



**NATIONAL COALITION FOR MARINE
CONSERVATION**
4 Royal Street, S.E., Leesburg, VA 20175

August 31, 2009

Margo Schulze-Haugen
Highly Migratory Species Division
NMFS SF1
1315 East West Highway
Silver Spring, MD 20910

RE: Advanced Notice of Proposed Rulemaking for Atlantic Highly Migratory Species;
Pelagic Longline Incidental Catch Requirements (0648-AX85)

Dear Margo,

As we stated in the National Coalition for Marine Conservation's previous written comments on the ANPR for Atlantic Highly Migratory Species Management and Permitting (June 29, 2009), it is premature and risk-prone to loosen effort controls on fisheries for such a severely depleted species as the Atlantic bluefin tuna when the reasons for sharply declining catches are not understood. Indeed, as we pointed out, the collapse of the U.S. fishery since 2003 very likely indicates more serious conservation problems, namely that the western population of bluefin has shrunk to a size too small to sustain a viable fishery, therefore pointing to the need to consider even *tighter* controls than those presently in place.

We wrote, and repeat here:

"The collapse of the U.S. bluefin tuna fishery demands a more comprehensive, ecosystem approach to management... But with this proposed rulemaking, NMFS is focusing on the status of the bluefin fishery, in isolation from the status of the stock and the ecosystem, and reacting to demands of the fishing industry for less regulation. The effect of these or other proposed 'adjustments to domestic regulations' on the long-term recovery of western Atlantic bluefin tuna must be carefully evaluated and considered before such changes are made. Otherwise, we might adopt a 'solution' that actually makes the problem worse."

We urged NMFS not to proceed with a proposed rulemaking that would have the effect of increasing fishing effort. Our previous comments addressed the directed bluefin fishery. These comments focus on the rules for the pelagic longline, or incidental, fishery. In this case, we recommend NMFS consider a new rulemaking that presents options for minimizing the longline incidental take of bluefin, with particular attention to protecting spawning fish on their Gulf of Mexico breeding grounds.

Top Priority: Tighten Rules to Protect Spawning Bluefin from Longlining in the Gulf of Mexico

There is a very real danger of reducing the western Atlantic bluefin tuna's breeding population below a critical mass - the minimum population sufficient to sustain itself - resulting in a stock failure that's irreversible. The population of spawning age fish in the west is just 7% of an unexploited stock (and 14% of the rebuilding target), despite quotas in place since the early 1980s. The ICCAT "rebuilding" program, implemented in 1998, is not working, evidenced by the fact that the spawning stock today is 11% below the level 10 years ago.

Western bluefin spawn in the northern Gulf of Mexico and nowhere else. Each spring adults return there to give birth to the future of the species. In June, NMFS recognized the critical importance of this rare and sensitive habitat by officially designating this region a Habitat Area of Particular Concern (HAPC), underscoring the need to protect this essential bluefin habitat from fishing and non-fishing impacts.

The HAPC does not automatically restrict fishing, but future fishery conservation measures, according to NMFS, "could include gear restrictions, time/area closures, or other measures to minimize impacts to the habitat at such time as the information indicates such action is necessary to protect the habitat."

The setting of miles of indiscriminate longline gear throughout this HAPC, incidentally hooking and killing hundreds of giant bluefin each year, on their spawning grounds during their spawning season, qualifies as an adverse impact on the bluefin's critical habitat, directly threatening its ability to reproduce and therefore warranting new fishery conservation measures as provided for under the HAPC guidelines.

The number of bluefin able to successfully reproduce in the Gulf of Mexico is critical to rebuilding, as recognized by the International Commission for the Conservation of Atlantic Tunas since 1983, when ICCAT first recommended "no directed fishery on the bluefin tuna spawning stocks in the western Atlantic in spawning areas such as the Gulf of Mexico." Longliners are prohibited from "targeting" bluefin, but are permitted to land and sell up to 3 bluefin per vessel per trip if certain target species thresholds are met. Considering the high value of giant bluefin as compared to yellowfin tuna and swordfish, the nominal target species, the current incidental retention rules have the perverse effect of rewarding longliners if they set their non-selective gear in the bluefin's spawning ground during spawning season.

In 2007, U.S. longline vessels reported landing and discarding 81 tonnes of bluefin in the Gulf of Mexico, or an estimated mortality of approximately 300-400 spawning giants. *That is not an insignificant number.* ICCAT stock assessments already confirm we've severely depleted the spawning population, but they may be out-of-date, assuming as they do that bluefin mature at 8 years of age. Recent research, in two separate studies, suggests that bluefin that spawn in the Gulf do not fully mature until 11 or 12 years of age. If so, that would reduce the number of fish we're counting as spawners, and counting on to rebuild the stock, by up to a third.

The incidental bluefin fishery in the Gulf is not a bycatch fishery as defined by the Magnuson-Stevens Act, which defines bycatch as fish that are or must be discarded. In the Gulf longline fishery, those bluefin that are landed and sold are treated like target species managed under a vessel trip limit. Allowing these fish to be retained for sale in turn contributes to the high level of discard mortality. Allowing this fishery clearly violates the spirit and the intent of the ICCAT recommendation to protect bluefin on their spawning grounds. Without a doubt, it increases mortality on the severely depleted western spawning stock.

The Gulf of Mexico is the one place we can be assured that conservation measures give protection to the western spawning population. In the Gulf, in the spring, every fish we kill is a rare western breeder in the act of spawning. We're killing hundreds each year, as needless longline bycatch. Closing the Gulf to longlining when and where the bluefin spawn – an area delineated in the new bluefin Habitat Area of Particular Concern – is the one thing the U.S. can do unilaterally to protect what's left of the western bluefin spawning stock and preserve a U.S. fishery for the future. It's in our long-term interests to do so.

Options for Changes to the Incidental/Longline Regulations

In the ANPR, NMFS asked for comments on adjustments to the current longline retention limits, which limit the number of incidental bluefin that may be retained per pounds of targeted catch. In response, the National Coalition for Marine Conservation recommends that NMFS evaluate the following options and consider including them in a future rulemaking.

1. New Longline Time-Area Closure in the Gulf of Mexico (*Preferred Alternative*)

Close an area of the north central Gulf of Mexico to all pelagic longlining, corresponding to the area recently designated a bluefin HAPC, during the months of April, May and June to eliminate the incidental catch of spawning bluefin tuna. This closure would be enforceable because all longline vessels carry vessel monitoring systems (VMS) and would not require observers.

We also recommend that NMFS consider lengthening the closure described in 1 above to include summer months (July and August) when longline bycatch of billfish (blue and white marlin, sailfish and spearfish) is highest. This expanded closure would afford additional conservation benefit to seriously overfished blue and white marlin.

2. Gulf of Mexico Bycatch Cap

A fleet-wide bycatch cap, accompanied by 100% observer coverage, could be used to create a disincentive to catch bluefin tuna in the Gulf during spawning season. If the regional cap were set at 50 fish per year (for the sake of discussion), then the Gulf would close to longlining for the rest of the year once that cap is reached.

Yellowfin tuna longliners would have a strong incentive to forego fishing in the spring, while bluefin are present and before yellowfin are available in large numbers. Or, to develop methods of fishing that are more selective (i.e., avoid bluefin mortality) so they can fish earlier in the year. (see also #4 below, alternative gears)

3. Zero Retention of Spawning Bluefin

The status quo longline retention limits are not an option because they result in mortality of at least 300-400 spawning bluefin in the Gulf of Mexico annually. Even more unacceptable are alternatives that would lower the targeted landing threshold and/or increase the incidental bluefin allowance because such changes would increase total bluefin mortality, including western spawners in the Gulf.

Increases in the threshold limit and/or lower landing allowances are unacceptable because they would likely result in mortality at or near the current level, merely turning some landings into discards, or even an increase in bluefin mortality, assuming that vessels would engage in high-grading to land and sell the most marketable fish.

Zero retention of bluefin tuna for the longline fishery in the Gulf of Mexico would likely result in a decrease in total bluefin mortality assuming that vessels would have less of an incentive to direct effort at giant bluefin by fishing in the Gulf during spawning season. However, because longlining would still be permitted, discard mortality would continue to occur and therefore a time-area closure is vastly preferable, for both its conservation benefit and its enforceability (i.e., does not require 100% observer coverage).

4. Transition from Pelagic Longlining to Cleaner Alternative Gears

The fishery for yellowfin tuna could be encouraged to switch to alternative gears, such as "greensticks," for use in the Gulf of Mexico (and elsewhere) in concert with a seasonal longline closure there. It has been noted that because this gear has a limited number of hooks and is set in the water for a short time, bycatch mortality problems would be minimal.

As part of a transition to cleaner, more sustainable gears in the U.S. swordfish fishery, longliners should be encouraged to use hand-gear, either harpoon or rod-and-reel, to target swordfish. NMFS should consider expanding the hand-gear permits for swordfish in the northern fishing areas (mid-Atlantic to New England) in concert with a phase-down in the longline fishery.

We look forward to working with the NMFS HMS Division in revising the longline category rules to better protect the dwindling spawning population of western bluefin tuna in order to advance the recovery of bluefin and other depleted species and

transition to more sustainable fisheries for the long term. The goal of this effort must be an end to longlining in the Gulf of Mexico HAPC during spawning season.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Ken Hinman". The signature is written in a cursive, slightly slanted style.

Ken Hinman
President