



June 10, 2024

Randy Blankinship
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NMFS, 1315 East-West Highway
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Dear Mr. Blankinship:

The undersigned representatives of the recreational fishing and boating community appreciate the opportunity to provide comments on the Final Environmental Impact Statement (FEIS) for Highly Migratory Species (HMS) Amendment 15 in advance of the final rule. The preferred alternatives in the FEIS are significantly different from those proposed in the draft rule and were not presented for public comment during the Draft Environmental Impact Statement (DEIS) phase. These new preferred alternatives would significantly alter the spatial and temporal distribution, as well as intensity, of pelagic longline fishing effort in areas of the southeast, where recreational fishing and boating activity is a significant and important component of the blue economy. While we appreciate this informal opportunity to provide staff with comments on the FEIS via this letter, **a revised DEIS and proposed rule should be presented to the public for comment rather than proceeding directly to the FEIS/final rule stage without public input.** A formal public comment period would provide for a transparent process that gives all stakeholders adequate opportunities to review the updated, 704-page version of Amendment 15 and provide input that can meaningfully inform rulemaking.

Although the preferred alternatives in the FEIS are significantly different from those proposed in the draft rule, the changes do not account for the comments outlined in our October 2, 2023, letter (attached). Given the significant departure between our comments and the FEIS, we ask that you reconsider these comments, as well as our initial concerns about the preferred alternatives in the FEIS, which are outlined below.

Bycatch Thresholds and Monitoring

The most significant changes proposed in the FEIS would allow pelagic longline fishing in the Charleston Bump and East Florida Spatial Management Areas. In the DEIS, each area was

divided into monitoring and restricted areas based on modeled risk of pelagic longline interactions with sea turtles, billfish, and shortfin mako sharks (low- and high-risk areas, respectively). We have significant concerns about bycatch of white marlin and other billfish in these areas, especially given tagging data that suggest white marlin migrate through these areas up to twice annually. In the FEIS, the boundaries of low- and high-bycatch risk areas are modified from the DEIS to encourage fishermen to fish in these areas. Effort caps proposed in the DEIS are also significantly increased in the FEIS. The modifications to Amendment 15 to encourage pelagic longline fishing in areas that were originally closed to this activity due to bycatch concerns raises questions about acceptable levels of bycatch and how bycatch will be evaluated, particularly in the monitoring areas. Because the FEIS does not include bycatch caps or thresholds, the metrics that would be used to assess bycatch and levels of bycatch that would trigger closures are unclear. For the monitoring areas, it is also unclear how frequently bycatch in these areas would be reviewed, and how/when NOAA Fisheries will respond. Future drafts of Amendment 15 should include additional details that describe how bycatch will be evaluated, and how any experimental fishing in these areas will be used to further inform or refine bycatch caps. NOAA Fisheries must recognize that the Charleston Bump and East Florida Spatial Management Areas have played a significant role over the past two decades in reducing billfish bycatch and spurring rebuilding and economic growth in those fisheries. The management success and continued value of these areas should not be minimized. An appropriate response by the agency to acknowledge the importance of these areas would be to present a firm bycatch trigger that once met, would prevent additional sets.

EFP Process

In addition, we continue to have concerns about Amendment 15 reducing public transparency and scrutiny of exempted fishing permit (EFP) proposals to allow longlining in spatial management areas. All stakeholders, relevant states and federal fishery management councils should be consulted for their input on proposed research and **individual** EFP projects in these areas. Given the high public interest in past proposals to allow longlining in closed areas, wide use of these areas by other fisheries, need for scientific critique of proposed research projects, and the existing process by which EFPs may be issued for cooperative research projects, increased (rather than decreased) transparency and scrutiny of proposals is necessary. A public and transparent process is critical to avoiding appearance of conflicts of interest in any research outcomes, providing reasonable opportunities for input on individual EFP projects and research plans, and ensuring studies in the closed areas are scientifically rigorous and provide useful data for monitoring, assessment, and management.

Management Decisions Based on PRiSM

Our October 2, 2023, letter outlined several issues with the use of PRiSM as the sole scientific basis for management action in Amendment 15. Mathematical and statistical models are regularly used for management and decision making in many phases of our daily lives; however, the best example is in hurricane tracking and preparedness. A critical aspect of this concept is that no one model can truly explain a natural system thus we use multiple that may be more applicable in specific scenarios, building ensemble models for prediction and decision making.

Yet, in the case of PRISM, we are effectively using just one model because it is all that is available, and we do not yet know how it will relate to real world catch and encounter rates. If we did this in hurricane modeling, simply put, it would be disastrous. Until we can confirm this model works well for all the species of interest, we should consider the outputs as suggestions compared to true empirical evidence for decision making. We continue to believe that PRISM should be further evaluated as one of many tools available to manage these fisheries. In addition, and as articulated in previous comments, there is a need to utilize other fisheries dependent sources of catch data from the closed areas. Despite the challenges of standardization, NOAA Fisheries must explore ways of using all fisheries dependent data instead of a relying exclusively on one gear type that continues to show a down trend of effort. Now is the time to start establishing time series from other gear types.

If Amendment 15 is implemented, NOAA Fisheries should evaluate how the forecasted interactions with bycatch species under PRISM match the monitoring data from the first year of analysis. In other words, NOAA should estimate the number/frequency of interactions with bycatch species from the video monitoring data and compare that to what the model suggested the interaction frequency should be in each area. This will provide valuable data and ground truthing on the PRISM model relative to longline interactions, as we know the data input into the PRISM model is lacking for many bycatch species and there are significant concerns it may be misrepresenting the preferred habitat for species like white marlin. This should be done for each area of interest and repeated as often as possible for both EFP and non-EFP fisheries.

Economic and Social Impacts on the Recreational Fishing Community

Although Section 5.4.6 of the FEIS broadly recognizes that HMS recreational fishermen in coastal counties of Florida, Georgia and the Carolinas may be impacted by this rule and that gear conflicts with the pelagic longline fishery are possible, we feel that the economic impacts of this rulemaking on recreational fishing in these areas has not been adequately considered. Notably, the FEIS also fails to consider effects of this rulemaking on non-HMS recreational fishing interests in this region despite the social and economic importance of recreational fishing in the southeast. This section also acknowledges the conservation concerns of recreational fishermen (regarding bycatch of species such as billfish on pelagic longlines) and notes that “the preferred measures in Amendment 15 are expected to better protect bycatch species, including recreational target species in the spatial management areas,” and would provide more fishing opportunities to recreational fishermen in the long run. This statement is untrue. To the contrary, opening areas that are closed to pelagic longlining increases the likelihood that recreationally important species in these areas such as billfish are caught on longlines. While this would provide more fishing opportunities for commercial fishermen, the same cannot be said for the recreational fishery.

Conclusion

Given longstanding concerns about opening the pelagic longline fishery in these areas and the concerns outlined above, we respectfully ask that a revised DEIS and proposed rule for Amendment 15 be presented to the public for comment rather than proceeding directly to the FEIS/final rule stage without public input. The recreational fishing community is supportive of

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periodic evaluation of management measures, including closed areas, to ensure their continued effectiveness but that evaluation must proceed with measured approach that respects the conservation objectives that drove the establishment of the areas over 20 years ago. We also ask that the comments and needs of the recreational fishing community be considered as NOAA Fisheries considers the future of Amendment 15 and spatial management of the pelagic longline fishery. Thank you for this opportunity to provide feedback.

Sincerely,

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October 2, 2023

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Dear Mr. Blankinship:

The undersigned representatives of recreational fishing and boating and marine conservation appreciate the opportunity to provide comments on the proposed rule for Highly Migratory Species (HMS) Amendment 15 (Draft Amendment 15). After careful review of the issue and in consideration of the concerns raised by stakeholders at public hearings and the HMS Advisory Panel (HMS AP) meetings, we request that all action on commercial longline spatial management areas be removed from Draft Amendment 15 and deliberated under a separate amendment to the HMS Fishery Management Plan. Our justification for this request and preferred approach is supported by the following comments.

As delineated in Draft Amendment 15, the proposed amendment comprises two overarching components:

- 1) Examination of the existing commercial longline spatial management areas.
- 2) Transitioning the financial responsibility for electronic monitoring (EM) in the pelagic longline (PLL) fishery from NOAA to the industry.

The diverse nature of the two issues and their differing timeframes warrant separate deliberative processes for each component. While we refrain from endorsing a specific approach or alternatives for EM cost sharing, we firmly assert that this issue should be addressed separately from examination of longline spatial management areas and expeditiously in Draft Amendment 15.

Electronic monitoring has been in effect for the PLL fishery since 2015. The NOAA cost allocation policy, formalized in 2019, stipulates that "*transition plans should be developed to*

transition those costs to industry over time (not to exceed 3 years).’’¹ In light of this explicit guidance regarding the timeline, a comprehensive plan should have been approved and implemented no later than May 2022. The policy notes that NOAA may cover initial EM program costs but is clear that NOAA cannot bear these costs in the long term due to administrative and budgetary considerations. Given that EM in the PLL fishery has been funded by NOAA for nearly a decade, expedited consideration of transferring EM cost responsibilities to the industry must take priority over changes to PLL fishery spatial management.

In contrast, reconsideration of longline spatial management areas is less time-sensitive and significantly more complex given the changes in fisheries that have occurred in these areas since they were closed to the PLL fishery, high public interest, and the need for decision-making informed by robust science. The desire to review the effectiveness of these closed areas is understandable but necessitates a comprehensive evaluation of all gear types and categories for their potential to provide fishery-dependent information, especially gears that are legal in the PLL closed areas.

Moreover, reconsideration of these closed areas relies almost exclusively on a predictive interactive model, the PRiSM model, which is not well understood by stakeholders, and produces highly uncertain estimates for some areas and species (i.e., DeSoto Canyon). While the PRiSM model can certainly supplement decision-making processes, it should not serve as the sole source of information guiding a management action of this magnitude and potential impact on non-target species and stakeholders. Rather than exclusively rely on PRiSM, NOAA should also consider what other available data streams can be used to evaluate longline spatial management areas and validate PRiSM before attempting to use it as a primary management decision-making tool. This consideration can be achieved by separating the two key components of Amendment 15 and initiating a robust discussion on data collection, fisheries dependent data and how to develop a comprehensive approach to evaluate spatial management areas using a broad inventory of data.

Given the scale and inherent uncertainty of the task, a dedicated amendment process focused exclusively on the reconsideration of longline spatial management areas would be more prudent. It is imperative that discussions on this vital subject not be unduly hastened by interlinking it with the EM cost-sharing aspect, as currently presented in Amendment 15. Therefore, we respectfully request that the reconsideration of existing longline spatial management areas be conducted exclusively through a separate amendment to the Consolidated Highly Migratory Species Management Plan.

Fisheries Dependent Data Collection within PLL Closed Areas

Draft Amendment 15 contains the statement, “*While closed areas can be an effective management tool for achieving certain objectives, closed areas can also reduce or eliminate the ability to gather fisheries-dependent data within the area.*”² We respectfully disagree with this assertion, as it appears to overlook the potential role of low-impact gear types in data collection within closed areas. While we acknowledge that pelagic longline gear has historically provided a

¹ [04-115-02 Cost Allocation in Electronic Monitoring Programs for Federally Managed U.S. Fisheries \(noaa.gov\)](#)

² [2023-08782.pdf \(govinfo.gov\)](#) page 29051

substantial time series and standardized catch per unit effort measurements, it is essential to recognize that other gear types and fishery components can provide valuable fisheries dependent data for monitoring and assessment of HMS fisheries.

In recent years, the number of longline vessels and sets has declined. In contrast, several open-access categories, including angling and general categories that employ hand gear, are on the rise. If the current declining trend in PLL participation persists, alternative sources of fisheries dependent data will become increasingly valuable for understanding HMS fishery trends. Relying on PLL for fisheries dependent data needs within closed areas (and HMS fisheries overall) is counterintuitive considering this gear type is producing diminishing data output and less representative of fishery use with each passing year. This fact supports the need to evaluate how other gear types can supplement PLL data. Pelagic longline gear has been prohibited in the closed areas (on a seasonal basis in some areas) for 20 years which means there is no time series to preserve with that gear in those areas. Recreational gear has the longest continuous time series of fishing activity within the closed areas and in the surrounding waters and may provide valuable insights into fishery trends. While we understand that standardizing recreational data to other fishery dependent data streams presents challenges for NOAA, the need for data from gears beyond PLL is apparent. Given these considerations, NOAA should be exploring and developing ways to utilize other gear types to gather data from the closed areas.

In addition, the use of longline gear has been a controversial topic every time NOAA has considered allowing longline gear back into the PLL closed areas, even for research purposes. Perhaps it is time to consider less contentious ways of gathering needed fisheries dependent data to assess management objectives. This may include fisheries independent surveys, which are widely employed in assessment of other federally managed species. Furthermore, NOAA must begin to work with industry partners in all categories to find ways to better utilize established and stable fisheries for their data collection needs. More time is needed to explore these options, which further supports our request to separate the cost allocation issue for spatial management actions.

Need for Transparency in Exempted Fishing Permit (EFP) Process and Development of Research Plans

Past attempts to allow longlining in the East Florida Coast Pelagic Longline Closed Area have fostered distrust, particularly in the recreational fishing community. In our comments on the advanced notice of proposed rulemaking for Amendment 15, we noted that the need to restore trust in the process through transparency and a robust and scientifically rigorous approach that meets specific fishery research goals. All stakeholders, relevant states and federal fishery management councils should be consulted for their input on proposed research and individual EFP projects proposed for closed areas consistent with C.F.R. § 600.745(b). Plans to collect data via longlining in “low risk” and “high risk” areas, whether via EFP or via monitoring areas suggested in Alternative B3, should also be subject to robust scientific review to ensure proposed study designs will yield conclusive results that improve our understanding of HMS resources and meet research objectives. This is critical to avoid repeating missteps in the 2008 - 2010 East Florida Coast closed area EFP that allowed longlining but failed to provide useful results. Rather than maximizing opportunities for public and stakeholder input, the preferred alternatives for

commercial data collection “B” alternatives would circumvent the established public review and comment process for EFPs issued in accordance with Amendment 15. Given the high public interest in past proposals to allow longlining in closed areas, wide use of these areas by other fisheries, need for scientific critique of proposed research projects, and the existing process by which EFPs may be issued for cooperative research projects, we recommend revising “B” alternatives to allow for increased (rather than decreased) transparency and scrutiny of proposals to allow longlining in the closed areas. A public and transparent process is critical to avoiding appearance of conflicts of interest in any research outcomes, providing reasonable opportunities for input on individual EFP projects and research plans, and ensuring studies in the closed areas are scientifically rigorous and provide useful data for monitoring, assessment, and management.

Use and Limitations of PRiSM

The predictive spatial model, PRiSM, which was developed for highly migratory species, has been comprehensively documented in a peer-reviewed paper published in *Marine Biology* in 2021. PRiSM incorporates datasets derived from fisheries-dependent observations, oceanographic factors, and adjustments for gear variations, thereby enabling predictions of longline interactions with bycatch species.

However, within the context of Amendment 15, PRiSM is employed to rationalize the reintroduction of longline gear into closed areas, without offering alternatives for expanding the PLL closed areas into regions predicted to have a high likelihood of bycatch occurrences. This utilization pattern implies selective application of PRiSM. Notably, Figure 5c of Creer *et al.* (2021)³ reveals that PRiSM predicts a higher rate of billfish interactions with pelagic longline gear outside the Charleston Bump closed area compared to within it. While Amendment 15 considers extending the current four-month PLL closure for the western part of Charleston Bump to occur year-round, it lacks reasonable alternatives aimed at broadening overall Charleston Bump area boundaries to encompass adjacent zones of elevated bycatch rates. This prompts questions regarding the intent behind PRiSM's use.

Similarly, Figure 4a of Creer *et al.* delineates areas with a substantial likelihood of billfish presence (probability > 0.40+). The absence of alternatives to safeguard these areas within Amendment 15 raises questions about whether the focus should be placed on reducing overall billfish interactions with pelagic longline gear rather than providing PLL access to current closed areas.

Another issue with Draft Amendment 15 is that PRiSM is only used to predict pelagic longline fishery interactions with sea turtles, billfish, and shortfin mako sharks. Evaluating bycatch risk for solely these species provides a limited view of the potential consequences of modifying the PLL closed areas and fails to fully consider the objectives of the closed areas. For example, the Charleston Bump, East Florida, and DeSoto Canyon closures were implemented in part to reduce bycatch, bycatch mortality, and incidental catch of juvenile swordfish, yet this objective is seemingly not evaluated relative to actions in Draft Amendment 15. Although swordfish is no longer overfished, minimizing bycatch of juvenile swordfish in the area remains a reasonable

³ [Highly migratory species predictive spatial modeling \(PRiSM\): an analytical framework for assessing the performance of spatial fisheries management | *Marine Biology* \(springer.com\)](https://doi.org/10.1007/s00227-021-03800-0)

objective that should be evaluated and considered in Amendment 15, especially considering current closed areas overlap swordfish nursery areas. It would be helpful to see analysis on the predicted occurrence of target species in the closed area, including yellowfin, bluefin and bigeye tuna. We also ask that NOAA analyze how reintroducing PLL effort to closed areas may affect bycatch and targeted catch of non-HMS species and change fishing behavior before moving forward with changes to areas closed to PLL fishing. For example, Amendment 15 should consider how allowing PLL fishing in current closed areas may affect targeting and catch of dolphin, given the fact that dolphin is often a PLL fishery target, and the South Atlantic Fishery Management Council anticipates considering stricter regulations for dolphin given concerns from fishermen about the status of the fishery in the southeast.

We also note that PRiSM's reliance on fisheries-dependent data solely from pelagic longline vessels may limit its overall utility. Crear *et al.* have identified limitations and model uncertainties associated with PRiSM, which can be influenced by data abundance. Given the declining status of the pelagic longline fishery, there arises the question of whether PRiSM's future utility is constrained and whether its effectiveness could be enhanced by integrating other datasets, potentially including recreational data. It's possible that further refinement and development of the model could broaden its scope and ability to run alternate data sets.

Conclusion

In conclusion, we respectfully urge that Draft Amendment 15 be divided into two separate components, with the issue of cost allocation alternatives for EM as the priority. Deliberations concerning the longline spatial management areas should be considered separately and transitioned into a distinct document for comprehensive evaluation, so that concerns and considerations articulated in this letter and during public hearings and HMS AP meetings may be fully evaluated and addressed. This strategic separation will allow for an expedited consideration of the cost allocation for EM and a more thorough examination of longline spatial management areas. We believe this approach will result in a more well-informed and judicious review of each issue.

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