

9.0 RELATIONSHIP OF THE PROPOSED ACTIONS TO OTHER APPLICABLE LAWS AND POLICIES

9.1 National Coastal Zone Management Act

Section 307(c)(1) of the National Coastal Zone Management Act of 1972 (CZMA) requires that all Federal activities which directly affect the coastal zone be conducted in a manner which is consistent with approved State coastal zone management (CZM) programs to the maximum extent practicable. The State of Hawaii and the Territories of Guam and American Samoa have Federally approved CZM programs. This revised fishery management plan, therefore, must be reviewed to determine if the proposed measures are likely to affect the coastal zone, and if so, whether the proposed measures are consistent with the CZM program of each island area.

9.1.1 Hawaii

Early versions of a draft and a final "Fishery Management Plan (FMP) for Billfish Fisheries of the Western Pacific Region" (May and August, 1981) were submitted to the Department of Planning and Economic Development (DPED), the lead agency for Hawaii's CZM Program, for a Determination of Consistency of the Billfish FMP with the State's CZM program. DPED noted that the May 1981 draft FMP "... does not conflict in any way with our Ocean Management planning project... [and] ... the description of consistency with Hawaii's CZM Program is adequate..." (letter of July 2, 1981 - Ref. No. 3337). In a review of the August 1981 FMP, DPED agreed with the determination "that the Pacific Billfish FMP is consistent with Hawaii's Coastal Zone Management (CZM) Program" (letter of October 14, 1981 - Ref. No. 3744). These early CZM consistency determinations are, however, moot since the NMFS disapproved the Council's initial Billfish FMP.

A revised draft FMP for Billfish and Associated Species (April 1985) was submitted to DPED for CZM consistency review. DPED agreed with the Council's determination that the revised draft plan is consistent with the maximum extent practicable with Hawaii's CZM Program (letter of May 20, 1985 - Ref. No. P-1693, Appendix B). The proposed actions and the alternatives considered in this revised final FMP, and the impacts of the alternatives, fall within the range of impacts considered in the revised draft of the FMP (April 1985). Therefore, the Council expects the proposed measures (Sections 3.1 and 7.1) will be found to be consistent with the CZM Program of Hawaii. An updated "Determination of

Consistency" will be prepared and sent to DPED for review and decision. DPED's response will be sent to the NMFS for inclusion in the record of decision on this plan.

A Federally-approved CZM program has been in effect in Hawaii since 1978. State CZM policies which relate the most to the proposed measures of this revised FMP are contained in Chapter 205A of the Hawaii Revised Statutes. Briefly, these policies are:

- 1) Provide adequate, accessible, and diverse recreational opportunities in the coastal zone management area. Recreational fisheries for pelagic species in Hawaii. (Sections 6.16 and 6.18) are conducted in both State and Federal waters, hence achievement of consistency is desirable in State and Federal actions affecting the fisheries for the management unit species. Other than a proposed controls on the use of drift-gillnets in the FCZ by domestic fishermen, the Council is not proposing any other Federal intervention in the domestic fisheries for the management unit species in Hawaii (Section 7.3.3.4). The second objective of this FMP (Section 4.2) is to enhance the opportunity for successful recreational fishing experiences. The proposed measures are fully supportive of Hawaii CZM policies in this regard.
- 2) Protect, preserve, and... restore those natural and... historic and pre-historic resources in the coastal zone management area that are significant in Hawaiian and American history and culture. Ancient Hawaiians fished for tuna and the management unit species using deep-sea handlines (See Section 6.15-Palu Ahi fishing) and by trolling in swift, double-hull canoes (David Malo, 1898; Margaret Titcomb, 1972; Stell Newmam, 1972). The Council recognizes the importance of the pelagic zone fishery resources in the culture and history of ancient Hawaii as well as the traditional association of the people of Hawaii with the sea. The objectives and measures of this FMP are supportive of the CZM policy regarding protection of historical and cultural resources.
- 3) Protect valuable coastal ecosystems from disruption and minimize impacts on all coastal ecosystems. The habitat of the management unit species is described in Section 6.8. The probable condition of the stocks of the species in the management unit is described in Section 6.6. The ecological relationships of the management unit species to other fish and to marine mammals and endangered and threatened species are discussed in Section 6.7. Habitat conditions

are not expected to be affected by this plan, nor the conditions of the stocks throughout the range of the species in the management unit. Prohibiting the use of drift-gillnets in the FCZ by foreign fishermen and strictly controlling their use by domestic fishermen are expected to be ecologically beneficial. Strengthening of ongoing data collection programs should improve the technical basis for managing the biomass of pelagic species in the longrun through an international framework.

- 4) Provide...improvements in the State's economy.... The fisheries for pelagic species (inclusive of tuna) are the largest of all the fisheries in Hawaii and they have the most potential for further development. The species in the management unit are important components of the catch of the various fisheries for pelagic species in Hawaii (Section 6.21). Objectives 1-4 of this FMP (Section 4.2) have an economic growth orientation. The recent growth of commercial fishing and charter sportfishing in Hawaii has had economic inducement effects in the local economies of all of the islands in the State, and especially in Kona.
- 5) Improve the development review process, communication, and public participation in the management of coastal resources. The development of this draft FMP has benefited from extensive input received from fishermen on the Council's Pelagic Species Advisory Panel, from the Scientific and Statistical Committee, from government agencies and from the general public. The Council held nine (9) Public Hearings on this plan in Hawaii. The Council has included all interested parties in the plan development process.

The measures proposed in this plan are believed to be fully consistent with the Hawaii CZM program. No adverse direct or indirect impacts on the coastal zone are expected as a result of the proposed actions. There may, however, be some indirect effects if further expansion of the domestic fisheries occurs and requires additional moorage and infrastructure facilities on shore.

9.1.2 Guam

The 1981 draft and final Billfish FMP were reviewed by the Bureau of Planning, Government of Guam for CZM consistency. The Bureau concurred "that this (1981) Plan is consistent with policies of Guam's Coastal Zone Management Program" (letter of October 6, 1981). The April 1985 revised draft of the FMP was also submitted to the Bureau of

Planning. The Bureau found this draft to be consistent with the policies of the Guam Coastal Management Program and the proposed actions fully justified (Appendix B). An updated "Determination of Consistency" will be sent to the Bureau of Planning. The Bureau's response will be sent to NMFS for inclusion in the record of decision on this plan.

The Guam CZM program was approved in August 1979. The principal policy in the CZM program which is most relevant to the objectives of this revised FMP (Section 4.2) is to achieve economic development within the limits of Guam's natural resource base. The measures proposed in this FMP (Sections 3.1 and 7.1) are believed to be fully consistent with Guam's CZM policies and requirements. The plan proposes to allow harvests of the management unit species within the limitations of the fishery resources involved. The plan provides a framework for allowing some access to foreign vessels to fish for tuna in the U.S. Fishery Conservation Zone while protecting domestic fishing interests in Guam. Direct impact on Guam's coastal zone will be negligible as a result of this plan. The FMP is intended to generate further growth of the domestic fisheries for pelagic species in Guam.

9.1.3 American Samoa

The Development Planning Office, American Samoa Government, concurred with the 1981 and 1985 drafts of the FMP for consistency with reference to the American Samoa Coastal Zone Management Program policies and objectives (letter of January 1982 - ECD Serial: 0035 and Appendix B). The area closures to foreign longline fishing in the FCZ of American Samoa are the same as those which were proposed in the 1981 FMP. The measures proposed in this revised FMP are expected to be still consistent with the CZM policies and requirements of American Samoa. Continued growth of the domestic fisheries for pelagic species in American Samoa is an objective of this FMP (Section 4.2). Cannery supplies of tuna from Korean and Taiwanese longline vessels will not be affected as a result of this FMP. Incidental catches of billfish, mahimahi, wahoo, and oceanic sharks made by purse seiners will be monitored through requests for voluntary submission of catch records for the species taken incidentally to tuna fishing operations of purse seiners in the FCZ. An updated "Determination of CZM Consistency" will be sent to the Development Planning Office for CZM consistency review. The response of the Development Planning Office will be forwarded to NMFS for inclusion in the record of decision on the plan.

9.2 Marine Mammal Protection Act (MMPA)

With few exceptions, passage of the MMPA in 1972 placed a moratorium on taking or importing marine mammals or their products into the United States. In 1976, the MFCMA expanded U.S. control of marine mammals to include the 200-mile FCZ. The National Marine Fisheries Service (NMFS) issues rules and regulations to carry out its mission to protect marine mammals. It is the goal of the Marine Mammal Commission and the Office of Protected Species and Habitat Conservation of the NMFS that the incidental "take" or serious injury to marine mammals due to fishing operations be reduced to insignificant levels approaching zero. Marine mammals which reside in or have been observed in the FCZ of the Western Pacific Region have been listed in Table 6.1. These include the endangered Hawaiian monk seal, the endangered humpback, fin, and sperm whales as well as other whales and dolphins which are not classified as endangered species.

There have been no recorded cases of active interactions of Hawaiian monk seals and whales with the pelagic fisheries operating in the FCZ of the Western Pacific Region. While there are no records of entanglements of humpback whales in drift-gillnets in the central and western Pacific, humpback whales are regularly entangled in nearshore gillnets in the northwest Atlantic. Similarly, the potential of entanglement of Hawaiian monk seals certainly exist with respect to drift gillnets and possibly longlines. Monk seals may remain at sea for up to two weeks before returning to rest on land, and some have been sighted up to 420 nm away from their home islands where high seas drift-gillnet fisheries operate. Thus, the potential for entanglement of monk seals in active fishing gear (drift-gillnets and longlines) exists. More often monk seals have been found entangled in lost or discarded fishing gear, usually netting, but also line. A large percentage of seal entanglements have involved weaned pups, which are more likely to explore objects in their environment because of their curious nature. While Henderson (1984) has reported on Hawaiian monk seal entanglements in marine debris, it is not known how much ocean debris originates in the fisheries covered by this FMP, how much originates in other fisheries much beyond the boundary of the FCZ in the north Pacific, or how much of the debris is not related to fisheries at all such as cargo nets, plastic bands and strapping, plastic buckets, and other kinds of flotsam.

There are six species of dolphins recorded in the FCZ of the Western Pacific Region (Table 6.1). None of the dolphin species listed are endangered or depleted; nonetheless their take is still subject to the provisions of the MMPA. The 1981 amendments to the MMPA added a "small take" exception for marine mammals (which are not considered to be endangered or depleted) to the moratorium regarding the take of marine mammals in general. The amendments allow for the incidental, but not intentional, taking of small numbers of nondepleted marine mammals by U.S. citizens engaged in commercial fishing operations. Commercial fishermen may obtain a "Certificate of Inclusion" to take marine mammals that interfere with their catch. In the main Hawaiian Islands, there are frequent reports of dolphins removing bait or hooked fish from the lines of

trollers and handline fishermen. Some fishermen have obtained a "Certificate of Inclusion" from the NMFS allowing them to harass dolphins when they steal the bait or the catch of fishermen.

Instead of inflicting a hurt on fishermen, dolphins can also end up being the victims. It is well known that purse seine fishing for tuna, especially in the eastern Pacific, can result in an incidental take of dolphins. However, it is not so well known that "passive" drift-gillnets can also take dolphins, apparently in fairly large numbers. In March of 1983, the Coast Guard apprehended a 140 foot Japanese gillnetter hauling in a net 20 miles inside the FCZ near Hancock Seamount. The vessel's catch mostly contained tuna and the management unit species, but the vessel's catch log also indicated that 69 dolphins were caught outside of the FCZ but they were not retained.

Implementation of the proposed actions in this FMP should further the interests of protecting marine mammals. Under this plan, the use of drift-gillnets would be prohibited in the FCZ by foreign fishermen. Domestic fishermen would be allowed to use drift-gillnets but only under experimental fishing permits issued by the NMFS. Foreign longline vessels would not be allowed to fish closer than 150 miles from the main Hawaiian islands and Guam, closer than 100 miles from the Northwestern Hawaiian Islands, and within areas enclosing principal banks of American Samoa. The PMP, in contrast, allows foreign longline fishing as close as 12 miles from the shores of each of the U.S. Flag islands in the Pacific, subject to non retention of some of the management unit species.

9.3 Endangered Species Act (ESA)

The ESA requires Federal agencies to use their authorities to protect, restore and enhance threatened and endangered species and their habitats. Endangered or threatened species which have been recorded in the FCZ have been identified in Table 6.1.

A Federal agency (e.g., the Council) may not take actions which are likely to jeopardize the continued existence of a species listed as threatened or endangered, except under very limited circumstances. Before undertaking an action, a Federal agency must request consultations under Section 7 of the ESA with NMFS or U.S. Fish and Wildlife Service (FWS) if it is determined that such action(s) may affect a listed species. A Biological Opinion then will be issued indicating whether the action is likely to jeopardize the continued existence of a threatened or endangered species or will result in modification or destruction of "critical habitat" for such species and recommending adjustments to the proposed action to achieve greater protection of endangered or threatened species. The Council has received the formal Section 7 consultation from the NMFS. The Biological Opinion concluded that the actions proposed in this FMP are not

likely to jeopardize any threatened or endangered species within the FMP's geographic scope (Appendix F). The FWS similarly concluded that implementation of the plan will not affect any listed species under its jurisdiction such as sea turtles when they are on land (Appendix F).

As discussed in the previous section, neither the endangered Hawaiian monk seals or any of the endangered cetaceans listed in Table 6.1 are expected to be negatively affected by the measures proposed in this FMP. Instead, the proposed actions will provide additional protection to endangered marine mammals.

The green, hawksbill, leatherback, and olive ridley sea turtles are listed as threatened or endangered species under the jurisdiction of the NMFS that occur within the activity area. Incidental capture of green, leatherback, and olive ridley sea turtles by foreign longliners is documented from the central and western Pacific (Balazs, 1982). Balazs (1984) has also noted entanglement of green, hawksbill and olive ridley sea turtles in the central Pacific in monofilament fragments or in intact gear being actively fished. The measures in this FMP are not expected to jeopardize the continued existence of any endangered or threatened species of sea turtle. The FMP proposes to prohibit the use of drift-gillnet gear anywhere in the FCZ by foreign vessels. Domestic vessels could use drift-gillnets only under experimental fishing permits issued by the NMFS. Also, fishing by foreign longliners would not be allowed within 100 miles of the NWHI. One of the NWHI, French Frigate Shoals, is a major habitat for green sea turtles where 90% of all green sea turtle nesting in the Hawaiian archipelago occurs. There are no reports available on sea turtle interactions with purse seine vessels in the FCZ of the Western Pacific Regional. However, a hawksbill turtle was reported to have been taken by a Japanese purse seiner operating in international waters between the Federated States of Micronesia and Indonesia (Balaz, G. 1980).

Under Section 7(b)(4) of ESA, the NMFS has developed a statement authorizing acceptable levels of incidental take for threatened and endangered species of sea turtles in the foreign and domestic longline fisheries and specified the terms and conditions under which an incidental take of sea turtles may occur (Appendix F). Fishermen will need to be advised of the potential for incidental capture of sea turtles and methods of returning them to the sea with as little harm as possible. There is no mechanism to authorize an incidental take of the endangered Hawaiian monk seals because they are protected under the MMPA as well as ESA.

The FMP authorizes the NMFS to require all domestic drift-gillnet vessels which are allowed to fish in the FCZ under an experimental fishing permit, and foreign fishing vessels which take any of the management unit species in the FCZ to report sea turtle and marine mammal/fishery interactions. The NMFS forms for domestic drift-gillnet and foreign fishing vessel catch reports will include information elements for interactions, including species, location of interaction, date, circumstance, and condition of the animal upon release. Permit conditions will include a statement that every effort must be made to return marine mammals and turtles to the sea alive, with as little harm as possible.

In order to define the degree of interaction between domestic fishing gears (in addition to drift-gillnets) and marine mammals and sea turtles, the Regional Director should consult with State and Territory fishery agencies in establishing procedures for voluntary submission of data on marine mammal and sea turtle interactions with domestic fishing gears, other than drift gillnets, -- longline, bait boat, purse seine, handline, and troll gear. If it becomes evident that such data are not sufficiently being made available on a voluntary basis, then the Regional Director shall request the Council to provide him with the authorization to require the submission of such reports under Federal authority.

A critical habitat was designated for the endangered Hawaiian monk seal. The critical habitat for monk seals designated by the National Oceanic and Atmospheric Administration includes the beaches, lagoons and ocean waters of the Northwestern Hawaiian Islands out to a depth of 10 fathoms. It became effective on May 30, 1986. Designation of critical habitat for this species will not require re-initiation of Section 7 consultations for this FMP. The Biological Opinion defined the conditions for a re-initiation of Section 7 Consultations (Appendix F).

9.4 Regulatory Flexibility Act (RFA)

The RFA requires agencies to prepare a "Regulatory Flexibility Analysis" for rules likely to have a significant economic impact on a substantial number of small American businesses and to consider adjustments to those regulations if necessary to avoid a significant adverse impact on a substantial number of small business entities. Virtually all of the domestic fishermen (Sections 6.13 - 6.20) and foreign fishermen (Sections 6.9-6.12) that would be affected by this plan would qualify as "small businesses."

Out of the actions proposed in this FMP (Sections 3.1 and 7.1), only one action affects domestic fishermen directly. Fishing in the FCZ with drift-gillnets would be prohibited unless specifically authorized by an experimental fishing permit issued by the Regional Director of the NMFS. This proposal would not have adverse effects on a substantial number of small businesses since there are no domestic drift-gillnet vessels operating in the FCZ of the Western Pacific Region at present.

The other actions proposed in the FMP deal exclusively with foreign fisheries, but they are, nevertheless, germane to the intent of the RFA. Regulation of foreign fisheries with the FCZ is bound to be beneficial to the

domestic fisheries for the management unit species presently operating in the FCZ. Domestic fishermen should achieve larger catches for a given level of effort as a result of reduced competition with foreign fisheries. Domestic fishermen will be assured that there will be no gear conflicts with foreign gillnet and longline vessels. No Federal regulations are being proposed for domestic fishermen other than requiring an experimental permit for drift-gillnet fishing.

The FMP will also have beneficial impacts on the foreign longline fisheries compared to the PMP presently in effect since foreign longline vessels will be more free to use their vessels and gear in areas of the FCZ which would be open to foreign longline fishing. Foreign longline fishermen will not have to release the management unit species caught in open areas of the FCZ and thus will not lose line or gear. Foreign purse seines and pole-and-line vessels would also be allowed to keep their incidental catches under the FMP. The present U.S. policy on incidental catches made by foreign purse seine and pole-and-line tuna vessels is that these vessels cannot retain non-tuna species caught in the FCZ (Appendix C). Finally, compliance with the area closures proposed in the FMP would be much easier than compliance with the quotas and non-retention provisions of the PMP.

For all of the reasons given, a formal Regulatory Analyses has not been prepared because the proposed actions will have positive rather than negative impacts on domestic fishermen. The Council believes that the office of the General Counsel of the Department of Commerce can certify to the Small Business Administration that the proposed FMP will not have a significant adverse economic impact on a substantial number of small business entities.

9.5 Paperwork Reduction Act (PRA)

The PRA requires agencies to minimize paperwork and reporting burdens whenever collecting information from the public. Any form of information collection required by proposed rules of a FMP must meet the approval of the Office of Management and Budget (OMB) before an agency can collect such information. This FMP does not propose any paperwork burdens for domestic fishing vessels presently engaged in the fisheries for the management unit species. The Council recommends that the NMFS should continue to work closely with State and Territorial agencies to further improve their voluntary fishing data collection programs and urges the State of Hawaii to continue its efforts towards ensuring full compliance with fisheries reporting requirements mandated by State law.

There is no known domestic drift-gillnet fishing in the FCZ of the Western Pacific Region at present. The FMP proposes to allow controlled use of drift-gillnets in the FCZ by domestic fishermen in order to determine catch

rates and volumes and the species composition of catches of the management species and tuna. Under the proposed action, no drift-gillnet fishing may be allowed in the FCZ of the Western Pacific Region unless first authorized by an experimental fishing permit (EFP) issued by the Regional Director of the NMFS under section 303 (b)(1) of the Magnuson Act. The regulations pertaining to experimental fishing are detailed in Section 11.0 (685.8) of this report. EFPs will be issued by the Regional Director on a case-by-case basis in full consultation with the Council and the Director of the affected State or Territory fishery management agency. Approval of the proposed regulations pertaining to data collection for authorizing experimental drift-gillnet fishing is required by the OMB.

9.6 Executive Order 12291

Under this order, a Regulatory Impact Analysis is required if a proposed Federal rule is major. A major Federal rule is defined as one that will result in:

- a) An annual effect on the economy of \$100 million or more;
- b) A major increase in costs or prices for consumers, industries, Federal, State, or local government agencies, or geographical regions;
- c) Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete in domestic or export markets.

The ex-vessel value of commercial fish landings of all species in Hawaii was estimated to be about \$17.9 million in 1983 and \$29.4 million in 1984 (NMFS, Fisheries of the United States, 1984). Since 1983, domestic tuna purse seiners have come to Honolulu to unload tuna caught in the western Pacific ocean. From July 1983 to June 1984, eight purse seine vessels made eleven visits to Honolulu, unloading nearly 20 million pounds of tuna at the local cannery. This activity accounts for the large increase in commercial fish landings in Hawaii between 1983 and 1984. Not counting the landings and transshipment of tuna made by foreign and domestic fishing vessels in American Samoa, the CMNI (Tinian island), and Guam, the ex-vessel value of commercial fish landings made by domestic commercial fishermen in all American flag islands in the Pacific is several million dollars larger than the ex-value of commercial landings made solely in Hawaii. The actions proposed in this FMP should result in increased fishing efficiency for both the existing domestic fisheries operating in the FCZ and for foreign longline vessels. Purse seine landings and transshipment of tuna will not be affected. Since none of the actions proposed in this FMP fall within the above three criteria defining a major Federal rule. Therefore, there will be no major adverse impacts requiring preparation of a Regulatory Impact Analysis.

9.7. National Environmental Policy Act (NEPA)

The NEPA requires Federal agencies to assess the effects of their activities on the environment. Fishery management plans (FMPs) require preparation of either an environmental impact statement (EIS) or an environmental assessment (EA). An EIS must be prepared if actions proposed by a FMP may be reasonably expected to: (1) jeopardize the productive capability of the management unit species or any related stocks (e.g. tuna) that may be affected by the action; (2) allow substantial damage to the ocean and coastal habitats; (3) have substantial adverse impact on public health or safety; (4) adversely affect an endangered or threatened species or a marine mammal population; or (5) to result in cumulative effects that could have substantial adverse effect on the management unit species or any related stocks that may be affected by the proposed actions.

An environmental assessment (EA) is prepared for determining if significant environmental impacts could result from the proposed actions. If the proposed actions are determined not to result in significant environmental impacts on the environment, the EA is the final environmental document required by NEPA. The information and analyses in the FMP are presented in a manner to satisfy the requirements of the Magnuson Act as well as NEPA. Sections 3.2 and 4.0 present the problems and issues addressed and the need for actions through the FMP. The actions proposed are listed in Sections 3.1 and 7.1. Section 6.0 describes the fisheries for billfish and associated species, including a description of the stocks and their habitat (the natural environment) and a description of domestic and foreign fishing for these stocks (the social and economic environment). Section 7.0 analyzes the relative advantages and disadvantages of alternative management strategies compared to the actions proposed by the Council for best meeting the objectives of the FMP (Section 4.2). Sections 9.2 and 9.3 discuss the impacts of the proposed actions on endangered or threatened species and marine mammals. The listing of preparers of this FMP is given in Section 2.6, and Appendix G is a summary of comments received on the revised draft FMP and responses to those comments. The revised draft FMP was sent to more than 500 individuals, businesses, non-profit organizations, and government agencies. Twelve public hearings were held on the revised draft FMP (Section 2.4).

9.7.1 Evaluation of "Significance" (NOAA Directives Manual 02-10 Section 13.b.)

- a) The proposed actions are not expected to jeopardize the long-term productive capability of the management unit species or related stocks. Stocks of billfish and associated species and tuna range throughout the Pacific. The FMP will not have a measurable impact on the overall health and productivity of stocks of billfish and associated species throughout their assumed range in the Pacific Ocean because annual catches of the management unit species made in the 200-mile zones of Pacific islands only make up 2 to 3% of the annual catches of these species made in the Pacific Ocean. (Section 8.2).

- b) The proposed actions will not allow substantial damage to result to the ocean and coastal habitats. The management unit species are distributed in the surface layer of the Pacific Ocean generally far removed from coastal habitats. Habitat conditions of the FCZ of the Western Pacific Region are of high quality (Section 6.8). The proposed actions will not effect the quality of this habitat.
- c) The proposed actions are not germane to public health and safety in any way.
- d) The proposed actions will not adversely effect endangered or threatened species or marine mammals. Implementation of the actions proposed should further the interests of protecting these species (Sections 9.2 and 9.3).
- e) The proposed actions will not result in cumulative adverse effects that could have a substantial effect on the stocks of the management unit species or related stocks. The proposed action will establish a monitoring and reporting program to determine if the objectives of the FMP are being achieved and to identify corrective actions if resource problems are subsequently identified. The FMP requires annual reports and a five-year review to evaluate the need for changes in any of the management measures or in the objectives of the FMP.

9.7.2 Other Considerations

- a) Socio-economic impacts -- The proposed actions are intended to increase the social and economic values of the domestic fisheries for the management unit species while providing a more reasonable opportunity for foreign longline vessels to fish for tuna in the FCZ of the Western Pacific Region than under the PMP. Domestic fishermen should expect to realize larger catches and higher catch rates of billfish and associated species and better fishery development prospects with the FMP than under the PMP. The cost-effectiveness of the FMP is much greater than the PMP in terms of plan administration and enforcement. The FMP embodies a straightforward and easily complied with management approach compared to the PMP.
- b) Controversy -- The FMP would prohibit foreign longliners from fishing in only 25% of the FCZ of the Western Pacific Region. There would be much freer access to the management unit species and the highly migratory species of tuna for foreign longliners in the remaining 74% of the FCZ compared to the PMP. Since the PMP became effective on April of 1980, there has not been any legal foreign longline fishing in the entire FCZ of the Western Pacific Region. The

Magnuson Act establishes the basis for recognizing the priority which must be given to the domestic fisheries over the foreign fisheries while maintaining U.S. policy on highly migratory species of tuna. The Council believes that the proposed actions satisfy the balancing test (Sections 4.4.3, 4.5 and 7.4 and Appendix C), although not everyone will necessarily be expected to concur with the Council's judgement in this regard.

- c) Uncertainty -- An inherent characteristic of highly migratory species in the management unit and tuna is that their abundance and availability in any one place are highly variable from season to season and from year to year. The actions proposed in the FMP cannot change this inherent uncertain variability. While there is uncertainty regarding the extent to which foreign longliners will fish in the FCZ of the Western Pacific Region and how the stocks of the management unit species in the FCZ will "respond" to foreign longline fishing under the proposed actions, the resultant long-term impacts of the FMP are expected to result in greater catches of the management unit species made by domestic fishermen. The FMP provides a mechanism to assess changes every year and to implement new measures every five years or more frequently if need be.
- d) The proposed actions will not affect any scientific, cultural or historic resources or cultural practices of native Hawaiians, Samoans, and Chamorros. The measures proposed in the FMP are believed to be fully consistent with the Coastal Zone Management Programs of Hawaii, Guam, and American Samoa.

9.7.3 Conclusion

The actions proposed in this FMP will not have a significant effect on the quality of the human environment. Such impacts as will occur will be beneficial. A finding of no significant impact (FONSI) means that an EIS does not have to be prepared. The above EA reveals that no significant impacts will result from the actions proposed in this FMP.

9.8 Department of Interior

The U.S. Fish and Wildlife Service (FWS) administers the Hawaiian Islands National Wildlife Refuge in the Northwestern Hawaiian Islands (NWHI) under Executive Order 1019, which established the refuge, and the National Wildlife Refuge System Administration Act, which sets forth the management objectives for all units of the National Wildlife Refuge System. This FMP will have no direct

impact on management of the refuge resources since domestic fishing does not occur within the boundaries of the Refuge, and foreign longline fishing will be limited to the FCZ beyond 100 miles of the NWHI. Foreign drift-gillnet fishing will be prohibited in the entire FCZ of the Western Pacific Region and domestic drift-gillnet fishing will be strictly controlled through experimental fishing permits. These measures are expected to further protect threatened green sea turtles and endangered monk seals which reside in the NWHI. No FWS - managed resources are expected to be negatively affected in any way by this plan (Appendix F).

The FWS also administers Baker, Howland, and Jarvis islands. These islands are uninhabited and are located about 1,600 miles southwest of Hawaii (Figure 3.1). Palmyra island lies about 1,000 miles south of Hawaii. Palmyra is uninhabited and privately owned, and it falls under the jurisdiction of the Department of Interior. The FMP will not affect these islands or the jurisdiction of the Department of Interior in any way.

The Department of the Interior also has oversight responsibilities for administration of the Territories of Guam and American Samoa. The Department has vested increasing authority for management of local affairs in the territorial governments, and supports increased economic development and self-sufficiency of these Territories. This plan is intended to encourage growth of the domestic fisheries (commercial, recreational, and subsistence) without impairing or curtailing the economic benefits attributable to foreign vessels' deliveries of tuna to U.S. canneries in American Samoa and to tuna transshipment operations in Guam. This plan appears to be fully consistent with Department of Interior policies.

9.9 Department of Defense

The Defense Department administers Midway island and several U.S. possessions in the Pacific. Midway island is located about 1,200 miles northwest of Hawaii and is administered by the Department of the Navy. Midway is inhabited by a small number of military and civilian personnel. Kingman reef is uninhabited and located about 920 miles south of Hawaii. It is under the Department of the Navy's jurisdiction. At present, the Navy is not expending any money to maintain the 10-mile long island. Johnston Atoll is located about 700 miles southwest of Hawaii. Presently, the Defense Nuclear Agency administers the island. Approximately 325 military and civilian personnel are stationed on Johnston. Wake island is located about 2,300 miles west of Hawaii and 1,500 northeast of Guam. Wake island is administered by the Air Force, although the Department of Interior formally retains jurisdiction over Wake island. None of these 'Defense Department' islands have indigenous people living on them. This plan should not affect the affairs of the Department of Defense in any way.

9.10 Department of Transportation

The U.S. Coast Guard, Department of Transportation, shares enforcement responsibilities with NMFS under the MFCMA. Enforcement difficulty will vary depending on the management approaches ultimately selected. The FMP proposes specific area closures, which should be much easier to enforce than the species-specific quotas and non-retention zone provisions of the PMP. Simplicity of enforcement is especially critical in the Western Pacific Region due to the large area of the FCZ (1.5 million square miles) and limited enforcement resources.

9.11 Department of State

Currently, the Department of State is involved in negotiations with 16 Pacific island states including Australia and New Zealand concerning a regional tuna treaty which would provide affordable access to U.S. tuna purse seiners to rich tuna grounds in the EEZ of Pacific island nations. The Council recognizes the State Department's concern that the control of foreign fishing for tuna should not go beyond controls necessary to achieve the Council's objectives for domestic fishing for billfish and associated species (Section 4.2). The proposals in this revised plan are sensitive and responsive to the Department's concerns (Appendix G).

9.12 State and Territorial Fishery Laws and Regulations

There are no provisions in current State and Territorial laws or regulations which control domestic fishing for or landings of the management unit species in the FCZ, although catch reports are required to be filed if fish are sold in Hawaii. Other than for drift-gillnet fishing, the plan imposes no restrictions on domestic fishing activities in the U.S. FCZ. No amendment of State and Territorial laws or regulations would be required to insure implementation of the plan, although the State of Hawaii and Territories of Guam and American Samoa might find it beneficial to prohibit drift-gillnet and purse seine fishing in their territorial waters. The plan endorses existing reporting requirements to improve the basis for future management decisions and the data base for fishery assessment. The NMFS is working with the State of Hawaii and the Territories of Guam and American Samoa to determine how current data collection programs can be adjusted so that their programs may furnish the data required to better monitor the domestic fisheries and to determine whether the objectives of the FMP are being met and to what degree.

9.13- City and County of Honolulu

The NWHI (except for Midway island) and Kaula rock are covered by a Development Plan of the City and County of Honolulu. The purpose of the Development Plan is to preserve and protect the environmental, marine, and wildlife assets of the NWHI by guiding City and County agencies in (1) formulating recommendations to be made on referrals of permit applications requesting approvals of development proposals from State and Federal agencies responsible for issuing permits, (2) taking action on matters affecting the NWHI for which City support is requested, and (3) carrying out jurisdictional responsibilities that may be delegated to the City in the future. This FMP will not affect the Development Plan or the City and County of Honolulu's Special Coastal Management Area ordinance in any way.