council, the Council authorizes the Executive Director and the Chairman to review the draft regulations to verify that they are consistent with the Council action before submitting them, along with this determination, to the Secretary on behalf of the Council. The Executive Director and the Chairman are authorized to withhold submission of the Council action and/or proposed regulations and take the action back to the Council if, in their determination, the proposed regulations are not consistent with the Council action.

3. Recommended an annual review of the Hawaii shallow-set longline fishery's performance under the individual trip limits in the Annual SAFE Report.
4. Recommended the National Marine Fisheries Service (NMFS), in coordination with the Council and other appropriate partners, prioritize addressing the recovery of the leatherback turtles through reduction of threats at nesting beaches and foraging areas in the Western Pacific, such as reducing direct harvest of nesting adults and foraging sub-adults and adults; reducing depredation and harvest of eggs and hatchlings at nesting beaches; and reducing bycatch in artisanal and coastal fisheries. The Council further recommended NMFS support research to improve data quality and availability to allow for comprehensive demographic models to be employed on the North Pacific loggerhead and the Western Pacific leatherback turtle populations. The Council reiterates its previous recommendation that reducing post-hooking mortality and improving tools for fishermen (e.g. TurtleWatch) should be a focus for minimizing impacts for the Hawaii shallow-set longline fishery, and that RPMs that further restrict the fishery are not likely to contribute to recovery and divert resources away from more meaningful conservation efforts for the loggerhead and leatherback turtle populations.
5. Requested NMFS Pacific Islands Regional Office (PIRO) Sustainable Fisheries Division (SFD) to work with Council staff to develop a plan for addressing the remaining RPMs in the SSSL BiOp, including proposed compositions for any working groups needed to address the RPMs. The Council requested NMFS PIRO present this plan to the Council at the October 2019 meeting.
6. Requested NMFS PIRO SFD to establish procedures for providing permit holders and vessel owners with updated turtle interaction counts based on observer data so that they have a mechanism to verify their records of loggerhead and leatherback turtle interactions with the data that will be used to make a determination on whether a vessel reached a trip limit.
7. Directed staff to send a letter to NMFS expressing concern that US is importing foreign-caught swordfish from stocks that are overfished and experiencing overfishing (e.g., South Atlantic stock) or from stocks with considerable risk of being overfished and/or experiencing overfishing (e.g., North Atlantic, Eastern Pacific stocks).

8. Requested NMFS PIRO International Fisheries Division draft a position for the 16th Regular Session of the Western and Central Pacific Fisheries Commission on incentives for participating countries to achieve and maintain at least a minimum of 5% observer coverage for longline fisheries, for which data is used for estimating and monitoring bycatch interactions.
9. Directed staff to work with NMFS and the Hawaii longline fishing industry to consider providing fishermen greater fishing opportunities by changing the start of the fishing year from January 1 to October 1.