



## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[RTID 0648-XD487]

### Amendment 8 Revisions to Essential Fish Habitat in 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:** Announcement of availability of a fishery management plan amendment; request for comments.

**SUMMARY:** The Pacific Fishery Management Council (Council) submitted to NMFS Amendment 8 to the Fishery Management Plan (FMP) for the U.S. West Coast Highly Migratory Species (HMS) July 15, 2024. If approved by the Secretary of Commerce (Secretary), these Amendments would update essential fish habitat (EFH) provisions in the existing HMS FMP. This Amendment is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) which requires periodic review and revision of EFH components of FMPs as warranted based on available information.

**DATES:** Comments on the Amendments must be received by *[insert date 60 days after date of publication in the FEDERAL REGISTER]*.

**ADDRESSES:** You may submit comments on this document, identified NOAA-NMFS-2024-0013 by the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA-NMFS-

2024-0013 in the Search box. Click the “Comment” icon, complete the required fields, and enter or attach your comments.

- *Mail*: Submit written comments to Eric Chavez, NMFS West Coast Region Long Beach Office, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802. Include the identifier “NOAA-NMFS-2024-0013” in the comments.

*Instructions*: Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on <https://www.regulations.gov> without change. All personal identifying information (*e.g.*, name, address, *etc.*) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

**FOR FURTHER INFORMATION CONTACT**: Nicole Nasby-Lucas at (858) 334-2826, [nicole.nasby-lucas@noaa.gov](mailto:nicole.nasby-lucas@noaa.gov), or Eric Chavez at (562) 980-4064, [eric.chavez@noaa.gov](mailto:eric.chavez@noaa.gov).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

NMFS manages the HMS fisheries off the U.S. Pacific Coast under the HMS FMP. The MSA requires that each regional fishery management council submit any FMP amendment it prepares to NMFS for review and approval, disapproval, or partial approval by the Secretary (16 U.S.C. 1854(a)). The MSA also requires that NMFS, upon receiving an FMP amendment, immediately publish a notice in the **Federal Register** announcing that the amendment is available for public review and comment (16 U.S.C.

1854(a)(1)(B)). The Council has submitted the Amendment to the Secretary for review. This notice announces that the proposed Amendment is available for public review and comment.

The MSA mandates that each FMP describe and identify EFH for the fishery (16 U.S.C. 1853(7)). EFH is defined as “those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity” (16 U.S.C. 1802(10)). Under this authority, NMFS and the Council have developed a comprehensive strategy to conserve EFH. This includes incorporating EFH into each of the Council’s FMPs, identifying fishing and non-fishing impacts and associated conservation recommendations, and other required EFH elements. EFH requirements and the process for periodic EFH reviews are described in the EFH regulations at 50 CFR 600.815(a).

The HMS FMP was approved in 2004 and has been amended seven times. The HMS FMP includes three species of pelagic shark (common thresher, shortfin mako, and blue) five species of tunas (albacore, bigeye, Pacific bluefin, skipjack, and yellowfin), striped marlin, swordfish, and dolphinfish (dorado) as species in the management unit. EFH components for each management unit species (MUS) were included in appendix A to the Final Environmental Impact Statement when NMFS approved the HMS FMP and have not been reviewed since that time.

The Council’s relevant advisory bodies engaged in the EFH review process and provided recommendations to the Council at their September 2023 Council meeting. The Council considered these recommendations when adopting a draft FMP Amendment for public review. The Council took final action at its November 2023 meeting, adopting the proposed amendment to the HMS FMP.

The proposed amendment would not add any new reporting requirements and would not change any regulatory requirements. This action would only add to or update HMS EFH provisions in the HMS FMP.

## HMS FMP Amendment 8

Based on recommendations from the Council, NMFS proposes to amend the HMS FMP to update the EFH provisions to ensure compliance with the requirements of the MSA. This FMP amendment includes eight major components that would (1) update the description and identification of EFH, (2) include new maps for each MUS in the HMS FMP, (3) update information on life history, (4) update information on fishing impacts, (5) update information on non-fishing impacts and conservation measures, (6) update text on habitat areas of particular concern (HAPCs), (7) update research and information needs and (8) add a reference to Council's Operating Procedure 22 as a description of the review and revision process. The revised FMP text and appendix F include supporting information and rationale for the modifications adopted by the Council. The supporting information and rationale relevant to the major EFH components are briefly described below.

*Description and Identification of EFH.* EFH descriptions including information on distributions by life stage were updated in appendix F and the FMP. Proposed modifications to the description and identification of EFH for HMS species were informed by using current fishery-independent information that was not available when the original EFH descriptions were adopted.

*Maps.* New maps reflecting EFH spatial extent and global distribution were developed. EFH maps were developed based on species distribution data acquired from existing species distributions in the eastern North Pacific from published sources, expert opinion and a review of fisheries data. For many of the species, the use of fishery-independent data shifted the EFH boundary closer to shore to encompass nearshore distribution for all life stages. For the warm-water species (*i.e.*, skipjack, bigeye, and yellowfin tunas), Point Conception, the northern edge of the Southern California Bight (SCB), was selected as the northern EFH boundary. Global range maps were also

developed to provide additional supporting information. Additional information on the development of the maps can be found in section 1.1, Review of Methods, in appendix F.

*Life History Summaries.* Information on life histories summaries are proposed, based on historic and recent information. The revised HMS FMP appendix F contains the descriptions of overall species distributions, life history summaries, trophic interactions, primary prey species, proposed EFH descriptions, and maps.

*Fishing Impacts.* Updated text contains information on potential adverse effects of fishing activities including potential impacts resulting from removal of prey species, derelict gear/ghost fishing, and vessel discharges. Details on these potential impacts and minimization measures are included in chapter 7.4 of the revised FMP text.

*Non-Fishing Impacts and Conservation and Enhancement Measures.* In addition to the list of non-fishing impacts and conservation measures currently described in the HMS FMP, numerous additional non-fishing activities that may adversely affect HMS EFH along with their associated conservation measures were included based on a recent NMFS publication.

*Habitat Areas of Particular Concern (HAPC).* The HMS FMP does not currently include any HAPCs, and none are proposed based on the current EFH review. Shark pupping and nursery areas within the SCB were considered for HAPC designation, based primarily on the prevalence of juveniles in the region. Migratory routes were also considered as potential HAPCs. However, the review of new information did not generate information that would allow for more precise mapping of such habitats or provide a thorough qualitative description of the HAPC boundaries. There was also insufficient information to describe the physical, chemical, or biological characteristics of the HAPC in detail. Therefore, HAPCs were not recommended for adoption. Rather, additional research is being recommended to collect more information that could inform

consideration of HAPCs in the future. Additional details and rationale can be found in the revised FMP chapter 7.3.

*Research and Information Needs.* The Council adopted several Research and Information (R&I) Needs, which are required to be identified by the EFH regulations. These include research useful for identifying HAPCs, and better understanding habitat associations and the dynamic nature of HMS habitat, migratory corridors and habitat dependency, including benthic habitats, and potential impacts to EFH from fishing activities. These R&I Needs are described more fully in chapter 7.7 of the revised HMS FMP.

*Review and Revision Process.* The EFH regulations require that FMPs include a description of the EFH review and revision process. The Council's Operating Procedure 22 (COP 22; <https://www.pcouncil.org/documents/2023/07/current-operating-procedures.pdf>) describes a process to guide all EFH reviews. This process is referenced in FMP chapter 7.1.

All comments received by the end of the comment period on the Amendments (see **DATES** and **ADDRESSES** above) will be considered in the Secretary's decision to approve, disapprove, or partially approve this amendment. To be considered in this decision, comments must be received by close of business on the last day of the comment period; that does not mean postmarked or otherwise transmitted by that date.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: July 18, 2024.

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**Lindsay Fullenkamp,**

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