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# FINDING OF NO SIGNIFICANT IMPACT

## Fishery Management in the Marianas Trench, Pacific Remote Islands, and Rose Atoll Marine National Monuments (RIN 0648-BA98)

Amendment 3 to the Fishery Ecosystem Plan for the Mariana Archipelago
Amendment 2 to the Fishery Ecosystem Plan for the Pacific Remote Island Areas
Amendment 3 to the Fishery Ecosystem Plan for American Samoa
Amendment 6 to the Fishery Ecosystem Plan for Western Pacific Pelagic Fisheries
including
an Environmental Assessment and Regulatory Impact Review

The 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 set forth in National Oceanic and Atmospheric Administration's (NOAA) Administrative Order 216-6 (NAO 216-6, May 20, 1999), concerning compliance with the National Environmental Policy Act (NEPA). The environmental impact evaluation was prepared in accordance with the requirements of NEPA and documented in the attached environmental assessment (EA) which supports this FONSI.

### Background

NMFS and the Western Pacific Fishery Management Council (Council) manage fisheries in federal waters throughout the western Pacific region through five geographically based fishery ecosystem plans (FEPs) developed by the Council and implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Three of the FEPs are archipelagic-based and include the American Samoa Archipelago FEP, the Hawaii Archipelago FEP, and the Mariana Archipelago FEP (which cover fisheries in federal waters around Guam and the Commonwealth of the Northern Mariana Islands or CNMI). The fourth FEP covers fisheries in federal waters around the U.S. Pacific remote island areas (PRIA) which include Palmyra Atoll, Kingman Reef, Jarvis, Baker, Howland, and Wake Islands, and Johnston Atoll. The fifth FEP manages fisheries for pelagic highly migratory species in federal waters around all island areas, and on the high seas.

On January 6, 2009, President George W. Bush issued Presidential Proclamations 8335, 8336, and 8337 establishing the Marianas Trench, Pacific Remote Islands, and Rose Atoll Marine National Monuments (Monuments), respectively. Among other things, the Proclamations define the boundaries of each Monument, prohibit commercial fishing in certain Monuments and Monument management units, and describe the management of Monument resources. The Proclamations direct the Secretary of Commerce, in consultation with the Secretary of the Interior to take action under the Magnuson-Stevens Act to regulate fisheries, and ensure proper care and management of the Monuments, and provide for traditional indigenous fishing practices in the Marianas Trench and Rose Atoll Monuments.

The Council, working in coordination with the public and government agencies, recommended NMFS implement regulations to manage fishing in the Monuments consistent with the Proclamations. The EA, which supports this FONSI, provides additional information on the purpose and need for this action and alternatives considered, and the information is not repeated here.

**Federal Action**

As described in Alternative 3, NMFS will implement new requirements as follows:

- Codify the boundaries of the monuments and their various management units.
- Prohibit commercial fishing in the Pacific Remote Islands and Rose Atoll Monuments, and in the Islands Unit of the Marianas Trench Monument.
- Establish management measures for non-commercial and recreational fishing in the monuments to include the following:
    - Require Federal permits and reporting for non-commercial and recreational charter fishing to aid in the monitoring of fishing activities.
    - Allow customary exchange in non-commercial fisheries in the Marianas Trench Monument Islands Unit and Rose Atoll Monuments to help preserve traditional, indigenous, and cultural fishing practices, on a sustainable basis.
    - Define customary exchange as the non-market exchange of marine resources between fishermen and community residents, including family and friends of community residents, for goods, and/or services for cultural, social, or religious reasons. This may include cost recovery through monetary reimbursements and other means for actual trip expenses, including but not limited to ice, bait, food, or fuel, that may be necessary to participate in fisheries in the western Pacific.
    - Limit permit eligibility for noncommercial fishing to community residents, as identified in the fishery ecosystem plans – specifically, American Samoa, Guam and the CNMI are fishing communities – and limit permit eligibility for recreational charters to businesses of local fishing communities for the Rose Atoll Monument and Marianas Trench Monument Islands Unit.
    - Prohibit all fishing within 12 nm of islands in the Pacific Remote Islands Monument, subject to U.S. Fish and Wildlife Service authority to allow non-commercial fishing in consultation with NMFS and the Council.[1]
    - Prohibit all fishing within 12 nm around Rose Atoll. The Council and NMFS would review this regulation after three years.
- Prohibit the conduct of commercial fishing outside a monument and non-commercial fishing within the monument during the same trip.

**Significance Analysis**

National Oceanic and Atmospheric Administration Administrative Order 216-6 (NA216-6) dated May 20, 1999) contains criteria for determining the significance of the impacts of a proposed

[1] To clarify this requirement, the USFWS will consult with NMFS, and NMFS will consult internally with the Council.

action. In addition, the Council on Environmental Quality (CEQ) regulations at 40 C.F.R., section 1508.27, state that the significance of an action should 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. 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.

**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 proposed action will not jeopardize the sustainability of any target species that may be affected by the action. In fact, the proposed action may be expected to protect and enhance the sustainability of all federally managed stocks in the action area because of the availability of improved information on fishing in the Monument areas. Also, codifying the prohibition on commercial fishing set forth by the Proclamations has the potential to conserve fish stocks because it provides NMFS with the ability to enforce the prohibition under the authority of the Magnuson-Stevens Act. Additionally, limiting non-commercial fishing permit eligibility to community residents or businesses legally established in American Samoa, Guam, and the Commonwealth of the Mariana Island, in part, may be expected to reduce the demand for permits and therefore keep the harvest of target stocks in the Rose Atoll and Mariana Trench Monument Islands Unit at a low level. Furthermore, the prohibition on fishing within 12 nm of Rose Atoll and 12 nm of the islands comprising the PRI Monument will protect all federally managed resources within that zone.

Under the proposed action, NMFS estimates that up to 10 non-commercial fishing trips will be made annually to the Marianas Trench Monument Islands Unit and the Rose Atoll Monument, and up to 15 trips annually will be made to the PRI Monument, subject to NMFS permit and catch reporting requirements. In all monument areas, NMFS anticipates trolling for highly migratory pelagic management unit species (MUS), including yellowfin tuna (*Thunnus albacores*), mahimahi (*Coryphaena hippurus*), wahoo (*Acaonthocybium solandri*), skipjack tuna (*Katsuwonus pelamis*), and Pacific blue marlin (*Makaira mazara*) to be the primary fishing method in the Rose Atoll and PRI Monuments. Fishing for pelagic MUS will be sustainable under the management program.

In the Marinas Trench Islands Unit, the analysis in section 4.1.2 estimates that approximately 9,000 lb of pelagic management unit species (MUS) could be caught (estimated at a relatively high level of effort), which represents less than 2% of the 531,384 lb of pelagic MUS caught by the commercial and non-commercial CNMI troll fleets in 2010. Based on this analysis, the level of pelagic catch in the Mariana Trench Monument Islands Unit would be sustainable. NMFS also expects some fishing for bottomfish, crustacean, and coral reef ecosystem MUS in the Islands Unit. Section 4.1.2 describes a similar impact evaluation for those stocks, which showed that under the selected alternative, the anticipated level of catch would be very small compared to the annual catch limits (ACL) specified by the Council and listed in Table 3, section 3.1.3, and would be sustainable.

In the PRI Monument, all fishing within 12 nm of the island of the PRI Monument would be prohibited, subject to USFWS authority to permit fishing, in consultation with NMFS who will and the Council. Although NMFS and the Council do not know what level of fishing the USFWS will authorize within the 12 nm no-take area, based on historical levels, fishing is likely to remain low. Outside of 12 nm, section 4.2.2 of the EA estimates up to 2,940 lb of pelagic MUS could be caught annually. This estimate is just one tenth of one percent to the total pelagic MUS caught by the Hawaii troll fishery, which landed 2.8 million lbs of pelagic species in 2010, and is sustainable.

In the Rose Atoll Monument, all fishing within 12 nm of Rose Atoll would be prohibited. The prohibition will protect all federally managed resources within that zone. Outside of 12 nm, section 4.3.2 of the EA estimates up to 9,360 lb of pelagic species could be caught annually (based on estimates made of relatively high effort). This estimate is a fraction of the 11 million lb of pelagic fish landed by the American Samoa pelagic fishery in 2010, and is sustainable.

NMFS considered the effects of the fishery management programs in each Monument area and found that none of the management measures would interact with climate change impacts to adversely affect ecosystems, communities or marine resources or the environment. Logbooks will allow local fishery managers, NMFS, the Council, and other fishery scientists to monitor fishing. Adverse impacts of climate change might be detected in changes in fish catches and allow fishery managers to respond, as needed. For each area, the fishery management program is not expected to result in an increase in the amount of fishing in these remote areas and there would not be an increase in greenhouse gas emissions over the current levels as a result of managing non-commercial fishing in the monuments.

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

No. The proposed action will not jeopardize the sustainability of any non-target species that may be affected by the action. As described above, NMFS anticipates trolling for pelagic fishing as the primary fishing method in all monument areas. This method is highly selective and virtually all species caught by this gear are usually kept, unless they are undersized or damaged. The proposed action requires vessel operators to report all fish caught and discarded, enabling NMFS to monitor the level of non-target catch and bycatch. Similarly, fishing for bottomfish, crustacean, and coral reef ecosystem resources is also fairly target specific, and catches will be monitored. For these reasons, NMFS finds that fishing will not jeopardize the sustainability of non-target species in any monument area.

**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. The proposed action will not cause substantial damage to the ocean and coastal habitats and/or essential fish habitat. Essential fish habitat (EFH) and habitat areas of particular concern (HAPC) as identified in the western Pacific FEPs, are described in section 3.1.5, and listed in

Table 13, section 5. To prevent and minimize adverse fishing impacts to EFH, each western Pacific FEP prohibits the use of explosives, poisons, bottom trawl, and other non-selective and destructive fishing gear. When properly deployed, monitored, and retrieved, the Council has found that allowable gears authorized under the FEPs do not cause adverse impacts to ocean and/or marine habitat, including EFH and HAPC. The proposed action does not authorize any new gear type or authorize use of existing allowable gear types in a manner that could cause damage. Specific analyses supporting this finding is described in section 4.1.5 for the Mariana Trench Monument, section 4.2.5 for the PRI Monument and Section 4.3.5 for the Rose Atoll Monument.

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

No. The proposed action will not have a substantial adverse impact on public health or safety. Section 4.4.1 describes the lack of impacts to public health and safety for all Monument areas. With respect to the Mariana Trench Monument Islands Unit, the requirement for permits and logbooks will not change the manner in which the fishery has historically occurred. Both the long distances to the Islands Unit from populated islands and the prohibition on mixing non-commercial fishing in the Islands Unit with commercial fishing outside of the Islands Unit on the same trip are expected to aid in enforcement of the prohibition on commercial fishing. For the PRI and Rose Atoll Monuments, the requirement for permits and logbooks for charter recreational fishing, and the establishment of a 12nm no-take area in the Monument areas will not change the manner in which non-commercial fishing is currently occurring. Similarly, the prohibition on mixing non-commercial fishing at Rose Atoll or the PRI Monument with commercial fishing outside of a Monument on the same trip is expected to aid enforcement of the prohibition on commercial fishing. The fishery management program will not result in a race to fish in the PRI or in the Rose Atoll Monuments, or in the Islands Unit; nor will the program cause people to voyage to these remote areas during times of the year when weather and ocean conditions are adverse.

**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 proposed action will not adversely affect endangered or threatened species, marine mammals, or critical habitat of these species. Sections 3.1.4, 3.2.1, and 3.3.5 describe protected species likely to be found within the action area around the Marina Trench, PRI, and Rose Atoll Monuments, respectively, while analyses in sections 4.1.3, 4.2.3, and 4.3.3 evaluate the potential for impacts to protected species for each area, respectively. These analyses considered the existing section 7 Endangered Species Act (ESA) consultations summarized in Table 12, including the 2009 Biological Opinion for the Western Pacific Troll and Handline Fisheries, the 2008 informal consultation for coral reef fisheries of CNMI and Guam, the 2008 informal consultation for the bottomfish fisheries of CNMI and Guam, and the 2007 informal consultation on the CNMI crustacean fisheries. The analysis showed that because gear types used by these fisheries are not known to have adverse impacts on protected resources and because of the low level of fishing activity anticipated in the Monuments, there is a low likelihood of direct interactions with protected species through vessel collisions, hooking, or gear entanglements, or indirect interactions through forage competition. However, if any interactions with protected

species occur, vessel operators must report the interaction on their logbooks. This will allow fishery managers to implement changes to the management of fishing, if necessary.

**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 proposed action will not have a substantial impact on biodiversity and/or ecosystem function within the affected area. In all Monument areas, the analysis shows that the low level of non-commercial fishing under the proposed action is not expected to deplete target or non-target stocks, compete with other organisms that depend on those stocks, damage marine habitats, or result in other impacts that have the potential to impact biodiversity or ecosystem function. Specific analyses supporting this finding is described in section 4.1.5 for the Mariana Trench Monument, section 4.2.5 for the PRI Monument and Section 4.3.5 for the Rose Atoll Monument.

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

No. There are no significant social or economic impacts interrelated with natural or physical environmental effects. Prior to the establishment of the Monuments, fishing in these areas was minimal in part because of the distance and high costs associated with traveling to the areas. Consistent with the conservation and management directives of the Proclamations, the proposed action maintains opportunities for non-commercial fishing in the Monuments, and allows non-commercial fishing permit holders in the Mariana Trench Monument Islands Unit and Rose Atoll Monument opportunities to engage in customary exchange, which includes the ability to recover actual trip expenses through monetary reimbursements and other means. This low level of fishing has historically occurred, and has not had large adverse effects to marine resources.

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

No. The effects on the quality of the human environment are not highly controversial. As described in responses to questions 1-7 above, the analysis demonstrates none of the effects on the quality of the human environment will be significant. No comments were received that specifically addressed the environmental impact analysis that would indicate the impacts would be significant.

**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 proposed action will not 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. There are no parklands, farmlands, wetlands, or wild and scenic rivers in the Monuments. As described in the EA, the Monuments were established because they contain scientifically and ecologically important resources; as well as for the purpose of providing opportunities for certain types of sustainably managed non-commercial fishing and other

activities. In all Monument areas, the low level of non-commercial fishing anticipated is expected to be at the same level that has historically occurred, and is sustainable and there would be no significant impacts to monument resources.

In the PRI and Rose Atoll Monuments and in the Islands Unit, commercial fishing is already prohibited by Proclamation, and codification of the prohibition will improve the ability of NMFS to enforce the prohibition under the MSFCMA. Within areas open to non-commercial fishing, fishing gears and methods that will be used in the Monuments are considered selective and non-destructive gears that, when properly deployed, monitored and retrieved, do not have adverse impacts to marine habitats (Sections 4.1.5, 4.2.5 and 4.3.5). Further, all fishing will be monitored through logbook reporting. Additionally, in the PRI Monument and Rose Atoll Monument, all non-commercial fishing will be prohibited within 12 nm of emergent land features, except for fishing authorized by the USFWS in the PRI, in consultation with NMFS and the Council. The protected area will provide conservation of the marine resources in the no-take area. Finally, the allowance of traditional fishing practices in Rose Atoll and in the Islands Unit will help to preserve cultural fishing traditions in American Samoa and the Mariana Islands, which is consistent with the Proclamations.

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

No. The effects on the human environment are not highly uncertain and do not involve unique or unknown risks. In all Monument areas, the low level of non-commercial fishing anticipated is expected to be at the same level that has historically occurred, and is sustainable. The level of past fishing has had no significant impact on Monument resources, and the anticipated level of fishing is sustainable. Permit and catch reporting requirements allow NMFS and the Council, in collaboration with federal and local agency partners to monitor catch and effort to ensure that fishing is managed sustainably, and make adjustments to the management program, if needed.

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

No. The proposed action when considered with other actions will not result in significant cumulative impacts. Sections 4.1.8, 4.2.8, and 4.3.8 describe the expected cumulative impacts to the human environment in the Mariana Trench Monument Islands Unit, PRI Monument, and Rose Atoll Monument, respectively. The analyses showed that because of the limited amount of fishing that is expected, and the requirement for permits and logbooks, the low level of permitted non-commercial fishing that may occur inside Monuments would not combine with other activities to result in adverse environmental effects.

**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 proposed action will not adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or cause loss or destruction of significant scientific, cultural, or historical resources. Within the Monuments, the

Proclamations prohibit injury or destruction to all objects within the Monuments, but provide for non-commercial fishing.

As described in sections 4.1.5, 4.2.5, and 4.3.5, the low level of non-commercial fishing using target selective gear that is non-destructive will not result in destruction of the environment. Further, management of non-commercial harvests through permits and logbooks, the prohibition on mixing commercial and non-commercial fishing on the same trip, and 12 nm no-take zones around the PRI and Rose Atoll Monument further ensure the proposed action is consistent Proclamations directives.

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

No. the proposed action will not result in the introduction or spread of non-indigenous species. The prohibition on fishing within 12 nm of the islands in the Rose Atoll and PRI monuments (which are managed as national wildlife refuges) means fishing can only be conducted in deep offshore waters. This helps to prevent the potential for fishing vessels to introduce non-indigenous species to those islands, and benthic marine habitats. In the Mariana Trench Islands Unit, the proposed action will not change the way in which, or places where low level of non-commercial fishing has been conducted in the past, so the proposed action to allow continued access under permit and reporting is not expected to result in the introduction or spread of any 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. The proposed action will not establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration. The proposed action is expected to result in better monitoring of non-commercial fishing in the Monuments. Monitoring will allow the Council and NMFS to make changes to the management of non-commercial fishing in the future. The management program will not cause any change to the resources or to fishing practices that would preclude any management option. The low level of permitted non-commercial fishing will not result in irreversible or irretrievable commitments of resources; rather, the proposed management program is expected to help ensure that fishing is sustainably managed.

**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 proposed action does not threaten a violation of Federal, State, or local law or requirement imposed for the protection of the environment. The proposed action is consistent with the directives of the Proclamations, which established the three Monuments and provide for non-commercial fishing. Additionally, the 12 nm no-take zones around the islands of the PRI and Rose Atoll Monuments ensure that fishing authorized under the proposed action does not threaten resources afforded protection within 12 nm by other federal and/or state resource management agencies. The fishery management requirements were coordinated at the draft stage with the public in accordance with NEPA, the Magnuson-Stevens Act, and other applicable laws.

NMFS determined that the proposed action is consistent to the maximum extent practicable with the enforceable policies of the approved coastal zone management programs of Guam, the CNMI, and American Samoa, and submitted its determination for reviews by the appropriate territorial and commonwealth agencies under the Coastal Zone Management Act. NMFS received no responses and inferred consistency. Section 5.0 of the EA describes how the proposed action 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 species or non-target species?**

No. The proposed action will not result in cumulative adverse effects that could have a substantial effect on the target or non-target species. In all Monument areas, the level of non-commercial fishing under the proposed action would be a continuation of the low levels that occurred in the past. Sections 4.1.2, 4.2.2. and 4.2.3 describe the potential impacts to target and non-target species and the analyses show harvest would be sustainable; even when the catches of related fisheries outside the Monuments are considered. For non-pelagic species in the Mariana Trench Monument Islands Unit, (the only area where non-pelagic fishing may occur), catches of bottomfish, crustacean and coral reef MUS will be counted towards the ACL listed in Table 3, section 3.1.3, and would be sustainable. The types of fishing that will occur are target specific. Most fish that are caught but not kept are likely to be released alive. Logbooks will allow fishery managers including local agencies, NMFS, and the Council to monitor impacts to non-target species and ensure that fishing remains sustainable.

**Determination**

In view of the information presented in this document and the analysis contained in the supporting Environmental Assessment prepared for "Fishery Management in the Marianas Trench, Pacific Remote Islands, and Rose Atoll Marine National Monuments," dated April 30, 2013, it is hereby determined that the management of fishing in these Monuments will not significantly impact the quality of the human environment as described above and in the supporting Environmental Assessment. In addition, all beneficial and adverse impacts of the proposed action have been addressed in order 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

MAY - 1 2013
Date