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FINDING OF NO SIGNIFICANT IMPACT

Omnibus Amendment for the Western Pacific Region
to Establish a Process for Specifying Annual Catch Limits and Accountability Measures
Including an Environmental Assessment (RIN 0648-AY93)

June 6, 2011

Introduction

The National Marine Fisheries Service (NMFS) prepared this Finding of No Significant Impact (FONSI) according to guidelines in NMFS Instruction 30-124-1 and the requirements of National Oceanic and Atmospheric Administration (NOAA) Administrative Order 216-6 (NAO 216-6, March 20, 1999), concerning compliance with the National Environmental Policy Act (NEPA). This FONSI is based on an assessment of potential environmental effects of the preferred alternative documented in the attached "Omnibus Amendment for the Western Pacific Region to Establish a Process for Specifying Annual Catch Limits and Accountability Measures (the "ACL amendment," February 24, 2011)," which includes an environmental assessment (EA).[1]

Background

The Western Pacific Fishery Management Council (Council) prepared the ACL amendment to establish a mechanism for specifying annual catch limits (ACL) and accountability measures (AM) for western Pacific fisheries. The mechanism will enhance the ability of the Council and NMFS to prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry; the objectives National Standard 1 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Overview of Proposed Action

The ACL mechanism includes several tiers of control rules for setting the acceptable biological catch (ABC) and accounts for varying levels of scientific data available for a given fishery and that considers probabilities of overfishing. The ACL may not exceed the ABC. The mechanism also provides for accountability measures (AM) to prevent ACLs from being exceeded, and to correct or mitigate any ACL overages, if they occur. The amendments also identify management unit species that are exempt, by statute, from the requirements, and define fishery "ecosystem component" species, but do not classify ecosystem components at this time.

[1] The omnibus amendment is Amendment 1 to the Pacific Remote Island Areas Fishery Ecosystem Plan (FEP), Amendment 2 to the American Samoa FEP, Amendment 2 to Mariana Archipelago FEP, Amendment 3 to the Hawaii FEP, and Amendment 4 to the western Pacific pelagic fisheries FEP.

The ACL amendment does not specify any ACL or AM; those specifications will be developed annually in subsequent notice-and-comment rulemakings. Greater detail about the proposed action is found in section 3.0 of the Amendment /EA.

Development of the ACL/AM mechanism and public involvement

The proposed ACL/AM mechanism and process was developed by the Council in coordination with its Scientific and Statistical Committee, NMFS fishery managers and scientists, and the public. The mechanism conforms to all applicable laws, including the national standard 1 guidelines at 50 CFR 660.310 (Appendix 2 of the EA).

Over the past several years the Council informed members of the public about the requirement to establish ACLs and AMs and the proposed mechanism. In addition to its regular public Council business meetings, the Council conducted a number of outreach and information programs in communities throughout the western Pacific region. These meetings are listed in section 1.2 of the Amendment/EA. NMFS published a notice of availability of the draft FEP Amendment and EA in the *Federal Register* (76 FR 14367; March 16, 2011) requesting public review and comments on the Amendment by May 16, 2011. NMFS also published a proposed rule (76 FR 17808; March 31, 2011), and requested comments on the proposed rule by May 16, 2011.

Three comments were received, two in favor of the proposed mechanism and process because catch limits will prevent overfishing and one "no-comment" from the Department of Interior. No comments required a change to the environmental impact analysis.

Significance Analysis

NAO 216-6 contains criteria for determining the significance of the environmental impacts of a proposed action. In addition, the Council on Environmental Quality's (CEQ) regulations at 40 CFR 1508.27 require that the significance of an action be analyzed both in terms of "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. These include:

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

No. The ACL and AM mechanism is administrative. No ACL or AM will be established, so no target stocks or stock complexes would be affected. The mechanism will be used in the future by the Council and NMFS to specify ACL and AM for all fisheries so that overfishing does not occur. NMFS and the Council will analyze potential impacts of proposed ACLs and AMs for each fishery when they are developed.

Applying international or life cycle exceptions from the requirement for ACL and AM does not represent a change in management of the species that are being considered. No modification of the fisheries that affect these species will result from the use of these exceptions, and there will not be a reduction in information available to fishery managers to prevent overfishing of these

species and stocks. Therefore, the proposed use of the statutory exceptions is not expected to jeopardize the sustainability of target species.

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

No. The ACL and AM mechanism is administrative. No ACL or AM will be established, so no non-target species stocks or stock complexes would be directly affected. The mechanism will be used in the future by the Council and NMFS to specify ACL and AM for all fisheries so that overfishing does not occur.

The Council's proposal to apply the international and annual life cycle exceptions from the requirement to have ACLs and AMs does not represent a change in management of the species that are being considered. No modification of the fisheries that affect these species will result from the use of these exceptions and there will not be a reduction in information available to fishery managers to prevent overfishing of these species and stocks. International management will continue for pelagic stocks. Use of the exception for annual life cycle species will also not result in a diminishment of the effectiveness of current management provisions. For these reasons, NMFS concludes that the proposed use of the statutory exceptions is not expected to jeopardize the sustainability of non-target species.

Most non-target species will be designated as ecosystem component species, which that will not have an ACL. These species are not generally retained, and are species that are generally in the FEP for data-collection purposes. No modification of the fisheries that affect these species will result from classifying the species as ecosystem component Species and there will not be a reduction in information available to fishery managers. Therefore, the proposed use of the EC classification is not expected to jeopardize the sustainability of non-target species.

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 Fishery Management Plans?

No. The action is administrative and will not modify activities that could cause substantial damage to ocean or coastal habitats and/or essential fish habitat.

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

No. The action is administrative and will not modify activities that could adversely impact public health or safety.

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 action is administrative and will not modify activities that could adversely affect protected resources or critical habitat.

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. The action is administrative and will not modify activities that would have an effect on biodiversity.

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

No. The action is administrative and will not modify activities that could have significant social or economic impacts nor would it have natural or physical environmental impacts

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

No. The action is administrative and will not modify activities that could affect the quality of the human environment. The Council conducted outreach meetings so that interested and affected fishermen could learn about the new requirements. As a result of these meetings and the public comment period, NMFS did not receive any public comments which indicated there is controversy regarding the environmental impacts of this action. Fishermen will continue to have opportunities to participate in the decision-making process when the Council and NMFS propose ACL and AM specifications.

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 action is administrative and will not modify activities that would affect the physical environment.

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

No. The action is administrative and will not modify activities that will have an effect on the human environment, uncertain or otherwise. As the proposed action will establish a mechanism for specifying ACLs and AMs, rather than specifying actual ACLs or AMs, there are no unknown associated risks.

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

No. The action establishes a procedure to specify ACL and AM, so there are no cumulative impacts. The intent of the action is to prevent and end overfishing and rebuild overfished stocks. The cumulative effects of these and other future fishery management actions affecting the Pacific Islands region are not known at this time because the ACL and AM have not been specified. However, the catch limits will help to ensure long-term sustainability of fishery resources. Actual specifications will be subject to environmental impact review.

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. The action is administrative and will not modify activities that affect the physical environment.

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

No. The action is administrative and will not modify activities that will introduce or spread nonindigenous species.

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

No. The action establishes a mechanism for specifying ACLs and AMs that is consistent with national standards of the Magnuson-Stevens Act to ensure sustainability of fishery resources. Catch limits are traditional management tools that must now be applied to most Federally-managed fisheries. The mechanism, itself, does not represent a decision in principle about future limits because each ACL will depend upon the condition of the stocks at the time the ACL specification is proposed.

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. The action is required by Federal law, the Magnuson-Stevens Act, and is consistent with all applicable laws.

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

No. The action is administrative, and designed to ensure sustainability of target and non-target stocks. The future specification of ACLs and AMs may have the potential to impact the environment and potential impacts will be the subject of additional environmental review at the time the specifications are proposed.

Other Findings

The ACL and AM specifications produced in the future using the proposed mechanism will result in harvest limits and other requirements that will apply to federal fisheries in the western Pacific subject to the ACL requirements. Participants in the various fisheries will continue to have opportunities to participate in the decision-making process at different points along the planning and implementation timeline.

Additional environmental and socio-economic impacts may occur and potential impacts will be reviewed when ACL specifications are proposed, which will provide opportunities for the public to understand the proposed specifications, and for the Council to learn about issues that may inhibit compliance and address these issues in a timely manner.

The action to establish a mechanism for specifying ACLs and AMs will not have an impact on fishery administration or enforcement, as it is administrative.

The administrative mechanism for specifying ACLs and AMs will not have an impact on members of environmental justice populations. Specific ACLs and AMs will be evaluated in the future for potential environmental impacts, including assessment of Environmental Justice implications.

This action is administrative and will have no impact on climate change. At the time that specifications for ACLs and AMs are proposed, the Council and NMFS will review potential contributions to global climate change, and for impacts from climate change on the efficacy of the ACLs and AMs. For example, climate change in fisheries will generally be observed directly in cases of coastal inundation and changes to local weather, and can be indirectly accounted for in stock assessments, fish abundance and distribution patterns, and other observed changes in the fishery. The effects of climate change on the status of stocks, stock complexes, protected resources, and the environment will continue to be part of the background environment that is considered in both ongoing management of fisheries of the Pacific Islands region and in considering the effectiveness and environmental impacts of future proposed fishery management actions. Conceptually, management of the affected fisheries using ACLs would require fisheries managers, scientists, and participants to monitor fishing activities with greater intensity, which would allow fishery managers to respond to any detectable changes in stock status or conditions in the environment to ensure a particular fishery is not having substantial adverse environmental effects on the marine environment.

Determination

In view of the information presented in this document and the analysis contained in the ACL amendments and supporting environmental assessment, I have determined that the action will not significantly impact the quality of the human environment. In addition, all beneficial and adverse impacts of the proposed 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.

JUN 0 6 2011

Michael D. Tosatto
Regional Administrator
Pacific Islands Region, NMFS, NOAA

Date