

FINDING OF NO SIGNIFICANT IMPACT

I. Purpose of Finding of No Significant Impact (FONSI): The National Environmental Policy Act (NEPA) requires the preparation of an Environmental Impact Statement (EIS) for any proposal for a major federal action significantly affecting the quality of the human environment. 42 U.S.C. § 4332(C). The Council on Environmental Quality (CEQ) Regulations direct agencies to prepare a Finding of No Significant Impact (FONSI) when an action not otherwise excluded will not have a significant impact on the human environment. 40 CFR §§ 1500.4(b) & 1500.5(b). To evaluate whether a significant impact on the human environment is likely, the CEQ regulations direct agencies to analyze the potentially affected environment and the degree of the effects of the proposed action. 40 CFR § 1501.3(b). In doing so, agencies should consider the geographic extent of the affected area (i.e., national, regional or local), the resources located in the affected area (40 CFR § 1501.3(b)(1)), and whether the project is considered minor or small-scale (NAO 216-6A CM, Appendix A-2). In considering the degree of effect on these resources, agencies should examine both short- and long-term effects (40 CFR § 1501.3(b)(2)(i); NAO 216-6A CM Appendix A-2 - A-3), and the magnitude of the effect (e.g., negligible, minor, moderate, major). CEQ identifies specific criteria for consideration. 40 CFR § 1501.3(b)(ii)-(iv). Each criterion is discussed below with respect to the proposed action and considered individually as well as in combination with the others.

In preparing this FONSI, we reviewed the Environmental Assessment (EA) for the Pacific Sardine Rebuilding Plan which evaluates the affected area, the scale and geographic extent of the proposed action, and the degree of effects on those resources (including the duration of impact, and whether the impacts were adverse and/or beneficial and their magnitude). The EA is hereby incorporated by reference. 40 CFR § 1501.6(b).

II. Approach to Analysis:

The proposed action adopts a rebuilding plan for the Coastal Pelagic Species (CPS) Fishery Management Plan's (FMP) that uses the current management process for Pacific sardine during the rebuilding period. This includes using the Pacific sardine harvest control rules to annually calculate harvest specifications based on an estimate of that year's biomass from annual stock assessments. The proposed action also requires the continued use of the automatic provisions of the CPS FMP that immediately limit fishing mortality at lower biomass levels, such as the required closure of the primary directed fishery when the biomass is at or below 150,000 metric tons (mt), and the automatic reduction in incidental allowances in other CPS fisheries when the biomass is at or below 50,000 mt. Since the proposed action severely limits fishing mortality at low biomass levels, the scale of the proposed action is not considered to meaningfully contribute to a significant impact.

The proposed action will not meaningfully contribute to significant adverse effects. Resources impacted by Pacific sardine fishing include Pacific sardine and non-target CPS fish species that co-occur with Pacific sardine (e.g., Pacific mackerel), and may be incidentally caught while targeting Pacific sardine. The proposed action maintains a closure of the primary directed Pacific sardine fishery, and is not predicted to change incidental catch rates in such a way as to jeopardize the sustainability of other fish stocks, as the CPS FMP contains incidental catch allowances that limit the take of non-target CPS. Additionally, any take of non-target CPS species is monitored and accounted for in determining total harvest mortality of each respective stock, therefore ensuring that

incidental catch will not jeopardize the sustainability of these species. Protected or endangered species that may be caught incidentally are considered separately under question IV.

The proposed action is not connected to other actions that have caused or may cause effects to the resources in the affected area, and there is then no potential for the effects of the proposed action to add to the effects of other projects such that the effects taken together could be significant.

III. Geographic Extent and Scale of the Proposed Action

The proposed action establishes rebuilding measures for Pacific sardine fisheries in the exclusive economic zone, from 3-200 nautical miles offshore of Washington, Oregon, and California, and is therefore, regional in its geographic extent. The Pacific sardine EA describes the management areas within the region where specific fisheries normally occur (e.g., live bait fishery in Southern California), and the environmental effects analyzed in the EA occur at a relatively small scale.

IV. Degree of Effect:

- A. The potential for the proposed action to threaten a violation of Federal, state, or local law or requirements imposed for environmental protection.*

This proposed action will not threaten a violation of any Federal, state, or local law or requirements imposed for environmental protection. The process of setting annual harvest specifications for Pacific sardine fishing itself is carried out in accordance with Federal law. The states adopt their own regulations, which have traditionally conformed to Federal regulations, to manage Pacific sardine in state waters.

- B. The degree to which the proposed action is expected to affect public health or safety.*

The proposed action will not have a significant impact on public health or safety. Public health and safety issues related to CPS fisheries are discussed and analyzed in the CPS FMP (Appendix D). This action does not substantially change the attributes of the Pacific sardine fishery related to safety (e.g., time, area, and fishing methods), and therefore does not create a derby-style fishery where fishermen feel pressure to fish during an open season when adverse weather or conflicts with other fisheries may exist. Additionally, there are not threats to the public as far as dredging, water intake structures, wastewater, discharge from hazardous substances, or coastal development impacts.

- C. The degree to which the proposed actions is expected to affect a sensitive biological resource, including:*

- a. Federal threatened or endangered species and critical habitat;*

The proposed action would not significantly affect any endangered or threatened species or its critical habitat. This proposed action maintains the closure of the primary directed fishery for Pacific sardine until the stock is rebuilt; therefore, there are no anticipated impacts to any ESA-listed species not considered in prior ESA consultations as a result of this action.

- b. stocks of marine mammals as defined in the Marine Mammal Protection Act ;* Pacific sardine fisheries are classified under the Marine Mammal Protection Act (MMPA) as Category III (86 FR 3028, January 14, 2021), indicating there is “a remote likelihood or no known incidental mortality of serious injury of marine

mammals” (MMPA 118(c)I). This action is not changing existing fishery practices therefore interactions with marine mammals will remain minimal.

c. essential fish habitat identified under the Magnuson–Stevens Fishery Conservation and Management Act;

The proposed action is not expected to result in substantial damage to the ocean and coastal habitats and/or essential fish habitat (EFH) as defined under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), and identified in the FMP. Pacific sardine fisheries use roundhaul gear (*e.g.*, lampara and purse seine nets) that generally are not associated with adverse impacts to ocean and coastal habitats. The fishery takes place in pelagic habitats (*i.e.*, in the water column and not on the seafloor), which, because of their physical characteristics, are not significantly affected by this fishing gear. Exceptions may be in the case of derelict gear that comes into contact with the ocean bottom, and could potentially disrupt benthic sediments, seagrass, or other biogenic habitat components. Even so, habitat impacts resulting from fishing net interactions are rare, minimal, and transitory. In addition, the primary directed fishery for Pacific sardine will remain closed for this action and will not open until the stock is rebuilt.

Although the removal of Pacific sardine via fishing activities may adversely affect EFH through the removal of a prey resource, the primary directed fishery for Pacific sardine, which is the largest sector that takes the highest removal of Pacific sardine, will remain closed through this action until the stock is rebuilt, therefore minimizing impacts to EFH in terms of prey removal.

d. bird species protected under the Migratory Bird Treaty Act;

The proposed action would not significantly affect bird species protected under the Migratory Bird Treaty Act. Pacific sardine are an important prey item (forage) for a wide range of marine predators (including some seabirds); as such the harvest control rules for Pacific sardine were developed to account for the role of Pacific sardine in the ecosystem as forage. The purpose of this proposed action is to rebuild the Pacific sardine resource, and therefore provide beneficial impacts to predators of Pacific sardine.

e. national marine sanctuaries or monuments;

National Marine Sanctuaries and Monuments have regulations governing activities within their boundaries. The proposed action does not supersede those regulations. Pacific sardine fisheries prosecuted under the proposed action do not use any substrate-contacting gear, as they are purse seine or lampara net fisheries, so no ground disturbing impacts are expected to result from the proposed action.

f. vulnerable marine or coastal ecosystems, including, but not limited to, shallow or deep coral ecosystems;

The proposed action is not expected to adversely affect vulnerable marine, coastal, or coral ecosystems. The proposed action does not include any substrate-disturbing activity (see C.e above).

g. biodiversity or ecosystem functioning (e.g., benthic productivity, predator-prey

relationships, etc.)

This action is not expected to have a substantial impact on biodiversity and ecosystem functioning within the affected area. As stated in C.e and C.f above, the proposed action does not include any substrate-disturbing activity. As stated in C.d above, Pacific sardine are an important prey item (forage) for a wide range of marine predators, and the harvest control rules were developed to account for the role these species in the ecosystem as forage. This proposed action is not expected to substantially change the nature of the Pacific sardine fishery; the largest sector of the fishery, the primary directed fishery, will remain closed through this action until the stock is rebuilt.

- D. *The degree to which the proposed action is reasonably expected to affect a cultural resource: properties listed or eligible for listing on the National Register of Historic Places; archeological resources (including underwater resources); and resources important to traditional cultural and religious tribal practice.*

The proposed action would not affect historic properties and archeological resources because the proposed action does not use any substrate-contacting gear, as it only includes roundhaul fisheries. Therefore, no ground disturbing impacts are expected to result from the proposed action. Additionally, no properties listed or eligible for listing on the National Register of Historic Places, or archeological resources are known to occur in the area where the proposed action will occur. The proposed action will not significantly affect cultural resources or resources important to traditional cultural and religious tribal practice, as the proposed action includes treaty Indian fisheries and West Coast Indian tribes that are part of the Council's decision-making process on Pacific sardine management issues, and tribes with treaty rights to Pacific sardine have a seat on the Council.

- E. *The degree to which the proposed action has the potential to have a disproportionately high and adverse effect on the health or the environment of minority or low-income communities, compared to the impacts on other communities (EO 12898).*

The Pacific sardine fishery as it will operate under the proposed action is not expected to disproportionately affect minority and low-income communities. West Coast Indian tribes are part of the Council's decision-making process on CPS management in general, and tribes with treaty fishing rights are represented on the Council.

- F. *The degree to which the proposed action is likely to result in effects that contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of the species.*

The proposed action is not expected to import, introduce, or contribute to the spread of noxious weeds or noninvasive species. The West Coast states have regulations in place for vessel inspections to address this issue, and this action does not change these state regulations or affect the likelihood of the introduction or spread of these species. The fishing vessels participating in the proposed action would not increase the risk of introduction through ballast water or hull fouling, because Pacific sardine vessels generally have a limited range of operation and few, if any, use seawater for ballast. Disposition of the catch does not include any translocation of living marine resources nor use of any nonindigenous species as bait. Vessels fishing for CPS typically fish relatively close to their

home port and fishing activities would have a low risk of spreading any non-indigenous species. Furthermore, the purse-seine gear type used to fish for jack mackerel and northern anchovy do not use bait or in any other way lend to the introduction of any non-indigenous species.

- G. *The potential for the proposed action to cause an effect to any other physical or biological resources where the impact is considered substantial in magnitude (e.g., irreversible loss of coastal resource such as marshland or seagrass) or over which there is substantial uncertainty or scientific disagreement.]*

The proposed action is not expected to cause a substantial effect to any other physical or biological resource, nor is there substantial uncertainty or scientific disagreement on the impacts on the proposed action. The proposed action is comparable to previous actions developed under the CPS FMP, which has been in place for many years. Pacific sardine fisheries conducted under the FMP have been monitored and analyzed in the Council's annual specifications process for many years and, thus, risks from the fisheries are relatively well known. There is some uncertainty involved in projecting stock abundance in a given year; however, such uncertainty is addressed by implementing precautionary management measures to protect the stock at low biomass (e.g., closure of the primary directed fishery below 150,000 mt). Physical and biological resources that may occur in the action area are discussed in question IV above.

V. Other Actions Including Connected Actions:

The effects of the proposed action are not expected to add to the effects of other actions. The action being taken is to establish a rebuilding plan for Pacific sardine, which maintains the closure of the primary directed fishery and restrictions on incidental harvest until the stock is rebuilt. The primary impact, which is the removal of Pacific sardine, will be minimal; therefore, the impact to other actions in the action area (e.g., fishing for Pacific mackerel) will be insignificant.

VI. Mitigation and monitoring:

The proposed action was developed to be consistent with the conservation and management objectives in the CPS FMP, the MSA, and other applicable laws. The CPS FMP includes a management framework designed to react quickly to changes in the fisheries and/or stocks. The Council's annual specifications process provides the ability for NMFS and the Council to adjust management measures according to the status of the stock. For example, NMFS and the Council at any time may implement additional management measures to either reduce overall harvest to slow harvest throughout the year.

DETERMINATION

The CEQ NEPA regulations, 40 CFR § 1501.6, direct an agency to prepare a FONSI when the agency, based on the EA for the proposed action, determines not to prepare an EIS because the action will not have significant effects. In view of the information presented in this document, the analysis contained in the supporting EA prepared for the Pacific Sardine Rebuilding Plan (*i.e.*, Amendment 18 to the CPS FMP), and the Pacific Sardine Rebuilding Analysis (Appendix A in the EA), it is hereby determined that the Pacific Sardine Rebuilding Plan will not significantly impact the quality of the human environment. The Pacific Sardine Rebuilding Plan EA is hereby incorporated by reference. In addition, all beneficial and adverse impacts of the proposed action as well as mitigation measures have been evaluated to reach the conclusion of no significant impacts. Accordingly, preparation of an EIS for this action is not necessary.



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Date