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PACIFIC
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COUNCIL

Amendment 6

—

Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region

Proposed Actions:

1) Include tunas and related species in the FMP.
2) Establish consistent regulations for foreign and domestic longline vessels.
3) Establish general regulations for other foreign vessels fishing for pelagic species.

(includes Proposed Regulations)

30 April 1992

Western Pacific Regional Fishery Management Council
1164 Bishop Street, Suite 1405, Honolulu, Hawaii 96813

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CONTENTS

1.0 INTRODUCTION

1.1 Responsible Agencies

The Western Pacific Regional Fishery Management Council (Council or WPRFMC) was established by the Magnuson Fishery Conservation and Management Act to develop Fishery Management Plans (FMPs) for fisheries operating in the US Exclusive Economic Zone (EEZ) around American Samoa, Guam, Hawaii (including the Northwestern Hawaiian Islands), the Northern Mariana Islands, and other US island possessions in the central and western Pacific[1]. Once an FMP is approved by the Secretary of Commerce (Secretary), it is implemented by federal regulations which are enforced by the National Marine Fisheries Service (NMFS) and the US Coast Guard (USCG), in cooperation with state and territorial agencies.

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1.2 Public Review and Comment

The WPRFMC elicits the help of commercial and recreational fishing interests, as well as other interested parties. This ensures that those who might be affected by new management measures have an opportunity to submit ideas and suggestions for potential actions by the Council, and to be involved in the decision-making process.

The actions proposed by this amendment were developed by the WPRFMC staff and consultants. The Council's Pelagics Advisory Panel, Plan Team and Scientific and Statistical Committee reviewed the draft amendment before submitting it to the Council's public meeting on 21-22 August 1991 in Kailua-Kona, Hawaii. The Council approved the draft amendment, and directed its staff to complete the amendment for submittal to the Secretary for review and approval. The approval process will include publication of the proposed regulations for public review and comment. A draft of the regulations is included in this amendment.

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[1] *Other possessions include Johnston Atoll, Kingman Reef & Palmyra Island, Jarvis Island, Howland & Baker Islands, and Wake Island.*

1.3 List of Preparers

Amendment 6 was prepared by:

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2.0 EXISTING MANAGEMENT MEASURES

Fishery Management Plan and Amendment 1

The Fishery Management Plan for the pelagic fisheries of the Western Pacific Region was developed by the Council, and its regulations were published by the National Marine Fisheries Service at 52 FR 5987[2] on 17 February 1987. The FMP included initial estimates of maximum sustainable yield (MSY) for the stocks and set optimum yield (OY) for these fisheries in the EEZ. The regulations applied to domestic and foreign fishing for billfishes, wahoo, mahimahi and oceanic sharks. Among the original regulations were a prohibition on drift gillnet fishing within the region's EEZ, and provisions for experimental fishing permits. The regulations for domestic fishing are found in 50 CFR 685[3]. Those for foreign fishing are found in 50 CFR 611, and those foreign fishing regulations affecting only the Western Pacific Region are contained in §611.81 Subpart F. The current FMP prohibits foreign longline vessels from fishing within certain areas of the EEZ, and additional areas up to 150 nm from Guam and the main Hawaiian Islands and up to 100 nm from the Northwestern Hawaiian Islands may be closed to foreign longline vessels if their fishing activity is causing adverse impacts on domestic fishery performance, excessive waste of catch, excessive enforcement costs, or adverse effects on stocks.

The FMP was first amended at 53 FR 24644 on 29 June 1991. Amendment 1 included a) a measurable definition of recruitment overfishing for billfishes, mahimahi, wahoo and oceanic sharks, b) a revised definition of OY, and c) a revised set of objectives to bring the FMP objectives into accord with the definitions of overfishing and the revised definition of OY. According to the definitions of recruitment

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[2] *52 FR 5987 is read "Federal Register, volume 52, page 5987".*

[3] *50 CFR 685 is read "Code of Federal Regulations, Title 50, Part 685".*

overfishing, billfish, mahimahi and wahoo are considered overfished when their spawning potential ratio (SPR) is equal to or less than 0.2, and oceanic sharks are considered overfished when their SPR is equal to or less than 0.35. The SPR is a measure of the current reproductive capacity of these stocks or stock complexes relative to their unexploited capacity, measured over their entire stock range.

Optimum yield is the amount of each species or species complex that can be harvested by domestic and foreign fishing within the EEZ in accordance with the measures contained in the FMP, without causing "local overfishing" or "economic overfishing" within the EEZ of each island area, and without causing or significantly contributing to "growth overfishing" or "recruitment overfishing" on a stock-wide basis. The WPRFMC intends to manage the fisheries at OY, thus preventing the stocks from declining to the point of recruitment overfishing. In addition to the management unit species discussed above, the existent FMP objectives and OY are also suitable for the management of tuna species, so no revisions through Amendment 6 are necessary.

Amendment 2

Amendment 2, implemented by rules published at 56 FR 24731 on 31 May 1991, made permanent several regulations for domestic longline vessels first established by emergency interim rules (55 FR 49285 on 27 November 90, and 56 FR 5159 on 8 February 1991). These regulations require longline vessels to have federal permits and submit federal fishing logbooks. The regulations also required the placement of observers on longline vessels intending to fish within 50 nm "study areas" around certain areas in the Northwestern Hawaiian Islands (NWHI), to document the level of interaction with protected species. The observer requirement was nullified by Amendment 3 (see below).

Amendment 3

Amendment 3, implemented by rules published at 56 FR 52214 on 18 October 1991, made permanent previous emergency actions (56 FR 15842 on 18 April 1991, and 56 FR 33211 on 19 July 1991) to establish a protected species zone in the NWHI, in which pelagic longline fishing is prohibited. The zone was created to protect endangered Hawaiian monk seals. The zone extends 50 nm seaward from each of the islands in the NWHI, and includes certain 100-nm wide monk seal migration corridors between islands where the 50-nm circles are not contiguous. This action effectively abrogated the regulations for the placement of observers in the 50-nm study areas created by Amendment 2.

Amendment 4

Amendment 4, implemented by rules published at 56 FR 51849 on 16 October 1991, extended previous emergency interim rules (56 FR 14866 on 12 April 1991, and 56

FR 28116 on 19 June 1991) that were implemented to arrest the rapid growth of the Hawaii based longline fishery. The amendment established a moratorium on new participants from entering the Hawaii fishery for a total of three years, including the six months of the emergency actions. The Council halted the uncontrolled growth of the fishery until it could be shown that the higher harvest levels can be sustained. The moratorium expires on 22 April 1994.

Amendment 5

Amendment 5, implemented by rules published at 57 FR 7661 on 4 March 1992, closed certain areas around the Main Hawaiian Islands and Guam to pelagic longline fishing. For Hawaii, the closure includes the area within 75 nm of the islands of Kauai, Niihau, Kaula and Oahu and 50 nm of the islands of Maui, Molokai, Lanai, Kahoolawe and Hawaii. These areas in the Main Hawaiian Islands were originally closed by emergency action (56 FR 28116 on 19 June 1991, corrected at 56 FR 31689 on 11 July 1991, and extended by 56 FR 47701 on 20 September 1991). For Guam, longlining is prohibited within 50 nm of Guam's 100-fm isobath, including offshore banks. This action is intended to prevent gear conflicts and vessel safety issues arising from interactions with smaller fishing boats. A request has been also submitted to the NMFS for seasonal modification of the main Hawaiian Islands longline area closures.

3.0 BACKGROUND AND NEED FOR ACTION

3.1 Description of Fisheries

The predominant fisheries for the four major tuna species are described below. Other fisheries (e.g., handline) exist throughout the region, and other tunas and tuna-like species make up the total catch, but complete information on these fisheries is not available.

Skipjack Tuna

Skipjack tuna are taken in the Pacific primarily by purse seine, baitboat (pole-and-line) and trolling methods. Longliners catch few skipjack tuna. Purse seine vessels, including about 120 foreign and domestic seiners, presently account for most of the skipjack tuna caught in the Pacific (NOAA 1991). Although the western Pacific purse seine fishery has been dominated by the Japanese fleet, the US fleet has taken an increasing proportion of the total catch in recent years. The average annual US catch from 1980-90 has been about 249,000 mt. In 1989, the total catch of skipjack tuna from the central and western Pacific exceeded 767,000 mt (NOAA 1991). Until recently, purse seining activity had concentrated in the equatorial western Pacific, outside the EEZ. In 1990, however, US purse seiners fished near the US possessions of Howland and Baker Islands; the size of the skipjack tuna catch from those areas

has not been documented. There is presently no authorized foreign purse seine fishing in the US western Pacific EEZ.

The second largest fishery for skipjack tuna in the Pacific is the baitboat fishery. The Japanese distant-water fleet dominates this fishery. The current catch of skipjack tuna by these vessels in the EEZ is unreported, but Japanese baitboats are regularly sighted in the Northern Mariana Islands and the NWHI. Other baitboat fleets are smaller and operate from nearshore bases, e.g., Hawaii, Solomon Islands and Fiji. The domestic baitboat fishery based in Hawaii has declined markedly in recent years, but still accounts for the largest domestic proportion of skipjack harvested in the EEZ. The decline of the domestic fishery is attributed to the closure of the Honolulu cannery, the erratic availability of the preferred local baitfish, and the deterioration of baitboats, not to a reduction in the abundance or availability of the skipjack resource.

Commercial, recreational and subsistence fishing for skipjack tuna with artificial lures trolled from a wide variety of local boats accounts for most of the skipjack landed by local vessels in American Samoa, Guam and the Northern Mariana Islands.

Yellowfin Tuna

The recent average estimated annual catch of yellowfin tuna from the central and western Pacific has been 280,000 mt (NOAA 1991). The purse seine fishery has accounted for the largest proportion of the yellowfin catch in the western Pacific since the early 1980s. The greater emphasis on targeting of bigeye tuna by the Japanese and other Asian long-range longline fleets has reduced the relative percentage of yellowfin that they harvest, but there is a large harvest of yellowfin by Asian longliners operating and transshipping fish from Indonesia and the Federated States of Micronesia. In addition, some Korean and Taiwanese longline fleets based in American Samoa have landed substantial amounts of yellowfin tuna, but albacore remains the primary target of this fleet.

In the early 1980s, purse seine fishing in the western Pacific was focused around logs and other flotsam, mostly in the area north of Papua New Guinea, where small yellowfin tuna comprised about 20-30% of the sets. Yellowfin tuna in free-swimming schools occur more frequently and are of a larger average size than those in schools under logs, but purse seiners had a much lower success rate in sets on such schools in comparison to log fishing sets. Major improvements in gear now allow purse seiners to set nets deeper, and to close and retrieve them faster. Sonar equipment facilitates sets on sub-surface schools of free-swimming tuna with a much higher success rate than previously. US seiners in particular are more likely to set on larger yellowfin in free-swimming schools. A school set may harvest as much as 200 tons of fish, the maximum that purse seiners can reasonably expect to capture in a single set without overloading the vessel's handling capacity and producing fish of questionable quality for processing. Schools of free-swimming tuna are more prevalent east of the log-fishing grounds and in 1990 US purse seiners were reported

to be fishing as far east as Howland and Baker islands, where the EEZ is under the WPRFMC's authority. There has been no recent documented foreign purse seine fishing in the EEZ.

The second largest source of yellowfin tuna is the longline fishery. Yellowfin tuna are taken by distant-water foreign longline fleets, which freeze the catch at ultra-low temperatures, as well as by smaller Asian longliners based in Guam, which fish and transship fresh catches from waters around Indonesia and Micronesia. Most yellowfin tuna from these fisheries is destined for Japanese fish auctions, but some of it is frozen for transshipment to canneries. For foreign longliners to fish in the EEZ, they must obtain special permits and carry US observers. No authorized foreign longlining activity in the EEZ has occurred since 1980.

Hawaii's longline fleet accounts for the majority of the reported domestic yellowfin catch in the EEZ, although it is generally a secondary target species (to bigeye tuna). Yellowfin are also a primary target for the trolling and handline fleets in Hawaii, and for trollers in American Samoa and Guam.

Bigeye Tuna

In the Pacific, bigeye tuna are harvested primarily by longline and handline fishermen. Bigeye tuna are the primary target of Japanese, Korean and Taiwanese distant-water longline fleets. These vessels freeze their catch on board at ultra-low temperatures for sashimi, a raw fish dish popular in Japan. The smaller Japanese, Korean and Taiwanese longliners operating out of Guam also ship fresh bigeye tuna to Japan. Bigeye tuna, along with swordfish, is today one of the primary targets of Hawaii's domestic longline fleet, which lands fresh tuna harvested within and beyond the EEZ.

Since 1975, the total annual catch of bigeye tuna in the North Pacific has exceeded 100,000 mt (Miyabe 1991). Part of this catch can be attributed to the increase in longline fishing effort since the early 1960s, as well as an increase in effective fishing effort resulting from the use of deep-set longline fishing gear. In addition, perhaps 10% of the small tunas identified by purse-seine fishermen as "yellowfin tuna" are actually bigeye tuna.

Pelagic handline fishermen in Hawaii, using relatively small vessels and simple gear, catch small bigeye tuna on the seamounts southwest of the island of Hawaii. Trolling fleets in American Samoa, Guam and Hawaii take bigeye tuna only rarely.

Albacore

An estimated 63,000 mt of albacore were harvested from the South Pacific by all gear types in 1989. This catch estimate does not include net-induced mortality of fish that escape initial entanglement in gillnets, or dropouts of dead albacore from gillnets. A Japanese and Taiwanese drift gillnet fishery in the South Pacific, operating between

125 and 195 vessels in 1989, took an estimated 24,000 mt. Both countries substantially reduced the size of their drift gillnet fleets in 1990 in response to strong international opposition to this method of fishing, and only about 30 drift gillnet vessels continued to fish in the South Pacific in 1990-91. The fraction of albacore entangled and killed in drift gillnets and lost during net retrieval is estimated to range from 5-40%.

The foreign longline fleet produces approximately 30,000 mt/yr of albacore. Surface fisheries for albacore include a US trolling fleet, which produced 3,500 to 4,500 mt/yr during 1988-1990. American Samoa is the primary port of landing for South Pacific albacore tuna harvested on high seas by foreign longline vessels. Albacore are taken in relatively small amounts in the EEZ.

In the North Pacific, albacore are harvested by longlines, trolling, baitboat, and drift gillnet gear. The annual estimated catch of albacore in the North Pacific for 1988-89 was 59,000 mt (NOAA 1991). Over the past 10 years, the longline catch has averaged around 15,000 mt/yr. The Japanese fleets harvest approximately 95% of this catch. The trolling fleet is dominated by several hundred US vessels, which caught about 2,600 mt in 1990. The baitboat catch, dominated by the Japanese, has declined markedly in recent years. During 1988-90, the albacore catch averaged just over 10,000 mt/yr. The expansion of the drift gillnet fishery in recent years has made this the dominant fishery for albacore in the North Pacific. In 1989, the gillnet catch was estimated at 20,000 mt. The US trolling fleet recently noted that over 7% of their albacore catch showed signs of fresh net markings, suggesting recent encounters with drift gillnets.

3.2 Status of Stocks

Tuna resources in the EEZ are under the management jurisdiction of the WPRFMC, but are part of much larger and wide-ranging stocks. The information available on current stock status for the four main tuna species is summarized below. The stock status of other tunas and tuna-like species is not available.

Skipjack Tuna

There is no evidence for isolated genetic stocks of skipjack tuna in the central and western Pacific, although complete mixing of the population does not occur across the whole region within one generation. Evidence from tagging data is that the skipjack population has a high turnover rate and that the ratio of fishing mortality to natural mortality and replacement is relatively low. This suggests that the skipjack population, except possibly in a few isolated areas, remains under-exploited (Kleiber 1987). Rapid expansion of the purse seine fishery in the region may change this assessment, but recent trends in catch-per-effort give no indication that the population is nearing a fully or overexploited state. The MSY for skipjack tuna in the central and western Pacific is estimated to be more than 767,000 mt (NOAA 1991)

Yellowfin Tuna

Yellowfin tuna are widely distributed in the Pacific but are most abundant between 20°N and 20°S latitude. The yellowfin tuna resources in the EEZ around Guam and the Northern Mariana Islands are part of a population which ranges throughout the western tropical Pacific. There is currently limited information about stock structure, migration patterns and some aspects of population dynamics, e.g., mortality rates. The South Pacific Commission has initiated a yellowfin tagging program to address some of these questions, but no conclusive data are yet available from tag returns. The yellowfin tuna resources in the EEZ around Hawaii and Samoa may be part of a separate central Pacific stock, and evidence from a limited tagging program suggests that small yellowfin tuna may remain in Hawaiian waters for more than a year (Hawaii Division of Aquatic Resources, pers. comm.).

In the western Pacific, yellowfin tuna stock assessment work has been based primarily on Japanese longline catch data. Other work has concentrated mainly on the interpretation of time trends in catch per unit effort or other indices of apparent abundance from purse seine and longline fisheries because complete purse seine catch data are not available from all fleets (e.g., Suzuki et al. 1989). These studies reached the tentative conclusion that total western Pacific yellowfin catches of the order of 200,000-220,000 mt appeared not to be detrimental to the stock or the fisheries, but MSY for yellowfin tuna in the central and western Pacific is unknown. The annual catch of yellowfin presently exceeds 280,000 mt, having doubled since 1980 (WPYRG 1991).

Purse seine and longline fishing effort is likely to continue to increase for the foreseeable future. All indications are, therefore, that the catch of yellowfin tuna in the western Pacific will continue to increase to unprecedented levels. Thus, there is some urgency to undertake a more comprehensive stock assessment of western Pacific yellowfin. The Western Pacific Yellowfin Research Group was established in 1991 to monitor the yellowfin tuna resources of the western Pacific and to identify research needs. This group held its first meeting in Vanuatu in June 1991, and is scheduled to meet again in June 1992.

Bigeye Tuna

The stock structure and population dynamics of bigeye tuna are not well understood. The occurrence of at least some localized spawning activity and the presence of morphological differences in the North Pacific suggests multiple stocks, but other evidence supports a single stock hypothesis. Catch rates in the Japanese longline fishery indicate at least two east-west zonal bands of high abundance, one in the North Pacific above the Hawaiian Islands centered around 30°N in the winter and the other in the equatorial area south of Hawaii (FAO 1980).

Assessing the status of bigeye tuna has been complicated by the longline fishery expanding across the Pacific, encompassing the entire geographical range of the species. With this areal expansion has been an expansion of fishing to a greater portion of the depth range inhabited by bigeye tuna, but the entire depth range has not been exploited. Increasing purse seine catches of young, surface-dwelling bigeye tuna further complicates the assessments. MSY for bigeye may range from 130,000 to 300,000 mt/yr Pacific-wide, but there are many gaps in biological information that could drastically alter these figures (Hampton 1990). In 1990, Japanese longline catch rates for bigeye tuna were reported to be below average in the major central Pacific fishing grounds (C. Boggs, NMFS Honolulu Laboratory, pers. comm.).

Albacore

Albacore are found in temperate and tropical waters throughout the Pacific. The currently-accepted hypothesis of stock structure is that there are at least two stocks, one in the North Pacific and another in the South Pacific. Troll, driftnet and baitboat fisheries exploit the younger surface-dwelling fish in temperate waters, whereas longline fisheries harvest older, larger fish inhabiting deeper and more tropical waters.

Analyses of longline catch and effort data suggest that the maximum sustainable yield of the South Pacific albacore longline fishery is 33,000 to 35,000 mt/yr, and that the adults may already be over-exploited (NOAA 1991). Although the interaction between surface and deep (longline) fisheries is not fully understood, there is concern that the rapid expansion of surface fisheries, particularly the Japanese and Taiwanese drift gillnet fishery, may significantly reduce the quantity of fish available to the longline fleet and threaten the long-term viability of the resource (Shug 1991). One study concluded that a continuation of surface fishing at the 1989 level might lead to a total collapse of the albacore population and the longline fishery within five years (Hampton 1990).

In the 1970s, albacore catches from the North Pacific exceeded 100,000 mt in some years. Since then, however, the reported North Pacific albacore catch has declined steadily. MSY is estimated at 90,000 to 120,000 mt. Catch and effort data from the longline and troll fisheries has shown declining trends, but the baitboat fishery harvest remains nearly constant at 1970s levels. Comprehensive data are not available from the drift gillnet fishery. There is general consensus among scientists that the North Pacific albacore resource is over-exploited and at a low stock abundance level. There is concern that the spawning biomass may be at critically low levels, and that the resource may be overfished.

The recent reduction in effort and catch of the drift gillnet fishery and the expressed willingness of driftnet nations to abide by the terms of a United Nations General Assembly resolution to suspend large-scale, pelagic drift gillnetting by December

1992, have considerably reduced fears of long-term damage to Pacific albacore stocks.

3.3 Need for Action

a) Amendments to the Magnuson Fishery and Conservation Act

The WPRFMC functions under authority of the Magnuson Fishery Conservation and Management Act ("Act", PL 94-265, as amended). Until recently, Section 102 of the Act excluded "highly migratory species" of fish (i.e., tuna species) from the exclusive management authority asserted by the USA over all other fish within its EEZ. The 1990 amendments to the Act, however, remove the exclusion of tuna species, including albacore, bigeye tuna, bluefin tuna, skipjack tuna and yellowfin tuna. The Act's amendments now allow the councils with Pacific jurisdictions to manage all fisheries in the EEZ, including those mainly harvesting tuna species.

The Council developed an FMP for pelagic species other than tunas (i.e., marlins, swordfish, other billfishes, mahimahi, wahoo and oceanic sharks) in 1986 and regulations were implemented in 1987. Tunas need to be included in the management unit.

The existing FMP objectives and definition of optimum yield are suitable for these additional tuna species, so no revisions are necessary. The existing definition of recruitment overfishing for billfish, mahimahi, and wahoo (SPR = 0.2) is applicable to these tuna species, so no independent overfishing definition is required (see §4.1.a).

b) Authorization of foreign fishing for tunas in the EEZ

Under the Magnuson Act, foreign vessels may fish in the EEZ only when authorized under an FMP. Without amending the Pelagics FMP, there is no mechanism to authorize foreign fishing for tunas in the Western Pacific Region, so the amendment is necessary to allow foreign vessels to fish for tunas under conditions set in the FMP, and in the foreign fishing regulations promulgated by the Secretary (50 CFR 611).

4.0 PROPOSED ACTIONS AND IMPACTS

4.1 Proposed Actions

a) Add tuna and related species to the FMP management unit.

This amendment proposes to include in the FMP management unit several genera of tunas and related species, and will reorganize the definition of the Pacific pelagic management unit. Tunas were originally excluded from the Magnuson act. In the Western Pacific region, tunas and related species are important in the pelagic

fisheries. Listing each species to be included invites potential enforcement problems (e.g., a domestic vessel with a minor tuna species such as dogtooth tuna on board may claim that it is exempt from regulations if all tunas are not included in the FMP). Other problems may arise from frequent taxonomic changes, so the Council proposes to include all species in several genera if they occur in the region's EEZ or are caught by vessels based in the region. The tunas and related species to be added to the FMP include *Allothunnus* spp., *Auxis* spp., *Euthynnus* spp., *Gymnosarda* spp., *Katsuwonus* spp., *Scomber* spp., *Thunnus* spp. These genera all contain species captured in the EEZ or by vessels based in the region. As a housekeeping measure, other species names used in the definition of the management unit will be removed; the use of genus names will preclude frequent changes to the FMP as taxonomic changes arise. This management strategy is consistent with that taken by the Council when it included four families of sharks in the FMP, without listing unique species.

b) Define overfishing for these species.

A tuna or related stock is defined as overfished when its Spawning Potential Ratio (SPR) is equal to or less than 0.2. The SPR is a measure of the current reproductive capacity of the stock or stock complex relative to its unexploited capacity over the entire range of the stock.

Overfishing of a Pacific pelagic management unit stock is defined as when the harvest rate that is not consistent with a program established to (1) maintain the species or stock above the minimum level of SPR and (2) achieve optimum yield (OY). The Council intends to manage the fisheries at OY, thus preventing the stocks from declining to the point of recruitment overfishing. A detailed description of the SPR definition, discussion of various ways to measure SPR, and development of the OY definition are found in Amendment 1 to the FMP.

c) Establish foreign longline regulations.

The current FMP prohibits domestic longline vessels from fishing within 50 nm of the 100-fm isobath around Guam and its offshore banks, and with 50/75 nm around the main Hawaiian Islands to prevent gear conflicts. The FMP also prohibits domestic longline fishing within the NWHI protected species zone to protect endangered Hawaiian monk seals. This amendment proposes to apply these same area closures to foreign longline vessels. In addition, like domestic longline vessels, all foreign longline vessels transiting the Protected Species Zone in the NWHI would be required to report to the NMFS Enforcement Office in Honolulu upon entry and exit of the zone. Please note, however, that no permits will be issued for foreign longline vessels wishing to fish in the EEZ around Hawaii until at least April 1994 (see below). In addition, if regulations implementing the domestic longline area closures are modified, the foreign regulations will also need to be changed.

The present FMP contains a moratorium, until April 1994, on the issuance of new permits to domestic longline vessels fishing in or otherwise using the EEZ around Hawaii. This amendment proposes, therefore, that no foreign longline vessel be permitted to fish in that area, at least for the duration of the domestic permit moratorium. Under the Act, it would be inconsistent to allow foreign longline vessels to fish in the EEZ when domestic fishing effort has been restricted.

No changes are proposed in other foreign longline fishing area restrictions around American Samoa and other US island possessions (see Table 1 of 50 CFR 611.81(j)(2)). There will be no limit on the amount of effort or catch of Pacific pelagic management unit species by authorized foreign longline vessels in the areas remaining open to such vessels.

d) Establish foreign purse seine and baitboat regulations.

For the same reason that foreign longline vessels are excluded from areas presently closed to domestic longline vessels, this amendment proposes to prohibit foreign purse seiners and baitboats from fishing within those areas. This action will also reduce the likelihood of localized overfishing, and reduce the potential loss of harvesting ability for domestic recreational and commercial fisheries. In addition to limiting gear conflicts and protecting endangered species, this action intends to ensure equal treatment of all foreign pelagic fishery vessels.

e) Establish general foreign fishing regulations.

Under the Magnuson Act, the Secretary has promulgated several general regulations applicable to all foreign fishing vessels in the EEZ (50 CFR 611, Subpart A). The vessels must have permits, and only vessels from nations with which the USA has a Governing International Fishing Agreement (GIFA) may obtain such permits. All foreign fishing vessels must conform to certain requirements, and each vessel must carry a US observer when fishing in the EEZ, if practical. These requirements will be applied to all foreign fishing vessels, regardless of their gear type and target species, fishing in the EEZ by regulations set forth by this amendment.

4.2 Impacts of Proposed Actions

a) Biological impacts.

1) Pacific pelagic management unit species.

The fisheries, as managed under the FMP and this amendment, are not expected to have a measurable biological impact on management unit species. The "major" species tend to range throughout the Pacific, and the fisheries in the EEZ constitute less than 10% of the total fishing mortality of the

stocks involved. There is little information on the "minor" species, and including them in the management unit will allow the Council and NMFS to collect data and analyze the impacts of fishing on their populations. No substantial change is expected in either the total harvest of these species or in the level of harvest in the EEZ. Longline, troll and handline gear will continue to be the dominant domestic gear types in the fisheries under the FMP. No authorized foreign purse seine or longline fishing, and very little domestic purse seine fishing, has occurred in the EEZ in recent years, and the domestic baitboat fishery has been in decline for many years. There is no reason to expect significant changes in the total harvest, or harvest of individual species or species group, as a result of this or other measures under the FMP.

2) Protected species.

The FMP contains a number of measures intended to prevent adverse impacts of the fisheries for Pacific pelagic management unit species on protected species. The foremost are area closures and reporting requirements for longline vessels in the NWHI to protect Hawaiian monk seals. These area closures and similar closures to longline fishing around the main Hawaiian Islands also contribute to the protection of endangered humpback whales and probably other whales, seabirds and turtles. Further, the moratorium on new longline participation will prevent additional units of effort from impacting protected species. This amendment proposes that similar restrictions apply to other gear types targeting Pacific pelagic management unit species in the same areas. Because the level of fishing is not expected to change under this amendment, and because sensitive areas will be closed to these gear types, the Council concluded that the FMP, as amended, will not likely result in adverse impacts on any protected species. The Council has asked the NMFS to review this determination.

3) Other biological and ecological resources.

The FMP, as amended, will not result in fishing which will cause any significant impact on other biological and ecological resources. The level of fishing effort and associated use of petroleum products will not change significantly, either in or beyond the EEZ. No changes are expected in the level of waste disposal by vessels in the EEZ or elsewhere.

b) Economic impacts (including administrative costs).

No significant economic impacts are expected as a result of this amendment. There will be no new costs imposed on domestic vessels, and the landing of tuna and other species in ports in the Council's area of concern will not be affected.

Foreign purse seiners have not fished extensively in the EEZ in the past and, thus, will not be displaced by this amendment. Foreign purse seine vessels are not expected to fish in the EEZ under this amendment. If they do wish to fish in the EEZ, they will face the costs of permitting, reporting, opportunity lost due to closed areas, and carrying US observers. These costs are not significantly different from costs incurred by other foreign vessels, and would not add much to overall operating vessel costs.

Foreign baitboats that wish to continue to fish in the EEZ would face an increase in costs associated with permits, reporting, opportunity lost due to closed areas, and carrying US observers. No more than ten foreign baitboats are expected to fish under this amendment.

No added costs will be imposed on foreign longline vessels. There has been no authorized longline fishing in the EEZ since the FMP took effect. If foreign longline vessels wish to resume fishing in the EEZ, as they did prior to the Magnuson Act, they would be subject to permits, reporting and observer requirements, and also be restricted from closed areas.

This amendment will not have an economic effect of more than $100 million, and there will be no major increases in costs to consumers, individual industries or government agencies. There will be no significant adverse effect on competition, employment, investment, productivity, or the ability of US industries to compete with foreign enterprises. There could be a slight increase in NMFS administrative costs if many foreign vessels apply to fish in the EEZ, but this is not expected. In fact, permit and reporting requirements could lead to more efficient enforcement efforts as a result of better information on foreign fishing.

c) Social impacts.

No social impacts are expected as a result of this amendment. The Council has not proposed any significant new measures in this amendment affecting domestic gear types. Such changes will be considered in the context of a future amendment to take effect when the current moratorium on new longline permits for the Hawaii EEZ expires in 1994. This may affect all sectors in the future. The measures proposed here for domestic and foreign baitboats and purse seiners are not expected to result in changes in fishing activity patterns or associated social structures or relationships. There will be no impacts on employment, community structure, families, or other social elements.

d) Other.

There could be an increase in reporting burden and data management costs. Presently, only foreign longliners are required to report on their fishing activities in the EEZ, and this amendment proposes to extend reporting requirements to other foreign

pelagic gear types. If a large number of vessels enter the EEZ to fish (contrary to expectations), or transit the protected species zone, there will be a corresponding increase in administrative and data management costs. A request has been submitted under the Paperwork Reduction Act to obtain approval to collect catch and effort data from these vessels that fish in the EEZ. Clearance was granted under 0648-0075 to collect data from foreign longliners.

5.0 REJECTED ALTERNATIVES

Several alternatives to the preferred alternative were considered and rejected:

5.1 No action.

This alternative would not fulfill the WPRFMC's new responsibility under the Magnuson Act amendment to manage tuna fisheries species to prevent overfishing and achieve optimum yield. This alternative would put the Pacific Ocean's largest and most valuable fishery resources at further risk of overfishing. This would prolong inefficiencies in attempting to manage pelagic fisheries based solely on billfishes, wahoo, mahimahi and sharks, when the tunas are the major component of most catches in the region. There also would be no mechanism for allowing foreign vessels to fish for tuna in the EEZ.

5.2 Develop a new FMP for tunas only.

The Magnuson Act's National Standard 3 instructs councils to manage interrelated stocks of fish as a single unit. Creation of a new FMP is redundant and illogical because tunas and related species occupy the same ecosystem as other species already in the management unit, and individual species dynamics are interdependent. Tunas are caught by the same gear types as other species in the current FMP. Marketing channels are also similar, so marketing interdependencies and changing consumer preferences may lead to changes in targeting, resulting in changes in the harvest of tunas and associated species. Fisheries for tuna species, therefore, must be managed together with other pelagic fisheries as part of a single management unit.

5.3 Define overfishing for tunas as SPR other than 0.2.

The proposed action (SPR = 0.2) was selected because the Council believes that it provides adequate protection of the management unit species. Goodyear (1989) indicates that an SPR of 0.3 is a reasonable first choice level for defining overfishing while an SPR of 0.2 should be a minimum value, based on generalized stock assessment considerations. The SPR = 0.2 is the definition of overfishing for other species in the Management unit except sharks, which have a lower reproductive potential. Alternative spawning stock biomass SPRs of 0.3 and 0.4 for tunas were

considered and rejected. Given the high reproductive capacity of these pelagic resources and the resiliency of tunas to fishing pressure through density-dependent responses, the Council concludes that a SPR higher than 0.2 is unnecessarily conservative. Although tuna species have higher rates of growth, reproduction and mortality than most billfishes and associated pelagic species, the Council believes that selecting a lower SPR (e.g., 0.1) at this time would not be prudent.

5.4 Establish additional management measures for domestic tuna fishing vessels.

The Council is not proposing additional new measures for domestic longline, purse seine, baitboat, troll or handline vessels. The Council is preparing an amendment to take effect when the longline permit moratorium expires in 1994. That amendment may include additional limited access arrangements (possibly for all sectors), reporting requirements for a wider range of fishery types, and harvest allocations. The Council did not have sufficient basis for new measures at this time, but instructed its advisory groups to begin assessing the need for, and impacts of, additional measures, and will address the topic later.

6.0 RELATIONSHIP OF AMENDMENT 6 TO OTHER APPLICABLE US LAWS AND POLICIES

6.1 Administrative Procedure Act

A proposed rule to implement this amendment will be published for public comment after the NMFS receives the amendment and regulations. At this time, the Secretary has not determined that the amendment is consistent with the national standards or other provisions of the Magnuson Act, and other applicable law. In making that determination, the Secretary will take into account the data, views and comments received during the comment period.

6.2 Coastal Zone Management Act

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of American Samoa, Guam, Hawaii and the Northern Mariana Islands. This determination has been submitted for review by the responsible state, territorial and commonwealth agencies under Section 307 of the Coastal Zone Management Act.

6.3 Executive Order 12291

The Council has concluded that this proposed rule is not a "major rule" requiring a regulatory impact analysis. The proposed action will not have an effect on the economy of more than $100 million, and there will be no major increase in costs or

prices for consumers, individual industries or government agencies. There will be no significant adverse effect on competition, employment, investment, productivity, or ability of US industries to compete with foreign enterprises. The economic impacts of this action are discussed in §4.2.b.

6.4 Endangered Species Act

The Council has concluded that this action will not have any significant adverse effect on any listed species, or the habitat of those species. The Council submitted this determination to the NMFS for review under Section 7 of the Endangered Species Act.

6.5 Marine Mammal Protection Act

All fisheries in the Western Pacific Region fall into Category 3, meaning that fishermen must report interactions with marine mammals, but are not required to obtain exemption certificates in order to fish. The Council determined that reclassification of any western Pacific pelagic fisheries is not necessary for the purposes of the proposed actions. The Council submitted this determination to the NMFS for review under Section 114 of the Marine Mammal Protection Act.

6.6 National Environmental Policy Act (NEPA)

This FMP amendment has been written and organized in a manner that meets NEPA requirements, and is intended to serve as an environmental assessment. The Council has determined that the proposed actions will not have a significant adverse impact on the human environment, so an environmental impact statement has not been prepared. The following sections of this amendment address specific NEPA requirements: §4.1 - summary of proposed actions, §2 and §3 - purpose and need for action, §4.2 - impacts of proposed actions, and §5 - alternatives to the proposed actions.

6.7 Paperwork Reduction Act

This proposed rule contains a collection of information requirement (transit notification by foreign longline vessels passing through the NWHI protected species zone). The burden on individual operators of foreign longline vessels would be less than 5 minutes for the notification upon entering the zone, and 5 minutes upon exiting the zone. The total burden on foreign vessels is expected to be small. Most longline vessels of Asian origin follow a great circle route to Honolulu for refueling and supplies, and this route takes them well south of the protected species zone. The vessels then depart Honolulu for fishing grounds to the south, not northwest toward the protected species zone.

The proposed rule also contains provisions for foreign purse seine vessels and baitboats to obtain permits and submit foreign catch and effort reports. Few, if any, foreign vessels are expected to apply to fish in the EEZ. No purse seiners are expected to fish under the FMP, and a maximum of ten foreign baitboats could be expected to fish under the FMP. The reporting burden per vessel is expected to be similar to that incurred by foreign longliners, i.e., five minutes/ vessel/day for the operator to copy the vessel's log information to the required US log.

There could also be an increase in the notification burden to fishermen if many vessels enter the EEZ to fish. Few, if any, vessels are expected to fish in the EEZ, but a request has been submitted under the Paperwork Reduction Act to collect catch and effort data form these vessels that fish in the EEZ (clearance was granted under 0648-0075 to collect data from foreign longliners). A maximum burden of five minutes reporting time per entry or exit could be expected for each vessel.

6.8 Regulatory Flexibility Act

This proposed amendment will not have significant adverse effects. Therefore, a regulatory impact review has not been prepared.

6.9 Executive Order 12612 (federalism)

The Council did not identify any federalism issues relative to the proposed actions. The affected states have been closely involved in developing this amendment, and the principal state officials responsible for fisheries management have not expressed federalism-related opposition to adoption of this amendment. Thus, the Council determined that preparation of a federalism assessment is not necessary.

6.10 Executive Order 12630 (takings implication)

The Council determined that the proposed actions will not significantly affect the use of any real or personal property.

6.11 Indigenous Peoples' Fishing Rights

There is no formal agreement between the US government and the indigenous people of the region, i.e., native Chamorros, Hawaiians and Samoans, that allocates preferential fishing rights to native people. The necessity and legal possibility of granting such rights are being investigated. At present, Amendment 6 does not appear to affect any native Chamorro, Hawaiian or Samoan cultural or religious practices.

6.12 Vessel Safety Considerations

The Council did not identify any vessel safety issues in the proposed actions. The US Coast Guard has been asked to review this amendment from the standpoint of vessel safety.

7.0 REFERENCES

Food and Agriculture Organization of the United Nations (FAO). 1980. State of selected stocks of tuna and billfish in the Pacific and Indian Oceans. Summary report of the workshop on selected tuna and billfish stocks in the Pacific and Indian Oceans held in Shimizu, Japan, 13-22 June 1979. FAO Technical Paper 200. Rome, Italy.

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8.0 TEXT OF PREAMBLE AND PROPOSED REGULATIONS

Billing Code: 3510-22

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 685

[Docket No.]

Pelagic Fisheries of the Western Pacific Region

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce

ACTION: Proposed Rule -- Include tuna species in the FMP and establish regulations for foreign fishing vessels.

SUMMARY: The Secretary of Commerce (Secretary) issues this proposed rule to implement Amendment 6 to the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (FMP). The actions proposed by this rule are intended to make the regulations of the FMP compatible with changes in the Magnuson Fishery Conservation and Management Act ("Act", PL 94-265, as amended).

The Western Pacific Regional Fishery Management Council (WPRFMC) functions under authority of the Act and, until recently, §102 of the Act had excluded "highly migratory species of fish" from the exclusive management authority asserted by the USA over all fish within its EEZ. The 1990 amendments of the Act provide for the inclusion of tunas, beginning 1 January 1992. In the Pacific, tuna fisheries are to be managed by the regional fishery management councils. Tuna species must, therefore, be included in the appropriate FMPs, and Amendment 6 achieves this purpose. This amendment also establishes regulations needed to close to foreign pelagic fishing vessels areas of the EEZ that are now closed to domestic longline vessels. This amendment also provides for general foreign fishing regulations for other foreign fishing vessels.

DATES: Written comments must be received by **[insert date 45 days after date of filing at the Office of the FEDERAL REGISTER]**.

ADDRESSES: Copies of Amendment 6 may be obtained from, and comments should be addressed to: Kitty M. Simonds, Executive Director, Western Pacific Regional Fishery Management Council, 1164 Bishop St., Suite 1405, Honolulu, HI

96813, or E. Charles Fullerton, Director, NMFS Southwest Region, 501 W. Ocean Bl., Suite 4200, Long Beach, CA 90802.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, WPRFMC, at (808) 523-1368 or (FTS) 551-1974, Svein Fougner, NMFS, at (310) 980-4034 or (FTS) 795-4034, or Alvin Z. Katekaru, NMFS, at (808) 955-8831 or (FTS) 551-2927.

SUPPLEMENTARY INFORMATION: The Council developed an FMP for fisheries that take pelagic species other than tunas (i.e., swordfish, marlins, other billfishes, mahimahi, wahoo and oceanic sharks) in 1986, and regulations were implemented in 1987 (52 FR 5987, 17 February 1987). With the 1990 changes to the Magnuson Act that charge the regional fishery management councils with Pacific jurisdictions to manage tuna fisheries, tunas and related species now need to be included in the Council's FMP as management unit species.

This amendment proposes to include several genera of tunas and related species in the management unit of the FMP, and to reorganize the definition of the Pacific pelagic management unit. In the Western Pacific region, several tunas and related species are important in the pelagic fisheries. Listing each species to be included in the FMP invites potential enforcement problems, so the Council proposes to include all species in several genera, and would exercise management if these species occur in the region's EEZ or are caught by vessels based in the region. The tunas and related fish to be added to the FMP include *Allothunnus* spp., *Auxis* spp., *Euthynnus* spp., *Gymnosarda* spp., *Katsuwonus* spp., *Scomber* spp., *Thunnus* spp. Each genus contains species caught in the EEZ or by vessel based in the region. Other species names used in the definition of the management unit will be removed; the use of genus names will prevent frequent changes in the FMP as taxonomic changes arise. This management strategy is consistent with that taken by the Council when it included four families of sharks in the FMP, without listing unique species.

The existing FMP objectives and definition of optimum yield are suitable for these additional species, so no revisions of the definitions are necessary. A tuna stock is considered overfished when its Spawning Potential Ratio (SPR) is equal to or less than 0.2. This is consistent with the existing definition of recruitment overfishing for other pelagic species in the FMP (billfishes, mahimahi and wahoo). The SPR is a measure of the current reproductive capacity of the stock or stock complex relative to its unexploited capacity over the entire range of the stock.

Alternative spawning stock biomass SPRs of 0.3 and 0.4 were considered but rejected. Given the high reproductive capacity of these pelagic species and the resiliency of tuna populations to fishing pressure through density-dependent responses, the Council concluded that a SPR higher than 0.2 is unnecessarily conservative. Although tuna species may have higher rates of growth, reproduction and mortality than most billfish and associated pelagic species, the Council believes that selecting a lower SPR (e.g., 0.1) at this time would not be prudent. A detailed

description of the SPR definition, discussion of various ways to measure SPR, and development of the OY definition are found in Amendment 1 to the FMP.

The existing FMP prohibits foreign longline vessels from fishing within 12 nm of Guam and the Hawaiian Islands, and areas up to 150 nm from Guam and the main Hawaiian Islands and up to 100 nm from the Northwestern Hawaiian Islands may be closed to foreign longline vessels if their fishing activity is causing adverse impacts on domestic fishery performance, excessive waste of catch, excessive enforcement costs, or adverse effects on stocks. Foreign longliners are required to have permits, submit reports, and carry US observers when fishing in the EEZ, but have not conducted authorized fishing in the western Pacific EEZ since 1980.

Domestic longline vessels are prohibited from fishing in certain areas of the EEZ around Guam and Hawaii. In the interest of regulating foreign and domestic longline fisheries fairly, the areas closed to domestic longline vessels should also be closed to foreign vessels (i.e., longliners, purse seiners and baitboats) fishing in the EEZ. This action will also reduce the likelihood of localized overfishing, and reduce the potential loss of harvesting ability for domestic recreational and commercial fisheries. Please note, however, that no permits will be issued for foreign longline vessels wishing to fish in the EEZ around Hawaii until at least April 1994 (see below). In addition, if regulations implementing the domestic longline area closures are modified, the foreign regulations will also need to be changed. In addition, general foreign fishing regulations (see 50 CFR 611) requiring permits, catch reports and provisions for US observers shall apply to foreign baitboats and purse seine vessels fishing in the EEZ.

Domestic longliners are required to notify the NMFS when transiting the NWHI protected species zone. This amendment will extend the regulation for transit notification to foreign longline vessels. The additional area which is proposed as the minimum for closure to foreign longliners will not affect their authorized fishing activity (none since 1980). The transit notification burden is expected to be minor.

The current FMP contains a moratorium, until April 1994, on the issuance of new permits for domestic longliners authorized to fish around Hawaii. The moratorium requires domestic longline vessels to hold a limited entry permit if it intends to fish in the EEZ surrounding the Hawaiian Archipelago (main and Northwestern Hawaiian Islands). No permits for new domestic entrants will be issued during the effective period of this regulation and, under the Act, it would be inconsistent to allow foreign longline vessels to fish in the EEZ when domestic fishing effort has been restricted.

The existing non-retention zones for associated species applicable to foreign longliners will remain unchanged if these zones are broader than the revised closed areas. This amendment does not propose to subject foreign purse seiners and baitboats to the existing non-retention zone for foreign longliners because the incidental catch of associated species by these gear types is small.

No new management measures will be imposed on domestic longliners or other domestic gears (e.g., purse seine, baitboat, troll, handline), so there will be no impacts on domestic fishermen.

Tunas and related species will be included in the FMP, providing clear authority for the Council and NMFS to collect accurate information on all pelagic fishing activities in the region. The definition of recruitment overfishing for tunas will guide the selection of conservation and management measures to promote the long-term viability of these management unit stocks. Because of the large (perhaps Pacific-wide) stock boundaries of most of the Pacific pelagic management unit species, including the main tuna species, the relatively small size of the harvest within the EEZ of the Western Pacific Region (currently accounting for less than 10% of the Pacific-wide individual species catches), preventing the overfishing of entire stocks will require regional or international management. There is little information on the other species, and including them in the management unit will allow the Council and NMFS to collect data and analyze the impacts of fishing on their populations.

CLASSIFICATION:

Section 304(a)(1)(C)(ii) of the Magnuson Act, as amended by PL 97-453, requires the Secretary of Commerce (Secretary) to publish regulations proposed by a Council within 30 days of receipt of the amendment and regulations. At this time, the Secretary has not determined that the amendment is consistent with the national standards, other provisions of the Magnuson Act, or other applicable law. In making that determination, the Secretary will take into account the data, views and comments received during the comment period.

The NOAA Assistant Administrator for Fisheries (Assistant Administrator) has determined that Amendment 6 to the FMP and its implementing regulations are necessary for the conservation and management of the pelagic fishery resources of the Western Pacific Region, and are consistent with the Magnuson Act and other applicable law.

The Council prepared this amendment in a manner that satisfies the requirements of an environmental assessment. The Assistant Administrator concluded that there would be no significant effect on the human environment.

The Assistant Administrator for Fisheries has determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this rule will not have a significant adverse economic impact on a substantial number of small businesses.

This rule contains a collection of information requirement (transit notification in the protected species zone for foreign longline vessels) subject to the Paperwork Reduction Act (44 USC 3501, as amended). Operators of foreign vessels will be required to notify the NMFS Southwest Enforcement Office immediately upon entering and exiting the NWHI closed area (protected species zone). The public reporting burden for individual operators is estimated to be less than 5 minutes for the pre-transit notification and 5 minutes for the post-transit notification. The total burden is expected to be minor because most foreign vessels do not presently pass through the protected species zone. A request for approval of this collection of information has been submitted to the Office of Management and Budget.

In addition, all foreign vessels authorized to fish in the EEZ would be required to record and submit data on their catch and effort in the EEZ. This total burden is also expected to be light because few, if any, vessels are expected to fish in the EEZ. The estimated burden per vessel is five minutes per day for the operator to copy the vessel's log information onto the appropriate US log. This information collection has been approved by the Office of Management and Budget (OMB), OMB Control Number **[insert number]**. Send comments on reducing the burden estimate or any other aspect of this collection of information to the Regional Director, Southwest Region, NMFS, and to the Office of Information and Regulatory Affairs (see **ADDRESSES**).

The Council has determined that this proposed rule is consistent to the maximum extent practicable with the approved coastal management programs of the American Samoa, Guam and Hawaii. This determination has been submitted for review by the responsible state, territorial and commonwealth agencies under Section 307 of the Coastal Zone Management Act.

The Council has determined that this proposed rule is not likely to adversely affect any endangered or threatened species, nor will it adversely affect any critical habitat of any listed species. This determination has been sent to the NMFS for review under Section 7 of the Endangered Species Act, and Section 114 of the Marine Mammal Protection Act.

This rule does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under Executive Order 12612.

This rule also contains minor housekeeping actions regarding addresses and scope of the regulations.

List of Subjects in 50 CFR Part 611

Foreign fishing

List of Subjects in 50 CFR Part 685

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated:

_____

Name
Title

For the reasons set out in the preamble, Chapter VI of Title 50, Code of Federal Regulations, is proposed to be amended as follows:

PART 611 - FOREIGN FISHING

1. The authority citation for part 611 continues to read as follows:

Authority: 16 USC 1801 et seq.

2. In §611.81, in Table 1, Table 2, and Table 4 of Appendix A to Subpart A, the address for the Southwest Regional Director is revised to read as follows:

* * * * *

Director, Southwest Region, National Marine Fisheries Service, NOAA, 501 Ocean Boulevard, Long Beach, CA 90802-4213; Telephone (310) 980-4001.

* * * * *

3. In §611.81, the section heading and paragraph (a)(1) are revised to read as follows:

* * * * *

§611.81 Pacific Pelagic Species Fishery

(a) Purpose. (1) This section regulates all foreign fishing conducted under a Governing International Fishery Agreement that involves the catching of any Pacific pelagic management unit species in the exclusive economic zone (EEZ) of the United States of America in the Pacific Ocean, excluding the portions of the EEZ seaward of Alaska, Washington, Oregon, and California.

* * * * *

4. In §611.81 (b), the definitions of "Billfish", "Mahimahi", "Oceanic Sharks", and "Wahoo" are removed, and new definitions for "Pacific pelagic management unit species", "Northwestern Hawaiian Islands", and "Protected species zone" are added in alphabetical order, and the definitions of "Closed area", "Non-retention zone", "Regional Director", and "Retention zone" are modified to read as follows:

§611.81 Pacific Pelagic Species Fishery

(b) Definitions

* * * * *

Closed area means that area of the EEZ in which foreign fishing vessels fishing for Pacific pelagic management unit species subject to this section are prohibited from fishing.

* * * * *

Non-retention zone means that area of the EEZ in which all Pacific pelagic management unit species and other species caught by foreign longline vessels in the course of fishing under this section must be returned to the sea in accordance with the requirements of paragraph (k)(5) of this section.

Northwestern Hawaiian Islands means the EEZ of the Hawaiian Archipelago lying to the west of 161° W. longitude.

* * * * *

Pacific pelagic management unit species has the identical meaning to the term as defined in part 685 of this title.

Protected species zone has the identical meaning to the term as defined in part 685 of this title.

Regional Director means the Director of the Southwest Region, National Marine Fisheries Service, 501 W. Ocean Blvd, Long Beach, CA 90802-4213, telephone (310) 980-4001, or a designee.

Retention zone means that area of the EEZ in which foreign longline vessels may retain Pacific pelagic management unit species to the extent that retention is authorized by this section.

* * * * *

5. In §611.81, paragraph (h)(4) is removed, paragraphs (j)(2) through (j)(4), and Table 1 are revised, and new paragraphs (j)(6) and (j)(9) are added to read as follows:

§611.81 Pacific Pelagic Species Fishery

(j) Authorized fishery - FMP Management Area Group

* * * * *

(2) Zones. The FMP Management Area Group comprises the following closed areas, non-retention zones, and retention zones (each of which is measured from the baseline used to measure the US territorial sea, except the protected species zone, which is measures from the center geographical position of the affected islands) described in Table 1.

(3) Effort Plans. Operators of foreign fishing vessels who desire to fish in the FMP Management Area Group are required to file effort plans two months prior to entering the retention zones of the EEZ for fishing purposes. Effort plans must indicate the dates when fishing is expected to begin and cease and must specify the areas of the EEZ where the vessels intend to operate. Effort plans must be submitted to the Regional Director.

(4) Catch and Effort. There will be no limit on the amount of fishing effort or the catch of Pacific pelagic management unit species made by foreign fishing vessels in the retention zones described in Table 1 of paragraph (j)(2) of this section.

Table 1.

Management area	Closed area	Non-retention zone	Retention zone
Hawaiian Islands.....	(1) Within 50 nautical miles of the islands of Hawaii, Maui, Lanai, Kahoolawe, and Molokai. (2) Within 75 nautical miles of the islands of Oahu, Kauai, Niihau, and Kaula. (3) Within the Northwestern Hawaiian Islands protected species zone (see 50 CFR part 685).	(1) Between 50 and 100 nautical miles from the islands of Hawaii, Maui, Lanai, Kahoolawe, and Molokai. (2) Between 75 and 100 nautical miles from the islands of Oahu, Kauai, Niihau, and Kaula.	(1) Beyond 100 nautical miles from the islands of Hawaii, Maui, Lanai, Kahoolawe, Molokai, Oahu, Kauai, Niihau, and Kaula. (2) Beyond 50 nautical miles from the islands of the Northwestern Hawaiian Islands (see Definitions).
Guam.....	Within 50 nautical miles of the 100 fathom contour surrounding Guam and its offshore banks, and within 50 nautical miles of any fish aggregating device in waters of the Guam EEZ.	None	Beyond 50 nautical miles from 100-fathom isobath around Guam and fish aggregating devices around Guam.
American Samoa.....	(1) Within a rectangle around the Tutuila and Manua Islands of American Samoa bounded by 14° and 15° S. latitude and 168° and 171° W. longitude, and (2) Within a one degree square surrounding Swain's Island bounded by 10° 33' and 11° 33' S. latitude and 170° 34' and 171° 34' W. longitude.	None	Areas of the EEZ outside the rectangle bounded by 14° and 15° S. latitude and 168° and 171° W. longitude, and (2) Areas of the EEZ outside the one degree square surrounding Swain's Island.
US Possessions.....	Within 12 nautical miles of shore	None	Beyond 12 nautical miles from shore

* * * * *

(6) Moratorium on new longline permits for Hawaii EEZ. No permits to fish in the EEZ surrounding the Hawaiian Archipelago will be issued to foreign longline vessels during the moratorium on domestic longline permits for this area, according to §685.15 of this title.

* * * * *

(9) Transit notification. The operator of a foreign longline vessel subject to this part transiting the closed area in the Northwestern Hawaiian Islands (protected species zone) must notify the NMFS Southwest Enforcement Office at (808) 541-2727 immediately upon entering and immediately upon departing the protected species zone. The notification must include the name of the vessel, name of the operator, date and time (GMT) of entry or exit from the closed area, and location by latitude and longitude to the nearest minute.

* * * * *

§611.81 [Amended]

6. In §611.81, remove the words "billfish, oceanic sharks, wahoo and mahimahi" and add, in their place, the words "Pacific pelagic management unit species" in the following places:

(a) (k)(4),
(b) (k)(3)(ii)(A) and (B), and
(c) (k)(5)(i)(B) and (C).

* * * * *

7. In §611.81, remove the words "management unit species" and add, in their place, the words "Pacific pelagic management unit species" in the following places:

(a) (j)(5)(ii),
(b) (j)(5)(iv),
(c) (j)(6)(ii), and
(d) (j)(6)(iv).

* * * * *

PART 685 - PELAGIC FISHERIES OF THE WESTERN PACIFIC REGION

8. The authority citation for part 685 continues to read as follows:

Authority: 16 USC 1801 et seq.

9. In §685.1, paragraphs (a) and (b) are revised to read as follows:

§685.1 Purpose and Scope

* * * * *

(a) The regulations in this part govern the conservation and management of Pacific pelagic management unit species in the exclusive economic zone (EEZ) of the United States of America in the Pacific Ocean, excluding the portions of the EEZ seaward of Alaska, Washington, Oregon, and California.

(b) Regulations governing fishing for Pacific pelagic management unit species by fishing vessels other than vessels of the United States of America are published at 50 CFR Part 611, Subpart F.

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10. In §685.2, the definitions for "Associated species", Billfish", and "Management unit species" are removed, and a new definition for "Pacific pelagic management unit species" is added in alphabetical order to read as follows:

§685.2 Definitions

* * * * *

Pacific pelagic management unit species means the following fish:

Common Name:	*Scientific Name:*
Mahimahi (dolphin fish)	*Coryphaena* spp.
Marlin and Spearfish	*Makaira* spp. *Tetrapturus* spp.
Oceanic Shark	family Alopiidae family Carcharinidae family Lamnidae family Spyrnidae

Sailfish	*Istiophorus* spp.
Swordfish	*Xiphias* spp.
Tuna	*Allothunnus* spp. *Auxis* spp. *Euthynnus* spp. *Gymnosarda* spp. *Katsuwonus* spp. *Scomber* spp. *Thunnus* spp.
Wahoo	*Acanthocybium* spp.

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11. §685.22 is revised to read as follows:

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§685.22 Annual Report

By June 30 of each year, a plan team appointed by the Council will prepare an annual report on the domestic and foreign fisheries for Pacific pelagic management unit species in the management area.

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12. §685.23 is removed.

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§685.4 [Amended]

13. In §685.4, remove the words "billfish, tuna, oceanic sharks, and associated fish" and add, in their place, the words "Pacific pelagic management unit species" in paragraphs (b)(7), (b)(8) and (c)(9).

§§685.5, 685.8, and 685.22 [Amended]

14. In addition to the amendments set forth above, in 50 CFR part 685, remove the words "billfish or associated species" and add, in their place, the words "Pacific pelagic management unit species" in the following places:

(a) §685.5 (a) and (b)

(b) §685.8 (a), and
(c) §685.22.

§§685.4, 685.5, 685.9, 685.13, 685.15, and 685.25 [Amended]

15. In addition to the amendments set forth above, in 50 CFR part 685, remove the words "management unit species" and add, in their place, the words "Pacific pelagic management unit species" in the following places:

(a) §685.4 (a)
(b) §685.5 (d), (e), (f), (g), (n), (o), and (r),
(c) §685.9 (a),
(d) §685.13,
(e) §685.15 (a), (c)(1), and (c)(2), and
(f) §685.25 (a)(2), (a)(3), and (a)(4).