Finding of No Significant Impact for
Final Rule to Implement a Resolution Adopted by the Inter-American Tropical Tuna Commission to Limit Harvest of Pacific Bluefin Tuna in 2014

The National Oceanic and Atmospheric Administration Administrative Order 216-6 (May 20, 1999) contains criteria for determining the significance of the impacts of a proposed action. In addition, the Council on Environmental Quality regulations at 40 C.F.R. §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 to 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. 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?

Response: This action is not expected to jeopardize the sustainability of the target species, Pacific bluefin tuna (PBF). U.S. landings of PBF are predominantly caught by the coastal pelagic species (CPS) purse seine fleet that opportunistically target PBF when the fish become available in offshore waters. The drift gillnet (DGN) fleet incidentally catches PBF. The catch of PBF by the U.S. West Coast CPS and DGN fisheries minimally contributes to the overall mortality of PBF, a Pacific-wide resource. The average annual PBF landings by U.S. vessels fishing in the eastern Pacific Ocean (EPO) for years 2007-2011 represent two percent of the average annual landings from all member and non-member nations of the Inter-American Tropical Tuna Commission (IATTC) fishing in the EPO (see Section 1.5 of the EA for more detail on the U.S. fishery's contribution to sources of mortality for PBF). While the U.S. fishery has not landed 500 metric tons (mt) of PBF in over a decade, the proposed action to limit their catch to 500 mt could benefit the sustainability of PBF (see Section 3.2.1 of the EA for baseline description U.S. fisheries in the proposed action area). Whereas without the action, there would be no restrictions on the amount of PBF commercial catch by U.S. fleets fishing in the IATTC Convention Area (defined as the area bounded by the coast of the Americas, the 50° N. and 50° S. parallels, and the 150° W. meridian and more generally referred to as the EPO). This proposed action results from decisions of the IATTC (i.e., IATTC Resolution C-13-02). The United States must implement the action in a legally binding manner to fulfill its obligations as a Contracting Party to the 1949 Convention for the Establishment of an Inter-American Tropical Tuna Commission (Convention) and as an IATTC Member.

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

Response: This action is not expected to jeopardize the sustainability of any non-target species. Most of the U.S. landings of PBF come from the CPS fleet opportunistically targeting PBF and from the DGN fleet incidentally catching PBF while targeting swordfish. In the event that a PBF fishery closure were to occur as a result of this proposed action, it is highly unlikely that the primary target species of the coastal purse seine fleet (i.e., sardine, mackerel, and squid) and the DGN fleet (i.e., swordfish) would be jeopardized as there are regulatory mechanisms in place

under their respective fishery management plans (FMPs) to ensure their sustainability. The FMPs also include reporting and regulatory mechanisms to contribute to the monitoring and sustainability of non-target species in these fisheries.

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?

Response: The area affected by the proposed action in HMS fisheries has been identified as EFH for several Fishery Management Plans, including the Coastal Pelagic and Highly Migratory Species Fishery Management Plans. However, the proposed action will not result in damage to the ocean and coastal habitats and/or EFH as defined under the Magnuson-Stevens Act (MSA). The fisheries that catch PBF are prosecuted in pelagic habitats, which, because of their physical characteristics, are not significantly affected by these fishing gears. Purse seine and drift gillnet gear are generally not associated with adverse impacts to ocean and coastal habitats. In addition, fishing activities that result in catch of PBF from the EPO are not expected to affect prey species or forage fish biomass. In the context of the fishery as a whole, this action will not have an adverse effect on EFH; therefore, an EFH consultation is not required.

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

Response: The proposed action is not expected to have an adverse impact on public health or safety. The proposed action establishes limits on PBF fishing mortality for the U.S. fleets that operate in the EPO. Currently, there are no public health or safety concerns in either fishery, and this is not expected to change with the proposed action. Because the U.S. fishery has not landed more than 500 mt of PBF in over a decade, this proposed action to limit U.S. catch to 500 mt is not expected to reduce the supply of the fish, create any undue hardship, or lead to a derby-style fishery in which fishermen might feel pressure to fish during an open season and increase their safety risks by fishing in adverse weather or when conflicts with other fisheries could exist.

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

Response: This action will not affect endangered and threatened species or critical habitat of these species in any manner not considered in prior consultations. This proposed action would limit the allowable PBF catch relative to baseline conditions. Marine mammal interactions in the U.S. purse seine fishery, which lands most of the U.S. PBF catch, are uncommon throughout the Pacific Ocean. The tuna purse seine fisheries operating in the EPO, both within the U.S. Exclusive Economic Zone and on the high seas, are currently listed as a Category III fishery under Section 118 of the Marine Mammal Protection Act (MMPA), i.e., remote likelihood of/no known incidental mortality or serious injury of marine mammals (78 FR 53336, August 29, 2013). Two Endangered Species Act consultations have been conducted on the primary fishing gears used to catch PBF in the EPO; in 2003 and in 2013, biological opinions were completed for the U.S. West Coast fisheries for HMS. NMFS estimates that the proposed action would be within the scope of these previous opinions and the amended 2013 incidental take statement for

the DGN fishery. Because most of the U.S. landings of PBF come from the coastalpurse seine fleet that opportunistically targets PBF and from the DGN fleet that incidentally catches PBF while targeting swordfish, a PBF fishery closure associated with this proposed action would likely result in coastal purse seine and DGN fleets fishing for their primary target species under the guidance and regulations within their respective FMPs for U.S. West Coast HMS and CPS, which are intended to limit interactions between these fisheries and endangered or threatened species, marine mammals, and 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.)?

Response: This action is not expected to have a substantial impact on biodiversity and ecosystem function within the action area. The proposed action would limit the commercial catch of PBF, as opposed to no limits on catch under a no action alternative. While the limit of 500 mt is not expected to result in changes to baseline levels of fishing effort, decreases in the catch of these species could lead to changes in trophic interactions, including increased competition for prey species with other top predators. Juvenile PBF are sources of food for other marine species, such as fish, seabirds, porpoises, marine mammals, and sharks. Thus, increases in juvenile PBF could increase the prey available for these other species. However, the overall effects from the proposed action would be so minor that any effects to ecosystem function and biodiversity would not be measureable. Most of the U.S. landings of PBF come from the coastal purse seine fleet that opportunistically targets PBF and the DGN fleet that incidentally catches PBF while targeting swordfish. Therefore, a PBF fishery closure associated with this proposed action would likely result in coastal purse seine and DGN fleets fishing for their primary target species under the guidance and regulations within their respective FMPs for U.S. West Coast HMS and CPS, which are intended to limit impacts of these fisheries on biodiversity and ecosystem function.

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

Response: There are no significant natural or physical environmental effects expected and thus, there are no interrelated significant social or economic impacts expected. The availability of PBF is inconsistent and based on ocean conditions. However, over the last decade, the U.S. fishery has not landed more than 500 mt of PBF in any given year. Anticipated impacts of this action are discussed in the EA in Section 4.1. Because the coastal purse seine and DGN fleet are the only commercial fisheries likely to make any meaningful amount of catch, impacts to other United States fisheries in the EPO by Alternative 1 are even less likely.

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

Response: The proposed action is unlikely to have highly controversial effects on the quality of the human environment. By adopting these measures, the United States would be fulfilling its obligations as a Contracting Party to the Convention and as an IATTC Member. Given the recent results of the 2012 PBF stock assessment conducted by the International Scientific

Committee for Tuna and Tuna-like Species in the North Pacific (ISC), which included an overfished determination, it is pertinent to institute these preventative interim measures (see Section 1.4 and Section 3.2.3 of the EA for more information on the PBF stock and status determinations). The draft EA was made available for public comment on January 10, 2014, along with the proposed rule. NMFS received eight public comment letters. None of the commenters contested the implementation of the catch limits. However, four commenters urged NMFS to consider further restrictions on fishing for PBF.

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?

Response: The proposed action is not expected to affect the timing and location of the harvest of PBF or the physical characteristics of the action area. Fishing for PBF occurs in pelagic waters of the U.S. Pacific coast and does not have the potential to impact terrestrial lands or ecosystems. Contact between the fishing gear used to catch PBF and bottom substrate is rare because fishing usually occurs in water deeper than the height of the net. This action will not affect the way in which fisheries are prosecuted such that effects on habitat would change from current conditions.

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

Response: The effects of the proposed action on the human environment are not likely to be highly uncertain or involve unique or unknown risks. Any impacts to target and non-target species caused by the proposed action are likely to be beneficial and minor. Any impacts to the socioeconomic environment caused by the proposed action are also likely to be minor, but most likely negligible. In addition, the duration of the rule would be limited to one year; thus, the overall direct and indirect impacts from implementation of the proposed action would be minor. While there will always be some uncertainties and risks associated with stock assessments, stock status determinations, and fisheries management, these processes include participatory approaches to decision-making (e.g., public input and/or peer reviews) to incorporate consideration for and/or reduce uncertainties and risks. In consideration of cumulative effects, the proposed action as well as similar actions taken by other IATTC members to implement IATTC Resolution C-13-02 could yield more beneficial effects on the target and non-target species caught in the coastal purse seine and DGN fisheries.

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

Response: No. The objective of the proposed action is to implement conservation and management measures to help sustain PBF in the EPO and maintain fishing operations into the long term. The proposed action would introduce catch restrictions, which are not expected to have a significant impact on baseline conditions in the fishery. Whether considered individually or cumulatively with other actions, these restrictions would reduce any incentives to increase participation or effort in the fishery. Thus, the overall cumulative impacts are not expected to be significant or adverse (see Section 4.6 of the EA).

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?

Response: This action will have no impacts to these resources as it does not substantially change the attributes of HMS fisheries, and HMS fisheries currently do not affect these areas. Fishing for PBF occurs within the waters of the eastern Pacific Ocean, primarily off the coast of western North America and does not have the potential to impact terrestrial lands or ecosystems. PBF live in the water column, as opposed to living near the sea floor, so fishing gear used to catch them does not typically come into contact with the bottom substrate. There are also existing fishing controls in place for all federally-managed fisheries to protect special areas, such as rockfish conservation areas (sanctioned by the Pacific Fishery Management Council) and marine sanctuaries (which restrict fishing and boating in certain areas). Because of the action area and the nature of the proposed action, historic sites will not be affected by the proposed action. This makes it reasonable to expect that there will be no adverse effects to unique or ecologically critical areas.

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

Response: No. The objective of the proposed action is to limit the harvest of PBF in the fisheries that operate in the EPO. It is highly unlikely that this action would bring about changes in U.S. fishing practices that would result in any introduction or spread of 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?

Response: This action will not establish a precedent for future actions with significant effects. As stated in Chapter 1 of the EA, this action is proposed in accordance with IATTC Resolution C-13-02 and under the authority of the Tuna Conventions Act. This action to limit fishing pressure on PBF, a shared international objective, and is necessary for the United States to satisfy its obligations as a Contracting Party to the Convention and as an IATTC Member. The resolution specifies that the proposed measures are interim, preventative, and based on the conservation advice of the ISC. Following the ISC's assessments (described in Section 1.4 of the EA), NMFS classifies the status of PBF and notifies the respective Fishery Management Councils to consider taking further action under the MSA. It is unlikely for this action to represent a decision in principle about a future consideration given the relatively insignificant contribution of the U.S. fishery to the overall fishing mortality of PBF, the likelihood of this action affecting baseline conditions of U.S. commercial fishing operations, and the distinct and separate public process for considering actions under MSA authority.

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?

Response: This action is not expected to threaten a violation of other Federal, State, or local laws. The objective of this proposed action is to limit fishing pressure on PBF and for the United States to satisfy its international obligations as a Contracting Party to the Convention and as an IATTC Member. Neither the proposed measures nor the fishing activities threaten to violate any laws imposed for protection of the environment.

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?

Response: This action does not relate to other actions that in combination will result in cumulatively significant impacts for either target or non-target species. The proposed action could limit the U.S. commercial landings of PBF caught in the EPO whereas without the action, there would be no regulatory restrictions on U.S. catch of PBF. Most U.S. commercial landings of PBF come from the coastal purse seine fleet opportunistically targeting PBF and from the DGN fleet incidentally catching PBF while targeting swordfish. Therefore, a PBF closure associated with this proposed action would likely result in these fleets fishing for their primary target species under the guidance and regulations within their respective FMPs for U.S. West Coast HMS and CPS, which are intended ensure the sustainability of target species and limit impacts to non-target species.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting "Environmental Assessment to Revise the United States Commercial Fishery Regulations in Accordance with the Inter-American Tropical Tuna Commission Resolution for the Conservation and Management of Pacific Bluefin Tuna the Eastern Pacific Ocean," it is hereby determined that the proposed 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 EIS for this action is not necessary.

4-22-14

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Date