



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Pacific Islands Regional Office
1845 Wasp Blvd. Bldg. 176
Honolulu, Hawaii 96818
(808) 725-5000 • Fax (808) 725-5215

Supplemental Environmental Assessment

Amendment 7 to the Fishery Ecosystem Plan for Pelagic
Fisheries of the Western Pacific Region
(RIN 0648-BD46)

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Lead Agency: National Oceanic and Atmospheric Administration (NOAA)
National Marine Fisheries Service (NMFS)
Pacific Islands Region Office (PIRO)

Responsible Official: Michael D. Tosatto
Regional Administrator
NMFS PIRO
1845 Wasp Blvd., Bldg. 176
Honolulu, HI 96818
Tel: (808) 725-5000
Fax: (808) 725-5215

Responsible Council: Kitty Simonds
Executive Director
Western Pacific Fishery Management Council
1164 Bishop St., Suite 1400
Honolulu, HI 96813
Tel: (808) 522-8220
Fax: (808) 522-8226

Location: U.S. Exclusive Economic Zone and High Seas around Hawaii,
American Samoa, the Commonwealth of the Northern Mariana
Islands, and Guam

Supplements the Environmental Assessment for:

Amendment 7 to the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific Region, Regarding the Use and Assignment of Catch and Effort Limits of Pelagic Management Unit Species by the U.S. Pacific Island Territories and Specification of Annual Bigeye Tuna Catch Limits for the U.S. Pacific Island Territories, Including an Environmental Assessment and Regulatory Impact Review. RIN 0648-BD46. March 27, 2014.



Abstract:

NMFS prepared this Supplemental Environmental Assessment (SEA) pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality Regulations at 40 Code of Federal Regulations 1500-1508, and NOAA Administrative Order 216-6. This SEA supplements the environmental assessment (EA) prepared for the proposed action described in Amendment 7 to the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific Region (Pelagic FEP).

The proposed action described in Amendment 7 establishes a management framework and process for specifying catch and effort limits for highly migratory fish stocks for U.S. Pacific territories, which are American Samoa, Guam, and the Northern Mariana Islands. The framework also authorizes the government of each territory to allocate a portion of its catch or fishing effort limit to a U.S. fishing vessel or vessels through a specified fishing agreement, and would establish the criteria that an agreement would need to satisfy.

For 2014 only, the proposed action specifies a limit of 2,000 metric tons (mt) of longline-caught bigeye tuna for pelagic fisheries in the U.S. Pacific territories, and authorizes each territory to allocate and transfer up to 1,000 mt of its 2,000-mt bigeye tuna limit to a U.S. longline fishing vessel or vessels based in a U.S. participating territory or Hawaii, and identified in a specified fishing agreement. Additionally, when NMFS projects a territorial catch or allocated limit will be reached, NMFS would, through accountability measures, restrict catches of longline-caught bigeye tuna by vessels in the U.S. territories, or by vessels operating under a specified fishing agreement, depending on which limit is being approached. Accountability measures may include, but are not limited to, a prohibition on retention, closure of a fishery, closure of specific areas, or other catch or fishing effort restrictions.

On December 30, 2013, NMFS published in the *Federal Register* a notice of availability for a draft of Amendment 7 and the EA (78 FR 79388) and provided 60 days for public review and comment on the documents. On January 8, 2014, NMFS published in the *Federal Register* a proposed rule to implement the management framework described in Amendment 7, as well as the proposed 2014 territorial big eye tuna catch and allocation limit specifications, and provided 45 days for public review and comment. After considering public comments received on the draft Amendment 7, the EA, the proposed rule, and the proposed specifications, NMFS finalized the EA and issued a Finding of No Significant Impact (FONSI) determination on March 27, 2014, and approved Amendment 7 on March 28, 2014.

Before publishing the final rule to implement Amendment 7, and the final 2014 territorial bigeye tuna catch and allocation limit specifications, NMFS received new information that could affect the environmental analysis contained in the original EA upon which NMFS' approval was based. Specifically, this new information includes the increased rate of leatherback sea turtle interactions in the Hawaii-deep set longline fishery that resulted in the fishery exceeding the level of anticipated interactions with leatherback sea turtles authorized in a 2005 Biological Opinion for the fishery. In addition, following issuance of the FONSI, NMFS separately published a final rule listing two species of sharks and 20 species of reef-building coral under the Endangered Species Act (ESA), and produced new analysis of the potential impacts of the

Hawaii deep-set longline fishery on ESA-listed cetaceans, including humpback whales, sperm whales and main Hawaiian Islands insular false killer whales.

This SEA supplements the EA for Amendment 7 that was completed on March 27, 2014, by describing this new information and providing additional analysis to help NMFS determine whether or not the proposed action would result in significant environmental impacts to the human environment. The March 2014 EA is incorporated by reference in its entirety.

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1 INTRODUCTION

1.1 2014 Environmental Assessment Incorporated by Reference

On March 27, 2014, the Western Pacific Fishery Management Council (Council) and NMFS published Amendment 7 to the Pelagic Fishery Ecosystem Plan (FEP), which included an integrated EA (WPFMC and NMFS 2014). All sections of the March 2014 EA, incorporated herein by reference, provide detailed information on the purpose and need for action, the proposed federal action, the action area, the description of the alternatives, the description of the affected environment, and the environmental impact analysis supporting NMFS' approval of Amendment 7. This Chapter briefly summarizes elements of the March 2014 EA and describes the need for this SEA.

1.2 Summary of the Proposed Action

The proposed action establishes a management framework and process for specifying catch and effort limits for highly migratory fish stocks for U.S. Pacific territories, which are American Samoa, Guam, and the Northern Mariana Islands. The framework also authorizes the government of each territory to allocate a portion of its catch or fishing effort limit to a U.S. fishing vessel or vessels through a specified fishing agreement, and would establish the criteria that an agreement would need to satisfy.

For 2014 only, the proposed action also specifies a limit of 2,000 metric tons (mt) of longline-caught bigeye tuna for pelagic fisheries in the U.S. Pacific territories, and authorizes each territory to allocate and transfer up to 1,000 mt of its 2,000-mt bigeye tuna limit to a U.S. longline fishing vessel or vessels based in another U.S. participating territory or Hawaii, and identified in a specified fishing agreement. Currently, NMFS anticipates agreements will be developed between a U.S. territory and Hawaii-based longline vessels, as was done in 2011, 2012, and 2013. Additionally, when NMFS projects a territorial catch or allocated limit will be reached, NMFS would, through accountability measures, restrict catches, of longline-caught bigeye tuna by vessels in the U.S. territories, or by vessels operating under a specified fishing agreement, depending on which limit is being approached. Accountability measures may include, but are not limited to, a prohibition on retention, closure of a fishery, closure of specific areas, or other catch or fishing effort restrictions.

1.3 Summary of the Purpose and Need for Action

The purpose of this action is to enable the responsible development of fisheries in the U.S. territories by establishing a management framework and uniform region-wide process to administer the U.S. territories' use, assignment, allocation, and management of catch limits of pelagic management unit species (PMUS), or fishing effort limits, through agreements with U.S. vessels permitted under the Pelagics FEP (See Section 1.6, Page 35 of the 2014 EA). This action intends to make ongoing management of western Pacific pelagic fisheries consistent with the provisions of Section 113 of the Consolidated and Further Continuing Appropriations Act (CFCAA) of 2012 (Public Law 112-55, 125 Stat. 552 *et seq.*), as extended through December

31, 2013, in Public Law 113–6, 125 Stat. 603, Section 110, the Department of Commerce Appropriations Act¹ and international and domestic conservation and management requirements.

The need for this action is to ensure that specified fishing agreements are implemented and managed consistent with the conservation requirements of the Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPF Convention), Western and Central Pacific Fisheries Commission (WCPFC) conservation and management measures or CMM (e.g., CMM 2012-01, CMM 2013-01, CMM 2012-05), and consistent with provisions of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), to prevent overfishing, to ensure the sustainability of affected fish stocks, and to provide for achieving optimum yield (OY) on a continuing basis. This action is also needed to assist the U.S. territories to improve opportunities for responsible fishing and fishery development through supporting projects identified in approved marine conservation plan required pursuant to Section 204(e) of the Magnuson-Stevens Act. NMFS anticipates specified fishing agreements between a U.S. territory and Hawaii-based longline vessels as was done in 2011, 2012, and 2013.

1.4 Summary of the Alternatives Considered

Alternative 1 (No action/Status quo) assumes the continuation of the environmental baseline existing under Section 113 prior to its expiration on December 31, 2013. Under this alternative, the Pelagic FEP would not be amended to establish a management framework for specifying catch and allocation limits for pelagic fisheries in the U.S. Pacific territories. Instead, U.S. Pacific territories would continue to be authorized to enter into fishing agreements with U.S. fishing vessels and transfer an unlimited amount of longline-caught bigeye tuna to eligible U.S. vessels permitted under the Pelagics FEP as provided by provisions of Section 113 of the CFCAA. This alternative describes baseline conditions under Section 113 of the CFCAA, as the fishery was operated in 2011, 2012, and 2013. Under Alternative 1, fishing agreements would not be not subject to limits to the amount of fish that could be transferred.

Alternative 2 represents the continuation of a second environmental baseline where the provisions of Section 113 have lapsed as of December 31, 2013. Under this Alternative, the U.S. Pacific territories do not have authority to enter into fishing agreements and transfer longline-caught bigeye tuna to U.S. longline vessels. Accordingly, the fishery would be subject to existing regulations at 50 C.F.R. § 300.224 limiting the amount of bigeye tuna that may be captured in the Convention Area by longline gear and retained on board during 2014 to 3,763 metric tons.

Alternative 3 would implement the provisions of Section 113 under the Magnuson-Stevens Act and allow U.S. Pacific territories to enter into fishing agreements with U.S. fishing vessels and transfer an unlimited amount of PMUS to eligible U.S. vessels permitted under the Pelagic FEP. However, like Alternative 1, Alternative 3 would not establish a mechanism for the Council to recommend and NMFS to specify catch and effort, or transfer limits for pelagic fisheries in the U.S. Pacific territories. Therefore, there would be no limit on the amount of fish pelagic fisheries

¹ A copy of Section 113 is found in the March 27, 2014, EA (WPFMC and NMFS 2014).

in the U.S. territory could catch and no limit to the amount of fish a U.S. territory could allocate and transfer to U.S. fishing vessels under fishing agreements.

Alternative 4 is NMFS' preferred alternative and would establish a management framework to specify catch and effort limits for pelagic fisheries in the U.S. Pacific territories. The framework would also authorize the government of each territory to allocate a portion of its catch or fishing effort limit to a U.S. fishing vessel or vessels through a specified fishing agreement, and would establish the criteria that an agreement would need to satisfy. This Alternative, which consists of two sub-alternatives, is described in the "Summary of the Proposed Action" Section 1.2 above.

Under Sub-alternative 4a, the management framework to specify catch and allocation limits for pelagic fisheries in the U.S. Pacific territories described in Alternative 4 would be established without any specifications. However, under this alternative, the Council would not recommend and NMFS would not specify a territory catch or fishing effort limit specification or allocation limit. Therefore, no specified fishing agreements would be authorized.

Sub-alternative 4(b) is NMFS' preferred sub-alternative. Under this sub-alternative, the management framework to specify catch and allocation limits for pelagic fisheries in the U.S. Pacific territories described in Alternative 4 would be established and, NMFS would specify an annual limit of 2,000 metric tons (mt) of longline-caught bigeye tuna for pelagic fisheries in the U.S. Pacific territories. Sub-alternative 4b would also specify that each territory may allocate and transfer up to 1,000 mt of its 2,000-mt annual bigeye tuna limit to eligible U.S. longline fishing vessel permit holders that are identified in a specified fishing agreement.

Under the proposed action, when NMFS projects a territorial catch or allocated limit will be reached, NMFS would, through accountability measures, restrict catches of longline-caught bigeye tuna by vessels in the U.S. territories, or by vessels operating under a specified fishing agreement, depending on which limit is being approached. Accountability measures may include, but are not limited to, a prohibition on retention, closure of a fishery, closure of specific areas, or other catch or fishing effort restrictions.

1.5 Summary of Expected Fishery Outcomes under the Alternatives

The environmental impact analysis in the March 2014 EA evaluated the potential environmental impacts of the alternatives, including the proposed action, on biological and physical resources that occur in the area where longline fishing occurs. These include fish stocks, protected marine mammals, sea turtles and sea birds, and marine habitats. The EA also evaluated the impacts of the alternatives of the proposed action on fishery participants and fishing communities as well as administrative and enforcement costs of implementing the alternatives.

In the March 2014 EA, NMFS anticipated that under Alternatives 1, 3, and 4 (which is NMFS' preferred framework alternative), and sub-alternatives 4a and 4b (which is NMFS preferred bigeye tuna catch and allocation limit specifications), the Hawaii deep-set longline fishery would operate largely within the level of efforts realized in 2012. In that year, 128 Hawaii deep-set longline vessels made 1,356 trips, with 18,069 sets, and 43,965,781 hooks (See Table 8 on page 81 of the March 2014 EA). The fishery also operated under a Section 113 fishing agreement with

the Government of American Samoa. In 2012, NMFS forecasted that the U.S. bigeye tuna catch limit of 3,763 mt would be reached on November 27, 2012. In accordance with NMFS regulations at 50 CFR 300.224, from November 20, 2012, through December 31, 2012, NMFS attributed to American Samoa 771 mt of bigeye tuna caught by Hawaii longline vessels in the American Samoa fishing agreement.²

Under Alternative 2, NMFS analyzed conditions where Section 113 provisions expired on December 31, 2013, and the fishery was subject to the annual 3763 metric ton bigeye limit. Without a framework process authorizing fishing agreements between U.S. territories and U.S. fishing vessels, the U.S. bigeye tuna limit would be reached in the month of November and NMFS would close the Hawaii deep-set longline fishery for the remainder of the year. Assuming fishing effort is distributed equally throughout the year, a fishery closure of one month equates to approximately an 8% reduction in fishing effort from levels analyzed under Alternatives 1, 3, and 4, in terms of number of trips, sets, and hooks.

In general, the analysis in the March 2014 EA anticipated that the potential impacts of Alternatives 1, 3, and 4, and Sub-alternative 4a would be very similar because they would likely allow the Hawaii deep-set longline fishery to operate throughout the entire calendar year. NMFS anticipated impacts of Alternative 2 could be slightly less than other alternatives because without Section 113, or a similar management framework in place, the Hawaii-deep set longline fishery would likely reach the U.S. bigeye tuna quota fishing in November, as it has done in previous years, requiring NMFS to prohibit the retention and landing of bigeye tuna harvested in the WCPO for approximately 1.5 months. However, the analysis and associated FONSI indicated that even with a fishery closure under Alternative 2, impacts to target and non-target stocks, protected species and fish habitat are expected to be unchanged from conditions analyzed in Alternative 1 and that the proposed action (Alternative 4 and Sub-Alternative 4b) would not have significant adverse impacts to the human environment. Based on this analysis, NMFS issued a Finding of No Significant Impact (FONSI) determination on March 27, 2014, and approved Amendment 7 on March 28, 2014.

A summary of the potential impacts of the alternatives to the human environment, and their expected fishery outcomes are provided in Table 1 of the March 2014 EA.

1.6 Need for Supplemental EA

The National Environmental Policy Act (NEPA) requires Federal agencies to consider the potential environmental consequences of any major Federal action and inform and involve the public. An EA provides the basis for determining whether a proposed action is a major Federal action that would result in significant environmental impacts. If not, a finding of no significant impact (FONSI) is prepared to document the agency's findings. If so, an agency prepares an environmental impact assessment (EIS) before undertaking the proposed activity. According to NOAA NEPA procedures at NAO 216-6, a supplemental EA is prepared when a significant change in the action is proposed beyond the scope of the original environmental review or when

² In 2013, the fishery operated under a Section 113 agreement with the CNMI. In that year, NMFS attributed to the CNMI 501 mt of bigeye tuna caught by Hawaii longline vessels.

significant new circumstances or information arise that could affect the proposed action and its environmental impacts.

NMFS determined that a Supplemental EA should be prepared after receiving information of an increased rate of leatherback sea turtle interactions by the Hawaii-deep set longline fishery during the first half of 2014. As a result of this increased interaction rate, the Hawaii deep-set pelagic longline fishery exceeded the level of incidental interactions with leatherback sea turtles authorized in the 2005 Biological Opinion or 2005 BiOp (NMFS 2005).³ This triggered the requirement to consult on the proposed action's effects on leatherback sea turtles (although NMFS had already reinitiated consultation on June 5, 2013, based on the listing of the MHI insular false killer whale, the listing of the scalloped hammerhead DPS's, and a single interaction with a sperm whale). On September 19, 2014, NMFS completed a no-jeopardy biological opinion that included an analysis of the potential impacts of the Hawaii deep-set longline fishery on protected species, including sea turtles, humpback whales, sperm whales, the Main Hawaiian Islands (MHI) insular false killer whale distinct population segment (DPS), and scalloped hammerhead DPS's. The listing of 20 species of reef-building corals under the ESA was addressed separately through a "no effect" determination dated October 6, 2014.

Based on the above new information, NMFS postponed a decision on the proposed action (i.e., publication of the final rule that would implement Amendment 7, and the final territorial bigeye tuna catch and allocation limit specifications) pending completion of the biological opinion and preparation of a supplemental NEPA analysis. The analysis herein assists NMFS in determining whether, in light of this new information, the proposed action would result in significant environmental impacts to the human environment.

1.7 Preparers

This Supplemental EA was prepared by NMFS PIRO Sustainable Fisheries Division (SFD):

- Melanie Brown, Fish and Wildlife Administrator
- Phyllis Ha, Resource Management Specialist – NEPA
- Jarad Makaiau, Resource Management Specialist
- Nikhil Mehta, Visiting Fishery Biologist (NMFS Southeast Regional Office)

In coordination with Western Pacific Fishery Management Council Staff:

- Paul Dalzell, Pelagics Coordinator
- Eric Kingma, NEPA Coordinator / International Fisheries

³ NMFS March 27, 2014, FONSI determination for the proposed action was predicated on the Hawaii deep-set longline fishery remaining within the authorized level of take for all species in accordance with the 2005 BiOp.

2 NEW INFORMATION SINCE THE MARCH 27, 2014, EA AND SUPPLEMENTAL ENVIRONMENTAL IMPACT ANALYSES

This Chapter describes in greater detail the new information that was not described nor analyzed in the March 2014 EA, and that could affect the environmental impact analysis contained in the EA. The new information and/or circumstances include:

1. The increased rate of leatherback sea turtle interactions in the Hawaii deep-set longline fishery that resulted in the fishery exceeding the level of incidental interactions with leatherback sea turtles authorized in the 2005 Biological Opinion or 2005 BiOp;
2. The listing of two species of scalloped hammerhead sharks under the ESA;
3. The listing of 20 species of reef-building corals under the ESA;
4. New analysis of the potential impacts of the Hawaii deep-set longline fishery on leatherback turtles, humpback whales, sperm whales and MHI false killer whale DPS.

2.1 New Information on Leatherback Sea Turtle Interactions

As part of ongoing management of the fishery and to monitor incidental interactions with protected species such as sea turtles, marine mammals, and seabirds, NMFS maintains an annual observer coverage rate of about 20% for the Hawaii deep-set longline fishery. The specific rate may vary somewhat by quarter. As noted in the March 2014 EA, the 2005 BiOp authorized the Hawaii deep-set fishery to interact with up to 39 leatherback sea turtles (which is expected to result in up to 18 mortalities) over a consecutive three-year period. That 3-year limit was based on an anticipated rate of 13 annual leatherback interactions, with 12 turtles expected to be from the western Pacific stock, and one from the eastern Pacific stock. Based on capture-related mortality rates through 2005, NMFS had previously estimated an annual mortality rate of about a third (0.340), or six leatherbacks (due to rounding) as a result of interaction with the fishery, resulting in the 3-yr mortality ITS. This calculation was used to determine the 3-year mortality associated with the incidental take limit. The 2005 BiOp estimated that five of the six leatherback mortalities would originate from endangered western Pacific populations while the remaining leatherback turtle mortality may originate from the endangered eastern Pacific stock.

In 2012, NMFS observed and recorded 8,768,728 deep-set longline hook retrievals and one leatherback interaction (NMFS 2013). In 2013, NMFS observed and recorded 9,278,133 hook retrievals and three leatherback interactions (NMFS 2014a). In the first quarter of 2014 (January 1 through March 31, 2014), NMFS observed and recorded 1,906,985 hook retrievals, and an unusually high six leatherback interactions (NMFS 2014b). By way of comparison, NMFS observed three leatherback interactions in all of 2011, and one interaction per year in 2008, 2009, and 2010. In the beginning of the second quarter of 2014 (April 2014), NMFS observed one leatherback turtle interaction bringing the total number of interactions from January to June 2014 to six (NMFS 2014c). Confirmed interaction data for the third quarter (July 1 through September 30, 2014) are not yet available.

As part of its standard protocol, NMFS converts observed interactions into estimated interactions through an expansion formula that takes into account observer coverage, which typically varies from quarter to quarter. NMFS used the following computations to estimate the interaction levels with leatherback turtles: NMFS multiplied the observed 2012 and 2013 leatherback turtle

interactions by five (to account for a 20-percent observer coverage rate) resulting in an estimated total fleet-wide interactions (that is, during observed and non-observed fishing trips) of five leatherback turtles in 2012, and 15 leatherbacks in 2013. Multiplying the observed 2014 interactions through April 2014 by a factor of 7 (to account for a 14.3-percent observer coverage rate) results in an estimate of total fleet-wide interactions of 42 leatherbacks for a total of 62 interactions for the most recent 3-yr period (2012-2014).⁴ This computed level of interaction exceeded the level of anticipated interactions with leatherback sea turtles (39) authorized in the 2005 Biological Opinion or 2005 BiOp (NMFS 2005). Based on capture-related mortality rates through 2014, NMFS revised its capture-mortality rate from 0.340 used in the 2005 BiOp to 0.361 and estimates that up to 22.4 of the estimated 62 interactions may have resulted in mortality, exceeding the 3-yr mortality limit of 18. This triggered the requirement under the Endangered Species Act (ESA) section 7 to reinitiate consultation.

As stated above, NMFS had already re-initiated section 7 ESA consultation for this fishery on June 5, 2013. During the period of consultation, the fishery continued to operate under a ESA section 7(a)(2) and 7(d) determination dated June 5, 2013, as extended on June 16, 2014, and the terms and conditions of the 2005 BiOp. Up until December 31, 2013, the fishery also operated under the 2013 U.S. bigeye catch limit of 3,763 mt, and a Section 113 agreement between Hawaii longline vessels and the Government of the Northern Mariana Islands, which resulted in 501 mt of bigeye tuna to be transferred to the Northern Mariana Islands (NMFS unpublished data).⁵

NMFS completed section 7 ESA consultation for the Hawaii deep-set longline fishery by issuing a no-jeopardy biological opinion (2014 BiOp) on September 19, 2014 (NMFS 2014d). In its 2014 BiOp, NMFS considered the potential impacts of the continuation of the Hawaii deep-set longline fishery, along with other impacts to a range of listed species including leatherback turtles. The 2014 BiOp considered the impacts of the continuation of the deep-set longline fishery, and anticipates the deep-set fishery to continue to operate largely unchanged from what has occurred in the last several years under Section 113 of the CFCOA 2012, as extended in Public Law 113-6, in terms of fishing location, the number of vessels that deep-set, catch rates of target, non-target, and bycatch species, depth of hooks, or deployment techniques in setting longline gear.

Specifically, in the 2014 BiOp NMFS estimates 128 vessels to make approximately 1,305 trips, with 18,592 sets, and 46,117,532 hooks annually. NMFS also anticipates the total number of hooks set to stabilize because of either physical limitations of how much gear fishermen can deploy and retrieve during a period and/or diminishing returns of catch per unit of effort. NMFS also anticipates the deep-set fishery will continue to operate throughout the year, fish sustainably, and utilize proven bycatch mitigation measures to manage impacts to ESA-listed marine mammals, and sea turtles as required under regulations in 50 CFR parts 229 and 665.

⁴ The 3-year ITS for leatherback sea turtles was exceeded following the fishery's third observed interaction in February 2014; however, this data was not available to NMFS for formal analysis until after March 31, 2014, after approval of Amendment 7.

⁵ The amount of bigeye tuna attributed to the Northern Mariana Islands in 2013 was less than the amounts NMFS attributed to American Samoa pursuant to the 2011 and 2012 fishing agreements, which were 628, mt, and 771 mt respectively, and described in Section 1.4 on page 32 of the March 27, 2014 EA.

Management measures are in place for in western Pacific longline fisheries to reduce the likelihood of hooking sea turtles and reduce the frequency and severity of injuries to sea turtles. These measures include the following:

- A requirement to accommodate a NMFS-provided fishery observer, which helps monitor interaction levels;
- The requirement to use only circle hooks with a relatively small offset to the hook, both of which are intended to prevent deep-hooking.
- Guidelines for fishermen on handling, resuscitation, and release of sea turtles (http://www.fpir.noaa.gov/SFD/pdfs/Compliance_Guide_Sea_Turtle_%28rev.%202013-08%29.pdf).
- Programs such as the “*Fishing Around Sea Turtles*” program that promotes the co-existence of longline fishermen and sea turtles through practical fishing tips, increased awareness, and best-practice suggestions to minimize the risk of injury to sea turtles if an incidental fishing interaction occurs. (http://www.fpir.noaa.gov/PRD/prd_fishing_around_sea_turtles.html).
- Mandatory annual Protected Species Workshops for the owners and operators of western Pacific pelagic longline vessels. A valid workshop certificate is necessary for owners to renew fishing permits. Each year, over 200 fishermen and vessel owners are trained in Hawaii, and almost 100 are trained in American Samoa. Fishermen learn about sea turtles, marine mammals, and seabirds from presentations, hands-on demonstrations, videos, and printed reference materials (http://www.fpir.noaa.gov/SFD/SFD_psw_index.html).
- For additional details on the NMFS requirements for longline fisheries, see <http://www.fpir.noaa.gov/SFD/pdfs/Hawaii%20Longline%20Reg%20Summary%20%282013-01-10%29.pdf>.

Recent interaction rates between the Hawaii deep-set longline fishery and leatherback turtles based on observed fishing trips are shown in Table 1.

Table 1. Recent interactions between the Hawaii deep-set longline fishery and leatherback turtles (with the fishery operating under territory fishing agreements)

Year	Number of observed leatherback turtle interactions	Total estimated leatherback turtle interactions (estimates based on expansion related to observer coverage rate)	Observed turtle interactions per 1,000 hooks
2014 (through April 30)	6	N/A	0.0022672
2013	3	15	0.0003207
2012	1	6	0.0001359
2011	3	14	0.0003498

Source: NMFS (2014d) 2014 BiOp. See BiOp for more details on the calculations.

Summary of the 2014 BiOp

The 2014 BiOp examined the stressors and exposures for leatherback turtles with respect to Hawaii deep-set longline fishing, evaluated the potential response of sea turtles to being hooked, and evaluated the risk to leatherback turtle populations. After a detailed evaluation (sections 6.5, 7.5, 9.5), incorporated herein by reference, NMFS estimated that the fishery could interact with up to 24 leatherback turtles a year resulting in up to 9 mortalities annually. This estimate takes into account the anomalous increased rate of interactions during the first two quarters of 2014.

Because the monitoring of leatherback sea turtle populations is at nesting beaches, NMFS assesses the population-level impacts of longline fishing on adult nester equivalents (ANE) or the anticipated mortality of nesting females. Therefore, in order to estimate the risk that the fishery poses to leatherback sea turtle populations by this level of expected take, NMFS must first determine the number of adult females (ANE) that would be impacted. Based on the analysis in the 2014 BiOp, NMFS estimates that 24 annual interactions would result in approximately 0.20 adult female mortalities annually, or 0.008% of the population of western Pacific nesters. This level of take represents one adult female mortality every 4.9 years. The 2014 BiOp further found that there is a low likelihood of interactions with leatherback from the eastern Pacific.

The 2014 BiOp found that this expected mortality would have very low levels of impact and concludes that the continuation of the Hawaii deep-set longline fishery would not reasonably be expected to cause an appreciable reduction in the likelihood of survival or recovery of the species. The 2014 BiOp further concludes that the small effect posed by the lethal takes in this fishery, when considered together with the environmental baseline and the cumulative effects, would not be detectable or appreciable. NMFS expects that under the proposed action, the overall population will grow and maintain genetic heterogeneity, broad demographic representation, and successfully reproduce. The proposed action is expected to have a small effect on the overall size of the populations and therefore the species, and NMFS does not expect it to affect the leatherbacks' ability to meet their lifecycle requirements and to retain the potential for recovery.

Potential Impacts to Leatherback Sea Turtles

As explained above, the 2014 BiOp examined effects of the action that may reasonably be expected under either Alternatives 1, 3, and 4. Impacts to leatherbacks under Alternative 2 may be expected to be somewhat less, since the fishery would be subject to a 3,763 mt annual bigeye limit that may shorten the duration of the fishery's operation. However, interactions with sea turtles, including leatherback sea turtles can be highly episodic and unpredictable. Therefore, while Alternatives 1, 3 and 4 may provide a greater opportunity for interactions than under Alternative 2, they do not necessarily result in higher rates of interactions (NMFS 2010; 2011; 2012b; 2013, 2014a; 2014b; 2014c). The best available scientific and commercial information indicates that under all alternatives considered, the Hawaii deep-set fishery is not likely to pose

an appreciable risk to the leatherback sea turtle. NMFS will continue to monitor the fishery and observe potential fishery interactions with this species and others. Moreover, the fishery will continue to comply with the terms and conditions set forth in the 2014 BiOp that mitigate the impact of any authorized take, as well as all applicable sea turtle mitigation measures set forth in regulations. Should interactions rates with leatherback sea turtles occur above the rates anticipated and allowed in the 2014 BiOp, or should new information reveal effects of the action on leatherback sea turtles not previously analyzed, NMFS would promptly reinstate consultation, required under 50 C.F.R. 402.16.

2.2 ESA Listing of Scalloped Hammerhead Sharks

On July 3, 2014, NMFS issued a final rule to list under the ESA, the Indo-West Pacific scalloped hammerhead shark distinct population segment (DPS), and the Eastern Pacific scalloped hammerhead shark DPS as threatened and endangered, respectively (79 FR 38213). The Indo-West Pacific DPS includes areas around most of the U.S. Pacific territories and possessions. The Eastern Pacific DPS generally includes the eastern Pacific, east of 140° W. NMFS has not yet designated critical habitat for these DPSs.

Since 2004, NMFS observers placed on Hawaii deep-set longline fishing vessels recorded three incidentally-caught scalloped hammerhead sharks in the area of the threatened Indo-West Pacific DPS south of 10° N., all of which were caught from 2004-2007 (PIRO Observer Program, unpublished data). Based on the three observed and the observer coverage levels in those years, NMFS estimates that the total catch of scalloped hammerheads from the Indo-Pacific DPS was approximately 14, which is about 2 annually (rounded from 1.4) during the 2004-2014 time period (NMFS 2014d). NMFS has no records of any interactions with scalloped hammerhead sharks from the Eastern Pacific DPS. As described in the final rule listing (79 FR 38213, July 3, 2014), the Indo-West Pacific scalloped hammerhead shark DPS is not subject to the take prohibitions in section 9 of the ESA because NMFS has determined that protective regulations under section 4(d) are not deemed necessary and appropriate for the conservation of that species.⁶

The 2014 BiOp analyzed the effects of the proposed action on the Indo-West Pacific scalloped hammerhead shark DPS and the Eastern Pacific scalloped hammerhead shark DPS (sections 5, 6.8, 7.8, 8.0 and 9.8), incorporated herein by reference. Based on historical interactions described above, the 2014 BiOp found that the likelihood of interactions with the Eastern Pacific scalloped hammerhead shark DPS is discountable and unlikely to occur as the fishery does not generally operate in the area where this stock is found. Based on this finding, NMFS concluded that the Eastern Pacific DPS of scalloped hammerhead sharks is not likely to be adversely affected by the proposed action.

With respect to the Indo-West Pacific scalloped hammerhead shark DPS, the 2014 BiOp anticipates and authorizes the Hawaii longline fishery to interact with six Indo-Western Pacific scalloped hammerhead sharks, which is expected to result in three mortalities over a three-year

⁶ Section 9 of the ESA prohibits any person subject to the jurisdiction of the United States to take, harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct within the United States, or territorial seas of the United States, or the high seas.

period. Although abundance estimates for the entire DPS are unavailable, the effective population size is estimated to be at least 11,280 adults. One mortality represents 0.009% ($1/11,280 \times 100 = 0.00886$) of the population. Based on this information, NMFS in its 2014 BiOp concluded that the Hawaii deep-set longline fishery as managed under the Pelagic FEP, is not likely to jeopardize the continued existence or recovery of the Indo-West Pacific scalloped hammerhead DPS.

Potential Impacts on Scalloped Hammerhead Sharks

The available scientific and commercial information indicates that, under all alternatives considered, there is a low likelihood of fishery interactions with scalloped hammerhead sharks from Eastern Pacific DPS. Additionally, the 2014 BiOp indicates that the fishery’s anticipated impacts on the Indo-West Pacific scalloped hammerhead DPS are likely to be small and are not likely to jeopardize the species. Further, due to the small level of expected take, NMFS considers the risk to the scalloped hammerhead shark DPS from the alternatives considered including the proposed action to be negligible.

NMFS will continue to monitor the fishery and observe potential fishery interactions with this species and others, and the fishery will continue to comply with the terms and conditions of the 2014 BiOp. None of the alternatives considered is likely to have a large adverse impact on listed scalloped hammerhead shark DPSs.

2.3 ESA Listing of Reef-building Corals

On September 10, 2014, NMFS issued a final rule to list 20 species of corals as threatened under the ESA (79 FR 53851). Fifteen of the newly listed species occur in the Indo-Pacific, and five in the Caribbean. Of those that occur in the Indo-Pacific, only eight are believed to occur in waters under U.S. jurisdiction (Table 2).

Table 2. Recent ESA-listed shallow reef-building corals in the U.S. Pacific Islands

Name of Threatened Coral Species	Guam	CNMI	Pacific Remote Islands	American Samoa
<i>Acropora globiceps</i>	X	X	X	X
<i>A. jacquelineae</i>				X
<i>A. retusa</i>	X	X	X	X
<i>A. rudis</i>				X
<i>A. speciosa</i>			X	X
<i>Euphyllia paradivisa</i>				X
<i>Isopora crateriformis</i>				X
<i>Seriatopora aculeata</i>	X			

Coral reefs are formed on solid substrate but only within the narrow range of suitable environmental conditions that allows the deposition rates of corals and other reef calcifiers to

exceed the rates of physical, chemical, and biological erosion. In the U.S. Pacific Islands, coral reef habitat is generally found immediately within waters from 0-3 nm of shore, although some coral reef habitat can be found further offshore.

In contrast, pelagic fisheries generally operate dozens to a thousand of miles offshore, far away from the islands and coral reef habitat areas, to target pelagic fish species in the water column. With respect to the longline fisheries, federal regulations prohibit longline fishing within 30 nm from the shoreline of the Northern Mariana Islands. In American Samoa and Guam, federal regulations prohibit all fishing vessels greater than 50 ft in length, including longline vessels from fishing within 50 nm of the shoreline. In the Pacific Remote Islands federal regulations prohibit all commercial fishing within 50 nm of all islands, including longline fishing.

To access fishing grounds, pelagic fishing vessels have to transit areas where ESA-listed corals may occur. While pelagic troll vessels may deploy surface lures during transit, the activity does not occur in coral reef habitat. Pelagic longline and handline vessels do not deploy gear in transit. Additionally, pelagic fishing activities do not involve anchoring and therefore, the potential for anchor damage during fishing activities is not an issue.

Potential Impacts on Listed Corals

The general location of pelagic fishing operations, in combination with federal regulations prohibiting longline fishing from coral reef habitat areas results in a significant distance of spatial separation between pelagic fishing activities and ESA-listed corals. Additionally, vessels transiting to fishing grounds generally avoid coral structures to protect their vessels and loss of gear. Because none of the alternatives would result in a change to the location of fishing activities relative to coral reef habitat, NMFS does not expect any alternative to have an effect on ESA-listed corals.

None of the ESA-listed corals occur in waters around the Hawaii Islands, so the Hawaii longline fishery operating under the Pelagic FEP, including the proposed action, is not expected to impact ESA-listed corals. Moreover, longline fishing is prohibited within the MHI longline prohibited area surrounding the Main Hawaiian Islands, as well as within the Papahānaumokuākea Marine National Monument. Although the scientific literature indicates ESA-listed corals do not occur in Hawaii, if they did, NMFS does not expect any alternative would affect those species.

2.4 New Impact Analysis on the Effects of the Hawaii Deep-set Longline Fishery on Humpback Whales, Sperm Whales and MHI false killer whales

2.4.1 Interactions with Listed Marine Mammals

The Hawaii deep-set longline fishery incidentally interacts with a number of ESA-listed marine mammals during fishing operations. The 2014 BiOp (sections 5, 6, 7, 8, and 9) includes a detailed analysis of recent levels of interactions between the fishery and ESA-listed humpback whales, sperm whales, and MHI Insular false killer whales (NMFS 2014d). This information is incorporated by reference and is briefly summarized here.

Table 3 summarizes recent interactions between the deep-set longline fishery and ESA-listed marine mammals, based on observed trips in 2011-2013 when the fishery was open year-round.

Table 3. Recent interactions between the Hawaii deep-set longline fishery and listed marine mammals (with the fishery operating under territory fishing agreements).

Year	Humpback Whale, Central North Pacific (CNP) Stock	Sperm Whale, Hawaii Stock	False Killer Whale, Main Hawaiian Islands Insular Stock (End. DPS)*
2014 (through June 2014)	0	0	0
2013	0	0	0
2012	0	0	0
2011	0	1 observed; 6.3870 estimated	1 observed; 0.8920 estimated based on pro-ration of observed false killer whales and unidentified blackfish in the insular/pelagic overlap area as defined in section 5.2.3 of the 2014 BiOp

Source: NMFS 2014d. (BiOp); *End. DPS = endangered distinct population segment.

Recent Interactions with Humpback Whales, CNP Stock

No humpback whales were observed to have been taken in the Hawaii deep-set longline fishery in recent years (see Table 3). Point estimates of CNP humpback abundance for Hawaii from the Structure of Populations, Levels of Abundance, and Status of Humpbacks (SPLASH) ranged from 7,469 to 10,103.

In 1999 NMFS adopted criteria for making negligible impact determinations for Marine Mammal Protection Act (MMPA), section 101(a)(5)(E) permits (64 FR 28800; May 27, 1999). The 1999 negligible impact determination criteria were published to guide NMFS in its evaluation of fishery impacts on marine mammal stocks. In applying the 1999 criteria to determine whether mortality and serious injury (M&SI) incidental to commercial fisheries will have a negligible impact on a listed marine mammal stock, Criterion 1 (total human-related serious injury and mortality are less than 10% potential biological removal (PBR) is the starting point for analysis. If this criterion is satisfied (*i.e.*, total human-related M&SI are less than 10% PBR), the analysis would be concluded as a negligible impact. The remaining criteria describe alternatives under certain conditions, such as fishery-related mortality below the negligible threshold (10% PBR) but total human-caused mortality above PBR (*i.e.*, Criterion 2), or fishery-related mortality between the negligible threshold (10% PBR) and PBR for a stock that is increasing or stable (*i.e.*, Criterion 3). A stock's PBR is defined by the MMPA as the maximum number of animals, not including natural mortalities that may be removed from a marine

mammal stock while allowing that stock to reach or maintain its optimum sustainable population.

On June 12, 2014, NMFS published its proposal to issue a permit to the Hawaii deep-set longline fishery for a period of three years to authorize the incidental, but not intentional, taking of humpback whales (79 FR 33726, June 12, 2014). In its proposal, NMFS determined that the CNP stock of humpback whales meets the conditions of Criterion 3 because total fisheries-related M&SI (9.35 animals per year) is greater than 10% PBR (6.1 animals) and less than PBR (61.2 animals), and the population is increasing at an estimated rate of 5.5-6% per year (Allen and Angliss 2014; Calambokidis et al. 2008).

On October 10, 2014, after considering information in the 2014 BiOp and public comment on the proposed rule, NMFS authorized a permit under the MMPA section 101(a)(5)(E) that authorizes the incidental, but not intentional, taking of ESA-listed humpback whales (CNP stock). In authorizing this permit, NMFS determined that incidental taking of humpback whales (CNP stock) by the Hawaii longline fisheries will have a negligible impact on the stock, based on the aforementioned analysis. This permit and analysis in the accompanying negligible impact determination are incorporated herein by reference.

Recent Interactions with Sperm Whales, Hawaii Stock

The Hawaii deep-set longline fishery was observed to have interacted with a sperm whale in 2011 (NMFS 2014d). The estimated total of all known M&SI to the Hawaii stock of sperm whales from Hawaii-based longline fisheries from 2007-2011 is three whales (two classified as non-serious, and 0.75 pro-rated as serious), for an annual average of 0.7 M&SI. This number was estimated based on one observed interaction in the deep-set longline fishery with 20% observer coverage (McCracken 2014a). There were no interactions with Hawaii sperm whales in the shallow-set longline fishery during this time period. The current PBR for this stock is 10.2 animals. Therefore, the total annual average incidental M&SI in commercial fisheries for Hawaii sperm whales for this timeframe is 6.86% of the stock's PBR.

On June 12, 2014, NMFS published its proposal to issue a permit to the Hawaii deep-set longline fishery for a period of three years to authorize the incidental, but not intentional, taking of sperm whales by the Hawaii deep-set and shallow-set longline fisheries. 79 FR 33726 (June 12, 2014). For the Hawaii stock of sperm whales, NMFS determined that Criterion 1 was satisfied because the total human-related M&SI is less than 10% PBR; i.e., the five-year (2007-2011) annual average M&SI from all human sources (0.7) is 6.86% of PBR (10.2 animals).

On October 10, 2014, NMFS authorized a permit under the MMPA section 101(a)(5)(E) that authorizes the incidental, but not intentional, taking of ESA-listed sperm whales (Hawaii stock). In authorizing this permit, NMFS determined that incidental taking of sperm whales (Hawaii stock) by the Hawaii longline fisheries will have a negligible impact on the stock, based on the aforementioned analysis. This permit and analysis in the accompanying negligible impact determination are incorporated herein by reference.

Recent Interactions with MHI Insular False Killer Whale DPS

NMFS recognizes three stocks of false killer whales (Hawaii pelagic, MHI Insular, and Northwestern Hawaiian Islands stocks) to be at risk of interacting with Hawaii longline gear. No MHI insular false killer whale (IFKW) deaths have been observed since the NMFS Hawaii longline observer program began in 1995. From 2004-2012, observers recorded three false killer whale interactions in the deep-set longline fishery and no false killer whale interactions in the shallow-set longline fishery in the MHI IFKW range. In the deep-set longline fishery, observers also recorded three interactions with unidentified blackfish, which are unidentified cetaceans known to be either a false killer whale or a short-finned pilot whale. Genetic sampling and photo identification are currently the only ways to distinguish MHI IFKW from the other stocks, and these data were not collected from the animals involved in these interactions. When the stock identity of a false killer whale hooked or entangled by the longline fisheries within the MHI IFKW / pelagic overlap zone cannot be determined, NMFS prorates the interaction to either the pelagic or MHI IFKW stock using a model that assumes that densities of MHI IFKW stock animals decrease and pelagic stock densities increase with increasing distance from shore (McCracken 2010).

Criterion 3 states that, where total fisheries-related M&SI are greater than 10% PBR and less than 100% PBR, and the population is stable or increasing, a permit may be issued subject to individual review and certainty of data. NMFS considered multiple data sets and other information in conducting this analysis and applying Criterion 3. First, the current PBR for the MHI IFKW is 0.3, based upon data from 2007-2011. NMFS provided more recent data estimating abundance, calculating a PBR, and estimating M&SI for MHI IFKW in this fishery (the 2008-2012 timeframe) to the PSRG for review and are incorporated into the McCracken model. Although these analyses in the SAR consider more recent data with regard to MHI insular false killer whale and previous interactions with the fishery, they do not take into account recent changes in the fishery required by the False Killer Whale Take Reduction Plan (FKWTRP) regulations, nor are they intended to anticipate future interactions in a changed fishery.

While estimates of M&SI of MHI IFKW from longline fishing in the 2013 stock assessment review (SARs), which covers 2007-2011) are currently below PBR, NMFS recognizes that data estimating abundance, calculating PBR, and estimating M&SI for MHI IFKW in this fishery (the 2008-2012 timeframe), although not yet publically reviewed, preliminarily indicate that M&SI of MHI IKFW in this fishery may be exceeding PBR. However, these data do not contemplate the significant measures taken within the FKWTRP regulations, which are expected to reduce the deep-set longline fishery's impacts, one of the major, known historical threats to this population, to reduce M&SI to levels. Specifically, NMFS convened the False Killer Whale Take Reduction Team (FKWTRT) composed of commercial fishery representatives, conservation groups, scientists, state and federal officials, and other interested stakeholders, to prepare and propose a consensus take reduction plan (FKWTRP, or Plan) that, when implemented by regulations, is expected to reduce longline fishery impacts on pelagic and MHI IFKW to levels below PBR within 6 months and to insignificant levels approaching a zero M&SI rate (i.e., 10% of PBR) over five years.

The best estimate of abundance is 151 animals for this DPS (Carretta et al. 2014). Although IFKW are believed to have declined markedly during the 1990s, at this time, their current population trajectory is unknown (Oleson et al. 2010). Therefore NMFS cannot conclude that the population is stable or increasing. NMFS has acknowledged the need for more reliable information regarding stock trajectory, but notes that this uncertainty, along with the presence of substantial observer coverage in this fishery, was considered in the Team's deliberations and in the adoption of the specific measures for minimizing the impact of the fishery on IFKWs. As such, NMFS believes that the measures in place, together with the FKWTRT process, provide a meaningful, adaptive management tool with which to quickly monitor, identify, and respond to any unanticipated longline fishery impacts to the MHI IFKW population.

NMFS believes that under the FKWTRP process, the longline fishery will have a negligible impact on the MHI IFKW, and that Criterion 3 is satisfied. Accordingly NMFS published its proposal to issue a permit to the Hawaii deep-set longline fishery for a period of three years to authorize the incidental, but not intentional, taking of MHI Insular False Killer Whales by the Hawaii deep-set longline fisheries (79 FR 33726, June 12, 2014).

On October 10, 2014, NMFS authorized a permit under the MMPA section 101(a)(5)(E) that authorizes the incidental, but not intentional, taking of ESA-listed MHI IFKW. In authorizing this permit, NMFS determined that incidental taking of MHI IFKW by the Hawaii longline fisheries will have a negligible impact on the stock, based on the aforementioned analysis. This permit and analysis in the accompanying negligible impact determination are incorporated herein by reference.

2.4.2 Recent ESA and MMPA coordination and consultation

The potential for the deep-set longline fishery to interact with ESA-listed marine mammals results in the requirement for NMFS to consult on the potential impacts of the fishery on listed marine mammals in accordance with the ESA and to obtain incidental take authorizations under the ESA and the Marine Mammal Protection Act (MMPA).

On June 12, 2014, NMFS published its proposal to issue a permit to the Hawaii deep-set longline fishery for a period of three years to authorize the incidental, but not intentional, taking of humpback whales, sperm whales, and MHI IFKW (79 FR 33726, June 12, 2014). Section 101 (a)(5)(E) of the MMPA requires the Secretary of Commerce to allow the incidental, but not intentional, taking of individuals from marine mammal stocks that are designated as depleted because of listing as threatened or endangered under the ESA in the course of commercial fishing operations if it is determined that three criteria are met:

1. Incidental mortality and serious injury will have a negligible impact on the affected species or stock;
2. A recovery plan has been developed or is being developed; and
3. Where required under section 118 of the MMPA, a monitoring program has been established, vessels engaged in such fisheries are registered in accordance with section 118 of the MMPA, and a take reduction plan (TRP) has been developed or is being developed for such species or stock.

On September 19, 2014, NMFS completed ESA section 7 consultation for the Hawaii deep-set longline fishery by issuing a no-jeopardy biological opinion (2014 BiOp, NMFS 2014d), and provided an incidental take statement for sperm whales, humpback whales, and MHI insular false killer whales, which becomes effective only upon issuance of the MMPA section 101(a)(5)(E) permit.

On October 10, 2014, NMFS authorized a permit under the MMPA section 101(a)(5)(E), addressing the fishery's interactions with depleted stocks of marine mammals. The permit authorizes the incidental, but not intentional, taking of ESA-listed humpback whales (CNP stock), sperm whales (Hawaii stock), and MHI insular false killer whales. In issuing this permit, NMFS determined that incidental taking by the Hawaii longline fisheries will have a negligible impact on the affected stocks of marine mammals.

2.4.3 Potential Impacts of the Alternatives on Listed Marine Mammals

Because Alternatives 1, 3, and 4, including sub-alternatives 4a and 4b, would result in the Hawaii deep-set longline fishery remaining open all year and therefore deploying more hooks than under Alternative 2, Alternatives 1, 3 and 4 have the potential to result in slightly more interactions than Alternative 2. However, interactions with ESA-listed marine mammals can be highly episodic and unpredictable. Therefore, while Alternatives 1, 3 and 4 may provide a greater opportunity for interactions than under Alternative 2, they do not necessarily result in higher rates of interactions (NMFS 2010; 2011; 2012b; 2013). The 2014 BiOp analyzed the expected level of interactions based on an analysis of fishery effort trends under Section 113, with an estimate of 128 vessels making approximately 1,305 trips, 18,592 sets, and deploying 46,117,532 hooks annually. This level of effort can reasonably be expected to approximate year round operation under the proposed action following implementation of Amendment 7. Moreover, on October 10, 2014, NMFS authorized a permit under the MMPA section 101(a)(5)(E), addressing the fishery's interactions with depleted stocks of marine mammals. The permit authorizes the incidental, but not intentional, taking of ESA-listed marine mammals. In issuing authorizing this permit, NMFS determined that incidental taking by the Hawaii longline fisheries will have a negligible impact on the affected stocks of marine mammals.

Fishing under these alternatives is similar to the level of fishing that occurred under territory fishing agreements for the past 3 years (2011-2013). In addition NMFS expects the fishery to continue to fish using proven bycatch mitigation measures to manage impacts to ESA-listed species as previously described in Chapter 2.1. The potential impacts of the alternatives on the affected stocks of ESA-listed marine mammals are described below.

Potential impacts of the Hawaii deep-set fishery on humpback whale, central North Pacific stock

The 2014 BiOp concluded that the continued operation of the fishery would not jeopardize the continued existence of the humpback whale (NMFS 2014d). The BiOp examined stressors, exposure, response, and risk for the CNP humpback whale. Entanglement in fishing gear is considered the primary stressor from the Hawaii deep-set fishery. Interactions between the fishery and humpback whales are rare and unpredictable events. There have been six observed

fishery interactions between humpbacks and the entire Hawaii longline fishing fleet (i.e., deep and shallow set) since observer coverage began in 1995, with three in the deep-set longline fishery all of which occurred between 2001 and 2004, and considered “not serious.” Based on statistical analyses, NMFS estimates that 2 humpback whales are likely to be entangled annually as a result of interactions with longline gear (McCracken 2014b, cited in NMFS 2014d). The estimated annual M&SI would be 0.7, or a single humpback whale could be killed annually from the stock (rounding up).

According to the analysis in the 2014 BiOp (NMFS 2014d), the total of all known mortality and serious injury (M&SI) caused by fishing operations in Hawaii and Alaska to the central North Pacific (CNP) stock of humpback whales from 2007-2011 was 46.75 individuals, which is a 5-year average annual take of 9.35 animals (Allen and Angliss 2013, cited in NMFS 2014d). All human-caused sources of M&SI were estimated to be 16.2 animals over the same 5-year period. This is below the PBR of 61.2 for this stock and is 26.47% of PBR (NMFS 2014d).

For CNP humpback whales, the total fishery-related M&SI from all commercial fisheries is estimated at 9.35 animals, or 15.36% of the PBR [61.2 animals]. The minimum size of the CNP humpback whale stock is 7,469 animals and the population is estimated to be growing at a rate of up to 7% per year. An estimated 0.76 humpback whales are believed to have been killed or seriously injured by the two Hawaii longline fisheries during 2007-2011. Based on the rate of M&SI incidental to commercial fishing, taken together with the robust growth rate of the stock, the impacts to the CNP humpback whale stock from the Hawaii deep-set fishery are not expected to impact the stock’s ability to achieve and maintain its optimum sustainable population. Impacts of the alternatives considered, including the proposed action are therefore believed to be negligible.

Potential impacts of the Hawaii deep-set fishery on sperm whale

Since the beginning of the Hawaii longline observer program in 1995, no deaths of sperm whales have been attributed to either sector of the longline fishery including the deep-set longline fishery. In 2011, the Hawaii deep-set longline fishery interacted with a sperm whale causing a serious injury. Two other interactions in 1999 in 2002 were considered non-serious. The fishery has historically had a low level of interactions including during the most recent fishing years when vessels in the Hawaii deep-set longline fishery operated under territory fishing agreements.

The preliminary evaluation of the impacts of the fishery on sperm whales is that the 5-year (2007-2011) annual average M&SI to the Hawaii stock of sperm whales from all human caused sources is 0.7 animals. This is 6.89% of the stock’s Potential Biological Removal of 10.2 and is below 10-percent of the PBR threshold. This information indicates that under the alternatives considered, including the proposed action, incidental mortality and serious injury (M&SI) would not have an appreciable impact on the stock or the species. A recovery plan has been developed for the species and a monitoring program has been implemented. A take reduction plan is not required for the sperm whale and none has been developed.

The mortality of up to two individual sperm whales every year from the Hawaii stock is 0.06% ($2 \div 3,354 * 100 = 0.060$) of the stock, which would not have a meaningful affect on the stock’s

ability to achieve its OSP, and therefore is negligible. This negligible impact to the stock, which is only a small portion of the population, is not expected to appreciably reduce the survival or the recovery of the species.

Potential impacts of the Hawaii deep-set fishery on the MHI Insular false killer whale stock

In December, 2012, NMFS listed the false killer whales, Main Hawaiian Islands Insular stock as an endangered distinct population segment. On June 13, 2013, NMFS concluded that the continued operation of the fishery during the period of reinitiated consultation was not likely to adversely affect the DPS. In 2014, the ESA consultation on the deep-set longline fishery concluded with the issuance of a Biological Opinion that included a determination that the continued operation of the fishery would not jeopardize the continued existence of the species. In the 2014 BiOp, NMFS anticipates one interaction with a MHI IFKW every 3 years, with one M&SI approximately every 4 years.

The Hawaii longline fishery is required to fish outside of permanent longline prohibited fishing areas around the Hawaiian Islands. In addition to mitigation measures applicable to all listed marine mammals, certain measures are applicable to the Hawaii deep-set longline fishery. The fishery will be subject to a larger prohibited longline fishing area around the Main Hawaiian Islands, should it be warranted, as described in regulations implementing the False Killer Whale Take Reduction Plan (NMFS 2012a).⁷

The current PBR for the MHI IFKW is 0.3, while the estimate of M&SI from longline fishing is 0.246, or one M&SI approximately every four years (McCracken 2014b in NMFS 2014d). Both PBR and M&SI are extremely small numbers, indicative of both the IFKW's small population size, as well as the fishery's low impact rate. NMFS does not have sufficient information with which to reliably determine whether the current population is stable or increasing. NMFS does not have information with which to quantify population impacts from other threats, such as from State-managed fisheries and pollutants. However, NMFS does have reliable information about the potential impact of the longline fishery on the MHI IFKW.

The 5-year (2007-2011) annual average M&SI of the MHI IFKW stock from all human-caused sources is estimated to be 0.1 animals, which is 33.3% of this stock's PBR of 0.3 (i.e., above the 10% of PBR threshold of 0.03). The total annual human-related M&SI for this stock of false killer whales is not less than 10% of PBR for the time frame considered; therefore additional analysis was done by NMFS.

Since the NMFS Hawaii longline observer program began in 1995, no MHI insular false killer whale deaths have been observed. From 2005-2012, observers recorded three false killer whale interactions in the deep-set longline fishery and one in the shallow-set longline fishery in the MHI IFKW range (140 m from shore). In its preliminary evaluation, NMFS also considers

⁷The False Killer Whale Take Reduction Plan regulations require NMFS to prohibit deep-set longline fishing within a Southern Exclusion Zone (SEZ), an area south of the MHI and inside the EEZ boundary, if a specified number of interactions with the Hawaii pelagic stock of false killer whales occurs with the deep-set fishery while fishing inside the EEZ around Hawaii (50 CFR 229.37). The SEZ is triggered to mitigate impacts of the fishery on false killer whales.

interactions with un-classified whales considered, “unidentified blackfish.” Total fleet-wide interactions between MHI IFKW and the deep-set longline fleet, including with a prorated amount of unidentified blackfish, from 2004-2013 (an approximately 10-year period) was 8.73 animals.

The FKWTRT recommended, and NMFS approved, elimination of a seasonal contraction of the MHI Longline Prohibited Area boundary in order to substantially reduce the potential for interactions with the MHI IFKW within its core range (see 50 CFR 229.37). This closure effectively prohibits longlining in all overlap areas where prorated interactions with MHI IFKW and pelagic false killer whales have occurred. This change, along with mandatory gear changes (e.g., weak off-set circle hooks and strong leaders) implemented in 2012 and 2013 are expected to substantially reduce both the frequency and severity of interactions with false killer whales. Given the defined range of the IFKW stock, NMFS cannot conclude that the closure of this seasonal boundary will eliminate all risk of future fisheries-related M&SI to the stock, but NMFS believes that future M&SI will be extremely rare.

Using predictive models to better approximate future interactions with this changed fishery, NMFS estimates that takes would be an average of 0.3 IFKW annually (McCracken 2014b, cited in NMFS 2014d). Anticipated M&SI would be 0.246 annually, or about one mortality approximately every four years. In addition, recent satellite tagging information suggests a reduced range of the MHI IFKW (from shore of 51.4 km) on the windward side of the MHI. The 2014 BiOp applied this information qualitatively along with other relevant information to support its conclusion that the predictive model represents the maximum impact of the longline fishery that is reasonably likely to occur, and that actual impacts likely would be less. The 2014 BiOp concluded that removal of one MHI IFKW every four years would not result in an appreciable reduction in the numbers, distribution, or reproduction of the MHI insular false killer whale (NMFS 2014d).

As indicated above, a take reduction plan was developed and implemented for the MHI Insular False Killer Whale (77 FR 71260; November 29, 2012). The FWKTRP) is an important management tool with which to quickly monitor, identify and respond to unanticipated longline fishery impacts to the population that might impede stock recovery or otherwise impact the stock’s conservation status (NMFS 2012b). Other mitigation measures described above that apply to all U.S. longline fisheries are intended to help ensure that impacts are monitored, and reviewed, and M&SI will continue to be considered by fishery managers and protected resource scientists over time to allow for any additional management that would be required to address any unanticipated impacts to the MHI Insular false killer whale. Based on the information above, impacts of the alternatives considered, including the proposed action, are expected to be negligible.

2.5 Other Information

This section briefly describes other information relevant to the proposed action that NMFS received after the agency finalized the March EA and issued a FONSI determination on March 27, 2014. The information includes new stock assessments for bigeye tuna and north Pacific striped marlin, which international scientists completed in July 2014. This information is not

further analyzed here because it does not affect the impacts of the proposed action and does not change the scope of the original environmental review.

2.5.1 2014 Stock Assessments for Bigeye Tuna

Bigeye tuna is considered a Pacific-wide stock, but has recently been assessed separately in the Western Central Pacific Ocean (WCPO) and Eastern Pacific Ocean. In July 2014, the Secretariat of the Pacific Community (SPC) prepared a new stock assessment for bigeye tuna in the WCPO using data through 2012 (Hartley et al. 2014), which updates the previous stock assessment prepared by the SPC in 2011 (Davis et al. 2011) and includes catch data from 2011 and 2012. The 2014 stock assessment applies a two tiered model analysis, with one model providing reference points based on the averages for the period 2008-2011 (latest), while the second model provides reference points for 2012 (current). Additionally, the 2014 stock assessment includes several additional sensitivity model runs.

With respect to F_{MSY} , under both model tiers, the reference case model (i.e., most plausible model) estimates $F/F_{MSY} = 1.57$. This is an increase from the F/F_{MSY} of 1.46 estimated in the 2011 stock assessment by Davis et al. (2011). For the “latest” model tier, additional sensitivity models provide F/F_{MSY} estimates ranging from 1.27 to 1.95, while for the “current” model tier, F/F_{MSY} estimates range from 1.22 to 2.14. Both model tiers and additional sensitivity runs indicate that the stock is still subject to overfishing, as defined by the Council and NMFS under the Pelagic FEP. In addition, the 2014 stock assessment also estimates a new MSY of 108,520 mt compared to 74,993 mt estimated in the 2011 stock assessment (Davis et al. 2011). The increase in MSY is attributed to (1) higher average recruitment in recent years (2) refinements in the 2014 stock assessment to reduce bias in the spawner-recruitment relationship; and (3) increased catches in recent years.

Based on this information, the Science Committee of the WCPFC at its July 2014 meeting, recommended that fishing mortality on WCPO bigeye tuna be reduced by 36% from the average levels for 2008–2011. This reduction in fishing mortality would be expected to return the fishing mortality rate to F_{MSY} (i.e. $F/F_{MSY} = 1.0$).

With respect to B_{MSY} , under both model tiers, the reference case model indicates $SB/SB_{MSY} = 0.77$. This is a decrease from the SB/SB_{MSY} ratio of 1.08 in the 2011 stock assessment. Additional sensitivity models provide SB/SB_{MSY} estimates ranging from 0.62 to 1.01. Based on a revised estimated natural mortality rate of 0.5 for bigeye tuna, the minimum stock size threshold (MSST) for bigeye tuna in the WCPO is $0.5 * B_{MSY}$. Therefore, the 2014 stock assessment indicates WCPO bigeye tuna is not overfished as defined by the Council, and NMFS under the Pelagic FEP. Therefore, stock status remains the same as described in the March 2014 EA, that is, subject to overfishing, but not overfished.

The Science Committee of the WCPFC noted at its July 2014 meeting a reduction in fishing mortality of at least 36% from the average levels for 2008–2011 should allow spawning biomass to rebuild above the WCPFC’s established limit reference point of 0.20 over a period of time. However, Williams and Terawasi (2014) reports that preliminary total WCPO bigeye catch

catches for 2013 was 158,622 mt or 6% lower than in 2012. This suggests WCPFC conservation and management measures are beginning to reduce fishing mortality on WCPO bigeye tuna.

The WCPFC at its December 2014 meeting is expected to review the 2014 stock assessment and recommendations of its Science Committee. Because the 2014 stock assessment does not include data from 2013, it is not known whether CMM 2012-01 or CMM 2013-01, which established further reductions in fishing mortality on WCPO bigeye tuna, is sufficient to meet the recommendations of the Science Committee, should those recommendations be accepted by the Commission as the best available information on the status of WCPO bigeye tuna. Additionally, the SPC has not yet incorporated the 2014 stock assessment information into the TUMAS model, so NMFS has no mechanism with which to quantitatively update its analysis for WCPO bigeye tuna presented in the March 2014 EA. Accordingly, the TUMAS analysis remains the best scientific information for projecting the potential future impacts of the proposed action on WCPO bigeye tuna in light of existing international conservation and management measures. However, NMFS will take into account the 2014 stock assessment, and any relevant decisions of the Commission, as appropriate in future specifications approved under the Amendment 7 framework process.

2.5.2 North Pacific Swordfish

In the North Pacific, the swordfish population is comprised of two stocks, separated by a diagonal boundary extending from Baja, California, to the Equator. These stocks are the Western and Central North Pacific Ocean stock (WCNPO), distributed in the western and central Pacific; and the Eastern Pacific Ocean stock (EPO), distributed in the eastern Pacific (Figure 1). In July 2014, the SPC prepared a new stock assessment for North Pacific swordfish using data through 2012. The assessment also evaluated stock status for both the WCNPO and EPO stock (ISC 2014a).

For the WCNPO stock, the reference case model in the 2014 assessment estimates $F/F_{MSY} = 0.58$, indicating that the stock is not subject to overfishing as defined by the Council and NMFS under the Pelagic FEP. The reference case model estimates $B/B_{MSY} = 1.20$, indicating the stock is not overfished as defined by the Council and NMFS under the Pelagic FEP. Therefore, stock status remains the same as described in the March 2014 EA. That is, not subject to overfishing, and not overfished. The reference case model also estimates a new MSY of 14,920 mt compared to 14,400 mt estimated in the 2010 stock assessment (Brodziak and Ishimura 2010). This represents an increase in MSY of 520 mt. However, this information is not substantially different from the information relied on in the March 2014 EA.

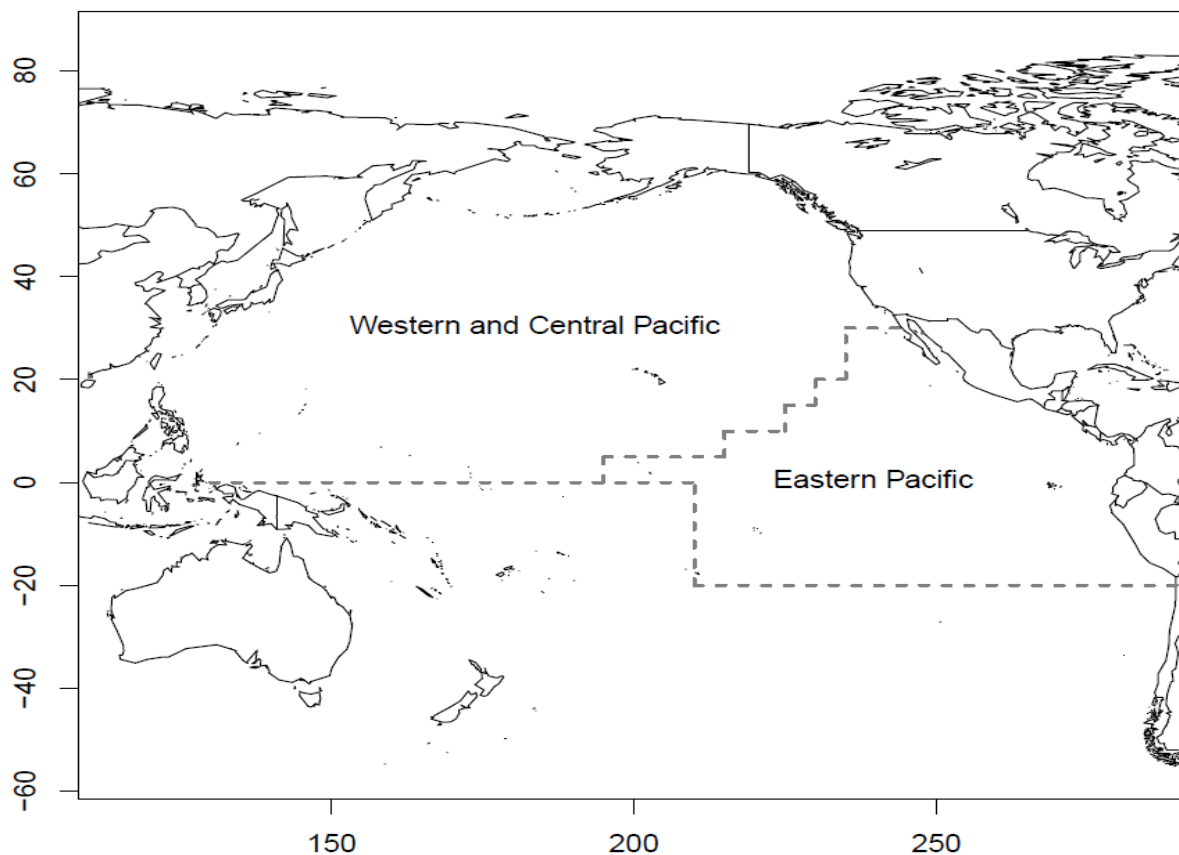


Figure 1. Stock structure for swordfish (*Xiphias gladius*) in the North Pacific, indicating the Western and Central Pacific Ocean and in the Eastern Pacific Ocean stocks. Source: ISC (2014a).

For the EPO stock the reference case model in the 2014 assessment estimates $F/F_{MSY} = 1.11$, indicating that the stock is now subject to overfishing as defined by the Council and NMFS under the Pelagic FEP. The reference case model estimates $B/B_{MSY} = 1.87$, indicating the stock is not overfished as defined by the Council and NMFS under the Pelagic FEP. However, retrospective analyses indicated that there was a clear retrospective pattern of underestimating exploitable biomass and overestimating harvest rate, such that the assessment estimates there was a 55% probability the overfishing is occurring. In other words, there is a 45% probability that overfishing is not occurring. The reference case model also estimates a new MSY of 5,490 mt compared to 3,100 mt estimated in the 2010 stock assessment (Brodziak and Ishimura 2010). This represents an increase of nearly 2,400 mt.

Based on Table 1.2 of the 2014 assessment (ISC 2014a), total 2012 catches of EPO swordfish by all fishing nations was approximately 9,910 mt with longline fishing vessels from Japan, Spain, China, Korea, and Taiwan, accounting for 91% of the total harvest in the EPO in 2012 and Belize, Mexico, Chile, French Polynesia, Peru, Vanuatu, and the United States accounting for the remainder of the catch (approximately 8% of the total harvest). However, catches by U.S. fishing vessels, which include Hawaii-deep set and shallow set longline vessels and West Coast swordfish vessels are so small that the assessment combines U.S catches with catches of Belize,

French Polynesia, and Vanuatu, which together account for 357 mt, or less than 4% of the 9,910 mt of EPO swordfish caught in 2012.

Given that the Hawaii deep-set fishery targets bigeye tuna does not generally operate within the area encompassing the EPO stock boundary, the fishery is likely to account for only a fraction of the 357 mt, if any at all. For these reasons, there is no new information that would modify the analysis presented in the March 2014 EA.

3 CUMULATIVE IMPACTS

Section 4.2 of the March 2014 EA, which is incorporated herein by reference, describes the cumulative effects of the alternatives on the human environment in light of past, present and reasonably foreseeable management actions, as well as external factors, including non-fishing anthropogenic environmental impacts and climate change. In summary, the March 2014 EA concluded that, regardless of the selected alternative, western Pacific pelagic fisheries will continue to be managed sustainably. None of the alternatives is expected to result in a large change to the fisheries in terms of area fished, effort, harvests, or protected species interactions.

This SEA supplements the cumulative effects analysis with respect to protected species (March 2014 EA, Section 4.2.2) in light of new information described and analyzed in Section 2, including the 2014 BiOp covering the continued operation of the Hawaii-deep set longline fishery, which considers impacts by other fisheries, and environmental conditions that contribute to survival and reproduction when evaluating the impact of the deep-set longline fishery on protected species. This analysis is incorporated by reference herein.

The information analyzed in this supplemental EA indicates that none of the alternatives are expected result in appreciable adverse impacts to protected species when considered together with the environmental baseline, past, present and reasonably foreseeable management actions and external factors.

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U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Pacific Islands Regional Office
1845 Wasp Blvd. Bldg. 176
Honolulu, Hawaii 96818
(808) 725-5000 • Fax (808) 725-5215

Finding of No Significant Impact

Supplemental Environmental Assessment

Amendment 7 to the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific Region (RIN 0648-BD46)

October 14, 2014

The National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS) prepared this Finding of No Significant Impact (FONSI) according to the guidelines established in NMFS Instruction 30-124-1 (July 22, 2005) and the requirements of NOAA Administrative Order NAO 216-6 (May 20, 1999) regarding compliance with the National Environmental Policy Act (NEPA). NMFS prepared the attached Supplemental Environmental Assessment (SEA) in accordance with the requirements of NEPA and agency guidelines and supplements an Environmental Assessment (EA) developed for Amendment 7 to the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (FEP), dated March 27, 2014. This FONSI considers the information and environmental impact evaluation in the March 2014 EA and the new information and/or circumstances described and analyzed in the SEA. This FONSI supersedes and replaces the FONSI dated March 27, 2014.

Based on the analyses in the SEA and March 2014 EA, NMFS finds that implementing the proposed action would not constitute a major Federal action that would significantly affect the quality of the human environment, within the meaning of NEPA. Therefore, the preparation of an Environmental Impact Statement is not required, and NMFS is issuing this FONSI.

Background and Federal Action

The Western Pacific Fishery Management Council (Council), in cooperation with NMFS, prepared Amendment 7, including the March 2014 EA and a Regulatory Impact Review. Amendment 7 establishes a process, consistent with conservation and management decisions of the Western and Central Pacific Fisheries Commission (WCPFC), for specifying fishing catch and effort limits and accountability measures for pelagic fisheries in the U.S. territories of American Samoa, Guam, and the Northern Mariana Islands. Territory governments would be allowed to allocate a portion of their specified catch or effort limit to U.S. fishing vessels through specified fishing agreements developed in accordance with the approved process. Amendment 7 includes a process for the Council to recommend and, if approved, for NMFS to specify a bigeye tuna catch limit of 2,000 mt for the longline fishery of each territory in 2014. Additionally, a territory may allocate up to 1,000 mt of that limit to qualifying U.S. longline fishing vessels identified in a specified fishing agreement. Amendment 7 and the associated regulations and specifications implement this management framework consistent with the Magnuson-Stevens



Fishery Conservation and Management Act (Magnuson-Stevens Act). Additional background and details of the action are in the March 2014 EA and SEA and are not repeated here.

Outline of the March 2014 EA

Chapter 1 provides an overview of recent fishery management activities including fishing agreements under Section 113, describes the responsible parties, and public review. Chapter 2 describes alternatives considered. Alternative 4 - Amend the FEP to Establish a Management Framework Consistent with Section 113, and Establish a Process for NMFS to Specify Territory Catch or Effort Limits and Assignable Limits under Qualifying Agreements– is the Council’s Preferred Alternative and was selected by NMFS to be implemented. The description of Alternative 4 in Section 2.4 provides details of the annual specification process, approval of agreements, catch attributions, annual review, and other specifics of the management program. Under the selected sub-alternative 4(b), NMFS will specify a catch and limit that will be applicable to the longline fisheries in 2014. Chapter 3 describes the environmental baseline. Chapter 4 contains the environmental impact analysis, including consideration of climate change, cumulative impacts, and a review of Environmental Justice considerations. Chapter 5 provides a summary of compliance with applicable laws. Chapter 6 lists literature cited. Amendment 7 and the March 2014 EA also include several appendices that provide supplemental information.

On December 30, 2013, NMFS published in the *Federal Register* for public review and comment, a notice of availability for Amendment 7 to the Pelagic FEP and the March 2014 draft EA (78 FR 79388). On January 8, 2014, NMFS published in the *Federal Register* for public review and comment, a proposed rule to implement the framework process described in Amendment 7, as well as the proposed bigeye tuna catch limits specification described in the March 2014 EA.

After considering public comments received on Amendment 7, the proposed rule, and the proposed specifications, NMFS approved Amendment 7 on March 28, 2014. However, before NMFS published the final rule to implement Amendment 7, and the final bigeye tuna catch and transfer limit specifications, NMFS received new information that could affect the environmental impact analysis contained in the March 2014 EA upon which NMFS’ approval of the regulations would have been based. Specifically, the new information includes the increased rate of leatherback sea turtle interactions in the Hawaii-deep set longline fishery that resulted in the fishery exceeding the level of anticipated interactions with leatherback sea turtles authorized in a 2005 Biological Opinion for the fishery. This information triggered reinitiation of consultation under the Endangered Species Act (ESA), section 7. Pending completion of the consultation process, NMFS postponed its decision on the approval of the Amendment 7 final rule and the bigeye tuna catch and transfer limit specifications. In addition, NMFS prepared the SEA to assist the agency in determining whether, in light of this and other new information, the proposed action would result in significant environmental impacts to the human environment.

Outline of the October 2014 SEA

The October 2014 SEA (attached) incorporates the March 2014 EA by reference and supplements the analysis by considering the potential impacts of the alternatives in light of new

information. Chapter 1 of the SEA provides background information including the purpose and need, proposed Federal Action, alternatives considered, expected fishery outcomes of the alternatives, the need for the SEA, and preparers. Chapter 2 describes new information and updates the analysis of the potential impacts of the alternatives on protected species. Chapter 3 updates the cumulative effects analysis in light of the new information.

Significance Analysis

NAO 216-6 contains criteria for determining the significance of the impacts of a proposed action. In addition, the Council on Environmental Quality (CEQ) regulations at 40 CFR 1508.27 state that the significance of an action should be analyzed in terms of both “context” and “intensity.” Each criterion listed below is relevant in making a finding of no significant impact and has been considered individually, as well as in combination with the others. The significance of this action is analyzed based on the NAO 216-6 criteria and CEQ’s context and intensity criteria. NAO 216-6, Section 6.01b, 1-11 provides eleven criteria, the same ten as in the CEQ regulations and one additional criterion for determining whether the impacts of a proposed action are significant.

NMFS proposes to implement the Amendment 7 final rule, which is Alternative 4 and Sub-alternative 4(b). Amendment 7 has two separate, but related, processes.

Alternative 4, the management framework process, is largely administrative: The framework under which fishing agreements are managed and that allows the Council to recommend and NMFS to specify annual catch or effort and transfer limits for territories does not itself have environmental consequences. The activities associated with the framework measures include the development and implementation of specifications for catch or fishing effort limits and allocation limits, and continuing to ensure compliance with applicable laws, reviews of fishing agreements, and monitoring catch or fishing effort made possible under fishing agreements. Discretionary actions taken under this management framework are expected to have environmental consequences, which will be analyzed as appropriate when those actions become concrete proposals.

Alternative 4(b), the catch limit specifications for bigeye tuna caught by longline in the territories, and limits on the amount available for allocation under fishing agreements could potentially have environmental effects: The specifications for territory catch limits and transfer limits will have impacts to pelagic fish stocks. Specifications of such catch and transfer limits will allow the Council and NMFS to authorize the limited transfer of available territorial bigeye tuna quota, consistent with the conservation needs of the stocks. In 2014, each territory will be limited to 2,000 mt of bigeye tuna. Each territory will be allowed to enter into fishing agreements with FEP-permitted vessels and allocate up to 1,000 mt of their 2,000-mt catch limit of bigeye tuna in 2014. However, no vessel may operate under more than one specified fishing agreement at a time. The 2014 catch and transfer limits for bigeye tuna are expected to be consistent with the Western and Central Pacific Fisheries Commission (WCPFC) conservation and management objectives as well as the conservation needs of the stock under Magnuson Stevens Act. The impact analysis indicates that additional fishing within these established limits

would result in up to 1.5 additional months of fishing, compared with catch under the 3,763 metric ton limit under Alternative 2.

The specification considered here is for 2014. Future mandatory annual reviews will be performed by the Council and NMFS prior to new specifications being implemented, and any future catch or effort limits and transfer limits will undergo additional environmental review to ensure consistency with all applicable laws and international conservation and management decisions.

The following questions and answers form the basis for NMFS' finding of no significant impact.

1) Can the proposed action reasonably be expected to jeopardize the sustainability of any target species that may be affected by the action?

No. NMFS does not anticipate longline fisheries managed under this action, including the Hawaii deep-set longline fishery, to expand nor change the manner in which they have been conducted under baseline conditions during the fishing years 2011, 2012, and 2013, when the fishery operated under Section 113 agreements, in terms of area fished, number of vessels engaging in longline fishing, the number of trips taken per year, number of hooks set per vessel during a trip, depth of hooks, or deployment techniques in setting longline gear). In 2011, 2012, and 2013, when there were no limits on the amount of bigeye that could be transferred under Section 113 agreements, 628 mt, 771 mt, and 501 mt, respectively, of bigeye tuna were transferred to a U.S. territory (March 2014 EA, Section 4.1.1.4.1 and Appendix D, and SEA, Section 1.5).

NMFS anticipates that a total of up to 1,000 mt of bigeye tuna could be transferred annually under specified fishing agreements allowed by this action. As shown in the data and model projections contained in the March 2014 EA (Section 4.1.1.4.1 and Appendix D), the expected transfer of 1,000 mt in 2014 would not delay or impede WCPFC objectives of ending overfishing of bigeye tuna. Therefore, conservation and management objectives under the proposed action are consistent with Magnuson Stevens Act requirement to prevent overfishing while providing for optimum yield on a continuing basis. Additionally, as explained in the March 2014 EA, the transfer of more than 1,000 mt of bigeye tuna annually is considered unlikely, based on fishery capacity limitations and the requirement that no vessel operate under more than one agreement at a time.

The SEA describes new information for bigeye tuna, which is a 2014 stock assessment and includes an analysis of what the new information means in terms of the impact of the Hawaii deep-set longline fishery on the WCPO bigeye tuna stock (SEA, Section 2.5.1). While the 2014 bigeye tuna stock assessment and the recommendations of the WCPFC's Science Committee at their July 2014 meeting continue to raise concerns over the conservation status of the bigeye stock, such information is not appropriate for consideration in 2014 management decisions. As described in the SEA, the WCPFC has not considered or taken management action on the new information, and it is not known what, if any, additional reductions may be required or agreed upon to reduce fishing mortality. Therefore, NMFS cannot at this time reasonably anticipate or analyze future management actions for bigeye tuna that may be taken by the WCPFC.

Moreover, the Secretariat of the Pacific Community (SPC) has not incorporated the 2014 bigeye tuna stock assessment and catch information into its Tuna Management Simulator (TUMAS), such that NMFS may quantitatively update its analysis in the March 2014 EA. The proposed action is limited to establishing annual catch and effort specifications for 2014 only; NMFS will take into account the 2014 stock assessment, and any relevant decisions of the Commission, as appropriate in future specifications approved under the Amendment 7 framework process. NMFS concludes that the proposed action, as analyzed in the March 2014 EA and SEA, will not significantly affect bigeye tuna, the target species, either individually or cumulatively with other actions.

2) Can the proposed action reasonably be expected to jeopardize the sustainability of any non-target species?

No. The WCPFC, Council, and NMFS have established several conservation and management measures for highly migratory species in the Pacific that are caught by the territory and Hawaii longline fisheries (see Table 2 in the March 2014 EA). Under this action, U.S. and territory fisheries will continue to comply with WCPFC Conservation and Management Measures and existing management by NMFS and the Council intended to ensure that fishing is sustainable. In the Hawaii deep-set longline fishery, for example, fishing effort for bigeye tuna drives trends in catches of non-target species with inter-annual variability as shown in Table 12 of the March 2014 EA. If fishing effort for bigeye tuna were to increase over the baseline, catches of non-target species are expected to increase commensurately. The likely scenario under this action is that fishing effort levels for bigeye tuna will be similar to 2011 and 2012 as described in sections 3.3 and 3.3.4 of the March 2014 EA. The mandatory annual reviews of any existing or proposed catch or fishing effort limit specifications and portion of those limits available for allocation will allow the Council and NMFS to monitor catches of non-target stocks to ensure that they are sustainable and consistent with the FEP, Magnuson-Stevens Act, WCPFC decisions, and other applicable laws (March 2014 EA, Section 4.1.1.4).

This action will not authorize any new fisheries with unknown bycatch levels. The measures are expected to result in catch and effort similar to the current fishery and so increased bycatch rates are not expected. Pelagic FEP fisheries will continue to be monitored and information will continue to include bycatch, discards, and interactions. Monitoring the fishery will allow NMFS and the Council to develop management measures as necessary to respond to potential needs to reduce bycatch and mortality of bycatch. Vessels authorized to fish under territory agreements will still be required to submit logbooks, carry observers when requested by NMFS, and carry and operate a vessel monitoring system (VMS) unit. In addition, FEP-permitted vessels are required to follow strict protected species mitigation measures that reduce interactions with these species (March 2014 EA, Section 5.1). Specific fisheries development projects funded by deposits to the Sustainable Fisheries Fund would be subject to separate NEPA analysis when those projects are proposed.

The SEA describes new information for North Pacific swordfish, which is a 2014 stock assessment, a change in the status of the stock in the EPO to that of being subject to overfishing, and an increase in maximum sustainable yield. The SEA discusses what the new information means in terms of the impact of the Hawaii deep-set longline fishery on the Western and Central

North Pacific Ocean stock (WCNPO) and the Eastern Pacific Ocean stock (EPO) of North Pacific swordfish (SEA, Section 2.5.2). To summarize, the WCNPO stock is healthy and will continue to be harvested at sustainable levels. Regarding the EPO stock, the Hawaii deep-set longline fishery does not generally operate in the area encompassing the EPO stock boundary and is, therefore, likely to account for an insignificant fraction of the amount of EPO stock caught by all fisheries. Therefore, the proposed action, as analyzed in the March 2014 EA and SEA, will not significantly affect non-target species, either individually or cumulatively with other actions.

3) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act and identified in FMPs?

No. Impacts on marine habitats and Essential Fish Habitat (EFH) are described in Section 4.1.3 of the March 2014 EA. No western Pacific pelagic fisheries are known to have large adverse impacts to habitats, and the selected Alternative 4 and Sub-alternative 4(b) and 2014 specifications for bigeye tuna catch limits and transfer limits will not change the way in which fisheries are conducted in any way that could adversely impact the marine habitat including areas designated as EFH, habitat areas of particular concern (HAPC), or marine sanctuaries or monuments. The Pacific pelagic fisheries are not known to have large adverse impacts to habitats or marine sanctuaries or monuments.

The selected Alternative and Sub-alternative and 2014 specifications are not expected to lead to substantial physical, chemical, or biological alterations to habitat because no western Pacific fishery is expected to change as a result of the measures being implemented (March 2014 EA, Section 4.1.3). Any longline fishing has the potential to result in the loss of gear. However, fishermen do try to recover gear and are normally successful because floats are used and are visible from a distance. Second, hooks are not expected to continue ghost fishing because they are recovered, or lost and sink and corrode over time. The selected alternatives and 2014 specifications are not expected to result in a change to the way longline fishing is conducted so there is not expected to be an increase in gear loss (March 2014 EA, Section 4.1.3).

No adverse impacts on EFH or HAPC have been identified between pelagic species fisheries and any management unit species or EFH or HAPC. The selected Alternative 4 and Sub-alternative 4(b) and the 2014 specifications will not change the fisheries in a way that would adversely affect EFH or HAPC (March 2014 EA, Section 4.1.3).

4) Can the proposed action be reasonably expected to have a substantial adverse impact on public health or safety?

No. This action supports fisheries development in the territories that could potentially include upgrading vessels that would likely be safer than existing vessels. In addition, this action is expected to improve safety-at-sea for the Hawaii longline fishery by allowing fishery participants to enter into territory agreements to fish in the WCPO. Fishing in the WCPO could otherwise be restricted if catch limits for pelagic MUS are reached. The opportunity for longline vessels to enter into territory agreements and continue fishing in the WCPO is especially important for

small vessels in the Hawaii longline fishery because when the U.S. WCPO catch limit for bigeye tuna is reached, all vessels must either stop fishing or fish for bigeye tuna in the EPO, which is further from Hawaii than some fishing grounds in the WCPO. November and December, which are months in which a closure of the bigeye tuna has occurred in the past, typically have strong storm activity occurring in the North Pacific (March 2014 EA, Section 5.1).

5) Can the proposed action reasonably be expected to adversely affect endangered or threatened species, marine mammals, or critical habitat of these species?

No. The impacts to endangered or threatened species, marine mammals, or critical habitat of these species are described in Section 3.4 of the March 2014, and updated in Section 3 of the SEA. Specifically, the information in the March 2014 EA has been updated for leatherback turtles; humpback whales (CNP stock), sperm whales (Hawaii stock), and the main Hawaiian Islands (MHI) Insular false killer whale distinct population segment (DPS); as well as for the newly listed scalloped hammerhead sharks (threatened Indo-west Pacific DPS and endangered Eastern Pacific DPS) and corals of the western Pacific region.

The impact analysis in the SEA and EA are based on a detailed review of the operation of the Hawaii deep-set longline fishery, expected level of activity (effort), and its potential impact on these listed species. The SEA incorporates by reference the September 19, 2014, Biological Opinion, which was developed as part of a formal consultation under the Endangered Species Act (ESA), and a an October 10, 2014, permit under the MMPA section 101(a)(5)(E), addressing the fishery's interactions with depleted stocks of marine mammals. The permit authorizes the incidental, but not intentional, taking of ESA-listed humpback whales, sperm whales, and main Hawaiian insular false killer whales (Main Hawaiian Islands (MHI) insular stock). In issuing this permit, NMFS determined that incidental taking by the Hawaii longline fisheries would have a negligible impact on these marine mammal stocks.

Under the proposed action, the SEA and EA both expect the Hawaii deep-set longline fishery to operate in a manner similar to recent fishing years under Section 113 agreements. As described in the SEA (Section 2.1), and as documented in the 2014 Biological Opinion which is incorporated by reference, the fishery is expected to interact with leatherback turtles at a rate of up to 24 leatherback turtles a year. This rate of interaction is expected to be equal to one adult female mortality from the western component of the population every 4.9 years (or 0.20 adult females annually), or about .008 percent of the population of western Pacific nesters. The 2014 BiOp further found that there is a low likelihood of interactions with leatherback from the eastern Pacific. The 2014 BiOp concluded that the impact of the longline fishery on leatherback turtles would not appreciably reduce the survival and recovery of leatherback turtles. The BiOp included an incidental take statement authorizing the take of up to 72 leatherback turtles over a 3-year period, incidental to deep-set longline fishing. This level of take is estimated to include 27 total mortalities for the species.

NMFS expects that under the proposed action, the overall leatherback population will grow and maintain genetic heterogeneity, broad demographic representation, and successfully reproduce. The proposed action is expected to have a small effect on the overall size of the populations and

therefore the species, and NMFS does not expect it to affect the leatherbacks' ability to meet their lifecycle requirements and to retain the potential for recovery.

The 2014 BiOp concluded that the Hawaii deep-set fishery is not likely to adversely affect hawksbill turtles; blue, fin, sei, or North Pacific right whales; the Hawaiian monk seals, or eastern Pacific scalloped hammerhead shark distinct population segment (DPS). The fishery is not likely to adversely affect designated or proposed critical habitat for monk seals or designated critical habitat for leatherback turtles. The 2014 BiOp also describes the regulatory environment for the longline fisheries and determined that the continued operation of the Hawaii deep-set longline fishery was likely to adversely affect eight species: Main Hawaiian Islands insular false killer whales (an endangered DPS), sperm whales, humpback whales, North Pacific loggerhead sea turtle DPS, leatherback sea turtles, olive ridley sea turtles; and green sea turtles, and the Indo-Pacific scalloped hammerhead shark DPS. NMFS determined that the continued operation of the longline fishery is not likely to jeopardize the continued existence of these listed species and is not likely to destroy or adversely modify designated critical habitat. Impacts on ESA-listed marine mammals (humpback whales, sperm whales, and MHI insular false killer whales) are expected to be negligible and are not expected to impede the stocks' ability to achieve and maintain their optimum sustainable populations.

The potential impacts of the Hawaii deep-set longline fishery operating under the proposed action on scalloped hammerhead sharks were considered in the SEA (SEA, Sections 2.2 and 2.3). This analysis incorporated the analysis in the 2014 BiOp of potential impacts of the deep-set longline fishery on the Indo-Pacific and Eastern Pacific scalloped hammerhead shark DPSs. The best scientific and commercial information available indicates that the deep-set fishery is not likely to adversely affect the Eastern Pacific DPS under any alternative. With respect to the Indo-West Pacific scalloped hammerhead shark DPS, the 2014 BiOp anticipates only minor impacts from the deep-set fishery, which is not likely to jeopardize the continued existence of the species.

The 2014 BiOp includes an incidental take statement (ITS) for sperm whales, humpback whales, MHI insular false killer whales, the Indo-West Pacific scalloped hammerhead shark DPS, and each species of sea turtle with which the fishery interacts. The ITS includes reasonable prudent measures and terms and conditions that are required to be followed to minimize the impact of any authorized take. Under each of the alternatives analyzed, the deep-set fishery will continue to comply with regulations intended to reduce the likelihood and severity of interactions between protected species, and that allow NMFS to monitor interactions (e.g., through observer placement, VMS, federal logbook reporting, and requirements for interaction mitigation gear and safe handling techniques).

On September 10, 2014, NMFS listed certain shallow reef-building corals as threatened under the ESA. As described in the SEA, pelagic fisheries are not expected to change as a result of implementing the provisions of Amendment 7, and the fisheries are not known to fish near or cause damage to shallow tropical and subtropical reefs in areas where ESA-listed coral species may occur. Factors that limit the potential impact of deep-set longlining include the location where pelagic fishing activity occurs, as well as federal regulations that prohibit longline fishing in areas where most coral reef habitat is found. In addition, none of the corals listed under ESA is present in waters around the Hawaiian Islands. On October 6, 2014, consistent with its ESA

responsibilities, NMFS concluded that the continued operation of the deep-set fishery would have no effect on listed corals. (SEA, Section 2.3)

NMFS concludes that the proposed action, as analyzed in the March 2014 EA and this SEA, will not significantly affect protected species, either individually or cumulatively with other actions.

6) Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?

No. No western Pacific pelagic fisheries are known to impact to marine habitats, and the selected Alternative 4 and Sub-alternative 4(b) and the 2014 specifications will not change any fishery in any way so there will be no adverse impact to the marine habitats including areas designated as essential fish habitat (EFH), habitat areas of particular concern (HAPC), or marine sanctuaries or monuments. The Pacific pelagic fisheries are not known to have large adverse impacts to habitats (March 2014 EA, Section 4.1.3).

There are no known studies that show impacts to species fecundity or negative predator/prey relationships that result in significant adverse changes to food web dynamics (section 4.1.3). Without management to ensure fishing is sustainable, the removal of top predator pelagic species such as bigeye tuna, yellowfin tuna, and billfish above natural mortality rates, that is, when fishing is occurring, has the potential to cause major imbalances or wide ranging change to ecosystem functions and habitats. However, as described in the EA, both international and domestic fishery managers are controlling catches throughout the Pacific and this is expected to improve stock status and prevent imbalances or wide-ranging changes to ecosystem function from occurring.

7) Are significant social or economic impacts interrelated with natural or physical environmental effects?

No. Economic and social impacts to participants and communities were analyzed in Section 4.1.4.4 of the March 2014 EA. As occurred in the past three years under the authority of Section 113, this action will allow territories to enter into fishing agreements in exchange for deposits into the Western Pacific Sustainable Fisheries Fund (SFF) for fishery development projects listed in the territory Marine Conservation Plans approved by the Secretary of Commerce. Thus, fishing communities are expected to benefit from fishery improvement projects that are implemented in the future. Benefits are expected to vary from minor to moderate, and each project will be analyzed under NEPA for impacts once identified (March 2014 EA, Section 4.1.4.4).

Territories are expected to benefit economically and socially from the attribution of bigeye tuna under agreements. For example, Guam and the CNMI do not currently have the domestic fishing capacity to participate in the bigeye tuna fishery, and American Samoa has domestic longline capacity with only a history of albacore fishing. The authorization of territory agreements allow catch to be attributed to these territories and are seen as demonstrating the aspirations of the U.S.

territories to participate in the larger, internationally managed fisheries in the WCPO (March 2014 EA, Section 4.1.4.4).

Under this action, Hawaii longline fishery participants will realize minor to moderately positive benefits from being able to continue to enter into fishing agreements with territories (March 2014 EA, Section 4.1.4.4). Benefits include a reduction in the need to fish for seasonally-variable bigeye tuna in the eastern Pacific Ocean (EPO), which saves fuel costs for fishery participants, the continued availability of fresh tuna for members of the local community, lower consumer prices due to more tuna being available, and more stable income for fishery participants. Consistent with previous years of fishing under Section 113, fishing vessels that are not party to a territory agreement may continue fishing and landing in Hawaii, provided additional amounts of any U.S. quota remain uncaught.

This action will also allow the Hawaii longline fleet to optimize their fishing schedule by choosing to fish in certain areas. Having to fish in the EPO requires more fuel, longer transit times, and result in fewer sets, and potentially reduced quality of fish at auction. Profits can also be variable due to the seasonal variation in the availability of bigeye tuna in the EPO. The action is not expect to have a significant adverse effect on any fish stock that would result in depletion that could have a significant secondary impact on members of fishing communities that rely on seafood for sustenance. Any allocation specification will be subject to annual review and action to ensure that it is consistent with the conservation needs of the stock. The level of fishing that is expected to occur will be similar to recent fishing under Section 113 and catches of all pelagic MUS are expected to be sustainable and meet WCPFC conservation objectives.

8) Are the effects on the quality of the human environment likely to be highly controversial?

The effects of the proposed action, as analyzed in the March 2014 EA and SEA, are not likely to be highly controversial. The proposed action would allow the limited transfer of available bigeye tuna from U.S Participating Territories to eligible U.S. fisheries, consistent with the conservation and management needs of the stock. The Hawaii deep-set longline fishery will continue to operate in accordance with regulations intended to prevent and reduce adverse impacts to the environment. Future catch and effort and transfer limits will be based on the best available scientific and commercial information regarding stock status and developed in consideration of applicable international conservation and management measures for highly migratory species. Future catch and effort limit and transfer limit specifications will be subject to additional environmental review under NEPA, ESA, MSA, and other applicable law, to ensure the sustainability of target and non-target stocks, the conservation of protected species and the human environment, and consistency with all applicable international obligations. Accordingly, the impacts on the quality of the human environment are not likely to be highly controversial.

9) Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas?

No. The selected alternative and 2014 specification are not expected to lead to substantial physical, chemical, or biological alterations to habitat (March 2014 EA, Section 4.1.3). Longline fishing does not occur in marine protected areas, marine sanctuaries, or marine monuments and existing longline fishing practices will not change under the proposed action so no impacts are anticipated (SEA, Section 3.2).

10) Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

Neither the March 2014 EA nor the SEA identified impacts to the human environment that are likely to be highly uncertain or involve unique or unknown risks. Under the preferred alternative, the Hawaii deep-set longline fishery is expected to continue to fish within established annual and transfer limits. Actual effort levels will likely be well below those limits, based on observed effort since 2011 when fishing arrangements were authorized under Section 113. U.S. fisheries will continue to comply with all applicable international conservation and management measures and will continue to fish in accordance with provisions of applicable laws intended for the conservation of fish stocks and protection of the environment. Under the preferred alternative, the deep-set fishery will continue to comply with existing observer and reporting requirements, such that any unanticipated impacts to fish stocks or protected species may be promptly identified and addressed. New information bearing on stock status and impacts to the environment will be incorporated into annual reviews of fishing effort and transfer specifications, as appropriate.

11) Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?

No. The impacts of the Hawaii deep-set longline fishery fishing under the provisions of Amendment 7 and the 2014 specification will not have cumulatively significant impacts when considered together with past, present and reasonably foreseeable actions by NMFS, Hawaii-managed fisheries, or by others. The March 2014 EA and FONSI describe NMFS' finding with respect to cumulative impacts (2014 EA, Section 4.2, and March 27, 2014, FONSI, Criterion 11). Annual review of and action on catch and fishing effort specifications will ensure that any cumulatively significant impacts are promptly identified and properly analyzed.

The SEA included information about cumulative impacts related to new information about fishery interactions with leatherback turtles from a recently completed 2014 BiOp, the recent listing of certain corals as threatened species, and new stock assessments for bigeye tuna and North Pacific Swordfish (SEA, Section 3). The 2014 BiOp included analysis regarding potential impacts of the Hawaii deep-set longline fishery on leatherback and other sea turtles, three species of ESA-listed marine mammals, and scalloped hammerhead sharks. The analysis considered potential impacts from all major fisheries affecting the same species; status and trends in the population; impacts to species from climate change (when information was reasonably

available), as well as other human impacts on the species. The analysis found that the continuation of the Hawaii deep-set longline fishery under effort levels contemplated by Amendment 7, considered together with the environmental baseline and cumulative effects, would not jeopardize listed species, or destroy or adversely modify designated critical habitat (SEA, Chapter 2). The SEA identified no additional effects under NEPA that may raise cumulatively significant impacts.

12) Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources?

No. No such resources have been identified in the areas affected by commercial longline fishing.

13) Can the proposed action reasonably be expected to result in the introduction or spread of a non-indigenous species?

No. This action would not change the manner in which the longline fisheries conduct operations, which are not known to spread or introduce such species. Therefore, there is no expectation of a change in the introduction of or spread of a non-indigenous species.

14) Is the proposed action likely to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?

No. Section 113 allowed U.S. territories to enter into fishing agreements with U.S. longline fishermen in 2011, 2012, and 2013. This action would continue to allow for such fishing agreements and has additional provisions for Council and NMFS to annually review any proposed or existing catch or fishing effort limits and allocation limits and annually establish territory catch or effort and transfer limits for pelagic MUS. In the event that the Council does not recommend a catch and effort or allocation limit, or NMFS does not approve such recommendation, then no fishing agreements would be approved for that fishing year. This activity would not automatically lead to future actions that could have significant impacts.

Vessel chartering is practiced among WCPFC members, principally between small-island developing states (SIDS) and distant water fishing nations (DWFN) as mechanism for the SIDS to gain fishing capacity. There are no existing WCPFC conservation and management measures to restrict vessel chartering or catch assignment, which is believed to be occurring on various levels within the WCPO. The WCPFC conservation and management measure applicable to vessel chartering (CMM 2012-05) requires notifications of chartering to the WCPFC Secretariat; however, the list of vessels notified to be under charter is available to the public (March 2014 EA, Section 4.2.1.3).

This action is not expected to negatively impact future U.S. negotiating positions with respect to further reductions in bigeye fishing mortality because it implements management measures similar to those mandated under Section 113, which were carried out in 2011, 2012, and 2013, while establishing overall limits to ensure stock sustainability. In addition, this action establishes

more restrictive overall catch levels than what are currently in place for SIDS and Participating Territories to the WCPFC. This may support U.S. management efforts internationally. (March 2014 EA, Section 4.2.1.3).

15) Can the proposed action reasonably be expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment?

No. This action was developed by the Council which includes representatives of American Samoa, Guam, the CNMI, and Hawaii, in accordance with the Magnuson-Stevens Act, and other applicable laws (March 2014 EA, Section 1.5). The Council deliberations took place in public forums and the Council provided opportunities for public comments during the development of its recommendations. The draft Amendment and EA document was developed by NMFS in coordination with the Council staff and coordinated with territory and state government natural resource agencies and the public (March 2014 EA, Sections 1.1, 1.2, and 5.2), and was not found to be inconsistent with applicable laws (March 2014 EA, Section 5).

16) Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

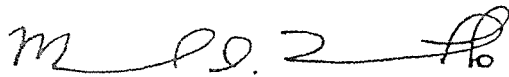
NMFS has not identified any new information suggesting that implementation of the final rule establishing 2014 bigeye tuna territory catch and transfer limit specifications would have a substantial cumulative effect on a bigeye tuna or any non-target species. The proposed action would allow the limited transfer of available bigeye tuna from U.S Participating Territories to eligible U.S. fisheries, consistent with the conservation and management needs of the stock, as determined by the WCPFC and NMFS. The Hawaii deep-set longline fishery will continue to operate in accordance with regulations intended to prevent and reduce adverse impacts to the environment. Future catch and effort and transfer limits will be based on the best available scientific and commercial information regarding stock status and developed in consideration of applicable international conservation and management measures for highly migratory species. Future catch and effort limit and transfer limit specifications will be subject to additional annual environmental review under NEPA, ESA, MSA, and other applicable law, to ensure the sustainability of target and non-target stocks, and the potential for cumulatively adverse impacts.

Summary

Considering the expected fishery outcomes of the selected alternative on the environment, as described in the October 2014 SEA and in the 2014 March EA, NMFS does not expect the conduct of U.S. longline fisheries in the western Pacific under the proposed action to have significant adverse impacts to the physical marine environment, target or non-target fish species, protected resources, fishery participants and communities, or state and federal enforcement or fisheries administration. The Hawaii longline fishery will continue to operate in accordance with provisions of the FEP, other applicable regulations, and with authorizations undertaken in accordance with the ESA and MMPA. These regulations and authorizations will help ensure the sustainable management of the affected stock, consistent with conservation and management objectives under applicable law and WCPFC decisions.

Determination

Based on the information in this document and the analysis contained in the SEA dated October 13, 2014, and the analysis contained in the March 27, 2014, EA for Amendment 7, I have determined that the impact of implementing the action will not significantly impact the quality of the human environment. All beneficial and adverse impacts of the action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an Environmental Impact Statement for this action is not necessary.



Michael D. Tosatto
Regional Administrator

October 14, 2014

Date

Attachment: SEA for Amendment 7.

References

National Marine Fisheries Service (NMFS). 2014. Finding of No Significant Impact for Amendment 7 to the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific Region, Use and Assignment of Catch and Effort Limits of Pelagic Management Unit Species by the U.S. Pacific Island Territories and Specification of Annual Bigeye Tuna Catch Limits for the U.S. Pacific Island Territories including an Environmental Assessment and Regulatory Impact Review. March 27, 2014.

----- 2014. Biological opinion issued in accordance with the Endangered Species Act for the continued authorization of the Hawaii-based Pelagic Deep-set Tuna Longline Fishery. National Marine Fisheries Service, Pacific Islands Region, Protected Resources Division, Honolulu. September 19, 2014. 216 pp.

Western Pacific Fishery Management Council and NMFS. 2014. Amendment 7 to the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific Region: Use and Assignment of Catch and Effort Limits of Pelagic Management Unit Species by the U.S. Pacific Island Territories and Specification of Annual Bigeye Tuna Catch Limits for the U.S. Pacific Island Territories including an Environmental Assessment and Regulatory Impact Review. March 27, 2014.