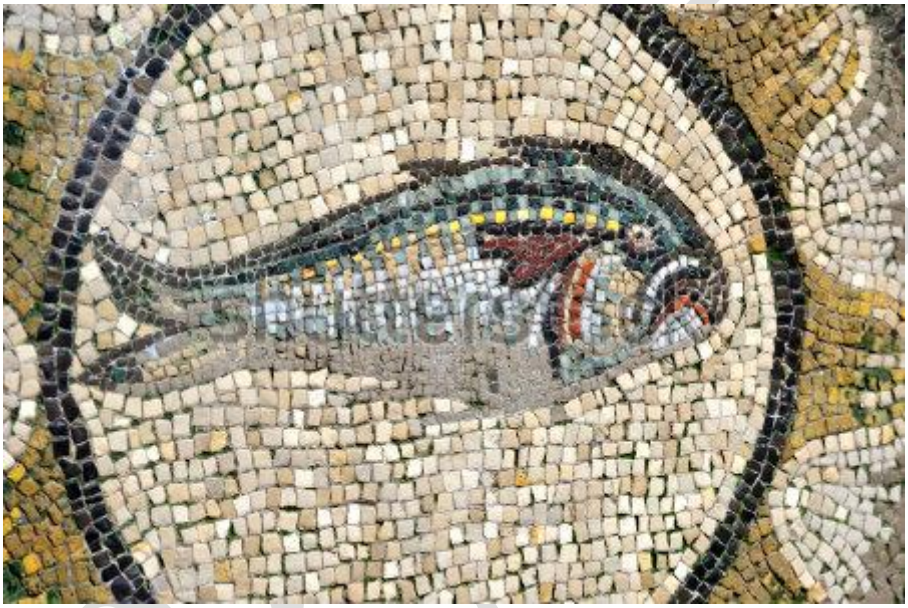
FISHERY ECOSYSTEM PLAN
for the
PACIFIC PELAGIC FISHERIES



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PREFACE

In 2005, the Council recommended to establish and implement fishery ecosystem plans for archipelagic, pelagic, and remote island areas in the Western Pacific Region. Previously, the Council managed fisheries in these areas using the single-species management paradigm. Ecosystem-based fishery management (EBFM) addresses a geographically-specified system of fishery-associated organisms (including humans), and the environment and the processes that control its dynamics. It includes noncommercial and commercial fisheries, and recognizes the physical, biological, economic and social interactions among the affected components of the ecosystem. Perhaps most importantly, EBFM seeks to manage for a spectrum of goals society has for fishery ecosystems – some of which may be in competition.

The Council's first fishery ecosystem plans were approved by the Secretary of Commerce in September 2009. However, considering ecosystem-based fishery management has an extended history in our region. For example, the Council's Executive Director, Kitty Simonds, was an active participant in one of the National Oceanic and Atmospheric Administration NOAA's first ecosystem management workshops, in 1986. In 2001, the Council took final action to recommend the first fishery ecosystem management plan in the nation. The Coral Reef Ecosystem Fishery Management Plan covered coral reef fishery ecosystems in the U.S. Pacific Islands. Among other things, the plan established a process to assess and control ecosystem effects of bottomfish, precious coral, and crustacean fisheries operating federal waters under then-existing fishery management.

The Pelagics FEP is the framework under which the Council will manage place-based fishery ecosystem resources, including the integration of important ecosystem elements important to decision-making. These elements include social, cultural, and economic dimensions, protected species, habitat considerations, climate change effects, and the implications to fisheries from various spatial uses of the marine environment. Successful ecosystem-based fisheries management requires an increased understanding of a range of social and scientific issues, including the societal goals society appropriate management objectives, biological and trophic relationships, ecosystem indicators and models, and the ecological effects of non-fishing activities on the marine environment. Future fishery management actions are anticipated to utilize this information as it becomes available, and adaptive management will be used to further advance the implementation of ecosystem science and principles. In this regard, the success of the EBFM approach relies heavily on the data collection and synthesis process established by the pelagic and archipelago annual fishery ecosystem reports (SAFE Reports). In 2015, the Council, in partnership with the National Marine Fisheries (NMFS) Pacific Islands Fishery Science Center, local fishery resource management agencies, and the NMFS Pacific Islands Regional Office revised and expanded the contents of these reports to include the range of ecosystem elements described above.

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EXECUTIVE SUMMARY

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) is the primary domestic legislation governing management of the nation's marine fisheries. The United States Congress has amended and reauthorized the MSA several times since 1976. In 1996, the reauthorized the Magnuson-Stevens Act to include, among other things, a new emphasis on the precautionary approach. In 2006, an annual catch limit requirement was written in. The MSA contains ten national standards, with which all fishery management plans and plan amendments must conform. The MSA also requires U.S. fisheries management be consistent with the requirements of other regulations including the National Environmental Policy Act, Marine Mammal Protection Act, the Endangered Species Act, the Migratory Bird Treaty Act, and several other Federal laws and Executive Orders.

Under the Magnuson-Stevens Act, the Western Pacific Regional Fishery Management Council (Council) is authorized to prepare and submit to the Secretary of Commerce for approval, disapproval or partial approval, a Fishery Management Plan (FMP) and any necessary amendments, for fisheries that are under its authority and that require conservation and management. The Council transitioned to Fishery Ecosystem Plans (FEPs) from FMPs in 2009. The Council conducts public hearings so that all interested persons may have opportunities to participate in the development of FEPs and amendments.

This Fishery Ecosystem Plan (FEP) governs Pacific pelagic federal fisheries in the Council's jurisdiction. The management area is the United States (U.S.) Exclusive Economic Zone (EEZ) and high seas in which U.S. pelagic fisheries in the western, eastern, central, and south Pacific Ocean. The Plan covers longline, troll, handline purse seine and pole-and-line fisheries. The FEP was implemented on September 24, 2009. It replaced a set of species-based FMPs that covered the Western Pacific Region. This version of the FEP was implemented on ____. It strengthens the ecosystem-based fishery management approach, provides the public with additional information regarding the management process, conforms to new information requirements, and is a framework for a clearer understanding of fishery and conservation and management measures promulgated by the FEP and subsequent amendments to it.

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1.1 Mission

The Western Pacific Regional Fishery Management Council (Council) is a federal instrumentality established and authorized by Congress in 1976. Its mission is to "plan, coordinate and realize all responsibilities as delegated under the MSA for effective conservation and prudent development of the region's fishery resources for the benefit of the region and the nation." To meet this mission, the Council established the following Guiding Principles:

1. Support quality research and obtain the most complete scientific information available to assess and manage fisheries;
2. Promote an ecosystem approach in fisheries management, including reducing waste in fisheries and minimizing impacts on marine habitat and impacts on protected species;
3. Conduct education and outreach to foster good stewardship principles and broad and direct public participation in the Council's decision making process;
4. Recognize the importance of island cultures and traditional fishing practices in managing fishery resources and foster opportunities for participation;
5. Promote environmentally responsible fishing and the utilization of sustainable fisheries that provide long term economic growth and stability;
6. Promote regional cooperation to manage domestic and international fisheries; and
7. Encourage development of technologies and methods to achieve the most effective level of monitoring, control and surveillance and to ensure safety at sea.

The Council is responsible for developing fishery management policies for the western Pacific region, which includes the State of Hawaii, Territories of American Samoa and Guam, the Commonwealth of the Northern Mariana Islands and other U.S. Pacific remote island areas (Figure 1) All management plans, amendments to them, and regulations implementation them, must comply with the MSA and all other applicable laws – such as the National Environmental Policy Act (NEPA). The Council's primary responsibility is to develop and recommend fishery management measures for any federal managed fishery, stock, or stock complex, as well as measure to protect important ecosystem components, such as protected species and fish habitat.

Our region's archipelagos have distinct cultures, communities, and marine resources. For thousands of years, the indigenous people of these islands relied on healthy marine ecosystems to sustain themselves, their families, and their island communities. Although the past century has brought enormous advancements in transportation and diet, these islanders continue to depend on healthy marine ecosystems, owing to the remoteness of the islands, and their intact cultural practices. Even in the modern period, much ecological, economic, and social benefit is realized from sustainably managing island resources.

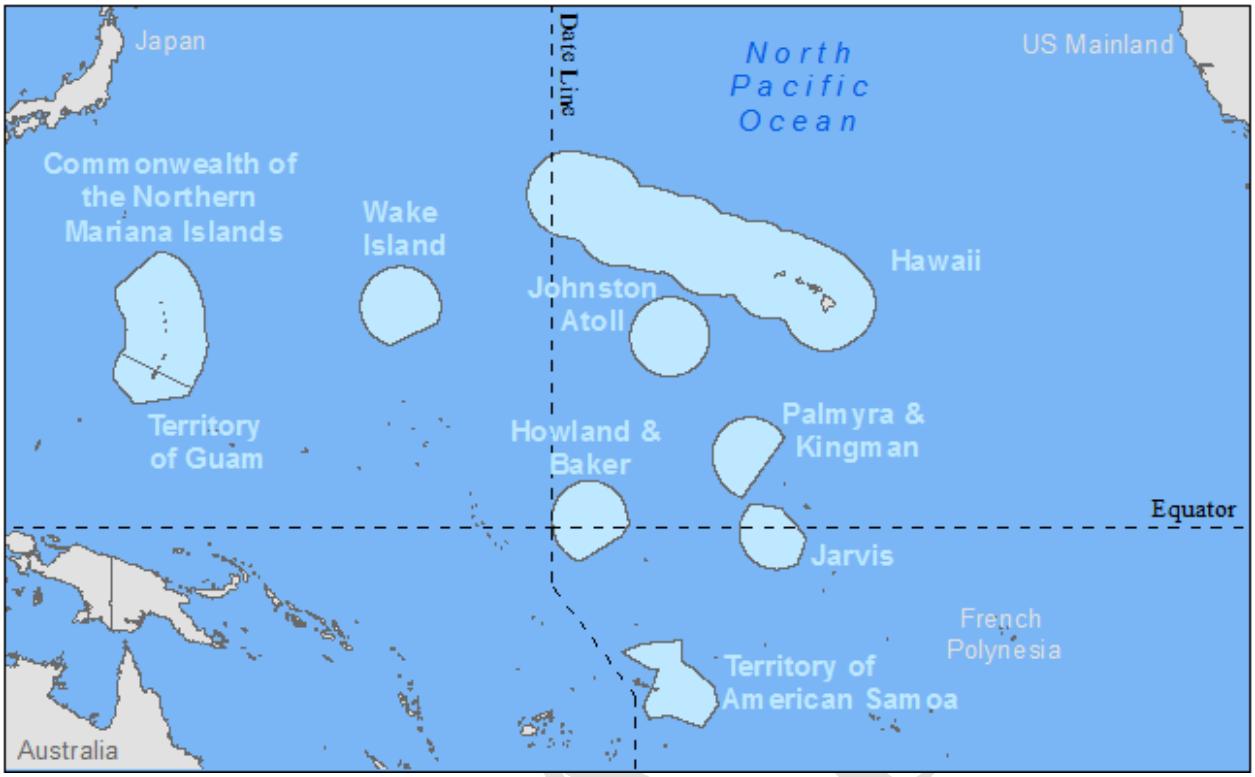

Figure 1. Map of the Western Pacific Region with the US EEZ in light blue

Since all of these Plans are interconnected, the Council opted in the mid-2000s to take an archipelagic ecosystem-based approach to fisheries managed and spent the next several years revising its five species/complex-based fishery management plans (FMPs) (Precious Corals FMP became effective in September 1983; Crustaceans FMP (March 1983); Bottomfish and Seamount Groundfish (August 1986); Pelagics FMP (March 1987); Coral Reef Ecosystems FMP (February 2004)) to place-based fishery ecosystem plans (FEPs). The five FEPs approved by the Council in 2007 and implemented in 2009 include the American Samoa Archipelago FEP, Mariana Islands Archipelago FEP, Hawaii Archipelago FEP, Pacific Remote Island Area FEP, and Pacific Pelagic FEP.

1.2 Authorities and Primary Management and Process Drivers

1.2.1 MSA

In 1976, the United States Congress passed the Fishery Conservation and Management Act to promote domestic fisheries and establish management authority over fishery and related resources within the 200 mile federal Exclusive Economic Zone (EEZ). The statute has been subsequently amended and reauthorized over the ensuing years and is now known as the Magnuson-Stevens Fishery Conservation and Management Act (MSA). It is the primary law governing federal management of United States fisheries.

Under the MSA, the United States (U.S.) has exclusive fishery management authority over all fishery resources found within its Exclusive Economic Zone (EEZ). For purposes of the MSA,

the inner boundary of the U.S. EEZ extends from the seaward boundary of each coastal state to a distance of 200 nautical miles from the baseline from which the breadth of the territorial sea is measured. In the Mariana Archipelago, the Western Pacific Regional Fishery Management Council (Council) has authority over the fisheries based in, and surrounding, the Territory of Guam and the Commonwealth of the Northern Mariana Islands.

The management system created by the MSA is unique in U.S. natural resource management. In order to avoid top-down, centralized fishery resource management, Congress established eight regional fishery management councils and provided them with responsibility for developing fishery management plans and recommending amendments to those plans on an ongoing basis, as well as regulatory language for implementation. As such, the Councils have a unique relationship with their primary partner federal agency, the National Marine Fisheries Service (NMFS). Councils are composed of federal, state, and territorial fishery management officials, participants in commercial and recreational fisheries, and other individuals with experience, scientific expertise, or training that give them knowledge about fishery conservation and management or commercial or recreational harvest. In addition, the MSA mandates certain advisory bodies (and authorized the Councils to creates others) so as to provide the Councils with technical advice and guidance in fishery policy decision making. The MSA mandates an open, public process for the development of fishery management measures and actions through the Council system.

As in other regions, responsibility for the management of marine resources in the Western Pacific is shared by a number of federal and local government agencies. At the federal level are the Council, the NMFS (also known as the NOAA Fisheries Service), the National Oceanic and Atmospheric Administration (NOAA), the U.S. Fish and Wildlife Service (U.S. Department of the Interior) and the U.S. Department of State. The U.S Coast Guard, in the U.S. Department of Homeland Security, as well as the Department of Defense, through the Air Force, Army, Navy and Marine Corps, also controls access, enforcement, and use of various marine waters throughout the region.

Sixteen members of the Council include the following:

- Regional Administrator, Pacific Islands Regional Office, National Marine Fisheries Service
- Director, Department of Marine and Wildlife Resources, Territory of American Samoa
- Secretary, Department of Land and Natural Resources, Commonwealth of the Northern Mariana Islands
- Director, Department of Agriculture, Territory of Guam
- Chair, Department of Land and Natural Resources, State of Hawaii
- One obligatory member from each of the four island areas nominated by their respected governors and appointed by the Secretary of Commerce
- Four at-large members nominated by the region's Governors and appointed by the Secretary of Commerce.
- District Commander, US Coast Guard 14th District (non-voting member)
- Director, Office of Marine Conservation, US State Department (non-voting member)
- Director, US Fish & Wildlife Service (non-voting member)

The basic functions of the Council as required by the MSA are diverse. For fisheries under its authority that require conservation and management the Council has the following responsibilities:

1. Prepares and transmits to the Secretary fishery ecosystem plans (FEPs) and amendments to such plans as necessary to address changing needs in conservation and management;
2. Prepares comments on any application for foreign fishing transmitted to the Council, and any fishery management plan or amendment transmitted to the Council;
3. Conducts public scoping, meetings and hearings at appropriate times and in appropriate locations in its geographic area so as to allow all interested persons an opportunity to be heard in the development of FEPs and amendments to such plans, and other matters with respect to the administration and implementation of the provisions of the Magnuson-Stevens Act and other Statutory requirements;
4. Submits to the Secretary such periodic reports as the Council deems appropriate and any other relevant report that may be requested by the Secretary;
5. Reviews on a continuing basis, and revises as appropriate, the following for each fishery within its geographical area of authority: assessments and related specifications with respect to the optimum yield (OY); the capacity and extent to which US fish processors will process US harvested fish; and the total allowable level of foreign fishing;
6. Develops annual catch limits (ACLs) for managed fisheries that may not exceed the fishing level recommendations of its Scientific and Statistical Committee (SSC) or similar peer-review process;
7. Develops, in conjunction with its SSC, five-year research priorities for fisheries, fisheries interactions, habitats and other areas of research that are necessary for management purposes; update them as necessary; and submit them to the Secretary of Commerce (Secretary) and the Pacific Islands Fisheries Science Center (PIFSC) of the National Marine Fisheries Service (NMFS) for their consideration in developing research priorities and budgets for the Pacific Islands/Western Pacific Region;
8. May review and provide comments on any federal or state action that may affect fishery habitat under the Council's jurisdiction; and
9. Conducts any other activities that are required by, or provided for in, the MSA or which are necessary and appropriate to the foregoing functions.

1.2.1.1 National Standards

To carry out the above functions, the Council pays particular attention to 10 National Standards (NS) described in the MSA, against which the Council's recommendations to the Secretary are measured:

1. Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the OY from each fishery for the United States fishing industry.

2. Conservation and management measures shall be based upon the best scientific information available.
3. To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range and interrelated stocks of fish shall be managed as a unit or in close coordination.
4. Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be fair and equitable to all such fishermen; reasonably calculated to promote conservation; and carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.
5. Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.
6. Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources and catches.
7. Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.
8. Conservation and management measures shall, consistent with the conservation requirements of the MSA (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities by utilizing economic and social data that meet the requirements of NS 2 in order to provide for the sustained participation of such communities, and, to the extent practicable, minimize adverse economic impacts on such communities.
9. Conservation and management measures shall, to the extent practicable, minimize bycatch and, to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.
10. Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

1.2.1.2 Essential Fish Habitat

In 1996, Congress passed the Sustainable Fisheries Act, which amended the MSA and added several new FMP provisions. From an ecosystem management perspective, the identification and description of essential fish habitat (EFH) for all federally managed species were among the most important of these additions.

According to the MSA, EFH is defined as "those waters and substrate necessary to fish for spawning, breeding or growth to maturity." This new mandate represented a significant shift in fishery management. Because the provision required councils to consider a MUS's ecological role and habitat requirements in managing fisheries, it allowed Councils to move beyond the traditional single-species or multispecies management to a broader ecosystem-based approach. In 1999, NMFS issued guidelines intended to assist Councils in implementing the EFH provision of the MSA, and set forth the following four broad tasks:

1. Identify and describe EFH for all species managed under an FMP.
2. Describe adverse impacts to EFH from fishing activities.
3. Describe adverse impacts to EFH from non-fishing activities.
4. Recommend conservation and enhancement measures to minimize and mitigate the adverse impacts to EFH resulting from fishing and non–fishing related activities.

The guidelines recommended that each Council prepare a preliminary inventory of available environmental and fisheries information on each managed species. Such an inventory is useful in describing and identifying EFH, as it also helps to identify missing information about the habitat utilization patterns of particular species. The guidelines note that a wide range of basic information is needed to identify EFH. This includes data on current and historic stock size, the geographic range of the managed species, the habitat requirements by life history stage, and the distribution and characteristics of those habitats. Because EFH has to be identified for each major life history stage, information about a species' distribution, density, growth, mortality, and production within all of the habitats it occupies, or formerly occupied, is also necessary.

The guidelines also state that the quality of available data used to identify EFH should be rated using the following four-level system:

Level 1:	All that is known is where a species occurs based on distribution data for all or part of the geographic range of the species.
Level 2:	Data on habitat-related densities or relative abundance of the species are available.
Level 3:	Data on growth, reproduction, or survival rates within habitats are available.
Level 4:	Production rates by habitat are available.

With higher quality data, those habitats most utilized by a species could be identified, allowing a more precise designation of EFH. Habitats of lesser value to a species may also be essential, depending on the health of the fish population and the ecosystem. For example, if a species is overfished, and habitat loss or degradation is thought to contribute to its overfished condition, all habitats currently used by the species may be essential.

The EFH provisions are especially important because of the procedural requirements they impose on both Councils and federal agencies. First, for each FMP, Councils must identify adverse impacts to EFH resulting from both fishing and non-fishing activities, and describe measures to minimize these impacts. Second, the provisions allow Councils to provide comments and make recommendations to federal or state agencies that propose actions which may affect habitat, including EFH, of a managed species. In 2002, NMFS revised the guidelines by providing additional clarifications and guidance to ease implementation of the EFH provisions by Councils.

Based on the best available information on pelagic habitats and fisheries, the Council has determined that the fisheries operating in pelagic waters in the Western Pacific region are not expected to have adverse impacts on EFH or Habitat Areas of Particular Concern (HAPC; a

subset of EFH) for managed species. Continued and future operations of fisheries under the pelagic FEP are not likely to lead to substantial physical, chemical, or biological alterations to the habitat, or result in loss of, or injury to, these species or their prey.

The description and identification of EFH and HAPC for fisheries managed under this FEP can be found in section 3, Management Regime. Information related to activities that may adversely affect EFH and EFH maps can be found in Appendices F and G. Life history and habitat information on managed species, on which the EFH descriptions are based, may be found in the EFH Source Document available on the Council's web site.

1.2.2 National Marine Fisheries Service Guidance

Primary authority for implementing and enforcing management action developed under the MSA rests with the U.S. Secretary of Commerce (Secretary), who has delegated this responsibility to the National Marine Fisheries Service (NMFS). The NMFS develops guidance to aid the Councils, fishermen and others to develop, implement and comply with fishery regulations. In addition, the Council and NMFS have established operating agreements to help define specific roles and responsibilities for developing, approving, and implementing fishery management plans and other actions under the auspices of the MSA. Such guidance documents and agreements include, but are not limited to, *Operational Guidelines for Fishery Management Process* and *Regional Operating Agreements*.

1.2.3 The National Environmental Policy Act

The National Environmental Policy Act (NEPA) requires federal agencies to assess and consider the effects of major federal actions on the quality of the human environment by considering the environmental impacts of proposed actions and reasonable alternatives to those actions. The Act also requires that the public be provided the opportunity to help identify, review and comment on such effects, particularly in cases where an environmental impact statement (EIS) is being prepared.

NEPA requires an environmental impact statement (EIS) for major federal actions that significantly affect the quality of the human environment. Agencies may conduct an environmental assessment to determine whether an EIS is necessary or whether a Finding of No Significant Impact (FONSI) or a Categorical Exclusion (CE) is warranted.

At the time of the final decision (and in the case of an EIS, at least 30 days after the Final EIS is noticed and at least 90 days after the Draft EIS is noticed), agencies must have prepared a record of decision (ROD), FONSI, or determined that a CE applies. It is important to be aware of the interaction of NEPA and MSA timing requirements. For example, the deadline for the Secretary to approve, disapprove, or partially approve a Council-submitted FMP or Amendment (i.e., 30 days after the close of the comment period on the FMP or Amendment and often referred to as "Day 95") should not occur prior to signing the ROD or the FONSI. If it is an FEIS, the ROD may not be signed sooner than 30 days after noticing the availability of the FEIS.

1.2.4 Endangered Species Act

The Endangered Species Act (ESA) provides for the conservation of species that are endangered or threatened, and the conservation of the ecosystems on which they depend. Section 7(a)(2) of the ESA requires each federal agency to ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat of such species. To "jeopardize" means to reduce appreciably the likelihood of survival and recovery of a species in the wild by reducing its numbers, reproduction, or distribution. As described in the NMFS policy for Integration of Endangered Species Act Section 7 with the Magnuson-Stevens Act Processes (PD 01-117), the Council plays an integral role in these consultations.

When a federal agency's action "may affect" an ESA-listed species, that agency is required to consult formally with NMFS (for marine species, some anadromous species, and their designated critical habitats) or the U.S. Fish and Wildlife Service (USFWS; for terrestrial and freshwater species or their designated critical habitat). The product of formal consultation is the agency's biological opinion (BiOp). Federal agencies are exempt from this formal consultation requirement if they have concluded that an action "may affect, but is not likely to adversely affect" ESA-listed species or their designated critical habitat, and NMFS or USFWS concur with that conclusion (see 50 CFR § 402.14(b)).

The ESA also prohibits the taking of listed species except under limited circumstances. Western Pacific regional fisheries are operated in accordance with terms of ESA consultations that consider the potential interactions of fisheries with listed species, the impacts of interactions on the survival and recovery of listed species, and the protection of any designated critical habitat.

As provided in 50 CFR § 402.16, NMFS is required to reinitiate formal consultation if:

(1) the amount or extent of the incidental take is exceeded;
(2) new information reveals effects of the agency action that may affect listed species or critical habitat in a manner or to an extent not considered in an opinion;
(3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in the opinion; or
(4) a new species is listed or critical habitat designated that may be affected by the action.

Fisheries operating under this FEP have the potential to interact with a range of protected species. A current list of ESA listed species applicable to the Pacific Pelagics FEP is included in the Annual Pelagic Fishery Ecosystem Report (SAFE Report) and additional information regarding protected species interactions in this FEP is included in Section 3.2 (Other Considerations Important for Implementation – Protected Species Information).

1.2.5 Marine Mammal Protection Act

The Marine Mammal Protection Act (MMPA) prohibits, with certain exceptions, the take of marine mammals in the U.S. EEZ and by U.S. citizens on the high seas, and the importation of marine mammals and marine mammal products into the United States. The MMPA gives the

Secretary authority and duties for the protection and conservation of all cetaceans (whales, dolphins, and porpoises) and pinnipeds (seals and sea lions, except walruses). The MMPA requires NMFS to prepare and periodically review marine mammal stock assessments (see 16 U.S.C. § 1361, *et seq*.).

Pursuant to the MMPA, NMFS has promulgated specific regulations that govern the incidental take of marine mammals during fishing operations (50 CFR 229). Under section 118 of the MMPA, NMFS must publish, at least annually, a List of Fisheries that classifies U.S. commercial fisheries into three categories, based on relative frequency of incidental mortality and serious injury to marine mammals in each fishery:

- Category I designates fisheries with frequent serious injuries and mortalities incidental to commercial fishing. Annual mortality and serious injury of a stock in a given fishery is by itself responsible for the annual removal of greater than or equal to 50 percent or more of any stock's potential biological removal (PBR) level.

- Category II designates fisheries with occasional serious injuries and mortalities incidental to commercial fishing. Annual mortality and serious injury of a stock in a given fishery is, collectively with other fisheries, responsible for the annual removal of greater than 10 percent of any stock's PBR level, and is by itself responsible for the annual removal of between 1 and less than 50 percent, exclusive, of any stock's PBR level.

- Category III designates fisheries with a remote likelihood or no known serious injuries or mortalities. A Category III fishery is, collectively with other fisheries, responsible for the annual removal of 10 percent or less of any stock's PBR level; or collectively with other fisheries, more than 10 percent of any stock's PBR level, but is by itself responsible for the annual removal of 1 percent or less of PBR level.

Owners of vessels or gear engaging in a Category I or II fishery are required under 50 CFR 229.4 to obtain a marine mammal authorization to lawfully incidentally take non-ESA listed marine mammals by registering with NMFS' marine mammal authorization program. Fishermen participating in Category I or II fisheries are also required to accommodate an observer onboard upon request by NMFS, and are required to comply with any applicable take reduction plans. Current List of Fisheries classifications for fisheries operating under the Pacific Pelagics FEP are included in the Annual Report.

Section 101 (a)(5)(E) of the MMPA requires the Secretary of Commerce to allow the incidental, but not intentional, taking of individuals from marine mammal stocks that are designated as depleted because of listing as threatened or endangered under the ESA in the course of commercial fishing operations if it is determined that three criteria are met:

1. Incidental mortality and serious injury will have a negligible impact on the affected species or stock;
2. A recovery plan has been developed or is being developed; and
3. Where required under section 118 of the MMPA, a monitoring program has been established, vessels engaged in such fisheries are registered in accordance with

section 118 of the MMPA, and a take reduction plan (TRP) has been developed or is being developed for such species or stock.

1.3 Pacific Pelagics

1.3.1 Geography

The Pacific pelagics environment differs from the Council's archipelagic and Pacific Remote Island Areas (PRIA) in that it is characterized primarily by open ocean. For information the island geographies of American Samoa, the Mariana Islands, the Hawaiian Islands, and the PRIA, please refer to the FEPs for those areas. For an inventory of the islands of the South Pacific, which includes notes on geology and structure of the different land masses in the region, please see Douglas (1969).

Information on the hydrographic characteristics of South Pacific marine environments has been summarized from various sources by Wauthy (1986). The waters that form the surface layer of the tropical west and central Pacific enter into the transpacific intertropical circulation from the eastern boundaries of two subtropical anticyclonic gyres, where the coastal upwelling of California and Peru provide enrichment of nutrient rich subsurface waters. The waters remain on the surface and the thickness well established thermocline. As these waters move from east to west they grow warmer and more impoverished as nutrients are consumed by photosynthesis and particulate materials are sedimented. Limited primary production continues on the basis of partial re-mineralization within the isolated upper surface layer of the water column.

Nutrient-depletion leads to very clear blue oceanic water in which suspended particles are depleted and living organisms are scarce. The term 'oceanic desert' has been used by Lisitzin (in Wauthy 1986) to describe these nutrient poor-waters. Primary productivity in the photic zone ranges on average from 20 to 50 $gCm^{-2}yr^{-1}$(FAO 1972). Upwelling is one mechanism by which impoverished tropical waters can be enriched with nutrients from the subsurface waters and this has been observed at the equator. Another mechanism whereby subsurface nutrient-rich waters reach the euphotic zone involves shallowing of the thermocline at 10°N and 10°S, at the edge of the equatorial counter currents. In the South Pacific, nutrient inputs from precipitation and runoff are of major significance only in the waters surrounding the large island archipelagos of Melanesia where highlands are extensive and rainfall is very heavy. Not surprisingly, the highest oceanic primary productivities in the region (90-180 $gCm^{-2}yr^{-1}$) are found on the shelf area of the Gulf of Papua which receives much of the drainage from PNG highlands region.

Combination of various physical factors results in the accumulation in the tropical Pacific of a thick surface layer of warm water west of 180°. This accumulation forms one of the pre-conditions necessary for the generation of cyclones or hurricanes that are a common meteorological phenomenon in the South Pacific. The second pre-condition is the existence of a cyclonic-like convergence in the lower layers of the atmosphere that can be found in the western tropical Pacific between the equatorial monsoon winds from the west and the easterly trade winds. In the northwest tropical Pacific, cyclones form most frequently between June and November, and are most frequent in August/September, with an average of 18 per year. South of the equator, cyclones occur from December to April and are less frequent than in the northwest, with an average of four per year (Wauthy 1986).

Large-scale oceanic events such as the El Niño Southern Oscillation (ENSO) also influence the coastal marine environment of the South Pacific islands. The Southern Oscillation Index is the difference in atmospheric pressure between Tahiti and Darwin, which is usually positive due to the low pressure area over Indonesia and Australia. During an ENSO episode, the pressure gradient reverses and becomes negative for a prolonged period with a consequent shift in climatic and oceanographic conditions. The easterly trade winds weaken and westerly winds are observed over parts of the equatorial western Pacific. The area of warm water usually associated with the western tropical Pacific is displaced eastward over the central and eastern Pacific region and the ocean waters of the western Pacific cool. This phenomenon results in the appearance of an anomalous warm ocean current off the coasts of Peru and Ecuador around the Christmas season and hence was named by Peruvian fishermen 'El Niño', the familiar diminutive Spanish term for the infant Christ.

This major climatic shift produces unseasonal droughts in the western Pacific and unseasonal rains in the central and eastern Pacific. Information from commercial tuna fisheries in the South Pacific and pelagic and demersal fisheries in South America suggests that ENSO events can, depending on species, have both negative and positive effects on catch ability and apparent abundance. In the western and tropical Pacific, the abundance of surface skipjack and yellowfin tuna stocks shifts eastwards during an ENSO episode. This can be inferred from the concentration of fishing effort by tuna purse-seine vessels, which during normal years concentrate to the West of 160°E line of longitude and to the east of this line during an ENSO event (Anon. 1995). Little is known at present about how ENSO events affect coastal fish and invertebrate stocks in the South Pacific due to the lack of any suitable time series of data. It is likely, however, that such a large scale anomaly will have an influence on productivity and recruitment, especially in those species with long oceanic pelagic larval stages, and those reef species that are sensitive to anomalous water levels during spawning or recruitment.

There may be other long-term climatic cycles in the Pacific region that will influence the productivity and abundance of pelagic marine organisms. Polovina et al. (1994) describe such an event in the Hawaiian Islands that began in the mid-1970s and ended in the late 1980s. Over a 10-year period, this climatic event promoted the movement of nutrient-rich deep ocean water into the euphotic zone during the first quarter of the year. This in turn resulted in higher survival of fish, crustaceans, seals and sea birds. The decline in the event was followed by declines in the recruitment and abundance of fish, crustaceans, birds and seals. During this event an important commercial lobster fishery in the Northwest Hawaiian Islands (Fig. 2, 72) expanded rapidly in the mid-1980s then declined as recruitment to the population was markedly reduced, despite the efforts of fisheries managers to promote sustainable yields from the fishery.

1.3.2 People and Demographics

The following information is specific to participants in the pelagic fishing fleets fleets covered by the Pacific Pelagics FEP and is sourced from Pickering and Gist (2011). Unfortunately, much of the information is dated. For social and demographic information specific to American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and Hawaii, please refer to the Council's archipelagic fishery ecosystem plans and annual fishery ecosystem reports.

Hawaii

Racial demographics of the Hawaii-based longline fleet were examined in 2000 by O'Malley and Pooley. Korean-American (30% of the fleet) and Caucasian-American owners (27%) generally fished for tuna, while Vietnamese-American owners (43%) primarily targeted swordfish, but also fished for tuna. Allen and Gough (2006) examined Filipino crew members working in the Hawaii-based longline fleet and provide a thorough exploration of the perspectives and experiences of Filipino fishermen working as crew in the Hawaii longline industry in 2003.

Hospital et al. (2011) found that an overwhelming majority of fishermen in the Hawaii small boat pelagic fishery are male (97.8%). Respondents averaged 45 years in age and approximately 23.5 years of fishing experience. The largest ethnicity represented in the fishery was Asian (46.7%), followed by White (23.2%), and Native Hawaiian or Pacific Islander (8.9%) Approximately 21.2% identified with more than one race.

In a study of troll and handline fisheries by Miller (1995), those interviewed ranged in age from 21-61, averaging 38 years. The primary occupation of 20 participants was charter fishing, four were full-time troll and handline fishermen, four were dive instructors, and the remaining 23 who answered this question held a wide array of occupations. The ratio of females to males was 1:53. Regarding the involvement of women in Hawaii's fisheries, this data may be misleading. As stated by Glazier (2007), "Women *do* participate [in Hawaii's fisheries] indirectly: transporting fish to the auction, purchasing ice, doing palapala (paper work), and so forth." Survey work found that captain's wives participated in 60% of secondary participation, and the captain's mothers and daughters participated in another 12% (Glazier, 2007).

Hamilton (1999) showed that pelagic troll fishermen in Hawaii could be classified statistically into 'Recreational', 'Expense', 'Part-Time Commercial' and 'Full-Time Commercial'. Significant differences were found between all groups for avidity, catch, catch rates, percent of catch sold, annual gross fishing revenue and percent of income from fishing profits.

The charter fishing community is generally considered to be boat owners, captains and crew members. According to O'Malley (2001), the majority of the charter fishing community is between 31-50 years old, with 25% between the ages of 41-50. Crew members are typically younger than captains with average ages of 29 and 46 respectively. The charter community is nearly all male, with one survey reporting 98.8% of the charter fishing community as male (Walker, 1997). The majority of charter captains, boat owners and crew were not from Hawaii; 42% were born in California, 22% in Hawaii, and nearly all of the rest coming from other places on the U.S. Mainland (O'Malley, 2001). O'Malley (2001) found that 84% of surveyed charter fishing patrons were from the U.S. Mainland, while 3% were from Hawaii. Charter patrons interviewed were typically middle-class, with 24% reporting annual incomes over $150,000.

American Samoa

The role of fishing as a central and organizing force for communities in American Samoa has undergone dramatic changes over the past 50 years or more. The islands' population has more than tripled over that time period, with a steady shift from a largely subsistence-oriented economy to a cash-based economy. Fishing events such as the annual *atule* and *palolo* harvests

continue to organize and mobilize many villages, but a smaller percent of American Samoans are taking part in these activities today, and the role of fishing as a central aspect of community within American Samoan life and culture has become less prominent over time. Fishing and marine resources are universally considered to be important aspects of *fa'a Samoa,* the Samoan way of life, but access to cash income and ready availability of food imports have made American Samoans less inclined to engage in fishing.

While change in nearshore fishing effort for subsistence purposes has not been consistently measured, a significant downward trend is evident since the 1980s. The catch rate for the outer islands, which have not experienced the same increase in population as the main island of Tutuila, is not decreasing in the same way that it is on Tutuila.

Traditionally, all village work, including fishing, was organized at the village and family level. The village *fono* decided, according to season, what sort of community fishing should take place. The *tautai*, or master fisherman, of the village was a key decision maker who was awarded higher status than other *matai* (who might otherwise outrank him) when it came to matters of fishing. Fishing and canoe building were important skills that could improve village status and prestige. Customarily, and still today, the village controls rights of access to nearshore marine resources. A non-village member must gain permission from the mayor or village council to fish in an area adjacent to a village. Each village is also able to establish its own restrictions on fishing and access for the entire community. Community-specific restrictions on use of marine resources have been formalized in some cases through the government's Community-based Fisheries Management Program.

Commercial fishing activity has undergone several cycles over time. The Dory Project in the early 1970's initiated an era of modern fishing technology in American Samoa by providing easy credit and loans to fishermen to develop offshore fisheries. The project developed a boatbuilding facility that produced 23 vessels over a 3-year period. In the 1980s, dories were replaced by larger, more powerful vessels that could stay several days at sea. These *alia* catamarans, usually 28 to 32 ft long and powered by an outboard-engine, used primarily trolling and bottomfishing gear. In 1995, some *alia* captains began using horizontal longline gear, which quickly became the largest fishery in American Samoa based on total landed weight of the catch. In the early 2000s, bigger, monohulled longline vessels entered the fishery, resulting in greatly increased landings—over 15 million pounds in 2002, compared to under 2 million pounds in 2000.

The tuna canneries based in American Samoa are another critical aspect of American Samoa as a fishing community. Canneries first began operating in American Samoa in 1954 and today, the canneries are the largest private-sector source of employment in the region. As the principal industry in the territory, the tuna canneries also shape other aspects of the American Samoan economy. For example, many private-sector jobs in the territory involve delivery of goods or services to tuna processors, and economic growth in the consumer retail and service sectors is tied to tuna industry expenditures and the buying patterns of cannery workers. StarKist Samoa, the largest tuna cannery in the world, produces more than 60% of American Samoa's canned tuna, while Chicken of the Sea produces the remaining 40%.

<u>Commonwealth of the Northern Mariana Islands</u>

The most recent detailed survey of small boat fishing in the CNMI was conducted by Courtney and Beavers (2014).

On average, vessels in the CNMI are approximately 18 ft long with a 98 hp engine, were built in the early 1990s, and purchased in the early 2000s. All vessels in the survey were reported to be less than 25 ft in length. Considerable evidence showed co-ownership and sharing of fishing vessels as, on average, nearly 70% of vessel owners reported that their vessel is used, at least part of the time, without the boat owner on board. On average, fishermen reported 3 people on board while fishing. About one third (31%) of the fleet reported to be a 2-person operation with a captain and one crew member, while another third (31%) typically fish with one captain and two crew members. A mere 2% of fishermen reported to always fish alone.

CNMI fishermen, on average, reported approximately 37 boat fishing trips in the past 12 months, with fishermen who sold fish reporting more fishing trips relative to those who do not sell fish. Boat fishermen in the CNMI use many gear types and target many species throughout the year. On average, fishermen reported the use of 3 different gear types/target species during the past 12 months, with pelagic trolling as the most popular gear type followed closely by deepwater bottomfish fishing, shallow-water bottomfish, and spear fishing.

Survey respondents indicated that their fishing trips in the past 12 months were evenly distributed within both local (< 3 nm from shore) and offshore waters (3–200 nm). The importance of Fish Aggregating Devices (FADs) was evident as 71% of fishermen reported to have fished at a FAD during the past 12 months, and on nearly 22% of their fishing trips. A high degree of seasonal fishing effort was found for all fishing activity across most subgroups of the fleet, although fishermen on Tinian and Rota were more likely to report fishing year round. A majority of fishermen (74%) reported selling at least a portion of fish caught in the past 12 months and, on average, these fishermen reported selling fish after approximately 47% of their fishing trips in the past 12 months. On average, fishermen reported selling roughly 38% of their total catch.

For the majority of the fleet there is considerable heterogeneity in levels of market participation, utilization and access, although the majority consider the fish they sell to contribute *very little* to their personal income, as cost recovery is a major motivation for selling a portion of catch. However, there appear to be significant market limitations for CNMI fishermen as less than half (43%) of survey respondents indicated that they can always sell all the fish that they want to sell. During 2010 and 2011, the cost of a trolling trip averaged approximately $188 with a median cost of $179. As anticipated, fuel expenses accounted for a majority (78%) of total pelagic trip expenditures. Likewise, the average bottomfish trip cost was reported at $179 with a median of $138. Fishermen reported an average reef fish trip to cost approximately $108 (median of $94). Fuel accounted for a similar share of the cost structure across all fishing methods. In total, it is estimated that CNMI small boat fishermen responding to our survey provided direct trip-related sales impacts ranging from approximately $0.60 million (using median trip costs) to $0.72 million (using mean trip costs) to the CNMI economy.

In addition to variable trip costs, fishing requires significant annual fixed-cost expenditures. Nearly every survey respondent (88%) reported to incur at least some non trip- related fishing expenditures during 2010. The most common expenditure categories were fishing gear (84%), oil and lube (67%), repair and maintenance (67%), safety equipment (58%), and fees (49%). As one would expect, the median annual fishing related expenditure in 2010 was significantly higher for boat owners ($3075) relative to non-boat owners ($175). In aggregate CNMI small boat fishermen responding to our survey incurred total annual fishing expenditures of approximately $0.31 million. In considering the direct economic impact to the local island economy, fishermen reported, on average, that 64% of fishing expenditures were purchased directly on island. Therefore, direct sales impacts of fishermen responding to the survey from non-trip related expenditures equate to approximately $0.20 million.

The breakdown of catch disposition in the CNMI small boat fishery reflects the social and cultural motivations towards fishing and sheds light on the complexities of classifying catch in the small boat fisheries. Fishermen who responded to our survey reported that approximately 28% of fish catch was consumed at home, while 38% was given away, with approximately 29% of fish sold. The remaining catch is either released (2%) or exchanged for goods and services (3%). This diversity of catch disposition even extends to avid fishermen who regularly sell fish as they still retain approximately 22% of their catch for home consumption and participation in traditional fish-sharing networks and customary exchange. Additionally, fish are clearly an important source of food for fishing families: 86% consider the pelagic fish they catch to be an important source of food, with higher rates for bottomfish and reef fish at 91% and 93%, respectively. These findings validate the importance of fishing in terms of building and maintaining social and community networks, perpetuating fishing traditions, and providing fish to local communities as a source of food security.

Guam

The most recent examination of pelagic fishermen in Guam was conducted by Rubinstein in 2001. The investigators collected data from 340 separate fishing trips by 97 fishermen. The fishermen were residents of 16 villages, with a mean length of village residence of 17 years. All but two of the fishermen were men, and neither of the two women were Pacific Islanders. According to Rubinstein (2001), "This gender distribution reflects the strong cultural values in Micronesia that discourage women from involvement in pelagic fishing; significantly, neither of the two women in our sample are Pacific Islanders" Indigenous Chamorros accounted for the largest proportion (41%) of pelagic fishermen in Guam, which about corresponds to the proportion of the Guam population that claimed Chamorro ethnicity in the 1990 Guam census. Other Micronesians, mainly from Palau and the Federated States of Micronesia, formed 18% of the fishing population, while Filipino fishermen comprised 7% of the pelagic fishing population.

The fishermen in the Rubinstein sample had an estimated 4.1 members per household. Guam pelagic fishermen on average had a higher median household income ($50,000 vs. $30,755). The distribution of this income is highly uneven, however, as the Micronesian fishermen from the Republic of Palau and the Federated States of Micronesia earn a median household income of only $20,000, with a mean household size of 6.9.

1.3.2.1 Socio-political boundaries

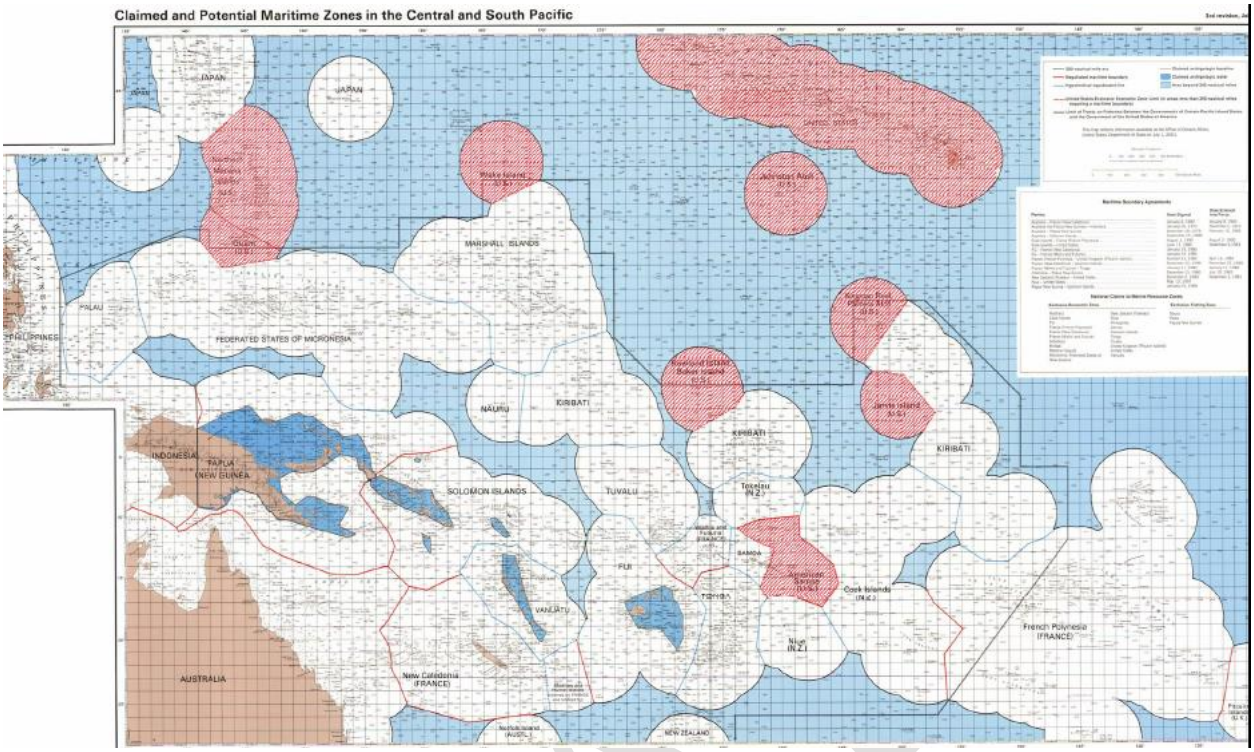

Figure 2. States and Territories in the Western and Central Pacific Ocean. US EEZs are shown in red.

International coordination is an important component of marine resource management within the island areas of the Western Pacific Region. For example, fish stocks and other marine resources that found within the US EEZs of the US Pacific Islands may be part of larger populations that occur on larger geographic scales (Figure 2). Also, the US EEZ around the islands areas within the Western Pacific Region are adjacent to other EEZs of foreign countries. Marine debris from foreign sources also wash ashore on US Pacific Islands To support international coordination, the territories of American Samoa, Guam and CNMI, and the USA are members of the Secretariat of the Pacific Community and South Pacific Regional Environmental Program. The three territories are also recognized as Participating Territory within the Western and Central Pacific Fisheries Commission. The US and American Samoa also has formal observer status within the Pacific Islands Forum Fisheries Agency.

Several of the Council major pelagic fisheries operate in a dynamic international fishery management arena, principally governed by two Regional Fishery Management Organizations (RFMOs) – the Western and Central Pacific Fisheries Commission (WCPFC) and the Intern-American Tropical Tuna Commission (IATTC). The line of demarcation is at 150° W longitude, with a dog leg at 130° to incorporate all of French Polynesia. This division of jurisdiction makes the Western Pacific Council the most internationally-focused of the US fishery management councils.

The WCPFC, established in 2000 through the Honolulu Convention, includes Australia, China, Canada, Cook Islands, European Community, Federated States of Micronesia, Fiji, France,

Japan, Kiribati, Korea, Republic of Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Philippines, Samoa, Solomon Islands, Chinese Taipei, Tonga, Tuvalu, the United States of America, and Vanuatu. It was the first regional fishery management organization to be based on the principles of the United Nations Convention on the Law of the Sea.

The situation in the WCPFC is complicated by the establishment of a Northern Committee, which considers fishery management issues to the north of 20° N latitude and is concerned with species such as northern albacore, swordfish and North Pacific bluefin tuna, which are of little concern to most Pacific Island nations. However, there is overlap between the north and south over issues of mutual interest such as bigeye and blue marlin. The Northern Committee has also absorbed a forum, the Interim Scientific Committee to study the tuna and tuna-like species of the North Pacific Ocean (ISC), as its main source of scientific advice.

The IATTC was established in 1950 between the United States and Costa Rica. Its membership has expanded to also include Colombia, Nicaragua, Guatemala, Panama, Ecuador, Peru, El Salvador, Mexico and Venezuela. This membership is supplemented by participation by France, Spain, Vanuatu, Japan and Korea. The most notable absence from the IATTC is Chile, which forms a significant part of the western boundary of the Pacific. The initial 1950 convention was superseded by the Antigua Convention of 2004, which among other things broadened the area of application from 30° north and south to 50 ° north and south, thus including stocks such as swordfish, albacore and bluefin tuna.

Finally, the Pacific islands are all members of the Secretariat of the Pacific Community (SPC), which was first convened in 1947 and also includes the governments of New Zealand, Australia, the United States, Britain and France. The 14 independent island states (excludes US, French and UK territories), with the addition of New Zealand and Australia, are also members of the South Pacific Forum, which was established in 1971. The Conference and the Forum have secretariats housed in New Caledonia and Fiji, respectively. Both institutions support fisheries in the South Pacific: the Forum through the Solomon Islands based Pacific Islands Forum Fisheries Agency, which is concerned with managing access by distant water fishing nations to the region's tuna stocks, and the SPC through its Oceanic Fisheries Program, which perform research and development.

1.3.2.2 Fishing Communities

The MSA defines a fishing community as a community which is substantially dependent on or substantially engaged in the harvest or processing of fishery resources to meet social and economic needs, and includes fishing vessel owners, operators, and crew and United States fish processors that are based in such community.

Island communities in the Western Pacific have depended upon the surrounding ocean and its resources have long provided residents with a source of food and opportunities for maritime commerce and recreation for millennia. Because participants in various fisheries in the Western Pacific are not concentrated in specific locales but rather reside in villages and small towns across the islands, and because fishing, seafood, and fishing-related businesses assume extensive social and economic importance throughout the region, the Council recommended in 1999 that the Secretary of Commerce designate American Samoa, Guam and the CNMI as fishing communities under the MSA. The NMFS Pacific Islands Fisheries Science Center has since

developed general profiles of these fishing communities. In 2002, the Council recommended in 2002 that the Secretary of Commerce designate each of the Main Hawaiian Islands as fishing communities under the MSA.

The social and economic interplay between island residents and the surrounding ocean environment is central to an understanding of community life in the archipelago. The islands are relatively small and most towns and villages are located along the coastal zone. As such, the ocean is an ongoing visual presence in the lives of all residents. Because most island areas the Council's jurisdiction are located some thousands of miles from the nearest continent and over 5,500 miles from North America, goods must be transshipped on or over thousands of miles of ocean. This has led to a relatively high cost of living and limited availability of certain goods and services. The tourism economy is closely related to recreation and leisure opportunities along the coastal zone, and it too is conditioned by distance of travel to the islands. Fishing activities are important across the region, and living marine resources are used for commercial sale, household consumption, and as a source of recreation. Various aspects of local and indigenous history, culture, and society are closely related to the surrounding ocean and use of its resources.

2 MANAGEMENT POLICY, GOALS, AND OBJECTIVES

2.1 Council Management Policy

The Council's management policy is to apply responsible and proactive management practices, based on sound scientific data and analysis and inclusive of fishing community members, to conserve and manage fisheries and their associated ecosystems.

2.2 Pacific Pelagic FEP Purpose and Need

The Fishery Management Plan (FMP) for the Pelagic Fisheries of the Western Pacific Region became effective on March 23, 1987 (52 FR 5987). The Pelagic Management Unit Species (PMUS) at that time were billfish, wahoo, mahimahi, and oceanic sharks. The FMP's first measures prohibited drift gillnet fishing within the region's waters of the Exclusive Economic Zone (EEZ) and prohibited foreign longline fishing within certain areas of the EEZ.

The Pacific pelagic area contains various stocks and stock complexes that are found in federal waters and on the high seas and which provide important benefits to the Nation. Since these resources are in need of management, the Council is required under the MSA and international treaties to develop management plans to accomplish this. In addition, the habitats for these fish, as well as other elements of the marine ecosystem, such as sea turtles, cetaceans, and corals, are also locally and nationally important. Since all of these are interconnected, the Council opted in the mid-2000s to take an archipelagic ecosystem-based approach to fisheries managed and spent the next several years revising its species/complex-based fishery management plans (FMPs) to place-based fishery ecosystem plans (FEPs).

The Council's decision to transition to ecosystem-based fishery management (EBFM) followed Congressional direction in 1998 to the NMFS to establish an Ecosystem Principles Advisory Panel (Panel; EPAP). The Panel was tasked with assessing the extent to which ecosystem principles were being or could be used in fisheries management and recommending how to further ecosystem principle use to improve the status and management of marine resources. The Panel was composed of members of academia, fishery and conservation organizations, and fishery management agencies (see below).

2.3 Pacific Pelagics Fishery Ecosystem Plan Goals

The Pacific Pelagics FEP establishes a framework under which the Council can recommend management measures required by federal law and best available scientific information. The National Oceanic and Atmospheric Administration (NOAA) defines an ecosystem approach as "management that is adaptive, specified geographically, takes account of ecosystem knowledge and uncertainties, considers multiple external influences, and strives to balance diverse social objectives" In addition, because of the wide-ranging nature of ecosystems, successful implementation of ecosystem approaches will need to be incremental and collaborative (NOAA 2004).

On international, national, and local levels, institutions and agencies tasked with managing marine resources are moving toward an ecosystem approach to fisheries management. One

reason for this shift is a growing awareness that many of Earth's marine resources are stressed and the ecosystems that support them are degraded. In addition, increased concern regarding the potential impacts of fishing and non-fishing activities on the marine environment, and a greater understanding of the relationships between ecosystem changes and population dynamics, have all fostered support for a holistic approach to fisheries management that is science based and forward thinking (Pikitch et al. 2004).

In order to achieve EBFM, this plan: 1. identifies the management objectives of the Pacific Pelagics FEP; 2. delineates the boundaries of the Pacific Pelagics FEP; 3. designates the management unit species included in the Pacific Pelagics FEP; 4. details the federal fishery regulations applicable under the Pacific Pelagics Archipelago FEP; and 5. establishes appropriate Council structures and advisory bodies to provide scientific and management advice to the Council regarding the Pacific Pelagics FEP. In addition, this plan provides the information and rationale for these measures; discusses the key components of the Pacific Pelagics ecosystem, including an overview of the region's non-pelagic fisheries; and explains how the measures contained here are consistent with the MSA and other applicable laws.

This FEP has four goals:

Goal 1. Conserve and manage target and non-target stocks;
Goal 2. Protect species and habitats of special concern;
Goal 3. Understand and account for important ecosystem parameters and their linkages, and;
Goal 4. Meet the needs of fishermen, their families, and communities.

2.4 Pacific Pelagics FEP Objectives

To achieve the policy and goals of the Pacific Pelagics FEP, the Council has adopted the following objectives. (Reorder Objectives same as Am Samoa)

OBJECTIVE 1. Support Fishing Communities

a. Identify the various social and economic groups within the region's fishing communities and their interconnections.
b. Ensure that regulations designed to meet conservation objectives are written to be as minimally-constraining as possible.
c. Select alternatives that minimize adverse economic impacts to fishing communities when possible.
d. Eliminate regulations that are no longer necessary (i.e., eliminate access barriers).
e. Increase communication between fishery sectors.
f. Support fishery development, training and processing opportunities.
g. Support projects, programs and policies that increase sustainable fishing opportunities.

OBJECTIVE 2: Prevent Overfishing on Council-managed Stocks

a. Develop status determination criteria for appropriate stocks.
b. Monitor fisheries to understand when overfishing may be close to occurring
c. Rebuild overfished stocks

OBJECTIVE 3. Improve Fishery Monitoring and Data Collection

a. Increase the number of fishery ecosystem elements being monitored.
b. Improve the timeliness of data availability.
c. Improve the quantity and quality of relevant fishery data.
d. Encourage research to improve precision of data regarding protected species populations and distributions.
e. Increase research coordination between the Council, the state, and federal agencies.

Increase the quality and quantity of monitoring and enforcement data through improved technology.

OBJECTIVE 4. Promote Compliance

a. Understand factors that may result in non-compliance.
b. Consider ways to develop or increase buy-in from affected parties.
c. Ensure that regulations are written and implemented so as to be easy to follow and enforce.
d. Develop codes of conduct specific to individual fisheries.

OBJECTIVE 5. Reduce Bycatch and Minimize Interactions and Impacts to Protected Species

a. Maintain minimal impacts to protected species and other bycatch species while maintaining the viability of fisheries.
b. Promote viable methods and technologies that may reduce interactions with seabirds, marine mammals, sea turtles and other protected species.
c. Encourage non-regulatory approaches to reducing protected species and bycatch impacts where necessary and appropriate
d. Increase fishermen's knowledge about protected species issues and regulations and ways to minimize interactions.
e. Continue to work with federal and state agencies to protect relevant threatened and endangered species.
f. Improve assessment of protected species and bycatch species impacts through improvements in data collection, research and monitoring.
g. Encourage research that examines whether and to what extent bycatch is an issue in the fisheries covered by this management plan.

OBJECTIVE 6. Refine and Minimize Impacts to Essential Fish Habitat

a. Review and update EFH and HAPC designations on regular schedule (5-years) based on the best available scientific information of a higher EFH level than was used for the original designation.
b. Identify and prioritize research to: assess adverse impacts to EFH and HAPC from fishing and non-fishing activities, including, but not limited to, activities that introduce land-based pollution into the marine environment.

OBJECTIVE 7. Increase Traditional and Local Knowledge in Decision-making

a. Identify relevant indigenous and local practices and knowledge that may improve scientific inquiry regarding Council-managed fisheries.
b. Utilize cultural practitioners, concepts, and bodies in the analysis of management alternatives.

c. Utilize fishermen knowledge in the analysis of management alternatives.

OBJECTIVE 8. Consider the Implications of Spatial Management Arrangements in Council Decision-making

a. Identify and prioritize research that examines the positive and negative consequences of current no-take fishing areas to fisheries, fishery ecosystems, and fishermen, such as military installations, Monuments, and Marine Conservation Areas.
b. Consider whether the goals of any spatial-based fishing restrictions proposed in federal waters appear to be achievable.
c. Establish effective spatially-based fishing zones.
d. Remove spatial-based fishing restrictions that are no longer necessary.

OBJECTIVE 9. Consider the Implications of Climate Change in Council Decision-making

a. Identify and prioritize research that examines the effects of climate change on Council-managed fisheries and fishing communities.
b. Ensure climate change considerations are incorporated into the analysis of management alternatives.
c. Monitor climate-change related variables via the Council's Annual Reports.
d. Engage in climate change outreach with US Pacific islands communities.

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3 MANAGEMENT REGIME AND FISHERY INFORMATION

3.1 Management Regime

3.1.1 Pacific Pelagic FEP Management Unit Species

Management unit species (MUS) are those species that are managed under each FMP or FEP. In fisheries management, MUS typically include those species that are caught in quantities sufficient to warrant management or specific monitoring by NMFS and the Council. The primary impact of inclusion of species in an MUS list is that the species (i.e., the fishery targeting that species) can be directly managed. National Standard 3 of the MSA requires that to the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination. The MUS of the Pacific Pelagic FEP are the same (identical) to the current MUS managed under the Pelagic FMP (see Table 1).

Those species for which maximum sustainable yields (MSYs) have been estimated are indicated with an asterisk and their MSY values can be found in Section 3.1.1.1.10 and Table 2. Some of the species included as MUS are not subject to significant fishing pressure and there are no estimates of MSY or minimum stock size threshold (MSST, the level of biomass beneath which a stock or stock complex is considered overfished) or maximum fishing mortality threshold (MFMT, the level of fishing mortality, on an annual basis, above which overfishing in occurring) available for these species at this time. However, these species are important components of the ecosystem and for that reason are included in this FEP. Permitting and data collection measures established under the existing FMPs will be continued under this FEP. Including these species as MUS in the FEP is consistent with MSA National Standard 3 which states that "To the extent practicable, an individual stock of fish shall be managed as a stock throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination." (50 CFR 600.320). This section further provides that "A management unit may contain, in addition to regulated species, stocks of fish for which there is not enough information available to specify MSY and optimum yield (OY) or to establish management measures, so that data on these species may be collected under the FMP". Under the adaptive approach that utilizes the best available scientific information, the Council, in coordination with NMFS, will continue to develop and refine estimates or proxies of MSY for these species when sufficient data are available. The establishment of MSY proxies is consistent with 50 CFR 600.310 text regarding MSA National Standard 1 which states that "When data are insufficient to estimate MSY directly, Councils should adopt other measures of productive capacity that can serve as reasonable proxies of MSY to the extent possible." Future management measures that would directly affect the harvest of any MUS contained in this FEP will be subject to the requirements of the MSA and other applicable laws.

Table 1. Pacific Pelagic Management Unit Species (PMUS).

Scientific Name	English/Local Common Name	Scientific Name	English/Local Common Name
TUNAS		**BILLFISHES**	

Scientific Name	English/Local Common Name	Scientific Name	English/Local Common Name
TUNAS		**BILLFISHES**	
*Thunnus alalunga**	albacore	*Tetrapturus audax**	striped marlin
*T. obesus**	bigeye tuna	*T. angustirostris*	shortbill spearfish
*T. albacares**	yellowfin tuna	*Xiphias gladius**	swordfish
T. thynnus	northern bluefin tuna	*Istiophorus platypterus*	sailfish
*Katsuwonus pelamis**	skipjack tuna	*Makaira mazara**	blue marlin
Euthynnus affinis	kawakawa	*M. indica*	black marlin
Auxis spp. *Scomber* spp. *Allothunus* spp.	other tuna relatives		
SHARKS		**OTHER PELAGICS**	
Alopias pelagicus	pelagic thresher shark	*Coryphaena* spp.	mahimahi (dolphinfish)
A. superciliousus	bigeye thresher shark	*Lampris* spp.	moonfish
A. vulpinus	common thresher shark	*Acanthocybium solandri*	wahoo
Carcharhinus falciformis	silky shark	*Gempylidae*	oilfish family
C. longimanus	oceanic whitetip shark	*Bramidae*	pomfret family
*Prionace glauca**	blue shark	*Ommastrephes bartamii*	neon flying squid
Isurus oxyrinchus	shortfin mako shark	*Thysanoteuthis rhombus*	diamondback squid
I. paucus	longfin mako shark	*Sthenoteuthis oualaniensis*	purple flying squid
Lamna ditropis	salmon shark		

3.1.1.1 Hawaii Longline Fishery

3.1.1.1.1 Description

Longline fishing in Hawaii dates from 1917 using wooden style sampans off the Waianae coast of Oahu. Changes in fishing methods and greater amounts of fishing gear characterized the expansion of the longline fleet over the ensuing decades. Boggs and Ito (1993) give a comprehensive account of the history of the Hawaii longline fishery up to the early 1990s, and readers should see that document for information on the history of the fishery.

All Hawaii longline vessels fish for bigeye tuna, with some vessels still opting to seasonally fish for swordfish out of Hawaii. Vessels now deploy continuous nylon monofilament main lines stored on spools with snap-on monofilament branch lines. The fleet size ranged between 120 and

130 vessels during the 1990s, but more recently has been between 135 and 140 vessels, and the number of hooks deployed has increased 50%-70% since the mid-2000s. In the mid-1980s, longliners began exploring fishing grounds up to 800 n.mi. from the Main Hawaiian Islands, and distant-water fishing gradually became more common in the 1990s.

Conflicts with other fisheries and interactions with protected species led to the exclusion of the longline fishery from the nearshore waters of the Hawaii Archipelago in 1990 and 1991. Longline fishing was prohibited within a radius of 50 n.mi. off the Northwestern Hawaiian Islands (NWHI) to prevent interactions with Hawaiian monk seals. In mid-1991, the Council established a buffer zone prohibiting longline fishing within a radius of 75 n.mi. of the Kauai and Oahu and 50 n.mi of the coasts of Maui, Molokai Lanai, Kahoolawe and Hawaii.

3.1.1.1.2 Type and Quantity of Fishing Gear

Longline gear is comprised of monofilament longline mainline stored on a hydraulically operated drum. Typically, between 30-50 n.mi of mainline are deployed in a set. This line is suspended surface floats to form a series of catenary curves in the water column to which the branch lines are attached and suspended.

In targeting bigeye tuna, 15-25 hooks are deployed between floats with sag to reach as deep as 400 m. A line thrower is required to put sag into a monofilament longline as it is deployed so that it can fish so deeply. In targeting swordfish, only a few hooks are deployed between floats and the line is kept relatively taut so that it stays in the upper 30-90 m of water. Night fishing employs luminescent "light sticks" which attract broadbill swordfish or their prey. Originally imported squid were used for bait, but this was switched to fish bait due to management measures to reduce sea turtle interactions.

3.1.1.1.3 Catch in Numbers and Weight

The catch by numbers by the Hawaii longline fleet is shown in Figure 3. The fishery has increased production of total catch from 400,000 fish to 500,000 fish per year, driven by expansion of the deep-set tuna fishery. The shallow set swordfish fishery has remained relatively static since 2005, landing on average between 35,000 to 40,000 fish.

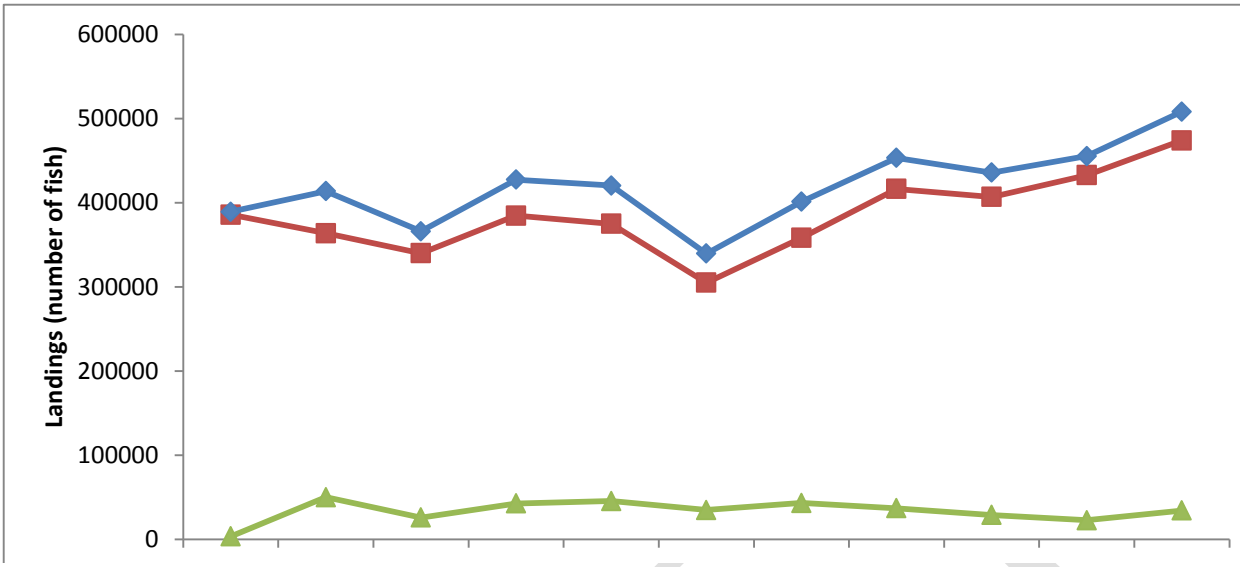

Figure 3. Landings in number of fish by the deep set and shallow set longline fisheries in Hawaii

The deep set fishery landed 25.1 million lbs in 2013, worth $86.5 million and 26.8 million lbs in 2014 worth $79.1 million. The shallow set longline fishery landed 2.3 million lbs in 2013, worth $3.2 million and 3.3 million lbs in 2014, worth $4.0 million. For current information regarding Hawaii longline catch and revenues please refer to the most current WPFMC Pelagic Fishery Ecosystem Report (SAFE Report).

The composition of the deep set and shallow set segments of the Hawaii longline fishery are shown in (Figure 4 & Figure 5)

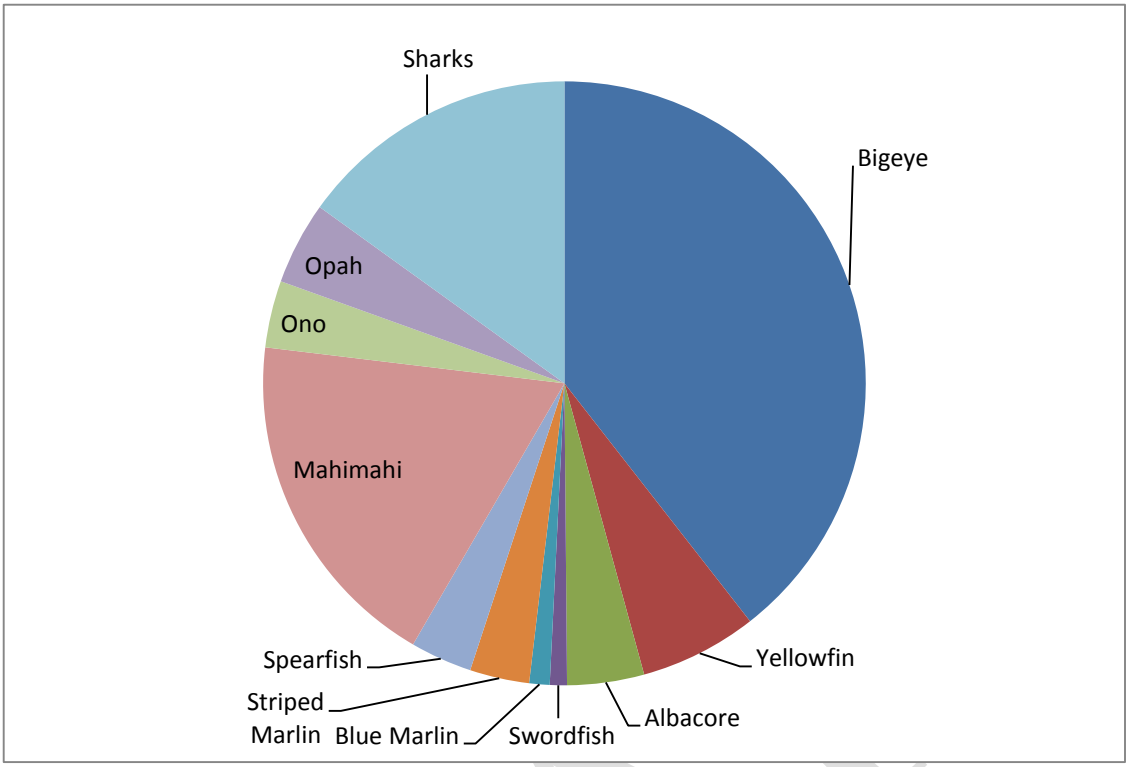

Figure 4. Species composition of the deep set segment of the Hawaii longline fishery, 2014

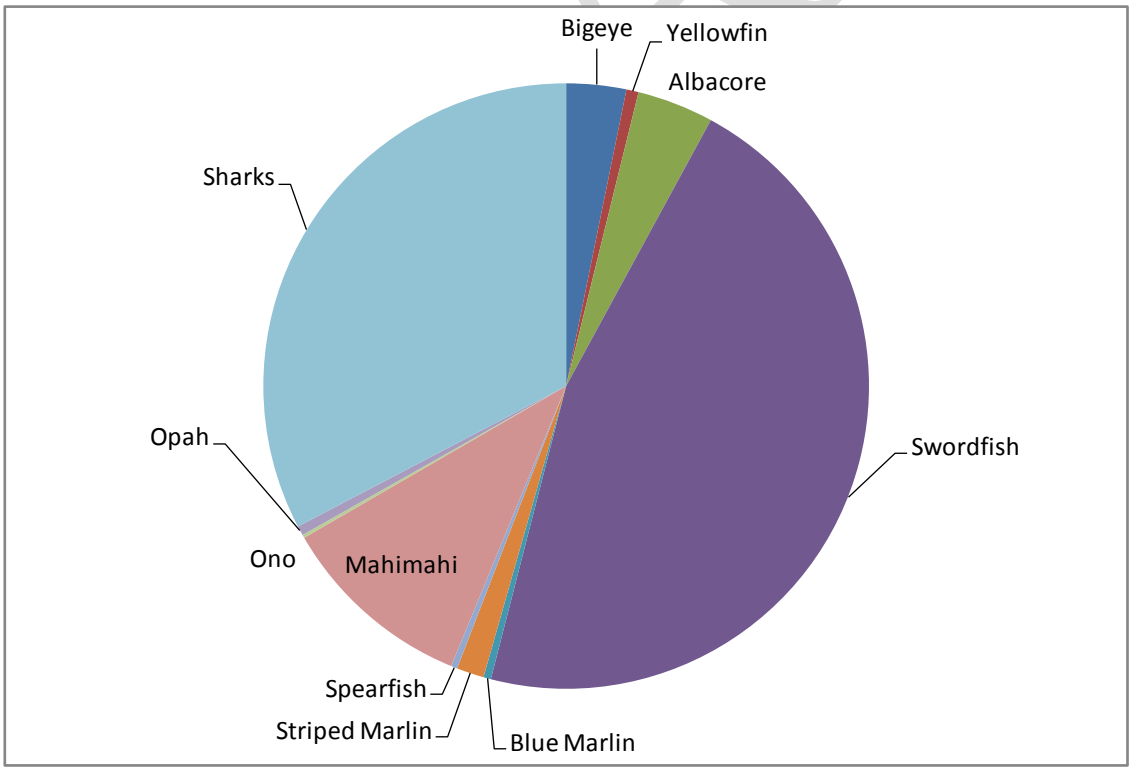

Figure 5. Species composition of the shallow set segment of the Hawaii longline fishery, 2014

3.1.1.1.4 Fishing Areas

The shallow set swordfish fishery operates predominantly to the north and east of the Hawaii Archipelago. In 2014, the fishery extended up to the US EEZs off the West Coast and Mexico (Figure 6). The deep set fishery operates both to the north and south of the Hawaii archipelago, and on occasions may fish as far south as equatorial latitudes around Palmyra Atoll. The deep set fishery may also operate in the same northern latitudes as the shallow set fishery and may range nearly as far to the east (Figure 7).

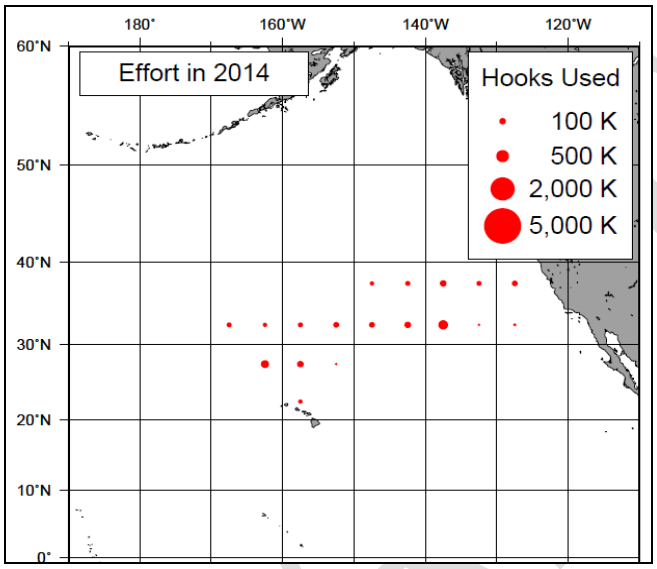

Figure 6. Distribution of shallow-set longline fishing effort in 2014

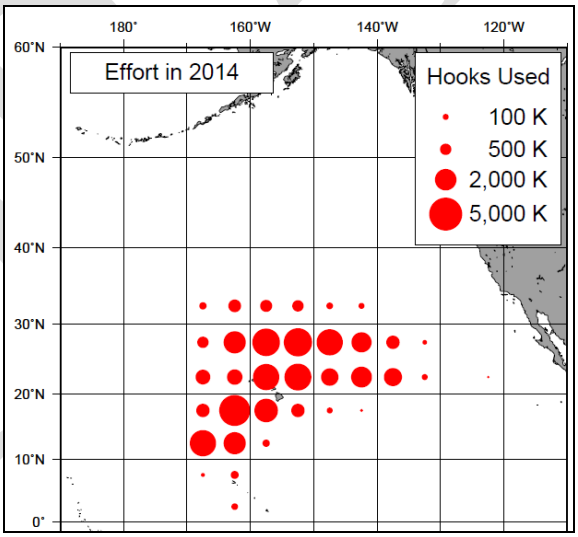

Figure 7. Distribution of deep-set longline fishing effort in 2014

3.1.1.1.5 Time of Fishing

Shallow set longline fishing for swordfish is required by regulations to set an hopur after local dusk and to have completed the haul an hour before local dawn. Deep set tuna longlining is not proscribed in the regulations, but starts at dawn, with the set retrieved at about 5:00 pm in the afternoon, with hauling continuing to after midnight.

3.1.1.1.6 Number of Sets

The number of sets is shown in Figure 8. The number of shallow sets after 2004 has ranged between 850 and 1833 sets with an average of about 1,400 sets. In the deep set fishery, the number of sets has shown a rising trend between 2001 to 2007, where it levels off at around 17,000-18,000 sets.

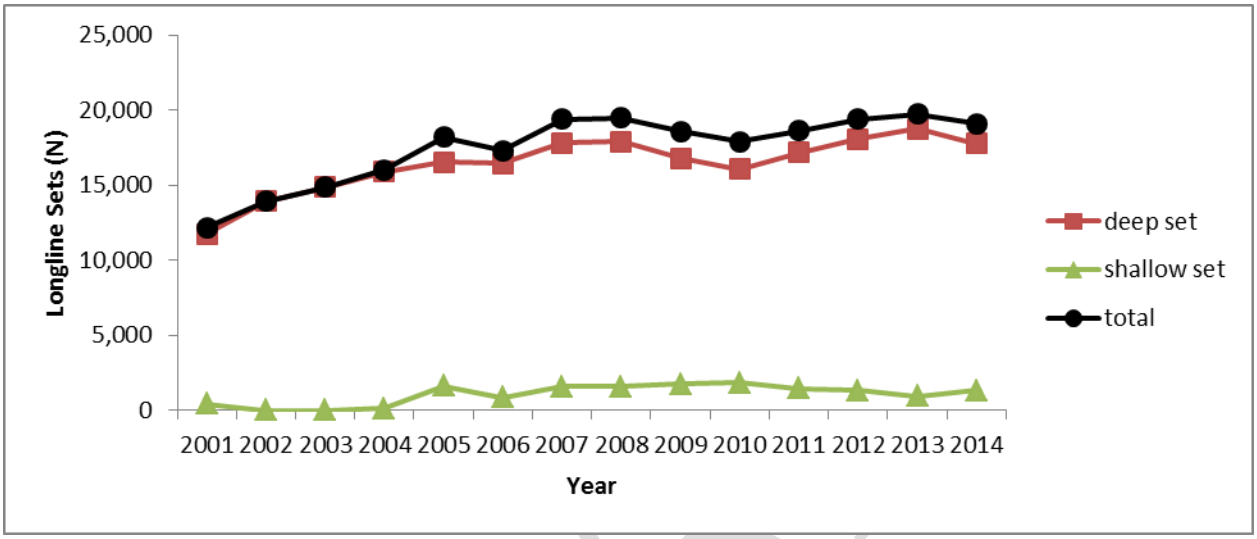

Figure 8. Trends in deep, shallow and total sets by the Hawaii longline fishery, 2001 - 2014

3.1.1.1.7 Economics

The most valuable tuna is Pacific bluefin, though landings of this species are negligible. Bigeye, which forms about 60% of the deep set fishery landings comprises over 70% of the landed value. Swordfish comprise about 90% of the shallow set longline fishery and between 70-80% of the landed value. The average direct revenue from the longline fishery (deep-set and shallow-set) between 2002 and 2012 was $68,603,000, with a high of $92,334,000 (2012) and a low of $50,849,000 (2002). For current information regarding revenue of the fishery, price per pound, total direct employment, and fisheries-dependent services or industries, please refer to the most current WPFMC Pelagic Fishery Ecosystem Report (SAFE Report).

3.1.1.1.8 Estimated and Actual Processing Capacity Utilized by U.S. Processors

Most of the Hawaii longline catch is utilized by US processors, either locally in Hawaii or on the mainland. Almost all the tuna landed by the longline fishery is retained in Hawaii, while most of the swordfish is exported to markets in the US East Coast.

3.1.1.1.9 Present and Probably Future Condition of the Fishery

The present condition of the fishery is likely to remain largely unchanged unless legal challenges to FEP Amendment 7 are successful and bigeye catch from the US territories can no longer be transferred to Hawaii (expand). The other potentially constraining factor for the future of the fishery is how much further the US Government wants to restrict fishing by longline vessels in

the WCPO. The declaration of the Pacific Remote Islands Marine National Monument removed a total of 2,030,000 km^2 of ocean area that could be fished by the longline fleet. Limitations on high seas fishing in the Western and Central Pacific as proposed by the Parties to the Nauru Agreement may also constrain the Hawaii longline fishery if the US acquiesces to any such proposals at the WCPFC.

3.1.1.1.10 Yield

3.1.1.1.10.1MSY

Stock assessments have been conducted for a number of major pelagic species in the Pacific (Table 2). Figure 9 shows the status of these stocks relative to MSY following the Council approved MSY control rule (see Appendix E), based on the latest stock assessments.

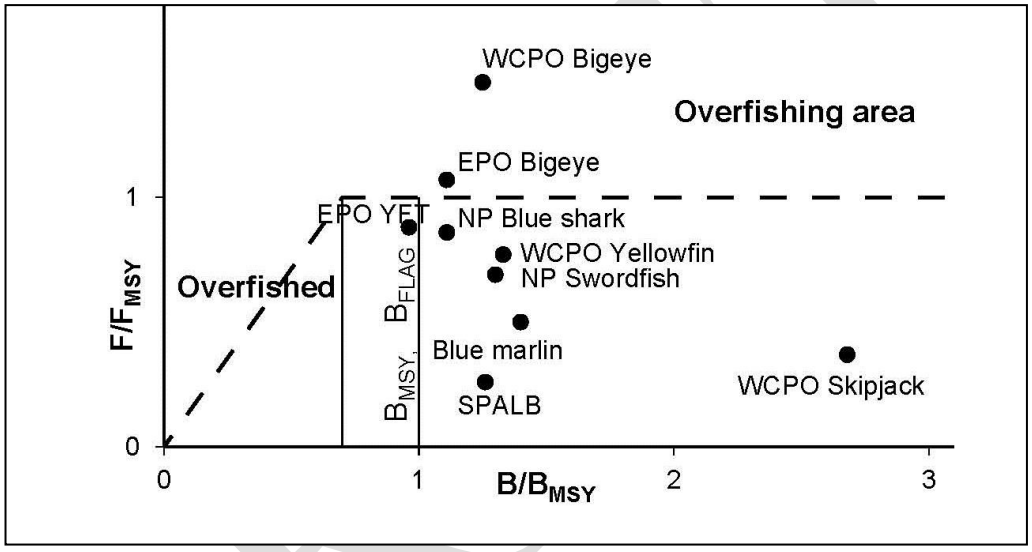

Figure 9. Specification of fishing mortality and biomass reference points in the WPRFMC Pelagics FMP and current stock status in the western-central (WCPO) and eastern Pacific Ocean (EPO).

Table 2. Summary of the most recent stock assessments and status of PMUS in the WCPO and EPO

Stock	Overfishing reference point	Is overfishing occurring?	Approaching Overfishing (2 yr)	Overfished reference point	Is the stock overfished?	Approaching Overfished (2 yr)	Assessment results	Natural mortality[1]	MSST
Skipjack Tuna (WCPO)	F/F_{MSY}=0.37	No	No	B/B_{MSY}=2.68	No	No	Hoyle et al. 2011	>0.5 yr^{-1}	0.5 B_{MSY}
Yellowfin Tuna (WCPO)	F/F_{MSY}=0.77	No	No	B/B_{MSY}=1.33	No	No	Langley et al. 2011	0.8-1.6 yr^{-1}	0.5 B_{MSY}
Albacore Tuna (S. Pacific)	F/F_{MSY}=0.21	No	No	SB/SB_{MSY}=2.56	No	No	Hoyle et al. 2012	0.4 yr^{-1}	0.7 SB_{MSY}
Albacore Tuna (N. Pacific)	Unknown	No		Unknown	No		ISC 2011	0.4 yr^{-1}	0.6 B_{MSY}
Bigeye Tuna (WCPO)	F/F_{MSY}=1.46	Yes	Not applicable	B/B_{MSY}=1.25	No	No	Davies et al. 2011	0.4 yr^{-1}	0.6 B_{MSY}
Pacific Bluefin Tuna	Unknown	Yes	Not applicable	Unknown	Yes	Not applicable	ISC 2014	0.25-1.6 yr^{-1}	~0.72 B_{MSY}
Blue Marlin (Pacific)	F/F_{MSY}=0.81	No	Unknown	SB/SB_{MSY}=1.28	No	Unknown	ISC 2013	0.22-0.42 yr^{-1}	~0.7 B_{MSY}
Swordfish (N. Pacific)	F/F_{MSY}=0.54	No	Unknown	B/B_{MSY}=1.60	No	Unknown	ISC 2009	0.3 yr^{-1}	0.7 B_{MSY}
Striped Marlin (N. Pacific)	F/F_{MSY}=1.24	Yes	Not applicable	SB/SB_{MSY}=0.35	Yes	Not applicable	ISC 2012	0.4 yr^{-1}	0.6 SB_{MSY}
Blue Shark (N. Pacific)[2]	F/F_{MSY}=0.86	No	Unknown	B/B_{MSY}=1.11	No	Unknown	Kleiber et al. 2009	0.2 yr^{-1}	0.8 B_{MSY}
Oceanic white-tip shark (WCPO)	F/F_{MSY}=6.69	Yes	Not applicable	SB/SB_{MSY}=0.15	Yes	Not applicable	Rice and Harley 2012	0.18 yr^{-1}	0.82 B_{MSY}
Silky shark (WCPO)	F/F_{MSY}=4.32	Yes	Not applicable	SB/SB_{MSY}=0.72	Yes	Not applicable	Rice and Harley 2013	0.18 yr^{-1}	0.82 B_{MSY}
Other Billfishes	Unknown			Unknown				Unknown	
Other Pelagic Sharks	Unknown			Unknown				Unknown	
Other PMUS	Unknown			Unknown				Unknown	

3.1.1.1.10.2OY

Optimum yield or OY for the PMUS is defined in the original Pelagics FMP as "the amount of each species in the management unit that will be caught by domestic and foreign fishing vessels in the EEZ in accordance with the measures contained in this plan." This definition was amended in 1992 to also apply to tunas. In addition, in 1994 Amendment 7 revised the definition of OY to recognize that it should encompass the fishery beyond the EEZ. In Amendment 7 define OY as "the amount of each management unit species or species complex that can be harvested by domestic and foreign fishing vessels in the EEZ and adjacent waters to the extent regulated by 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".

As the definition of OY and the objectives of the FEP make clear, however, the Council also is concerned with localized overfishing and economic overfishing with a focus on conditions in the EEZ. These are conditions in which recreational fisheries are not satisfying to their participants or commercial fisheries are uneconomical due to availability of the stocks in the areas being fished relative to the fishing power of the fleets. These conditions may occur even though the stocks (on an ocean-wide basis) are above the levels at which they would be considered "recruitment overfished." The Council intends to manage the fisheries so that the economic viability of commercial fisheries and the social-benefits-associated- with satisfying recreational fisheries and with traditional fishing practices for non-market personal consumption are maintained. The FEP promotes, within the limits of managing at OY, domestic harvest of the management unit species in the EEZ and domestic fishery values for these species by enhancing the opportunities for satisfying recreational opportunities and profitable commercial fishing operations. Expansion of existing fisheries or the development of new fisheries would be managed in this context.

Given the non-numeric definition of OY for the Pelagics FMP, it is difficult to quantify the

domestic capacity to harvest OY or that portion of OY that can be made available for foreign fishing and to date no total allowable level of foreign fishing (TALFF) has been specified for this fishery. With the exception of the American Samoa longline fishery which freezes catches, harvests by pelagic fisheries of the Western Pacific Region supply fresh fish markets, with little to no processing beyond heading and gutting of swordfish, and gilling and gutting of tunas and mahimahi > 20 lb in the Hawaii longline fishery. Thus domestic processors appear fully capable of processing 100 percent of domestic pelagic fish harvests in the Hawaii segment of the Western Pacific Region.

3.1.1.1.10.3Extent to Which Fishing Vessels will Harvest OY

The Hawaii longline fishery is a multispecies fishery ranging over a wide are of ocean, well beyond the confines of the EEZ. Catches of the commercially valuable species have tended to increase with increasing fishing effort, though this is far from strongly correlated. Bigeye catch has increased with increasing number of sets and hooks deployed by the deep set fishery, as have moonfish and pomfret. Other species such as wahoo and mahimahi have remained relatively static, and catches of sharks have declined markedly.

Skillman et al (1993) have suggested that pelagic catches in the EEZ around Hawaii would tend towards an asymptote with increasing fishing pressure, however the longline fishery now fishes predominantly on the high seas. Moreover, unlike at lower latitudes, where fishing pressure has caused significant depletion of bigeye (Reference), catches of bigeye at high latitudes do not appear to be depleting the stock.

3.1.1.1.10.4 Extent to Which U.S. Fish Processors will Process OY

Almost all of the catch landed by the Hawaii longline fleet is sold through the local auction (United Fishing Agency) or directly to local seafood processors. Most of the swordfish is exported to the US mainland, primarily to East Coast markets, while the tuna and other species remain in Hawaii to satisfy local demand. A few Hawaii permitted longline vessels are based out of West Coast ports and sell their fish to markets in California.

3.1.1.1.11 Annual Catch Limit

PMUS managed under the Pelagics FEP qualify for the 'international exception' under National Standard 1 of the MSA, as they are managed through conservation and management measures and resolutions from the WCPFC and IATTC respectively.

3.1.1.1.11.1Limit

The PMUS caught by the Hawaii longline fleet are not subject to ACLs, as they qualify for the international exception. The MSA provides an exception to the ACL requirement for stocks or stock complexes subject to management under an international agreement, which is defined as any bilateral or multilateral treaty, convention, or agreement that relates to fishing and to which the United States is a party. However, these excepted stocks still must have SDC and MSY specified.

The Hawaii longline fleet is subject to Conservation and Management Measures (CMMs) from the Western and Central Pacific Fisheries Commission (WCPFC), and Resolutions of the Inter-

American Tropical Tuna Commission (IATTC). The US engages in domestic rulemaking for the Hawaii longline fleet based on commission measures.

The principal measures enacted by these two commissions which have the greatest impact on the Hawaii longline fleet are for bigeye tuna. In 2008 the Hawaii longline fleet was forced to reduce its catch to 90% of its 2004 level (4,181) mt for the years 2009-2011 under WCPFC CMM 2008-01. This catch limit was maintained until the passage of CMM 2013-01, which required further 5% cuts in 2015 (3,554 mt)and 2017 (3,345 mt) Currently, the IATTC Resolution C-13-01, which limits vessels (US) vessels > 23 m to a catch of 500 mt of bigeye tuna.

Under CMM2008-01 and its successors, the three US territories had no limits on their bigeye catch. The Council approved Amendment 7 to the Pelagics FEP, which capped the territory bigeye at 2000 mt per year and allowed the territories to transfer up to 1,000 mt of bigeye to a US fishing entity, namely the Hawaii longline fishery. Amendment 7. Prior to the approval of Amendment 7 to the PFEP, Congress, through an appropriations bill in 2011 gave the authority to the US territories as Amendment 7, until the Council finalized the amendment.

3.1.1.1.11.2Accountability Measures

In the event that the Hawaii longline fishery approaches its specified bigeye limit in the WCPO or EPO, then the fishery is prohibited from retaining bigeye for the remainder of the year. This only applies to vessels > 24 m in the EPO

3.1.1.1.12 Criteria for Determining Overfishing

Where stock assessments are conducted, overfishing is defined as Ft/Fmsy > 1.0, overfished is defined as Bt/Bmsy < Bmsst. In the absence of stock assessments other proxies are used such as the annual variation in catch per unit of effort (CPUE), changes in size frequency and average size and spawning potential ratio.

3.1.1.1.13 MSA Conservation and Management Measures

The Council has been proactive in protecting pelagic marine ecosystems and managing US pelagic fisheries since 1987, with implementation of the Pelagics Fisheries Management Plan (now Pelagic Fisheries Ecosystem Plan), which among other things banned drift gillnets in the US EEZ of the Western Pacific.

In the 1990s, area closures were established by the Council in the Northwestern Hawaiian Islands to protect monk seals and turtles, and around the Main Hawaiian Island to prevent competition between small boats and longline vessels (Figure 10). In the same period, under the PFMP, logbooks, observers and VMS were required by the Council on the Hawaii longline fishery, and the Council also established a limited entry program for the Hawaii fishery with a cap of 164 permits.

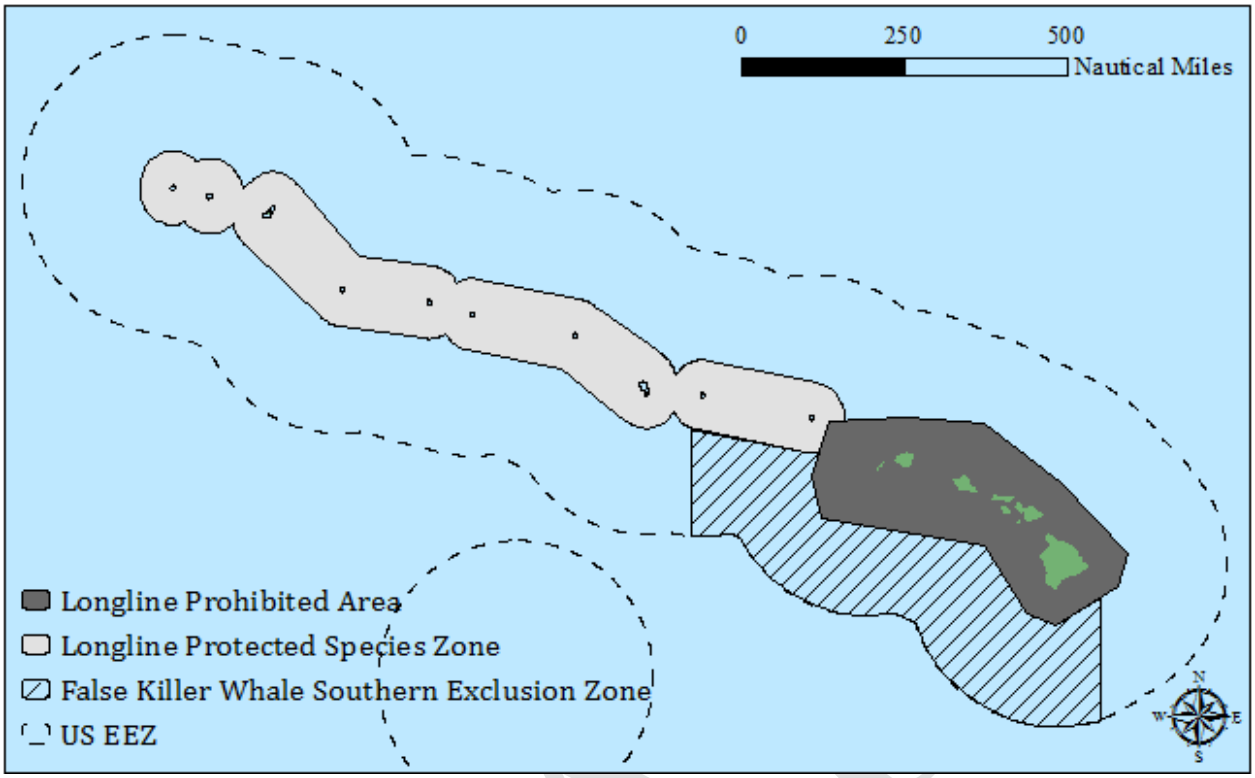

Figure 10. Map of the longline management zones around the Hawaiian Archipelago

Currently, observer coverage is 20% for the deep set bigeye targeting segment of the fishery and 100% on the shallow-set swordfish targeting vessels.

In the late 1990s and early 2000s, the longline fishery was required by the Council to adopt fishing gear and operational changes which resulted in a 90-95% decline of seabird and sea turtle interactions. The seabird and turtle mitigation measures were developed and tested in large part by the fishing industry, while the industry, Council and e-NGOs developed the turtle management regime.

The Hawaii longline fishery continues to operate under hard caps for loggerhead and leatherback sea turtle interactions which close the fishery for the reminder of the year. Longline owners and skippers are required to be annually certified in the safe handling and release of incidentally caught seabirds and turtles, and longline vessels are mandated to carry specific equipment to facilitate bird, turtle and cetacean release.

3.1.1.1.14 Regulations implementing International Recommendations and other Applicable Laws

The Hawaii longline fleet is subject to Conservation and Management Measures (CMMs) from the Western and Central Pacific Fisheries Commission (WCPFC), and Resolutions of the Inter-American Tropical Tuna Commission (IATTC). The US engages in domestic rulemaking for the Hawaii longline fleet based on commission measures.

The principal measures enacted by these two commissions which have the greatest impact on the Hawaii longline fleet are for bigeye tuna. In 2008 the Hawaii longline fleet was forced to reduce its catch to 90% of its 2004 level (4,181) mt for the years 2009-2011 under WCPFC CMM 2008-01. This catch limit was maintained until the passage of CMM 2013-01, which required further

5% cuts in 2015 (3,554 mt)and 2017 (3,345 mt) Currently, the IATTC Resolution C-13-01, which limits vessels (US) vessels > 23 m to a catch of 500 mt of bigeye tuna.

CMM 10-07 prohibits the retention of silky sharks and oceanic white tips in the WCPO, while the IATTC's Resolution C-11-10 prohibits longline retention of silky sharks in the EPO.

In 2011, False Killer Whale Take Reduction Plan requires Hawaii longline fishery to fish with 'weak hook', no longer fish within the winter reduction of the MHI area closure, and the establishment of a southern MHI closure zone in the event of two mortality and serious injury hookings of false killer whales.

3.1.1.1.15 Bycatch Amount and Type

Bycatch is monitored by the Hawaii longline logbooks and by the observer program on the Hawaii longline vessels. The logbook record of discards is concerned primarily with the commercially important species, although it does document shark species which have little commercial value in Hawaii. Observers take records of every third fish hauled by the longliners and this is expanded through a series of algorithms to the total fleet wide catch. This record includes fish with no market value such as lancetfish and stingrays.

For current information regarding Hawaii longline bycatch please refer to the most current WPFMC Pelagic Fishery Ecosystem Report (SAFE Report) and the National Bycatch Report from NMFS.

3.1.1.2 American Samoa Longline Fishery

Longlining was introduced to American Samoa in 1995 by fishermen from Western Samoa. Initially, *alia* catamarans, Samoan-built, twin aluminum-hulled boats with fiberglass or wood superstructures generally 24 to 38 ft in length and powered by small (40 hp) gasoline outboard engines (Kaneko and Bartram, 2004), were the vessels most frequently used for longline fishing. This vessel type was dominant during the 1980s and 1990s in American Samoa. Navigation on these vessels was visual, using landmarks. The gear was stored on deck on a hand-crank reel which held as much as 10 miles or as little as 2–3 miles of monofilament mainline.

Gear for longlining on alias was set by spooling the mainline off the reel and retrieved by hand-pulling the line back to the boat. The reel was used to take up and store the mainline as it was pulled. Trips were one day long (about 8 hours). Setting the equipment generally began in the early morning and hauling was generally in the midday to mid-afternoon. The catch was stored in boxes built into the hull of the boat or in portable coolers or freezer chests.

The predominant catch is albacore tuna, which is sold to the tuna cannery. By 1997, 33 alia vessels received general longline permits from NMFS to fish in federal waters around American Samoa, although only 21 were actively fishing at that time. The number of small longline vessels participating in longline fishing in American Samoa has dropped substantially and since 2008, only one alia vessel has been actively longline fishing and NMFS cannot report its landings due to data confidentiality rules.

In 2000, the American Samoa longline fishery began to expand rapidly with the influx of large (≥50 ft) conventional monohull vessels similar to the type used in the Hawaii-based longline fishery, including some vessels from Hawaii. These vessels were larger, had a greater range, and

were able to set 30-40 miles of mainline and more hooks per trip than the average alia vessel. The number of permitted and active longline vessels in this sector increased from three in 1997 to 31 in 2003. Of these 31 vessels, 10 permits were believed to be held by indigenous American Samoans as of March 21, 2002 (P. Bartram, Akala Products Inc pers. comm. to Council Staff March 2002). Economic barriers, such as the capital needed to purchase, operate and maintain a large fishing vessel, may have prevented more substantial indigenous participation in the large-scale sector of the longline fishery. Over time, most of the small longline vessels became inactive and in 2013, there was one small (Class A) vessel, and 23 active Class C and D (large) vessels in the fishery (Figure 20).

3.1.1.2.1 Type and Quantity of Fishing Gear

Longline gear is comprised of monofilament longline mainline stored on drum. Gear for longlining on alias was set by spooling the mainline off the reel and retrieved by hand-pulling the line back to the boat. The reel was used to take up and store the mainline as it was pulled. Trips are one day long (about 8 hours). Setting the equipment generally began in the early morning and hauling was generally in the midday to mid-afternoon. The catch was stored in boxes built into the hull of the boat or in portable coolers or freezer chests.

Mainline on larger vessels in stored on a hydraulically operated drum. Typically, between 30-50 nm of mainline are deployed in a set. This line is suspended surface floats to form a series of catenary curves in the water column to which the branch lines are attached and suspended.

Vessels longer than 50 feet can set from 1,500 to over 4,000 hooks per day on between 30 and 40 miles of mainline. They have a greater fishing range and a greater capacity for storing fish (8-40 metric tons (mt) compared to small-scale vessels which can store between 0.5 and 2 mt. Large vessels are outfitted with hydraulically powered reels to set and haul mainline, and with modern electronic equipment for navigation, communications, and fish finding. All are presently being operated to freeze albacore onboard, rather than to land chilled fish.

Based on logbook data from 2004-2014 , the annual number of hooks per set used by the longline fleet steadily increased from 12 million hooks to 18 million hooks in 2007, after which it has declined steadily to 7.7 million hooks in 2014 (Figure 11).

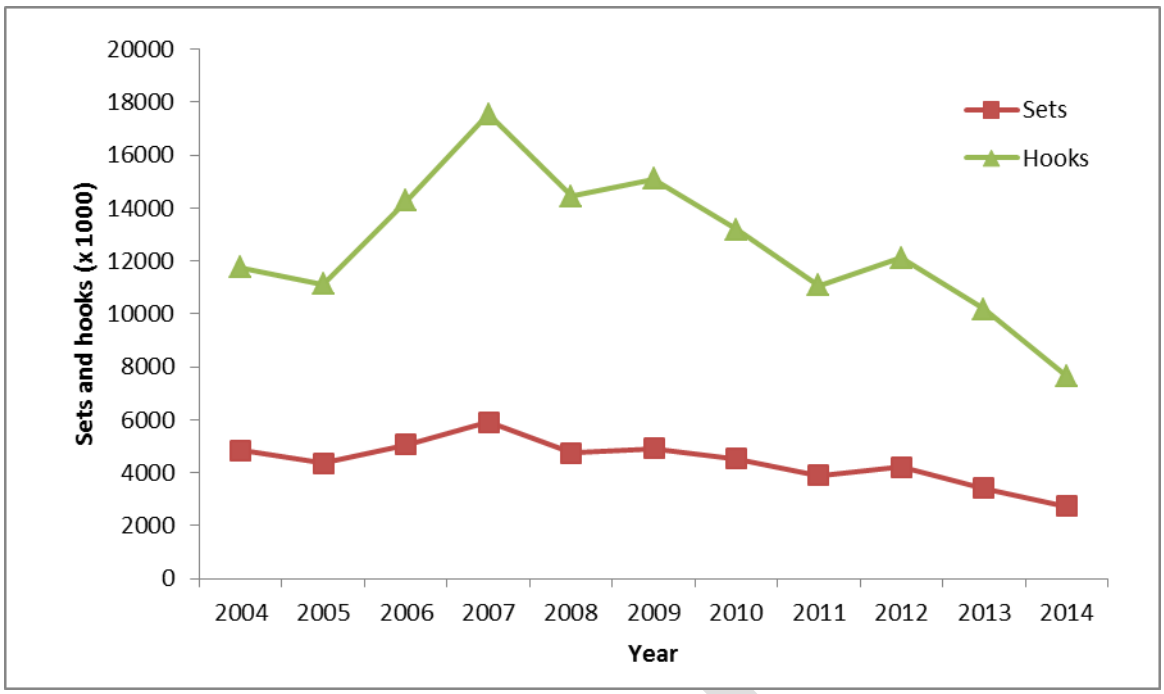

Figure 11. The annual number of sets and hooks made by the American Samoa longline fishery, 2004-2014

Fishing power is clearly distinct between the different size classes of vessel, and separate catch statistics are compiled by the Department of marine and Wildlife Resources. The alia vessels use manually-powered mainline drums that hold about four miles of monofilament line. These smaller longline vessels make single day trips with a crew of three, making a single set of around 300 – 350 hooks per set and keep their catch on ice.

Large monohull vessels in the fishery are typically steel-hulled vessels of around 60–80 ft long operating hydraulically-driven mainline reels holding 30–50 miles of monofilament, setting around 3,000 hooks per day with crews of 5–6 people. They are also likely to be well equipped with marine electronics and have refrigeration systems to freeze catch onboard for extended trips of up to 60 days. Therefore, the larger vessels can range out to the outer portions of the EEZ and, in the past, some have negotiated fishing access with neighboring states. The large monohull vessels are, in some cases, the same vessels that have engaged in the Hawaii longline fisheries.

Fishing effort has occurred predominantly in EEZ waters surrounding American Samoa (excluding existing large vessel prohibited areas) and some limited effort in foreign EEZ waters surrounding American Samoa where vessels have fishing access agreements, including the Cook Islands, Samoa, Tokelau, and others, as well as all four high seas areas (NW, NE, E, and S) giving an operational area roughly 155° W to 180°, and from 3° to 32° S from 2000 through 2009 (NMFS 2010a). Fishing effort in these countries has ranged from a couple thousand hooks per year to over 2.7 million hooks set in the Cook Islands in 2006.

The number of hooks set by the American Samoa-based longline fleet has varied over time, and in recent years, shows a general decline. Data for 2013 indicates 10.1 million hooks were set by

the American Samoa longline fishery, down from 15 million hooks set in 2009, and 38 percent less than a high of 17.5 million set in 2007 (WPRFMC 2014 and WPRFMC in prep).
Table 3 shows landing and effort statistics for the longline fishery.

Table 3. American Samoa Longline Fishery Landings and Other Statistics, 2003-2013.

	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Active Vessels	49	41	36	30	29	28	26	26	24	22	22
Hooks Set (millions)	14.2	11.7	11.1	14.3	17.5	14.4	15.0	13.2	10.8	11.7	10.1
Trips	650/ 282*	430/193*	223/179*	331	377	287	177	264	274	275	96
Sets Made	6,220	4,850	4,359	5,069	5,919	4,754	4,910	4,534	3,776	4,068	3393
Total Pelagics Landings (mt)	5,173	4,079	3,999	5,401	6,586	4,347	4,787	4,673	3,250	4,022	2.717
Albacore Tuna Landings (mt)	3,931	2,488	2,919	4,104	5,329	3,456	3,910	3,938	2,292	3,092	2,051
Yellowfin Tuna (mt)	517	890	516	493	620	336	155	445	536	385	414
Bigeye Tuna (mt)	253	226	132	199	199	124	146	178	170	167	85
Skipjack Tuna (mt)	120	235	141	213	165	163	156	111	109	250	64
Wahoo (mt)	195	215	221	287	198	136	139	131	125	83	88
Total Ex-vessel Value (adjusted) ($ millions)	$10.7	$9.1	$8.0	$11.5	$13.7	$9.4	$10.4	$ 10.4	$7.2	$7.2	$6.5

Source: WPRFMC 2014 and WPRFMC in prep

*The first number is trips by alia and the second is by larger monohull vessels. From 2006, three or fewer alia vessels were active and those data are confidential.
Note: all other species (e.g. mahimahi, swordfish, etc.) landed are less than 1 percent of total landings.

3.1.1.2.2 Catch in Numbers or Weight

About 5.9 million lb (94%) of total landings in 2013 were of tuna species, while the non-tuna landing were roughly 353,000 lb. Albacore dominated tuna species landings at 78 percent and comprised 74 percent of all pelagic species landings (Figure 12); while yellowfin (15 %), bigeye (3%), skipjack (2%), and unknown tunas make up the rest of the tuna landings. Wahoo species dominated the "Non-Tuna and Others" total landings; they make up 55 percent of non-tuna landings and 3 percent of all pelagic landings (WPRFMC 2014). Class D (>70 feet) longline vessels make the majority of the American Samoa total pelagic landings and commercial landings. For current information regarding the American Samoa longline fishery please refer to the most current WPFMC Pelagic Fishery Ecosystem Report (SAFE Report).

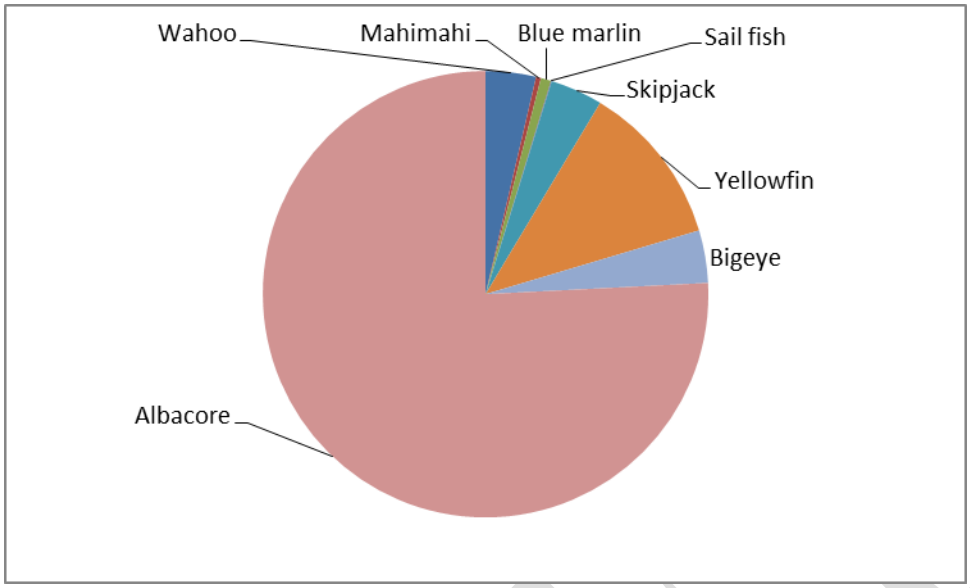

Figure 12. Catch composition of the American Samoa longline fishery, 2004-2014

3.1.1.2.3 Fishing Areas

American Samoa longline vessels fish predominantly in the US EEZ around American Samoa (Figure 13) but can fish at greater distance through fishery access agreements with neighboring countries or on the high seas.

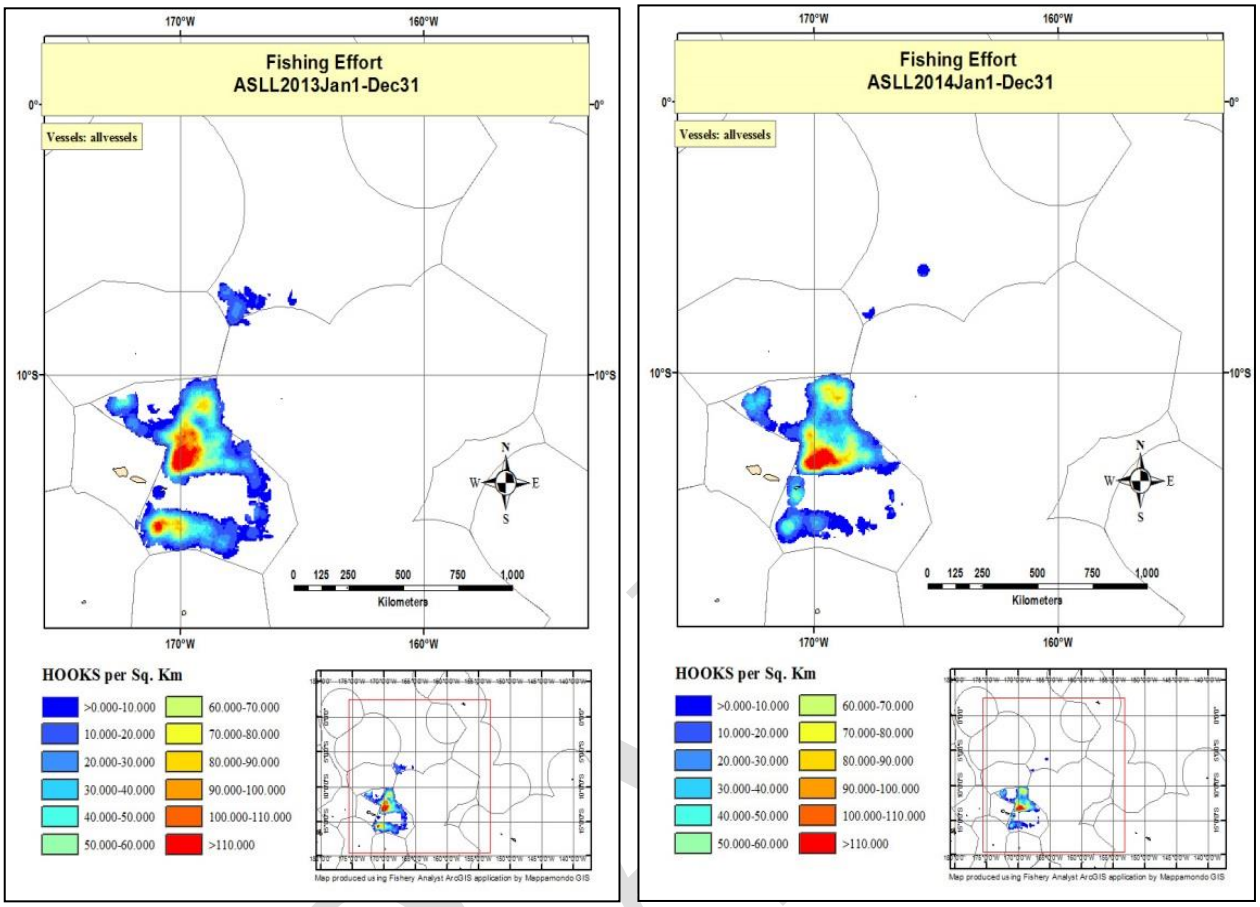

Figure 13. Distribution of fishing effort for the American Samoa longline fishery in 2012 and 2013

3.1.1.2.4 Time of Fishing

The American Samoa longline fishery, in common with the Hawaii deep set longline fishery, is a daytime fishery, setting at dawn and retrieving the line starting usually in the mid-afternoon.

3.1.1.2.5 Number of Sets

The number of sets in the Hawaii longline fishery between 2004 and 2014 ranged from 2,745 sets (2014) to 5,920 sets (2007) with a mean of 4,426 sets.

3.1.1.2.6 Economics

Revenue data for American Samoa's pelagic fisheries is not broken out by fishery. However, the vast majority of pelagic catch that is landed is via the longline fishery. Between 2002-2012, the average adjusted direct revenue from American Samoa pelagic catch was $13,719,139, of which 96% was tuna and 4% was non-tuna. During this period, the high year was 2002 ($22,186,361) and the low year was 2012 ($9,709,160).

3.1.1.2.7 Estimated and Actual Processing Capacity Utilized by U.S. Processors

Most of the catch of the American Samoa longline fishery is sold to the canneries in Pago Pago.

There is no other major fish processing facility in the territory. The residual catch from the longline fishery is sold locally.

3.1.1.2.8 Present and Probable Future Condition of the Fishery

The American Samoa longline fishery has experienced a strong economic downturn in recent years leading to a contraction of the fleet from 66 vessels in 2001 to 21 vessels in 2014. Most of the vessels that left the fishery were the small scale alia catamarans of which only one vessel continues to fish. The future condition of the fishery is highly dependent on the fishing conditions for albacore in the US EEZ around American Samoa, and the continued operations of the Pago Pago-based canneries

3.1.1.2.9 Yield

3.1.1.2.9.1 MSY

See Section 3.1.1.1.10.1

3.1.1.2.9.2 OY

Optimum yield or OY for the PMUS is defined in the original Pelagics FMP as "the amount of each species in the management unit that will be caught by domestic and foreign fishing vessels in the EEZ in accordance with the measures contained in this plan." This definition was amended in 1992 to also apply to tunas. In addition, in 1994 Amendment 7 revised the definition of OY to recognize that it should encompass the fishery beyond the EEZ. In Amendment 7 define OY as "the amount of each management unit species or species complex that can be harvested by domestic and foreign fishing vessels in the EEZ and adjacent waters to the extent regulated by 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".

As the definition of OY and the objectives of the FEP make clear, however, the Council also is concerned with localized overfishing and economic overfishing with a focus on conditions in the EEZ. These are conditions in which recreational fisheries are not satisfying to their participants or commercial fisheries are uneconomical due to availability of the stocks in the areas being fished relative to the fishing power of the fleets. These conditions may occur even though the stocks (on an ocean-wide basis) are above the levels at which they would be considered "recruitment overfished." The Council intends to manage the fisheries so that the economic viability of commercial fisheries and the social-benefits-associated- with satisfying recreational fisheries and with traditional fishing practices for non-market personal consumption are maintained. The FEP promotes, within the limits of managing at OY, domestic harvest of the management unit species in the EEZ and domestic fishery values for these species by enhancing the opportunities for satisfying recreational opportunities and profitable commercial fishing operations. Expansion of existing fisheries or the development of new fisheries would be managed in this context.

Given the non-numeric definition of OY for the Pelagics FMP, it is difficult to quantify the domestic capacity to harvest OY or that portion of OY that can be made available for foreign fishing and to date no total allowable level of foreign fishing (TALFF) has been specified for this fishery. With the exception of the American Samoa longline fishery which freezes catches, harvests by pelagic fisheries of the Western Pacific Region supply fresh fish markets, with little

to no processing beyond heading and gutting of swordfish, and gilling and gutting of tunas and mahimahi > 20 lb in the Hawaii longline fishery. The majority of harvests by the American Samoa longline fishery are sold to the two American tuna canneries located on Tutuila. The remaining portion of this fishery's harvests is sold in American Samoa as fresh fish. Thus domestic processors appear fully capable of processing 100 percent of domestic pelagic fish harvests in the American Samoa segment of the Western Pacific Region.

3.1.1.2.9.3 Extent to Which Fishing Vessels will Harvest OY

American Samoa longline vessels have landed a maximum of about 13 million pounds of albacore in 2002 and would likely be able to achieve or exceed this catch again the future.

3.1.1.2.9.4 Extent to U.S. Fish Processors will Process OY

All of the albacore and some of the other catches by the American Samoa longline fishery such as yellowfin, skipjack and wahoo are sold to the canneries in American Samoa. The volume of fish caught by the American Samoa longline fisheries is insufficient to satisfy the total demand for fish from the canneries, thus the canneries have the capacity to process the entire OY from the American Samoa longline fishery.

3.1.1.2.10 Regulations Implementing International Recommendations and other Applicable Laws

3.1.1.2.11 Bycatch Amount and Type

Bycatch is monitored by the American Samoa longline logbooks and by the observer program on the American Samoa vessels. The logbook record of discards is concerned primarily with the commercially important species, although it does document shark species which have little commercial value in American Samoa. It is anticipated that in the future the observer program record of species will be expanded to provide a fleet-wide estimate of bycatch as has been conducted for the Hawaii longline fishery (See the National Bycatch Report produced by NMFS).

3.1.1.2.12 Criteria for Determining Overfishing

Where stock assessments are conducted, overfishing is defined as Ft/Fmsy > 1.0, overfished is defined as Bt/Bmsy < Bmsst. In the absence of stock assessments other proxies are used such as the annual variation in catch per unit of effort (CPUE), changes in size frequency and average size and spawning potential ratio.

3.1.1.2.13 MSA Conservation and Management Measures

Framework Measure 1 became effective March 1, 2002 (67 FR 4369) and prohibited fishing for pelagic species by vessels greater than 50 ft in length overall within EEZ waters 0-50 nm around the islands of American Samoa. An exception was made for vessels that landed PMUS in American Samoa under a Federal longline general permit prior to November 13, 1997. This measure was intended to prevent localized depletion of nearshore stocks by large fishing vessels, as well as to prevent gear interactions between large and small fishing vessels in nearshore waters. The area closure came to be designated as the Large Vessel Prohibited Area or LVPA. Amendment 11 became effective August 1, 2005 and established a limited access system for

pelagic longlining in EEZ waters around American Samoa. Initial entry criteria were based on historical participation in the fishery and limited vessel upgrades were allowed. Longline vessel operators were required to obtain federal permits, to complete federal logbooks, to carry and use vessel monitoring systems installed, owned and operated by NFMS on vessels greater than 40 ft in length, to carry federal observers if requested by NMFS, and to follow sea turtle handling and resuscitation requirements (70 FR 29646). The objectives of this amendment were to stabilize the fishery and to allow the opportunity for substantial fishery participation by residents of American Samoa.

This rule requires specific gear configuration for pelagic longline fishing in the South Pacific. The requirements apply to U.S. vessels longer than 40 ft (12.2 m) while fishing south of the Equator, and include minimum float line and branch line lengths, number of hooks between floats, and distance between floats and adjacent hooks. The rule also limits the number of swordfish taken. The action is intended to ensure that longline hooks fish deeper than 100 meters (m) to reduce interactions with Pacific green sea turtles. This final rule also makes administrative clarifications to the names of several tunas and marlins.

In 2009, Presidential Proclamation 8337 created the Rose Atoll Marine National Monument (74 FR 1577, January 12, 2009). The monument includes Rose Atoll and surrounding waters to a distance approximately 50 nm around the atoll. The Proclamation prohibits commercial fishing in monument waters. The monument and the LVPA around Tutuila, the Manua Islands, and Rose Atoll overlap, but the boundaries did not align. The FEP was amended to align the boundaries (Figure 14).

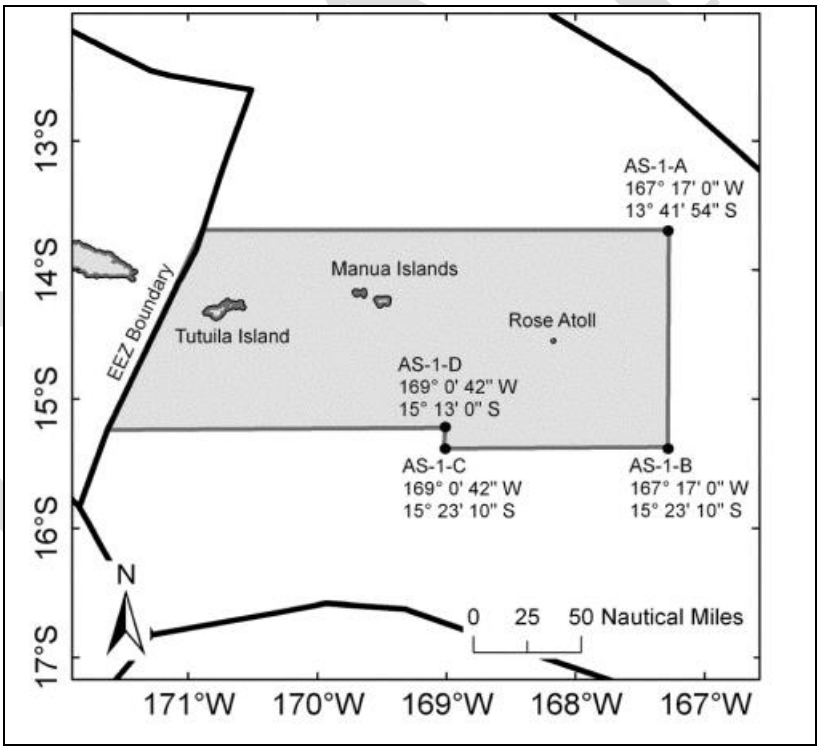

Figure 14. Revised boundaries of the Large Vessel Prohibited Area for pelagic fishing vessels > 50 ft around Tutuila, Manua Islands and Rose Atoll

3.1.1.3 Hawaii Troll Fishery

3.1.1.3.1 Description

Troll fishing, in which lure is towed behind a vessel, is practiced by commercial, charter and recreational fishermen in Hawaii. Lures may be artificial or dead or live fish. Lures are generally towed near the surface, but weights and para-vanes can be used to catch fish below surface depths.

Trolling is the most popular pelagic fishing method in Hawaii. Hundreds of boaters participate in this fishery, including full and part-time commercial fishermen, charter boats, and recreational fishermen. The troll fishery targets blue marlin, striped marlin, yellowfin tuna, mahimahi, ono and skipjack tuna and also lands incidental species such as spearfish, kawakawa and rainbow runner.

Up to six lines rigged with artificial lures (or live or dead bait) may be trolled when outrigger poles are used to keep the lines from tangling. Trolling gear usually consists of short, stout fiberglass rods and lever-drag hand-cranked reels. Trollers frequent anchored fish aggregation devices (FADs), drifting logs or flotsam, and areas where the bottom drops off sharply that may aggregate fish. One popular guide to fishing in Hawaii list almost 100 different trolling techniques for pelagic species and reef fish such as jacks (Reference Fishing Hawaii Style)

Commercial troll fishermen may use the 'green stick' method of fishing, named after the green fiberglass mast that serves as a strong vertical outrigger. The mast is the towing post for a specially designed device known as a 'bird' because of its wings. An array of plastic squid lures are attached to the towing line at carefully measured intervals, so that they skip across the surface of the water and tease yellowfin to the surface. It is thought that the passage of the bird behind the lures attracts tuna through curiosity, and the tuna try to outrace the bird in order to compete for the food it appears to be chasing.

3.1.1.3.2 Type and Quantity of Fishing Gear

Between 1,100 and 1,200 fishermen use trolling as their principal method of fishing. As noted above troll fishing methods are diverse and may employ troll lines singly or use multiple line deployments. About 13,000 small vessels are registered as pleasure craft, which may be used as fishing platforms. Recreational fishermen in Hawaii make on average about 297,000 trips per year.

3.1.1.3.3 Catch in Numbers or Weight

The Hawaii troll fishery catch is remarkably stable averaging about 3 million pounds annually. Revenues are more variable, ranging from about $6 million pounds to $9 million with an average of about $7 million. Commercial troll catches are dominated principally by yellowfin and mahi mahi, followed by wahoo, skipjack and blue marlin (Table 11). For current information regarding the Hawaii troll fishery please refer to the most current WPFMC Pelagic Fishery Ecosystem Report (SAFE Report).

Charter vessel sports-fishing

Tables 4-8 present summaries of the charter vessel sportsfishing in the Western Pacific. Charter fishing in Hawaii is more focused on catching blue marlin, which in 2004 formed about 50 % of the total annual charter vessel catch by weight, but in 2013 only formed about a fifth of the charter vessel catch and was superseded by yellowfin and mahimahi. Although commercial troll vessels take blue marlin, this species only forms about a seven percent of their catch, with the majority of the target species being yellowfin, mahimahi, and wahoo (Table 5). Unlike other parts of the US, there is little recreational fishery interest in catching sharks in Hawaii.

Guam has a charter fishing sector, which unlike Hawaii caters for both pelagic and bottomfish fishing. Until recently the troll charter fishery was expanding, but, over the past few years the number of vessels involved, and level of fishing, has decreased in response to lower tourist volume from Japan due to the ongoing economic recession. Compromising about 5 % of Guam's commercial troll fleet, the Guam troll charter industry accounts for 6.2 % of the troll catch and 47% and 19% of the Guam blue marlin and mahimahi catch respectively.

Charter fishing in NMI is limited, with about ten boats operating on Saipan, and a few vessels on Tinian conducting occasional fishing charters. No data was collected on charter vessel fishing in the NMI during 2013. Tourism is not a significant component of the American Samoa economy, and hence there is little charter fishing activity. As noted previously, there are few vessels suitable for charter-type operations (Tulafono 2001).

Table 4. Estimated catches by pelagic charter fishing vessels in Guam and Hawaii in 2013

Location	Catch (lb)	Effort (trips)	CPUE (lb/trip	Principal species
Guam	49,106	920	53.4	Mahimahi, Blue marlin, Skipjack
Hawaii	474,542	5,328	89.1	Yellowfin, Mahimahi, Blue marlin

Charter vessel fishing in the Western Pacific Region has elements of both recreational and commercial fishing. The primary motivation for charter patrons is recreational fishing, with the possibility of catching large game fish such as blue marlin. The charter vessel skipper and crew receive compensation in the form of the patron's fee, but are also able to dispose of fish on local markets, as is the case in Hawaii. The catch composition of charter vessel catch versus conventional commercial trolling in Hawaii reflects the different targeting in the two fisheries. Blue marlins are among the dominant feature of charter vessels in Hawaii (Table 5), along with yellowfin and mahimahi. In Guam blue marlin are also a dominant feature in charter catches, though the single largest catch is mahimahi (Table 6).

Table 5. Comparison of species composition of landings made by Hawaii pelagic charter vessels versus commercial troll vessels, 2013

	Charter		Commercial troll	
Species	Landings (lb)	Percent	Landings (lb)	Percent
Yellowfin tuna	159,540	33.68%	872,534	36.85%
Mahimahi	114,987	24.27%	446,167	18.85%
Blue marlin	97,953	20.68%	175,246	7.40%
Ono	38,322	8.09%	348,274	14.71%

Aku	37,513	7.92%	254,652	10.76%
Spearfish	12,023	2.54%	11,635	0.49%
Striped marlin	6,352	1.34%	10,812	0.46%
Bigeye tuna	3,882	0.82%	213,354	9.01%
Black marlin	1,481	0.31%	5,376	0.23%
Kawakawa	1,215	0.26%	6,158	0.26%
Uku	489	0.10%	11,135	0.47%
White ulua			3,196	0.13%
Tombo			2,976	0.13%
Others	696	0.15%	6,009	0.25%
Total	473,756	100.00%	2,367,523	100.00%

Table 6. Comparison of species composition of landings made by Guam pelagic charter vessels versus commercial troll vessels, 2013

	Charter		Commercial	
Species	**Landings (lb)**	**Percent**	**Landings (lb)**	**Percent**
Mahimahi	31,616	64.38%	133,418	18.05%
Blue Marlin	7,550	15.37%	8,625	1.17%
Skipjack Tuna	7,167	14.59%	493,838	66.80%
Wahoo	2,773	5.65%	48,479	6.56%
Yellowfin Tuna	0	0.00%	52,745	7.13%
Others	0	0.00%	2,220	0.30%
Total	49,106	100.00%	739,325	100.00%

In Hawaii there is considerable variation in charter vessel catches between the various islands (Table 7), with the largest charter vessel fisheries based on the island of Hawaii and Oahu, in terms of catch. The Hawaii catch may be biased downwards due to the widespread practice of catch and release of billfish. Charter trips on Hawaii are form nearly 40% of the total charter activity in the State of Hawaii.

Table 7 Charter vessel catches in Hawaii by island, 2013

Island	**Catch (lb)**	**Percent**	**Trips**	**Percent**	**CPUE (lb/trip)**
Hawaii	157,895	33.28%	1,981	37.18%	79.70
Kauai	73,452	15.48%	807	15.15%	91.02
Maui County*	82,003	17.28%	1,055	19.80%	77.73
Oahu	161,102	33.96%	1,485	27.87%	108.49
Total	474,452	100.00%	5,328	100.00%	89.05

* DAR confidentiality protocols prevent reporting 2007 charter vessel activity for Molokai and Lanai separately, and these are aggregated with data for Maui, reported collectively as Maui County

Most charter vessel fishing on the island of Hawaii is conducted from Kona's small boat harbor at Honokohau, and about 38% of the charter vessel catch comprises blue marlin (Table 8). Blue marlin used to amount to about two-thirds of the catch, but this number has fallen considerably with the spread of a stronger catch and release ethic for billfish by charter vessel operators at

Honokohau. Elsewhere, yellowfin, mahimahi and wahoo tend to dominate charter vessel landings.

Table 8. Composition of charter vessel catches in the Main Hawaiian Islands, 2013

Hawaii	Landings (lb)	Percent	Kauai	Landings (lb)	Percent
Yellowfin tuna	59,751	37.84%	Yellowfin tuna	30,685	41.78%
Blue marlin	45,930	29.09%	Aku	20,440	27.83%
Mahimahi	17,678	11.20%	Mahimahi	8,611	11.72%
Ono	15,145	9.59%	Blue marlin	6,654	9.06%
Spearfish	8,630	5.47%	Ono	6,433	8.76%
Aku	3,994	2.53%	Spearfish	465	0.63%
Striped marlin	2,910	1.84%	Kawakawa	164	0.22%
Bigeye tuna	2,249	1.42%			
Black marlin	1,481	0.94%			
Uku	89	0.06%			
Kamanu	40	0.03%			
Kaku	0	0.00%			
Total	157,895	100.00%		73,452	100.00%

Maui	Landings (lb)	Percent	Oahu	Landings (lb)	Percent
Mahimahi	38,294	46.70%	Mahimahi	50,404	31.29%
Yellowfin tuna	18,913	23.06%	Yellowfin tuna	50,191	31.15%
Blue marlin	11,015	13.43%	Blue marlin	34,354	21.32%
Ono	8,785	10.71%	Aku	11,720	7.27%
Bigeye tuna	1,633	1.99%	Ono	7,960	4.94%
Aku	1,360	1.66%	Striped marlin	3,150	1.96%
S.N. spearfish	1,023	1.25%	S.N. spearfish	1,905	1.18%
Uku	400	0.49%	Kawakawa	981	0.61%
Striped marlin	292	0.36%	Sailfish	321	0.20%
Kamanu	167	0.20%	Kaku	116	0.07%
Kawakawa	70	0.09%			0.00%
Kaku	52	0.06%			0.00%
Total	82,003	100.00%		161,102	100.00%

Table 9 provides summaries of the recreational boat and shoreline fish catch between 2003 and 2013 for pelagic fish.

Table 9. Recreational pelagic fish catches in Hawaii between 2003 and 2012. Source: HDAR HMFRS and NMFS PIFSC

Year	Shore catch (lb)	Vessel catch (lb)	Total (lb)

Year	Shore catch (lb)	Vessel catch (lb)	Total (lb)
2003	422,439	14,906,148	15,328,587
2004	120,779	12,210,682	12,331,461
2005	229,059	11,564,698	11,793,758
2006	258,802	11,830,852	12,089,654
2007	114,832	13,956,644	14,071,475
2008	56,937	21,802,388	21,859,325
2009	66,635	17,071,414	17,138,049
2010	14,469	11,754,054	11,768,523
2011	14,216	10,574,696	10,588,912
2012	NA	12,330,638	12,330,638
2013	0	14,245,945	14,245,945

Figures summarize aspects of the boat-based recreational fishery landings for six major pelagic fish species in Hawaii (blue marlin, striped marlin, mahimahi, skipjack, yellowfin and wahoo) between 2003 and 2013.

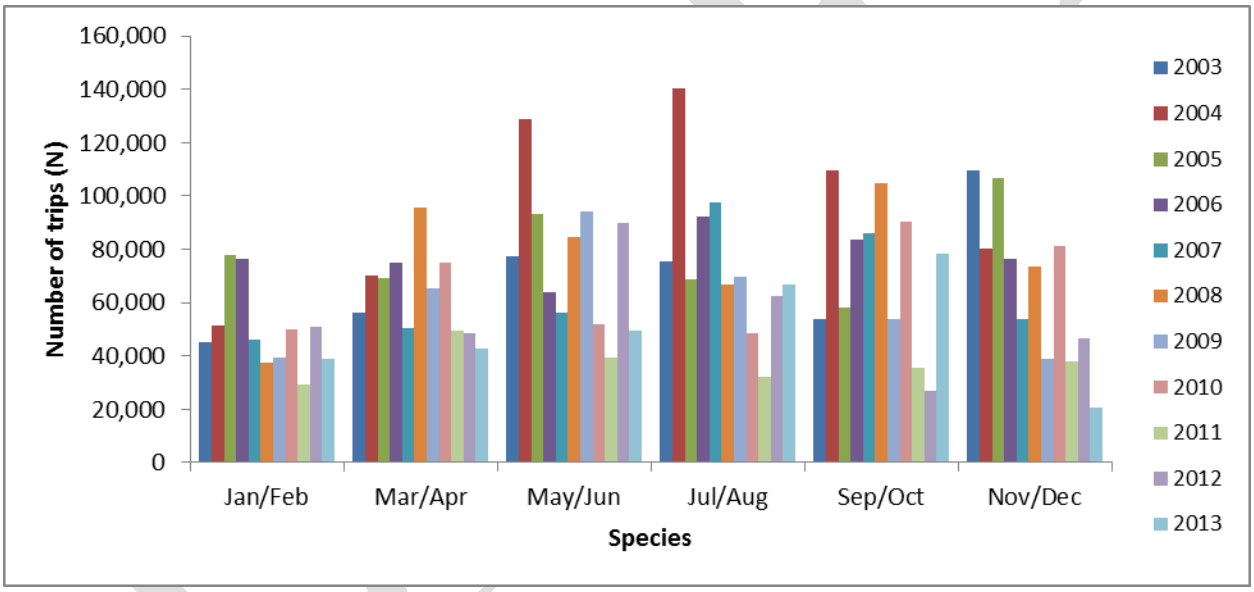

Figure 20. Boat fishing trip estimates (number of angler trips, 2003-2013

Figures 15 to 19 shows the bimonthly distribution of boat-based fishing effort over the same time period. Skipjack tuna are the most commonly recreationally caught pelagic fish followed by yellowfin tuna, mahimahi and wahoo. In terms of weight, however, yellowfin tuna dominates recreational pelagic fish catches

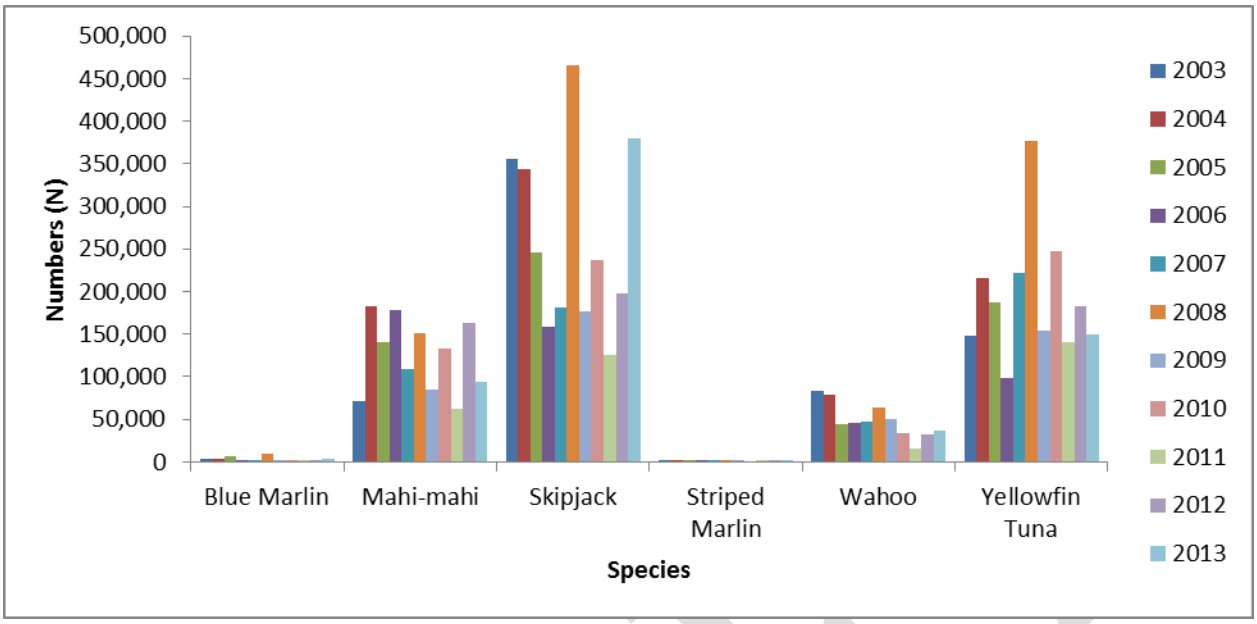

Figure 15. Annual recreational fishery landings by number for six major pelagic species between 2003-2013

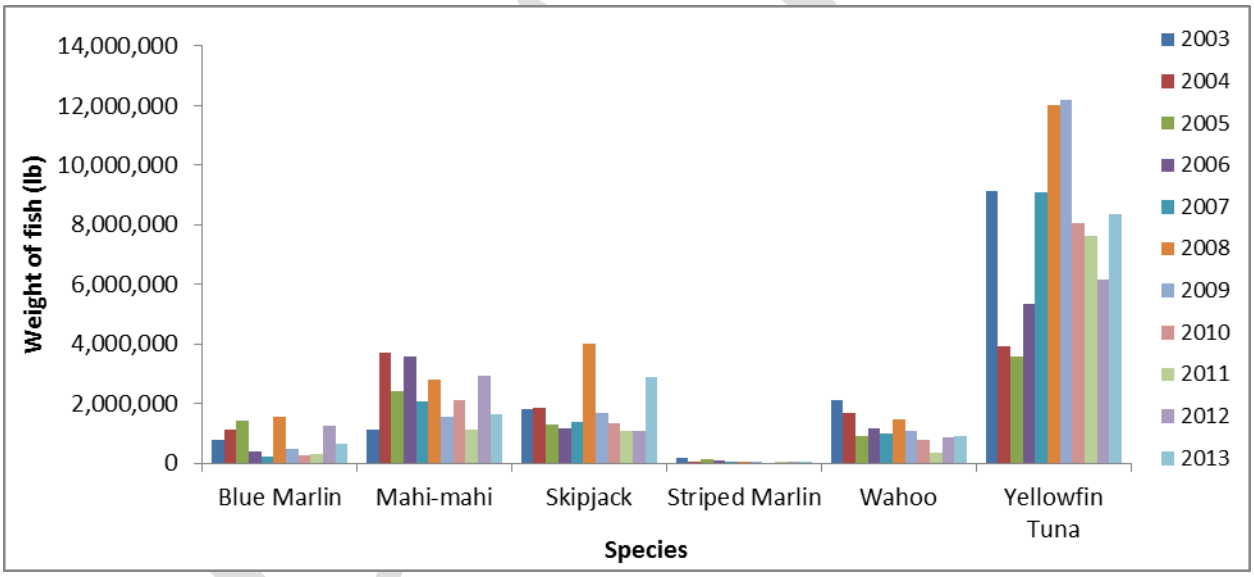

Figure 17**Figure 16. Annual recreational fishery landings by number for six major pelagic species between 2003-20**

Although blue marlin numbers in the catch are small compared to other species, the much greater average weight means that it can comprise a significant fraction of the recreational catch by weight. Average weights for most species tended to be relatively similar between years for mahimahi, skipjack and wahoo, but may vary considerable between years for blue marlin, striped marlin and yellowfin tuna. This is also reflected in the nominal catch rate (lbs/trip) where yellowfin catch rate was high in 2003, declined in 2004 and 2005, and then increased with peaks in 2009, 2011 and 2013. The distribution of fishing recreational fishing effort shows that boat based activity is highest in the summer and fall when the weather is at its most calm in Hawaii.

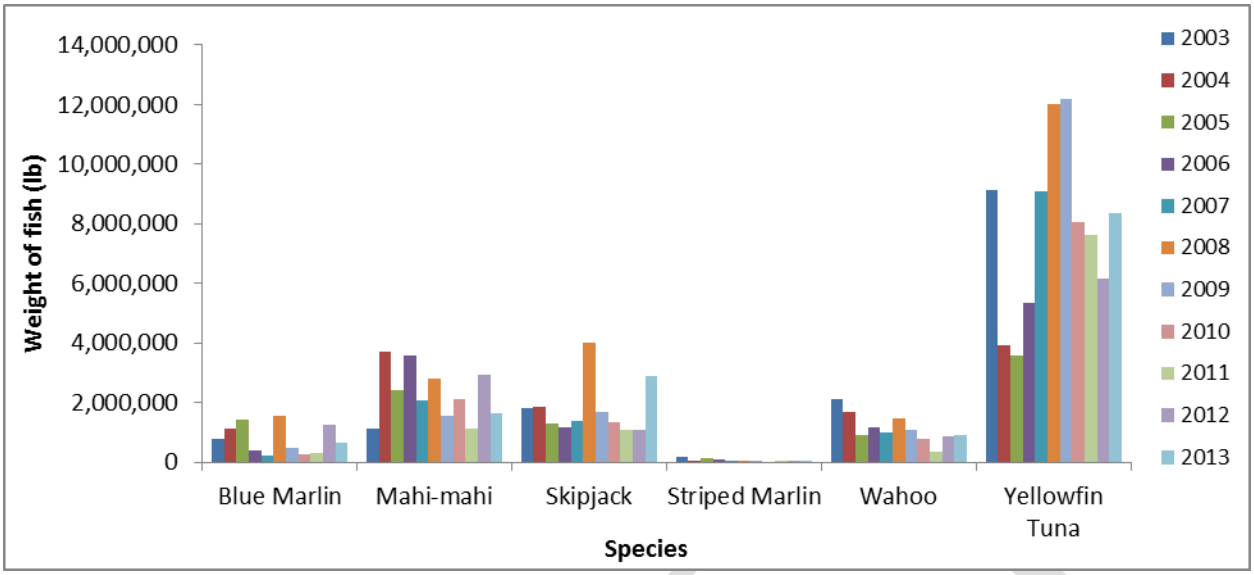

Figure 17. Annual recreational fishery landings by weight of six major pelagic fish species in Hawaii between 2003 and 2013.

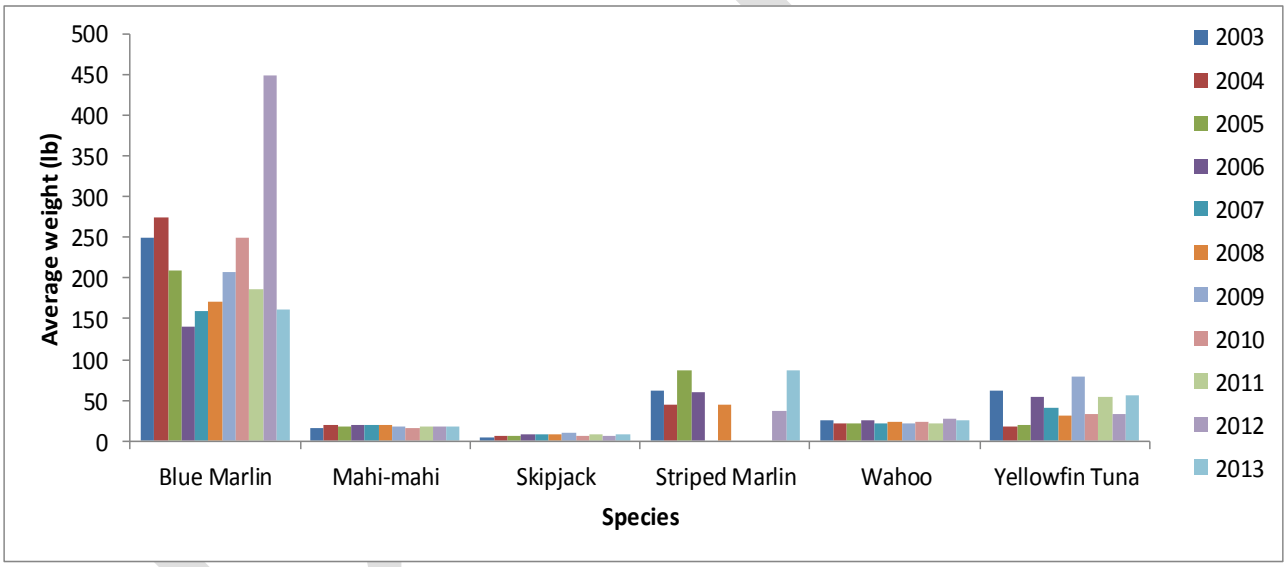

Figure 18. Average weight of six major pelagic fish species caught by recreational fishing in Hawaii between 2003 and 2013.

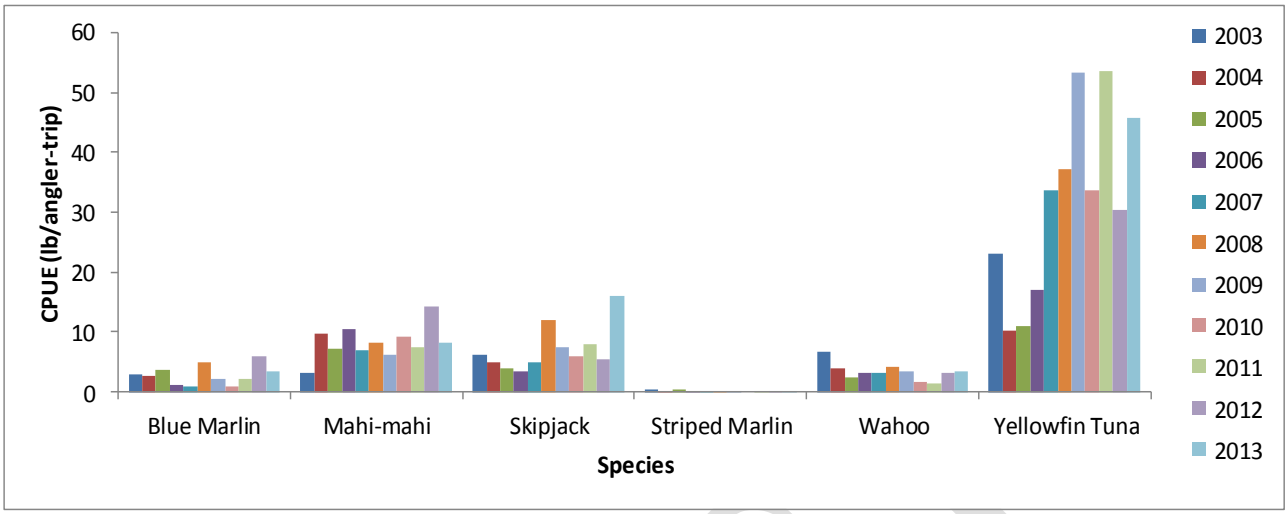

Figure 19. Annual recreational catch per unit effort (lbs per trip) for six major pelagic species in Hawaii between 2003 and 2013

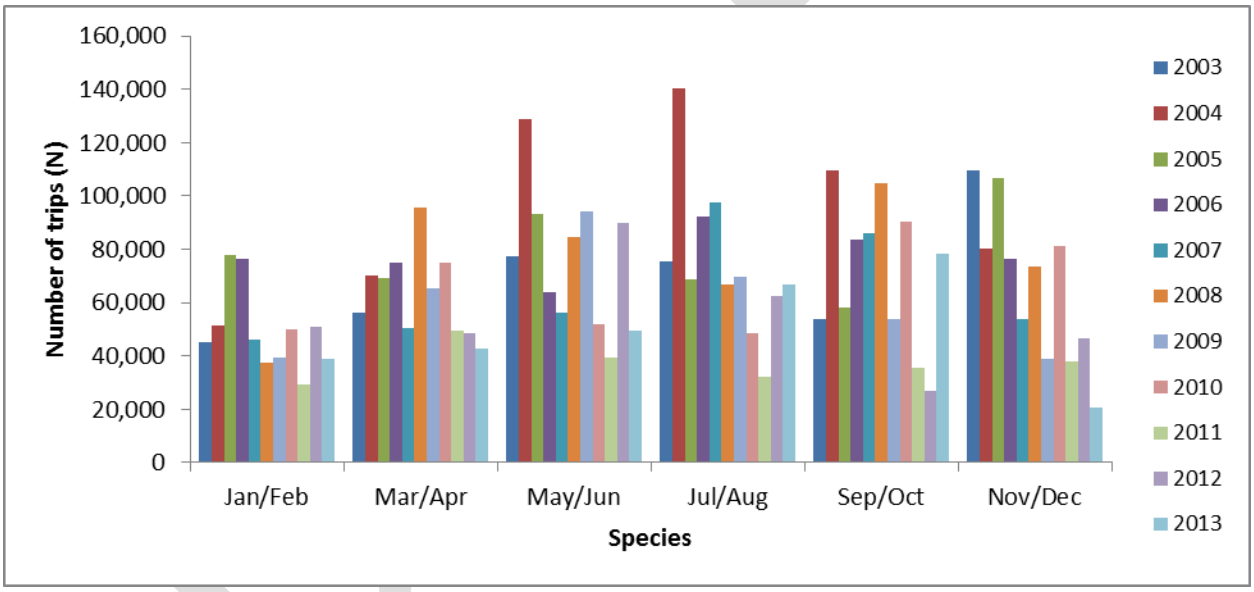

Figure 20. Boat fishing trip estimates (number of angler trips, 2003-2013

3.1.1.3.4 Fishing Areas

The troll and handline vessels in Hawaii fish predominantly around the eight Main Hawaiian Islands, often no more than 20 miles from shore (Figure 21). The offshore catches shown in Figure 17 are made by the specialized mixed gear fishery that operates on the Cross Seamount and NOAA weatherbuoys.

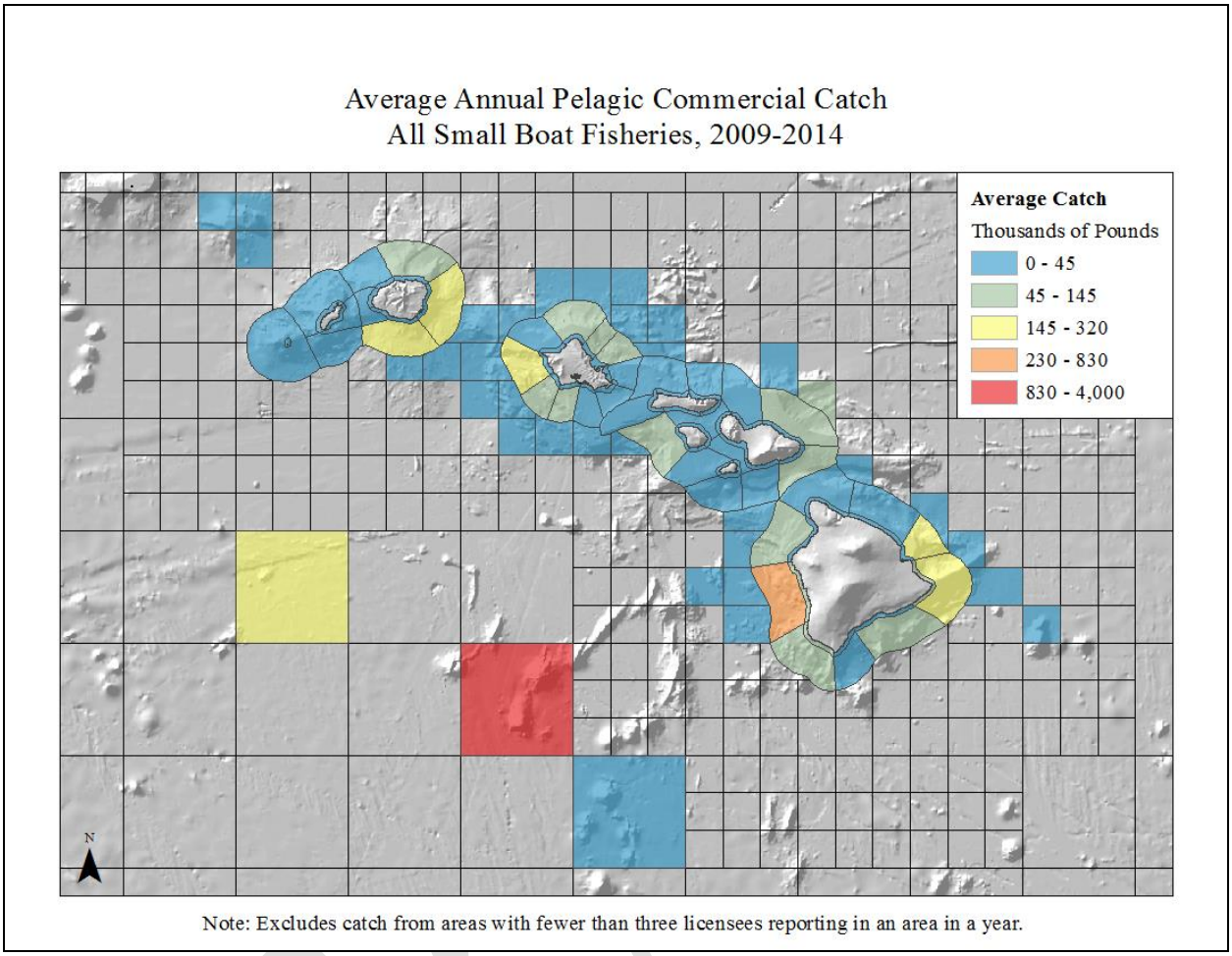

Figure 21. Spatial distribution of small boat catches (troll and handline vessels) in the Main Hawaiian Islands

3.1.1.3.5 Time of Fishing

Almost all trolling activity is conducted during daylight hours

3.1.1.3.6 Number of Fishing Days

Troll fishing effort in Hawaii is measures in fishermen-days. Fishermen days ranged between 2004 and 2014 from 26,500 to 30,000 fishermen-days, with an average of 29,000 fishermen days

3.1.1.3.7 Economics

The direct revenue from the Hawaii troll fishery averaged $6,542,000 between 2002-2012, with a high of $8,907,000 (2004) and a low of $5,456,000 (2009). For current information regarding revenue of the fishery, price per pound, total direct employment, and fisheries-dependent services or industries, please refer to the most current WPFMC Pelagic Fishery Ecosystem Report (SAFE Report).

3.1.1.3.8 Estimated and Actual Processing Capacity Utilized by U.S. Processors

All troll catches are landed locally in Hawaii to local seafood processors

3.1.1.3.9 Present and Probably Future Condition of the Fishery

Over time the number of trollers fishing commercially in Hawaii has declined from around 1,500 in the late 1990s to about 1,100 in 2014. It is unlikely that there will be a major expansion of then troll fishery in the future.

3.1.1.3.10 Yield

3.1.1.3.10.1MSY

Stock assessments have been conducted for a number of major pelagic species in the Pacific (Table 2). Figure 3 shows the status of these stocks relative to MSY, based on the latest stock assessments.

3.1.1.3.10.2OY

Optimum yield or OY for the PMUS is defined in the original Pelagics FMP as "the amount of each species in the management unit that will be caught by domestic and foreign fishing vessels in the EEZ in accordance with the measures contained in this plan." This definition was amended in 1992 to also apply to tunas. In addition, in 1994 Amendment 7 revised the definition of OY to recognize that it should encompass the fishery beyond the EEZ. In Amendment 7 define OY as "the amount of each management unit species or species complex that can be harvested by domestic and foreign fishing vessels in the EEZ and adjacent waters to the extent regulated by 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".
Given the non-numeric definition of OY for the Pelagics FMP, it is difficult to quantify the domestic capacity to harvest OY or that portion of OY that can be made available for foreign fishing and to date no total allowable level of foreign fishing (TALFF) has been specified for this fishery. Landings by trollers and handline vessels are subject to little on-board processing other than gilling and gutting for tuna and mahimahi that are > 20 lbs. Thus domestic processors appear fully capable of processing 100 percent of domestic pelagic fish harvests in the Hawaii segment of the Western Pacific Region.

3.1.1.3.10.3Extent to Which Fishing Vessels will Harvest OY

The Hawaii troll fishery will harvest that fraction of the OY not caught by other pelagic vessels

3.1.1.3.10.4Extent to Which U.S. Fish Processors will Process OY

Almost all pelagic species caught by pelagic fishing vessels, including trollers is processed in Hawaii. In other words that fraction of the OY caught by troll vessels will be processed by US Fish Processors

3.1.1.3.11 Criteria for Determining Overfishing

Where stock assessments are conducted, overfishing is defined as Ft/Fmsy > 1.0, overfished is defined as Bt/Bmsy < Bmsst. In the absence of stock assessments other proxies are used such as the annual variation in catch per unit of effort (CPUE), changes in size frequency and average size and spawning potential ratio.

3.1.1.3.12 MSA Conservation and Management Measures

There are no MSA Conservation and Management Measures for the Hawaii troll fishery. This fishery is regulated by the State of Hawaii, which requires all commercial fishermen to obtain a commercial marine license, with the obligation that all catches are reported each month to the Division of Aquatic Resources.

3.1.1.3.13 Regulations implementing International Recommendations and other Applicable Laws

WCPFC CMM 2010-01 requires that all pelagic fisheries maintain commercial catches of striped marlin below 458 mt. This includes the Hawaii troll fishery.

3.1.1.3.14 Bycatch Amount and Type

To be completed

3.1.1.4 Main Hawaiian Islands Handline Fishery

3.1.1.4.1 Description (commercial, charter, recreational)

Ika-shibi is a nighttime small-boat tuna fishery that was developed in the nearshore waters of Hawai‘i Island during the second decade of the 20th century. Captain and crew (typically one or two) deploy a parachute-type sea anchor to keep the vessel in a relatively stable and slow drift, usually above or near favored drop-offs, such as the 600 and 1,000 fathom curves, and around ko‘a, FADs, thermoclines, or other features. *Ika* is the Japanese word for squid and *shibi* is the Japanese word for tuna.

The summer months have been particularly productive for the ika-shibi fishery in years past, though some years involve a winter bite as well, often involving bigeye. Production and use of chum lines by cooperative captains is common. For many fishermen, lunar phase is an important determinant for timing the trip. Underwater 25-50 watt lamps and sometimes 25 watt above water lamps running from a 12 volt power source attract baitfish and squid to the vessels. Fresh squid are the preferred bait, but ‘ōpelu (mackerel scad) or frozen squid are used on occasion and may initiate a night’s fishing until fresh squid are caught (Rodgers 1987). Some shibi fishermen interact with ‘ōpelu net fishermen to acquire fish for use as palu (chum; in this fishery anchovies or sardines are often used). The palu is intermittently dispersed as an attractant in the water column during the course of the operation.

Three or four long braided polypropylene or nylon lines are equipped with 300 to 400 lb. test leaders, baited 14/0 to 16/0 (size 32 to 56) circle hooks, and lead-filled tubular weights. These are cleated at staggered depths for fishing between about 10 to 15 fathoms and sometimes deeper, depending on the targeted feature. A breakaway line, often made of cotton cord, alerts the fishermen by making a pinging sound on the rails of the vessel as it breaks just prior to hook up.

Once the hook is set, the fish is hauled to the boat by hand on the main line. Skill is needed to gauge the strength of the fish (or multiple fish) and to play them properly to avoid loss of fish (and/or line and leader). Strikes often occur in clusters, making for sporadic periods of intense activity on board. Fish are stunned with a bat, and terminated— usually with a stiff wire run through spine/brain cavity. Large fish are bled, gilled, and gutted; some operators head the fish. These actions and consistent use of ice and icy brine have reduced burn problems characteristic

of historic ika-shibi operations. Much effort is now exerted to chill the fish adequately to meet market demands for high-quality fish, which is often used for sashimi.

Palu ʻahi is a tuna fishing method that was developed in the Pacific Islands over the millennia. In the Hawaiian language, "palu" refers to chopped and/or mashed bait. Historically, the bait material was wrapped around a smooth stone, covered with a leaf or placed in a cloth package and lowered to depth over a specific target, usually reef formations where ʻahi were known to congregate (ʻahi koʻa). In some cases, palu has been used to "train" pelagic and/or neritic-pelagic species to feed at such features in advance of their capture. The type of palu and its preparation were and remain critical in the traditional context. Although the palu ʻahi method is most common around the Big Island, it is also used elsewhere in the Hawaiian Islands. Some captains use parachutes to enable their vessels to drift slowly over the targeted feature; others do not. The palu ʻahi method is also called "bust bag" or "drop stone" in local vernacular.

In the case of the "drop stone technique, a hook baited with ʻōpelu is wrapped with leader and chopped ʻōpelu or other palu around a flat-sided beach cobble or similar stone. When the bait is lowered in a cloth or canvas bag to the proper depth, the mainline is jerked, releasing the double curl slipknot that secures the package. The contents spill out, ideally incurring a feeding reaction by the tuna. The stone falls off onto the bottom as the palu is dispersed and the leader and hook uncoil. While this gear is fished in as little as 10 fathoms at nearshore koʻa and as deep as 80 fathoms farther offshore, depth of use can vary extensively, depending on the nature of the targeted feature. Appropriate depth of use may be determined by experimentation or by identifying the depth of large fish on a depth recorder. Some fishermen use palu to draw large fish close to the surface where gear such as bamboo poles or danglers may be used.

Make dog is similar to drop stone, and probably a natural evolution of the technique in that it allows the fisherman to retain the weight. It may have evolved in Japan or among Japanese immigrant fishermen in Hawaiʻi, as the phrase "make doggu" is also sometimes used, which in Japanese means "wrapped device." The method involves use of a flat, ovoid lead weight – the convex side of which is shaped to accommodate the ʻōpelu bait. The weight and bait are wrapped in a piece of cloth and lowered in a manner similar to drop stone. But in this case, the lead weight is tethered to the mainline and can thus be retrieved. Size 13/0 to 16/0 circle hooks are used in both drop stone and make dog techniques; constant and movement-sensitive upward pressure on the mainline is essential during retrieval.

Privately established Fish Aggregating Devices (PFADs) include any privately owned device that functions to attract biomass and hence pelagic predators in the upper levels of the water column. Anchor and chain of sufficient capacity are used to retain an appropriate length and thickness of mooring line that, in turn, is shackled to a float system. Mooring lines are often as long as 2.5 miles, which creates a broad swing-circle around the pivot point. The surface buoy or other source of flotation, and associated streamers, attract bait and pelagic fish. PFADs are, in effect, a highly efficient form of fishing gear. They tend to be used in secret and therefore represent a difficult problem for assessment and application of potential management measures.

PFAD technology is straightforward, but mooring and float systems can vary extensively and tend to reflect a balance between cost and effectiveness. Although some are constructed more cheaply, well-constructed PFADs used by small-boat operators around the Hawaiian Islands reportedly can range from about $5,000 to $10,000 per device. The lifespan of PFADs can be quite short in the highly dynamic ocean environment. Nelson (2003) reports that the size of floats and streamers, or "the fish house," is correlated with aggregating efficiency. The reader is

referred to Chapman et al. (2005) for discussion of effective FAD planning and construction in the Pacific.

Interview data indicate that PFADs were first deployed along the Kona side of the Big Island not long after the establishment of the State of Hawai‘i FAD program in 1980. The privately established devices, however, were not widely used in the region until around the mid 1990s.

Bigeye tuna and ‘ahi are most typically targeted at PFADs. While many captains focus on bigeye tuna in winter, the devices effectively aggregate ‘ahi and other pelagic fish throughout the year. Many operators use multiple devices in close proximity. The full range of handline methods are used at PFADs. Captains also commonly troll en route to and while in the vicinity of PFADs. Some PFADs are positioned below the surface to avoid detection and potential entanglement with passing vessels. Geographic Positioning System (GPS) technology is used to mark the general position of the devices.

3.1.1.4.2 Type and Quantity of Fishing Gear

On average 474 fishermen used some form of handline gear in the main Hawaiian Islands between 2004 and 2014, with a range of 374 in 2006 to 565 in 2012

3.1.1.4.3 Catch in Number or Weight

The MHI handline fishery landed on average 1.1 million pounds of fish between 2004 and 2014, ranging from 0.7 million pounds to 1.6 million pounds. The majority of the catch is formed by yellowfin and albacore (Figure 22). For current information regarding the Main Hawaiian Islands handline fishery, please refer to the most current WPFMC Pelagic Fishery Ecosystem Report (SAFE Report).

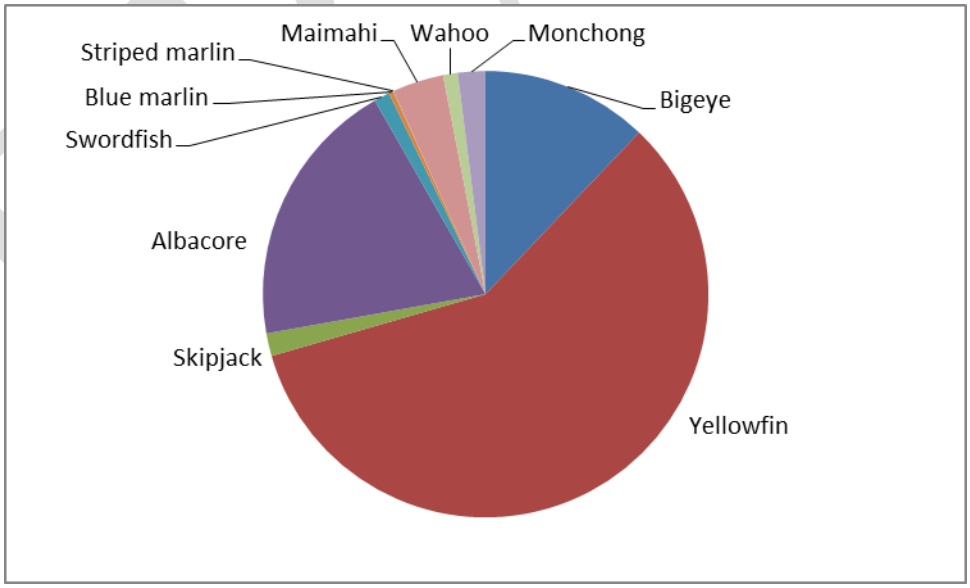

Figure 22. Species composition of the Main Hawaiian Islands Handline fishery, 2004-2014

3.1.1.4.4 Time of Fishing

Ika shibi handline fishing occurs principally during the night, while *palu-ahi* style fishing is a daytime activity.

3.1.1.4.5 Number of Days Fished

The number of fishermen-days in the MHI handline fishery ranged between 2004 and 2014 from 3,400 to 6,400 fishermen days with an average of 4,700 fishermen days.

3.1.1.4.6 Fishing Areas

The MHI handline fishery overlaps with the troll fishery around the eight mian Hawaiian Islands, with fishing rarely beyond 20 miles from shore (see Figure 17)

3.1.1.4.7 Economics

The direct revenue from the Main Hawaiian Islands handline fishery averaged $2,478,000 between 2002-2012, with a high of $4,027,000 (2002) and a low of $1,542,000 (2008). For current information regarding revenue of the fishery, price per pound, total direct employment, and fisheries-dependent services or industries, please refer to the most current WPFMC Pelagic Fishery Ecosystem Report (SAFE Report).

3.1.1.4.8 Yield

3.1.1.4.8.1 MSY

See Section 3.1.1.1.10.1

3.1.1.4.8.2 OY

Optimum yield or OY for the PMUS is defined in the original Pelagics FMP as "the amount of each species in the management unit that will be caught by domestic and foreign fishing vessels in the FCZ in accordance with the measures contained in this plan." This definition was amended in 1992 to also apply to tunas. In addition, in 1994 Amendment 7 revised the definition of OY to recognize that it should encompass the fishery beyond the EEZ. In Amendment 7 define OY as "the amount of each management unit species or species complex that can be harvested by domestic and foreign fishing vessels in the EEZ and adjacent waters to the extent regulated by 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".

Given the non-numeric definition of OY for the Pelagics FMP, it is difficult to quantify the domestic capacity to harvest OY or that portion of OY that can be made available for foreign fishing and to date no total allowable level of foreign fishing (TALFF) has been specified for this fishery. Landings by trollers and handline vessels are subject to little on-board processing other than gilling and gutting for tuna and mahimahi that are > 20 lbs. Thus domestic processors appear fully capable of processing 100 percent of domestic pelagic fish harvests in the Hawaii segment of the Western Pacific Region.

3.1.1.4.8.3 Extent to Which U.S. Processors will Process OY

Almost all pelagic species caught by pelagic fishing vessels, including Main Hawaiian Islands handline fishery is processed in Hawaii. In other words that fraction of the OY caught by handline vessels will be processed by US Fish Processors.

3.1.1.4.8.4 Accountability Measures

There are no accountability measures for the Main Hawaiian Islands handline fishery. The fishery catches a small volume of striped marlin but no domestic rule making has been made which would shut down the fishery should the limit of 458 mt be reached.

3.1.1.4.9 Criteria for Determining Overfishing

Where stock assessments are conducted, overfishing is defined as Ft/Fmsy > 1.0, overfished is defined as Bt/Bmsy < Bmsst. In the absence of stock assessments other proxies are used such as the annual variation in catch per unit of effort (CPUE), changes in size frequency and average size and spawning potential ratio.

3.1.1.4.10 MSA Conservation and Management Measures

There are no MSA Conservation and Management Measures for the Hawaii troll fishery. This fishery is regulated by the State of Hawaii, which requires all commercial fishermen to obtain a commercial marine license, with the obligation that all catches are reported each month to the Division of Aquatic Resources

3.1.1.4.11 Bycatch

To be completed

3.1.1.5 Hawaii Offshore Handline Fishery

3.1.1.5.1 Description

Another distinct pelagic handline fishery was developed in the early 1970s when enterprising fishermen began to take advantage of tuna aggregations at Cross Seamount, some 150 miles southwest of Hawai‘i Island. Fishing also gradually occurred at the offshore weather buoys after these were established in the early to mid-1980s. The “far offshore” fishery was highly profitable for some operators. Participation and production peaked in the late 1980s and early 1990s. Given rising fuel costs and other challenges, relatively few operators now frequent these areas.

Handlines are particularly useful in that they can be deployed at specific depths in areas known to be favorable for tuna fishing. For instance, if a school is located above a ko‘a at 30 fathoms, then the palu and baited hooks can be released at precisely that depth. Once a fish is hooked, its capture is largely a matter of maintaining steady pressure on the line, avoiding any action that might lead it to dive.

In keeping with economic demands and their own innovative nature, certain captains in the Hawai‘i-based commercial handline fleet have continually developed new strategies for catching large yellowfin and bigeye tuna. While experimenting with new types of gear at Cross Seamount during the 1990s, a small group of handliners discovered that by fishing at depths closer to the summit of the seamount, they could catch bigeye that were larger than those normally captured closer to the surface. At one point, a kind of vertically-set longline was used (cf. Preston et al. 1998). This resembles the normal longline configuration (with many baited hooks clipped to a long mainline), but it is much shorter and set vertically, from a buoy on the surface to a weight on the bottom, in this case, along the slopes of the seamount. This configuration subsequently influenced development of deep-set horizontal gear, also known as shortline gear. As illustrated below (Figure 23) and as described in detail by Itano (2004), this configuration allowed

fishermen to suspend and drift numerous baited hooks at specific depths around the summit of the seamount. Deep-set horizontal gear is thought to hold promise for reducing the capture of juvenile bigeye, and it has also been used to catch various pomfret species (Bramidae), just above the peak of the seamount.

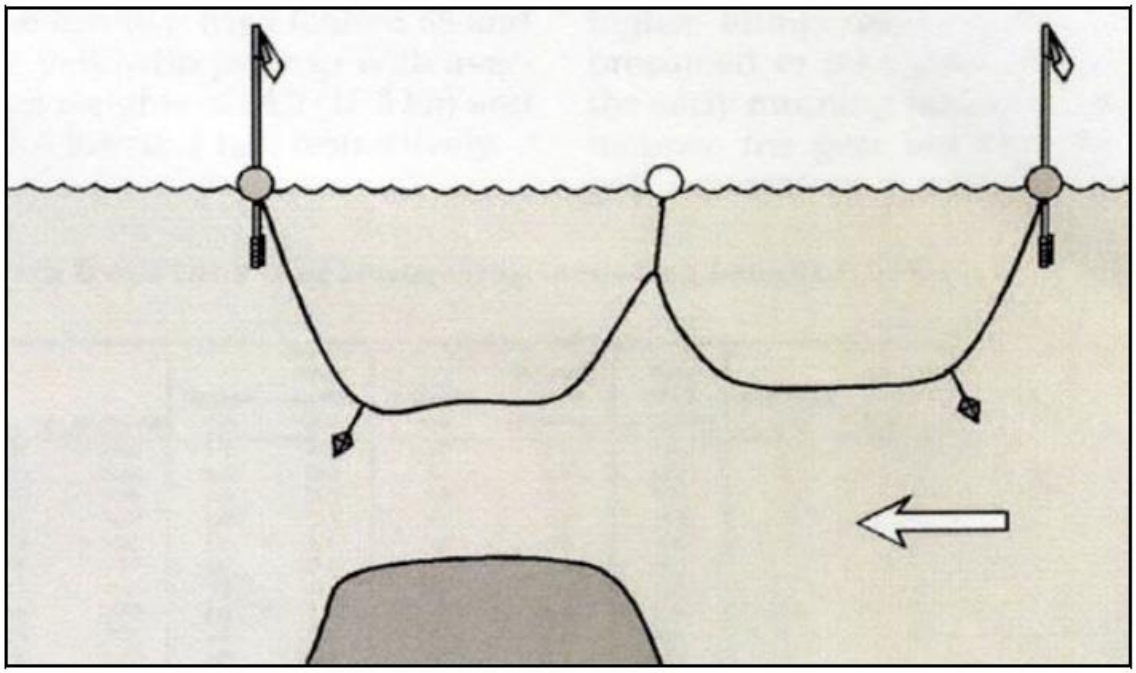

Figure 23. Deployment of shortline gear on a seamount

3.1.1.5.2 Type and Quantity of Fishing Gear

A small fleet of between 9 to 15 vessels operated in the offshore handline fishery with an annual average of about 12 vessels. Gear includes pole-and –lines, handlines, surface droppers and shortlines

3.1.1.5.3 Catch in Numbers or Weight

The offshore handline fishery caught 298,000 to 831,000 lbs between 2004 and 2014, with an average of 514,000 lbs. The principal volume of the catch (86%) was bigeye tuna, followed by yellowfin (12%) and mahimahi (2%) (Figure 24). For current information regarding the offshore handline fishery, please refer to the most current WPFMC Pelagic Fishery Ecosystem Report (SAFE Report).

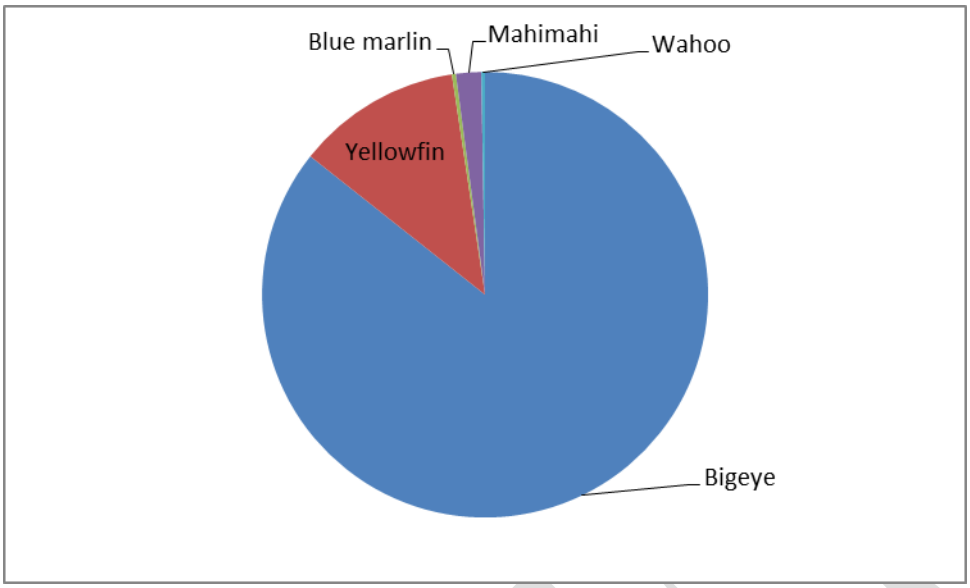

Figure 24. Catch composition of the offshore handline fishery operating on the Cross Seamount/NOAA Weather-buoys between 2004 and 2014

3.1.1.5.4 Fishing Areas

The offshore handline fishery operates primarily on the Cross Seamount, which lies 150 nm to the south east of Oahu. Other fishing areas include NOAA weatherbouys deployed in the US EEZ around Hawaii.

3.1.1.5.5 Time of Fishing

The offshore handline fishery relies on the crepuscular feeding response of the target species, primarily bigeye, with fishing occurring at dawn and dusk. Fish are lured to the surface with chum and caught on handlines and pole and lines.

3.1.1.5.6 Number of Fishing Days

The number of fisherman-days in the offshore handline fishery ranged between 2004 and 2014 from 160 to 540 fishermen days, with a mean of 280 fishermen-days.

3.1.1.5.7 Economics

The direct revenue from the Hawaii offshore handline fishery averaged $957,700 between 2002-2012, with a high of $2,278,000 (2002) and a low of $426,000 (2009). For current information regarding revenue of the fishery, price per pound, total direct employment, and fisheries-dependent services or industries, please refer to the most current WPFMC Pelagic Fishery Ecosystem Report (SAFE Report).

3.1.1.5.8 Estimated and Actual Processing Capacity Utilized by U.S. Processors

All of the offshore handline fishery catch is processed by US processo0rs. Tuna and mahimahi > 20 lbs are gilled and gutting onboard the vessel before offloading in Honolulu.

3.1.1.5.9 Present and Probable Future Condition of the Fishery

The offshore handline fishery is generally unstable, with participants entering and leaving the fishery regularly. The fishery will likely continue and benefit from years such as 2015, when the Hawaii longline fishery reached its WCPFC bigeye limit prematurely in early August.

3.1.1.5.10 Yield

3.1.1.5.10.1MSY

See Section 3.1.1.1.10.1

3.1.1.5.10.2OY

Optimum yield or OY for the PMUS is defined in the original Pelagics FMP as "the amount of each species in the management unit that will be caught by domestic and foreign fishing vessels in the FCZ in accordance with the measures contained in this plan." This definition was amended in 1992 to also apply to tunas. In addition, in 1994 Amendment 7 revised the definition of OY to recognize that it should encompass the fishery beyond the EEZ. In Amendment 7 define OY as "the amount of each management unit species or species complex that can be harvested by domestic and foreign fishing vessels in the EEZ and adjacent waters to the extent regulated by 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".

Given the non-numeric definition of OY for the Pelagics FMP, it is difficult to quantify the domestic capacity to harvest OY or that portion of OY that can be made available for foreign fishing and to date no total allowable level of foreign fishing (TALFF) has been specified for this fishery. Landings by trollers and handline vessels are subject to little on-board processing other than gilling and gutting for tuna and mahimahi that are > 20 lbs. Thus domestic processors appear fully capable of processing 100 percent of domestic pelagic fish harvests in the Hawaii segment of the Western Pacific Region..

3.1.1.5.10.3Extent to Which Fishing Vessels will Harvest OY

The Hawaii offshore handline will harvest that fraction of the OY not caught by other pelagic vessels

3.1.1.5.10.4Extent to Which U.S. Fish Processors will Process OY

Almost all pelagic species caught by pelagic fishing vessels, including the offshore handline fishery is processed in Hawaii. In other words that fraction of the OY caught by handline vessels will be processed by US Fish Processors.

3.1.1.5.11 Accountability Measures

There are no accountability measures for the offshore handline fishery.

3.1.1.5.12 Criteria for Determining Overfishing

Where stock assessments are conducted, overfishing is defined as Ft/Fmsy > 1.0, overfished is defined as Bt/Bmsy < Bmsst. In the absence of stock assessments other proxies are used such as the annual variation in catch per unit of effort (CPUE), changes in size frequency and average size and spawning potential ratio.

3.1.1.5.13 MSA Conservation and Management Measures

There are no MSA Conservation and Management Measures for the offshore handline fishery

3.1.1.5.14 Regulations Implementing International Recommendations and other Applicable Laws

There are no International Recommendations for the offshore handline fishery.

3.1.1.5.15 Bycatch

To be completed

3.1.1.5.15.1 Amount

3.1.1.5.15.2 Type

3.1.1.6 American Samoa Troll Fishery

3.1.1.6.1 Description (commercial, charter, recreational)

Levine and Allen (2009) provide some background on troll fishing in American Samoa. Until 1995, boat-based fishing in Tutuila and Manu'a was primarily trolling and bottomfish handlining. In 1996, the majority of trolling fishermen converted their alias to longline fishing, although some of them continued to troll fish occasionally. Consequently, the fishery has experienced a decline in its catch and effort, especially since larger commercial trollers were most often the ones that converted to longlining. In 1996, 7 of the 35 trolling vessels were 25-40 ft long pleasure boats whose captains fished for recreation on weekends, holidays or competed in fishing tournaments, with the catch rarely sold.

3.1.1.6.2 Type and Quantity of Fishing Gear

Troll fishing experienced a long period of decline in American Samoa especially with the advent of the American Samoa longline fishery in 1994 (Figure 25). On average about 14 vessels annually conduct troll fishing.

Figure 25. Number of vessels landing pelagic species in American Samoa, 1986-2014

3.1.1.6.3 Catch in Numbers or Weight

Yellowfin and skipjack tuna have always made up most of the trolling landings (Figure 26). In 1986, when trolling was the only pelagic fishing method, 53 trolling boats landed 137,100 pounds of skipjack tuna and 54,622 pounds of yellowfin tuna. In 1996 when longlining was just getting started, these two species comprised 75% of the trolling landings with 35 boats landing 56,562 pounds of skipjack and 36,551 pounds of yellowfin tuna. Mahimahi, blue marlin and wahoo made up a significant proportion of the other 25% of the catch. By 2001, when longlining became the dominant fishing method in American Samoa, the number of trolling boats and their total catch dropped dramatically. More recent catches in the troll fishery contimnue to be dominated by skipjack and yellowfin (Figure 27)

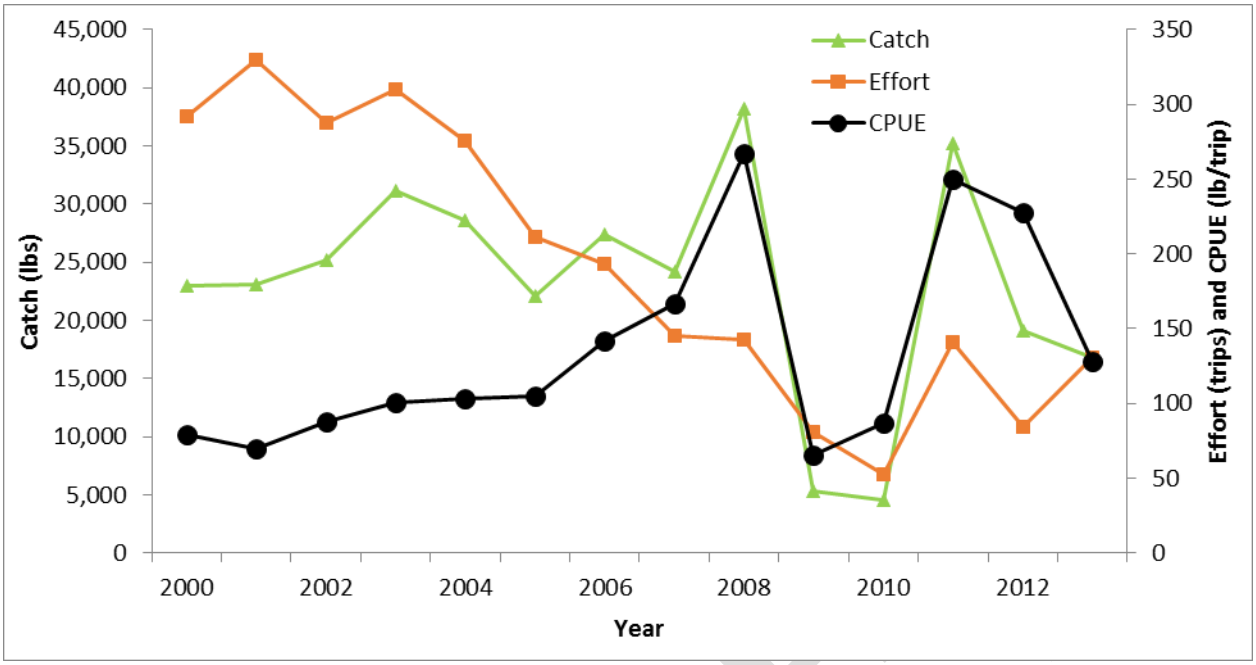

Figure 26. Catch, fishing effort and CPUE for troll fishing vessels in American Samoa, 2000-2013.
Source: WPRFMC 2014 and WCPFC in prep

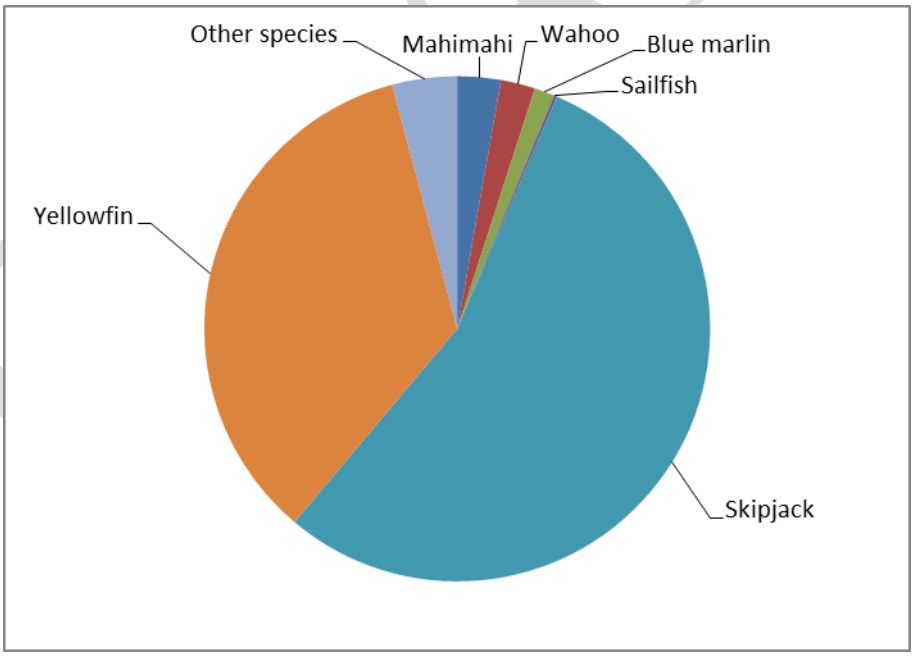

Figure 27. Species composition of the American Samoa troll fishery, 2000-2014

Fishing effort in the troll fishery has declined since 2000, though with a partial recovery after 2010 (Figure 26). On average there were about 14 troll vessels fishing each year making about 190 fishing trips each year, although fleet size ranged from 9-20 vessels, making 53-330 fishing trips. Despite declining troll effort, troll catches were relatively stable between 2000 and 2008,

and then declined sharply during 2009 and 2010, and then recovering to former levels in 2011 (Figure 26).

The CPUE in the troll fishery showed and increasing trend, as effort declined, between 2000 and 2008 (Figure 26). Like the catch, there was a major decline in the CPUE between 2009 and 2010, which likely accounted for the catch decline. Following 2010, CPUEs, though still variable returned to former levels. For current information regarding the American Samoa troll fishery, please refer to the most current WPFMC Pelagic Fishery Ecosystem Report (SAFE Report).

3.1.1.6.4 Fishing Areas

Data from WPacFIN surveys indicates that about 40% of the troll pelagic catch comes from fishing on the banks, although about a fifth of this catch is generated from fishing around East Bank. Details on the structure and depths of the banks is given in Table 10.

Table 10. Details on the American Samoa seamounts and banks
Source (Ralston & Goolsby 1986)

Bank	Extent (nm)	Depth (m)
South Bank	4.5	40
East Bank	20	200-500
Southeast Bank	Not available, comprises several small pinnacles	200
Northeast Bank	Flat topped guyot with top of 3 nm^2	100
Manua Bank	Not available, comprises several small pinnacles	100-600

3.1.1.6.5 Time of Fishing

Troll fishing in American Samoa is conducted during the day time.

3.1.1.7.6 Number of Fishing Trips

Fishing effort in the American Samoa troll fishery is measures in the number of trips per year. Between 2000 and 2014, the number of troll fishing trips ranged from 50 to 300 trips per year, with an average of 190 trips per year.

3.1.1.6.6 Economics

See section 3.1.1.2.6

3.1.1.6.7 Estimated and Actual Processing Capacity Utilized by U.S. Processors

All troll catch is processed and sold in American Smaoa

3.1.1.6.8 Present and Probable Future Condition of the Fishery

The present condition of the American Samoa troll fishery will continue to be a mix of commercial alia vessels and recreational boats belonging to the Pago Pago Gamefishing Club. The probably future condition of the troll fishery is to some extent contingent on the American Samoa longline fishery, which is the principal pelagic fishery in the Territory. The contraction of the troll fishery was not driven by resource issues but by troll fishermen choosing to participate in the longline fishery.

3.1.1.6.9 Yield

3.1.1.6.9.1 MSY

See Section 3.1.1.1.10.1

3.1.1.6.9.2 OY

Optimum yield or OY for the PMUS is defined in the original Pelagics FMP as "the amount of each species in the management unit that will be caught by domestic and foreign fishing vessels in the FCZ in accordance with the measures contained in this plan." This definition was amended in 1992 to also apply to tunas. In addition, in 1994 Amendment 7 revised the definition of OY to recognize that it should encompass the fishery beyond the EEZ. In Amendment 7 define OY as "the amount of each management unit species or species complex that can be harvested by domestic and foreign fishing vessels in the EEZ and adjacent waters to the extent regulated by 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".
Given the non-numeric definition of OY for the Pelagics FMP, it is difficult to quantify the domestic capacity to harvest OY or that portion of OY that can be made available for foreign fishing and to date no total allowable level of foreign fishing (TALFF) has been specified for this fishery. Little to no processing of troll catches in American Samoa occurs other than gilling and gutting larger fish. Thus domestic processors appear fully capable of processing 100 percent of domestic pelagic fish harvests in the American Samoa segment of the Western Pacific Region.

3.1.1.6.9.3 Extent to Which Fishing Vessels will Harvest OY

American Samoa troll vessels will harvest that fraction of the OY comprising surface caught pelagic species

3.1.1.6.9.4 Extent to Which U.S. Fish Processors will Process OY

All American Samoa troll caught fish is sold and processed in American Samoa

3.1.1.6.10 Criteria for Determining Overfishing

Where stock assessments are conducted, overfishing is defined as Ft/Fmsy > 1.0, overfished is defined as Bt/Bmsy < Bmsst. In the absence of stock assessments other proxies are used such as the annual variation in catch per unit of effort (CPUE), changes in size frequency and average size and spawning potential ratio.

3.1.1.6.11 MSA Conservation and Management Measures

There are no conservation and management measures for the American Samoa troll fleet, other than local regulations from the Government of American Samoa.
Local fishery regulations bans landings of any shark species, regulates the use of gillnets and deployment of and tampering with FADs.

3.1.1.6.12 Regulations Implementing International Recommendations and other Applicable Laws

There are no international recommendations that apply to the American Samoa troll fishery

3.1.1.6.13 Bycatch

Bycatch in the American Samoa troll fishery is minimal with zero bycatch being reported most years

3.1.1.7 Guam Troll Fishery

3.1.1.7.1 Description

Aside from the pelagic troll fishery discussed below, there is currently one longline vessel and two purse seine vessels based out of Guam. Pelagic fishing vessels based on Guam are classified into two general groups:

1) distant-water purse seiners and longliners (foreign and domestic) that fish outside Guam's economic exclusive zone (EEZ) and transship through the island and;

2) small, primarily recreational, trolling boats that are either towed to boat launch sites or marina-berthed charter boats and fish only within local waters, either within Guam's EEZ or on some occasions in the adjacent EEZ of the Northern Mariana Islands. Most fishermen sell a portion of their catch at one time or another and it is difficult to make a distinction between recreational, subsistence, and commercial fishers. There are currently 15 civilian charter vessels on Guam and one charter operation run by the U.S. military from Sumay Cove (John Calvo, personal communication.) A summary of the catches by the Guam charter fleet is given in WPRFMC (2010). A feature of the Guam charter industry is that catches are often served as sashimi to the patrons, most of whom are Japanese.

Landings consist primarily of five major species: mahimahi (*Coryphaena hippurus*), wahoo (*Acanthocybium solandri*), bonita or skipjack tuna (*Katsuwonus pelamis*), yellowfin tuna (*Thunnus albacares*), and Pacific blue marlin (*Makaira mazara*). Other minor species caught include rainbow runner (*Elagatis bipinnulatus*), kawakawa (*Euthynnus affinis*), dogtooth tuna (*Gymnosarda unicolor*), double-lined mackerel *(Grammatorcynus bilineatus*), and oilfish (*Ruvettus pretiosus*).

High value is placed on sharing one's fish catch with relatives and friends. The social obligation to share one's fish catch extends to part-time and full-time commercial fishermen (Amesbury and Hunter-Anderson, 1989). In a study conducted by Rubinstein (2001), nearly all fishermen (96 percent) reported that they share fish regularly, giving fish to family (36 percent), friends (13 percent) or both (47 percent). A majority (53 percent) said they did not give fish to people other

than family and close friends; of those who did occasionally, the main recipients were church fiestas (32 percent) and other church events or organizations (20 percent). A 2005 survey of Guam households found that out of the fish consumed by households, a little more than half (51 percent) was purchased at a store or restaurant and 9 percent was purchased at a flea market or from a roadside stand. Nearly one-quarter (24 percent) of the fish consumed was caught by the respondent or an immediate family member, and an additional 14 percent was caught by a friend or extended family member (Beukering et al., 2007 in Allen and Bartram 2008).

3.1.1.7.2 Type and Quantity of Fishing Gear

Like Hawaii there are a large variety of trolling techniques in Guam. The number of boats involved in Guam's pelagic or open ocean fishery has remained fairly constant between 2000 and 2014 at about 400 (Figure 28). A majority of the fishing boats are less than 10 meters (33 feet) in length and are usually owner-operated by fishermen who earn a living outside of fishing. Most fishermen sell a portion of their catch at one time or another and it is difficult to make a distinction between recreational, subsistence, and commercial fishers. A small, but significant, segment of the pelagic group is made up of marina-berthed charter boats that are operated primarily by full-time captains and crews.

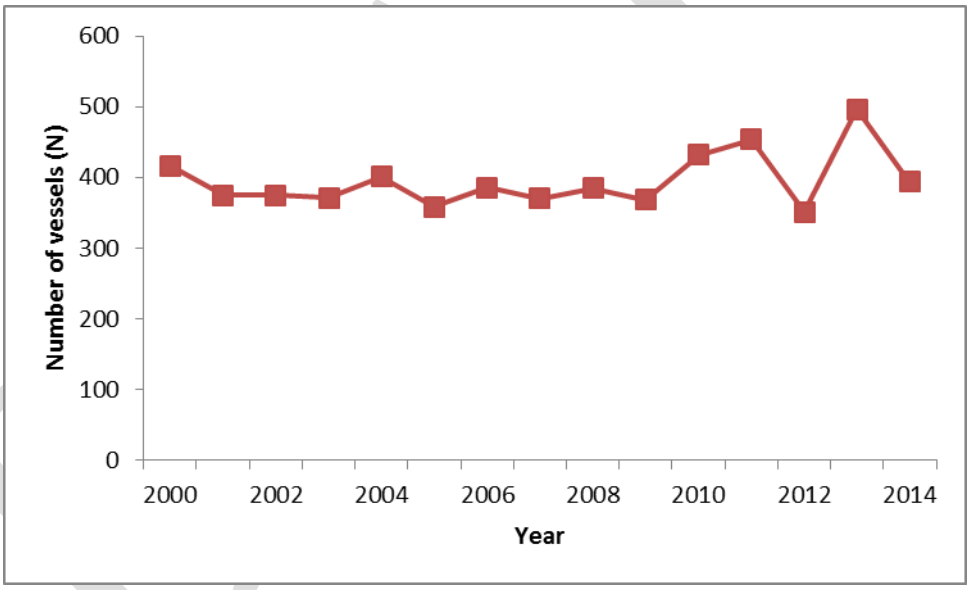

Figure 28. Annual number of fishing vessels in the Guam troll fishery

3.1.1.7.3 Catch in Numbers or Weight

The estimated annual pelagic landings have varied widely between 2000 and 2014, ranging between 280,000 and 800,000 lbs, with an average of 577,000 lbs (Figure 29). Landings consisted primarily of five major species: mahimahi wahoo, bonita or skipjack tuna yellowfin tuna and Pacific blue marlin (Figure 30). Other minor species caught include rainbow runner, kawakawa, double-lined mackerel, and oilfish. Sailfish and sharks were also caught during 2014. For current information regarding the Guam troll fishery, please refer to the most current WPFMC Pelagic Fishery Ecosystem Report (SAFE Report).

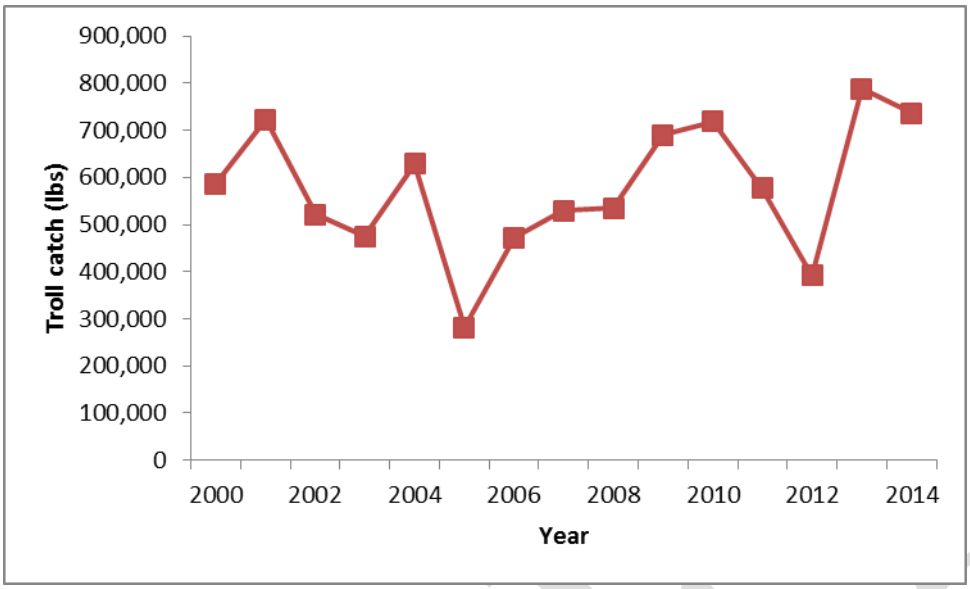

Figure 29. Annual landings of pelagic species in Guam, 2000-2014

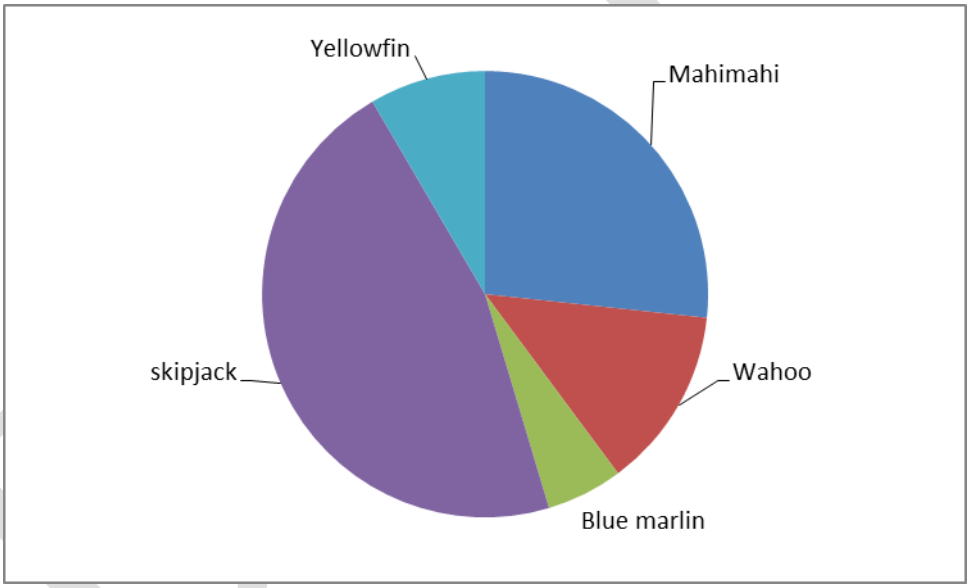

Figure 30. Average species composition of Guam troll catches, 2000-2014

3.1.1.7.4 Fishing Areas

Gum troll fishermen fish around the island of Guam and at a number of banks about 30- 60 miles to the south of the island.

3.1.1.7.5 Time of Fishing

Troll fishing in Guam is conducted during the daytime.

3.1.1.7.6 Number of Fishing Trip

Fishing effort in the Guam troll fishery is measures by the annual number of fishing trips.

Between 2000 and 2014, the annual number of troll fishing trips ranged from 5,000 to 13,200 fishing trips, with an average of 8,400 fishing trips per year.

3.1.1.7.7 Economics

Between 2001-2011, the average adjusted direct revenue from the Guam pelagic fishery was $490,360 (tuna = $158,677; non-tuna = $331,684). During this period, the high year was 2001 ($964,619) and the low year was 2008 ($255,713). For current information regarding revenue of the fishery, price per pound, total direct employment, and fisheries-dependent services or industries, please refer to the most current WPFMC Pelagic Fishery Ecosystem Report (SAFE Report).

3.1.1.7.8 Estimated and Actual Processing Capacity Utilized by U.S. Processors

All pelagic fish landed by Guam trollers are consumed locally; none of the catch is exported. Longline caught fish landed from foreign longline vessels are transshipped through Guam to Japan, although this business has contracted over the past two decades from an annual total of 12,700 mt to about 2,290 mt in 2014.

3.1.1.7.9 Present and Probable Future Condition of the Fishery

The average catch from the Guam fishery is about 270 mt, and from the CNMI troll fishery about 100 mt, making a combined total of 370 mt. A recent study by the Secretariat of the Pacific Community (Nicol 2014) indicates that there is a standing spawning stock of skipjack alone of between 106,000 and 135,000 mt. This suggests that pelagic fish in the waters within the US EEZ around the Marianas are only lightly exploited.

Recent migrants from Micronesia, primarily Chuuk have created a great deal of social unrest in Guam by establishing troll and reef fisheries that has been a source of conflict with indigenous fishermen

3.1.1.7.10 Yield

3.1.1.7.10.1MSY

See Section 3.1.1.1.10.1

3.1.1.7.10.2OY

Optimum yield or OY for the PMUS is defined in the original Pelagics FMP as “the amount of each species in the management unit that will be caught by domestic and foreign fishing vessels in the FCZ in accordance with the measures contained in this plan.” This definition was amended in 1992 to also apply to tunas. In addition, in 1994 Amendment 7 revised the definition of OY to recognize that it should encompass the fishery beyond the EEZ. In Amendment 7 define OY as “the amount of each management unit species or species complex that can be harvested by domestic and foreign fishing vessels in the EEZ and adjacent waters to the extent regulated by 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”.

Given the non-numeric definition of OY for the Pelagics FMP, it is difficult to quantify the domestic capacity to harvest OY or that portion of OY that can be made available for foreign fishing and to date no total allowable level of foreign fishing (TALFF) has been specified for this fishery. There is limited on-board processing of the Guam troll catch apart from gilling and gutting larger fish. Thus domestic processors appear fully capable of processing 100 percent of domestic pelagic fish harvests in the Guam segment of the Western Pacific Region.

3.1.1.7.10.3Extent to Which Fishing Vessels will Harvest OY

The average catch from the Guam fishery is about 270 mt, and from the CNMI troll fishery about 100 mt, making a combined total of 370 mt. A recent study by the Secretariat of the Pacific Community (Nicol 2014) indicates that there is a standing spawning stock of skipjack alone of between 106,000 and 135,000 mt. This suggests that pelagic fish in the waters within the US EEZ around the Marianas are only lightly exploited, and only a fraction of the OY is being harvested

3.1.1.7.10.4 Extent to Which U.S. Fish Processors will Process OY

All troll catches in Guam are landed and sold in Guam. There is no export of pelagic species caught by Guam trollers. Foreign longline vessels do offload fresh and frozen catches on Guam for transshipping to Japan. Between 2000-2014, 1,700 to 12,000 mt were transshipped annually from foreign vessels, with an average of 5,400 mt. The composition of transshipments was about 54% bigeye tuna 37% yellowfin tuna and 9% other species such as swordfish and other billfish.

3.1.1.7.11 Criteria for Determining Overfishing

See Section 3.1.1.1.12

3.1.1.7.12 MSA Conservation and Management Measures

There are no direct MSA conservation and management measures that apply to Guam trollers. However, there is a 50-100 nm area around Guam closed to longline fishing (Figure 28). Further, anchoring by all fishing vessels over 50 ft (15.25 m) LOA is prohibited in the U.S. EEZ seaward of Guam west of 144°30′E. long. except in the event of an emergency caused by ocean conditions or by a vessel malfunction that can be documented (CRF Title 50 Part 665.399) (Figure 31).

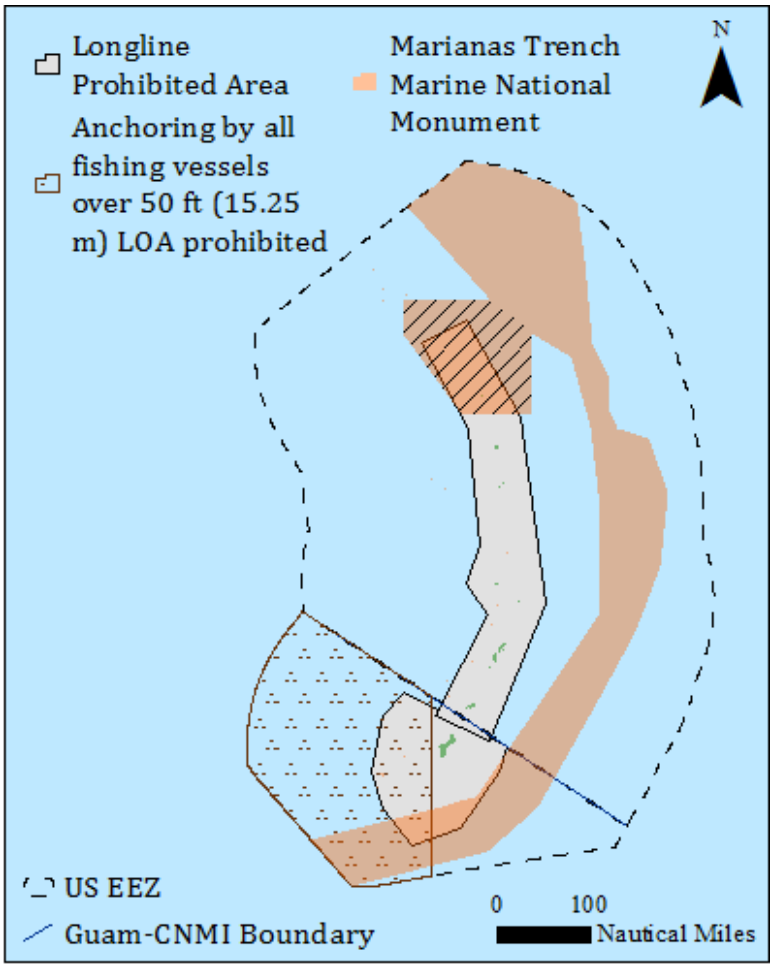

Figure 31. Map of the longline and other fishery management zones around the Hawaiian Archipelago

Local fishery regulations ban the use of any form of longline gear within the waters of Guam (not specified) and the use of purse seine nets for pelagic fish other than the bigeye scad or atulai.

3.1.1.7.13 Bycatch

Historically, most fish that is landed by fishermen is kept regardless of size andspecies. Bycatch for the Guam fishery comprises sharks, shark-bitten pelagics, small pelagics, or other pelagic species. In 2004, 2010 and 2012, bycatch was not encountered by Fisheries staff wheninterviewing trolling vessels.

3.1.1.8 CNMI Troll Fishery

3.1.1.8.1 Description (commercial, charter, recreational)

With the exception of the purse seine support base on Tinian discussed above, CNMI has never had a large infrastructure dedicated to commercial fishing. The majority of boats in the local fishing fleet are small, outboard engine-powered vessels. The harvest of pelagic species by

CNMI-based vessels has always been small, around 100 metric tons annually, caught with trolling gear. Both supply and demand conditions direct the majority of domestic commercial fishing effort in CNMI toward reef fish and bottomfish. There is less seasonality in these fisheries, and they require shorter offshore trips; moreover, their market value is often much higher than that of the commonly caught pelagic fish.

CNMI's pelagic fishery occurs primarily from waters off the island of Farallon de Medinilla south to the Island of Rota. The pelagic fishing fleet consists primarily of trolling vessels less than 24 ft in length which generally take one-day trips within 30 nm around the islands where they find abundant skipjack tuna. These vessels have a limited travel and fishing range and fishery participants necessarily rely on catches from waters within their reach.

There was a longline fishing company located on Saipan which began in 2010, and had four longliners fishing waters around the Mariana Archipelago, beyond 30 nm from shore but within EEZ waters. The fishery stopped operating, however, in 2013.

The pelagic fishery is monitored using data in the Commercial Purchase Data Base which currently documents landings on Saipan where the majority of the CNMI's population and fishery participants live. Staff from the Department of Lands and Natural Resources, Division of Fish and Wildlife (DFW) routinely distribute and collect invoice books from 30 participating local fish purchasers on Saipan that record all fish purchases by species categories. The establishment of data collection systems for the islands of Tinian and Rota are in process. It is believed that the commercial purchase database landings include around 90 percent of all commercial landings on Saipan. There is also an un-quantified subsistence fishery on Saipan where income is made by selling a small portion of catches door-to-door to cover fishing expenses.

The primary target and most marketable species for the pelagic fleet is skipjack tuna. In 2010, skipjack tuna continued to dominate the pelagic landings, comprising around 80 percent of commercial pelagic landings and revenues totaling about $215,946 (Table 2). Schools of skipjack tuna have historically been common in nearshore waters, providing an opportunity for trollers to catch numerous fish with a minimum of travel time and fuel costs. Yellowfin tuna and mahimahi are also easily marketable species but are seasonal. Peak mahimahi catches are usually from February through April while the yellowfin season usually runs from April through September.

3.1.1.8.2 Type and Quantity of Fishing Gear

The number of fishers (boats) making commercial pelagic landings has shown a steady decline from 2000 onwards, from nearly 120 in 2000 vessels to 19 in 2014, or an average of about 62 vessels (Figure 32).

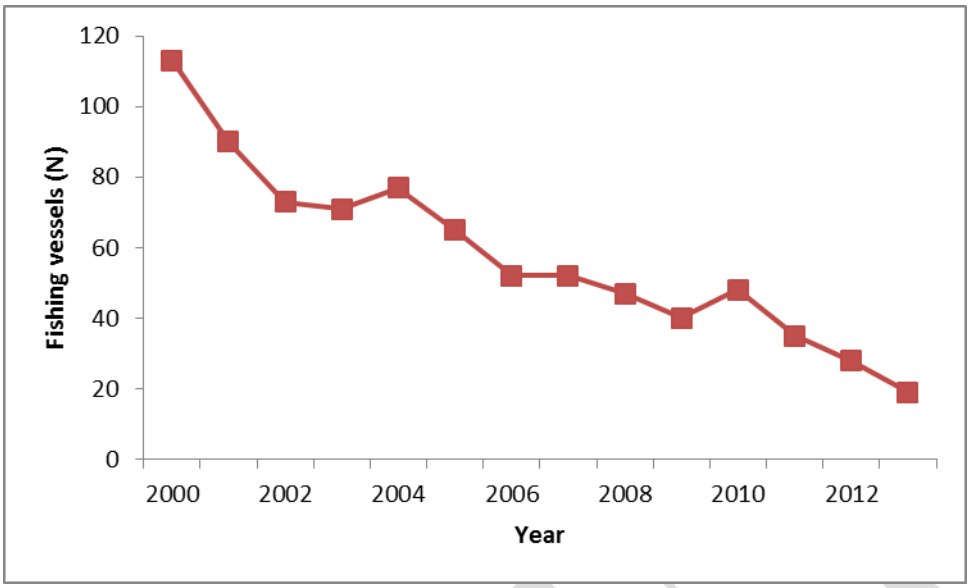

Figure 32. The annual number of commercial vessels landing pelagic species in the CNMI, 1983-2014

3.1.1.8.3 Catch in Numbers or Weight

Catches in the CNMI are reported from two different data streams, a commercial receipt book system and expansions from creel surveys. Based on the receipt book system, commercial pelagic catches have varied from 110,000 lbs to 345,000 lbs between 2000 and 2014, with a mean of 220,000 lbs (Figure 33). Over the same time period, the total pelagic catch based on the creel survey has ranged from 370,000 lbs to 700,000 with a mean of 530,000 lbs (Figure 34). Both data systems show that about 80% of the CNMI troll catch is skipjack, followed by yellowfin, mahimahi and wahoo (Figure 35). For current information regarding the CNMI troll fishery, please refer to the most current WPFMC Pelagic Fishery Ecosystem Report (SAFE Report).

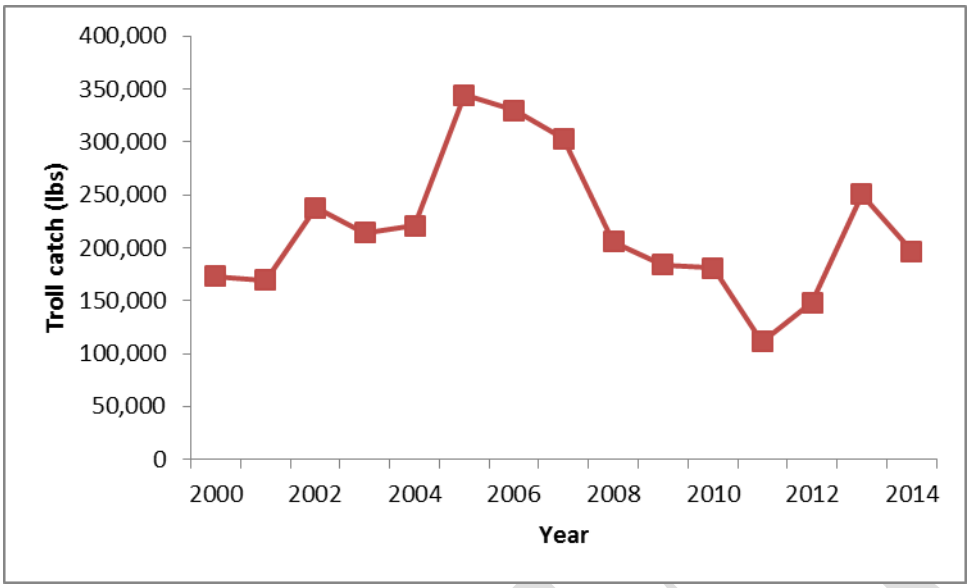

Figure 33. CNMI annual estimated total landings from commercial receipt invoices

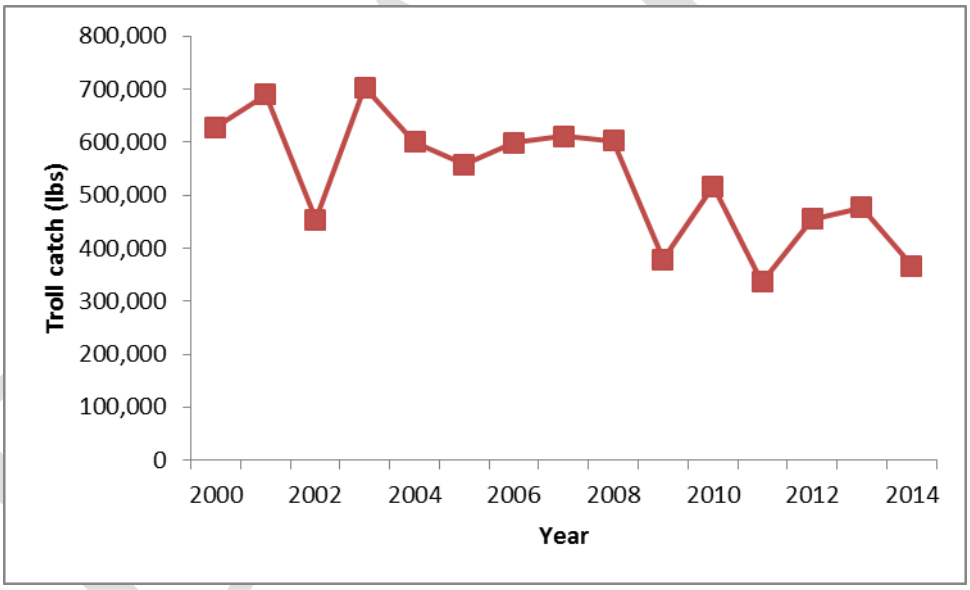

Figure 34. Creel survey estimates of pelagic landings in the CNMI, 2000-2014

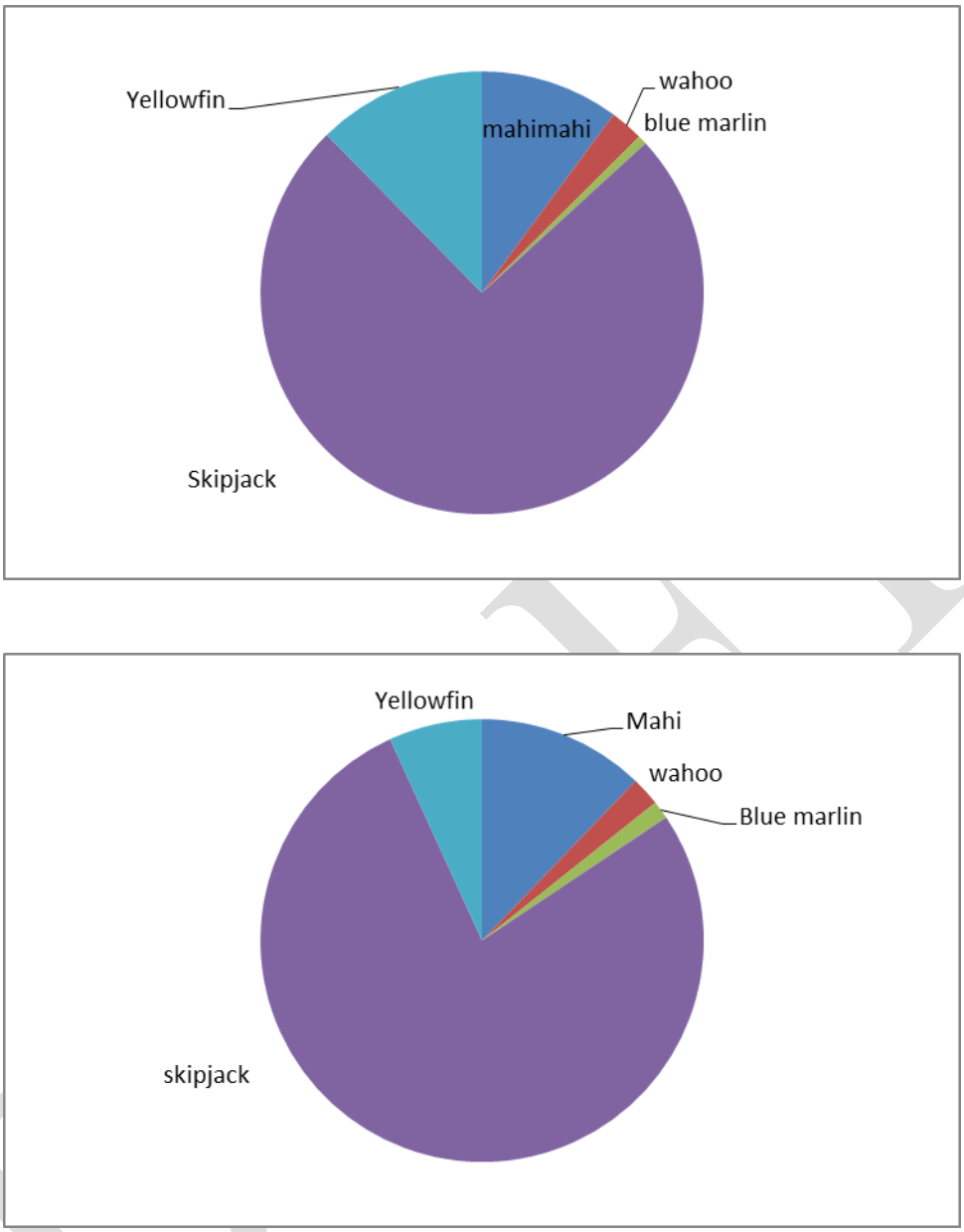

Figure 35. Species composition of CNMI troll catches from commercial receipt books (top) and creel survey (bottom)

3.1.1.8.4 Fishing Areas

CNMI troll fishermen fish around the main southern islands of Saipan, Tinian and Rota, and on offshore banks such as Farallon de Medinilla.

3.1.1.8.5 Time of Fishing

Troll fishing in the CNMI is conducted during the daytime.

3.1.1.8.6 Number of Fishing Trips

Fishing effort in then CNMI troll fishery is measures by the annual number of troll fishing trips. Between 2000 and 2014, the annual number of troll fishing trips ranged from 3,200 to 6,800 troll fishing trips, with an average of 4,500 fishing trips per year.

3.1.1.8.7 Economics

Between 2002-2012, the average adjusted direct revenue from the CNMI pelagic fishery was $277,841 (tuna = $223,942; non-tuna = $53,899). During this period, the high year was 2003 ($562,590) and the low year was 2009 ($196,080). For current information regarding revenue of the fishery, price per pound, total direct employment, and fisheries-dependent services or industries, please refer to the most current WPFMC Pelagic Fishery Ecosystem Report (SAFE Report).

3.1.1.8.8 Estimated and Actual Processing Capacity Utilized by U.S. Processors

All of the pelagic fish landed in the CNMI, are landed primarily in Saipan and are consumed locally. There is no pelagic fisheries export from CNMI.

3.1.1.8.9 Present and Probable Future Condition of the Fishery

The average catch from the Guam fishery is about 270 mt, and from the CNMI troll fishery about 100 mt, making a combined total of 370 mt. A recent study by the Secretariat of the Pacific Community (Nicol 2014) indicates that there is a standing spawning stock of skipjack alone of between 106,000 and 135,000 mt. This suggests that pelagic fish in the waters within the US EEZ around the Marianas are only lightly exploited.

3.1.1.8.10 Yield

3.1.1.8.10.1MSY

See Section 3.1.1.1.10.1

3.1.1.8.10.2OY

Optimum yield or OY for the PMUS is defined in the original Pelagics FMP as "the amount of each species in the management unit that will be caught by domestic and foreign fishing vessels in the FCZ in accordance with the measures contained in this plan." This definition was amended in 1992 to also apply to tunas. In addition, in 1994 Amendment 7 revised the definition of OY to recognize that it should encompass the fishery beyond the EEZ. In Amendment 7 define OY as "the amount of each management unit species or species complex that can be harvested by domestic and foreign fishing vessels in the EEZ and adjacent waters to the extent regulated by 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".

Given the non-numeric definition of OY for the Pelagics FMP, it is difficult to quantify the domestic capacity to harvest OY or that portion of OY that can be made available for foreign fishing and to date no total allowable level of foreign fishing (TALFF) has been specified for this fishery. There is limited on-board processing of the CNMI troll catch apart from gilling and gutting larger fish. Thus domestic processors appear fully capable of processing 100 percent of domestic pelagic fish harvests in the CNMI segment of the Western Pacific Region.

3.1.1.8.10.3Extent to Which Fishing Vessels will Harvest OY

The CNMI

3.1.1.8.10.4Extent to Which U.S. Fish Processors will Process OY

All pelagic fish landed by CNMI trollers are landed and processed in CNMI. No pelagic species are exported elsewhere. In the US or overseas

3.1.1.8.11 Criteria for Determining Overfishing

Where stock assessments are conducted, overfishing is defined as Ft/Fmsy > 1.0, overfished is defined as Bt/Bmsy < Bmsst. In the absence of stock assessments other proxies are used such as the annual variation in catch per unit of effort (CPUE), changes in size frequency and average size and spawning potential ratio.

3.1.1.8.12 MSA Conservation and Management Measures

There are no conservation and management measures that apply to CNMI trollers, however there is a 30 nm area closure around the archipelago which is closed to longline fishing (Figure 28). Further, the top three northernmost islands of the CNMI are part of the Islands Unit of the Mariana Trench Marine National Monument and waters out to 50 nm are closed to all commercial fishing (Figure 28).
Local fishery regulations require all commercial fishermen to report their catches.

3.1.1.8.13 Regulations Implementing International Recommendations and other Applicable Laws

3.1.1.8.14 Bycatch

A summary report from the year 2000 to 2012 by both non-charter and charter boats indicate less than 1% or 6 out of 49,376 of the total pelagic species landed is released. The only three species were reported as bycatch: Mahimahi, Yellowfin Tuna and Skipjack Tuna. 4 out of 3,136 Mahimahi or .13% landed was released. And 1 out of 2,398 Yellowfin Tuna or .04% landed was released. There was 1 out of 43,842 Skipjack Tuna recorded to be released. Charter boats had no bycatch reported.

3.1.1.9 Hawaii aku boat fishery

3.1.1.9.1 Description

Hawaii used to have a very active pole-and-line bait boat fishery for skipjack or aku. This was the State of Hawaii's largest commercial fishery until its decline in the 1970s and 80s. The method uses live bait thrown from a fishing vessel to stimulate a surface school into a feeding frenzy. Fishing is then conducted frantically to take advantage of the limited time the school remains near the boat. The pole and line are of equal length, about 3m, and are used with a barbless hook with feather skirts which is slapped against the water until a fish strikes. Then the fish is yanked into the vessel in one fluid motion. The fish unhooks when the line is slackened so that the process can be repeated.

Baitfish was caught in embayments and lagoons around Hawaii, although the principal bait grounds were Pearl Harbor and Kaneohe Bay. Access to Pearl Harbor became increasingly

restricted over time and commercial fishing vessels were banned entirely after 9/11. The cannery closure in 1984 greatly reduced the aku boat fleet from its high in the 1950s of 32 vessels to 6 in 2000, and zero by 2015.

3.1.1.9.2 Type and Quantity of Fishing Gear

A full description of pole and line fishing is given by Wilson (2011). As stated above the fishery is now defunct, but when it was operating the aku vessels carried crews of 7-9 fishermen and fished 6 days a week.

3.1.1.9.3 Catch in Numbers or Weight

The catch between 2000 and 2009 was about 230,000 lbs on average , ranging from 150,000 to 300,000 lbs. For current information regarding the Hawaiian aku boat fishery (should it recommence) please refer to the most current WPFMC Pelagic Fishery Ecosystem Report (SAFE Report).

3.1.1.9.4 Fishing Areas

Fishing was conducted in the coastal waters around Oahu, fishing on free swimming schools or on FADs deployed by the State of Hawaii.

3.1.1.9.5 Time of Fishing

Aku boat fishing in Hawaii conducted during the daytime.

3.1.1.9.6 Number of Hauls

3.1.1.9.7 Economics

The value of the aku boat landings between 2000 and 2009 averaged about $1.2 million, with a range of $0.6 million to $1.8 million.

3.1.1.9.8 Estimated and Actual Processing Capacity Utilized by U.S. Processors

Not applicable as fishery is now defunct

3.1.1.9.9 Present and Probable Future Condition of the Fishery

The future condition of the fishery is highly uncertain, with no aku vessels currently fishing

3.1.1.9.10 Yield

3.1.1.9.10.1MSY

See Section 3.1.1.1.10.1

3.1.1.9.10.2OY

Optimum yield or OY for the PMUS is defined in the original Pelagics FMP as “the amount of each species in the management unit that will be caught by domestic and foreign fishing vessels in the FCZ in accordance with the measures contained in this plan.” This definition was amended in 1992 to also apply to tunas. In addition, in 1994 Amendment 7 revised the definition of OY to recognize that it should encompass the fishery beyond the EEZ. In Amendment 7 define OY as “the amount of each management unit species or species complex that can be

harvested by domestic and foreign fishing vessels in the EEZ and adjacent waters to the extent regulated by 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".
Given the non-numeric definition of OY for the Pelagics FMP, it is difficult to quantify the domestic capacity to harvest OY or that portion of OY that can be made available for foreign fishing and to date no total allowable level of foreign fishing (TALFF) has been specified for this fishery. There is no processing of the aku boat catch other than icing the fish in the hold. Thus domestic processors appear fully capable of processing 100 percent of domestic pelagic fish harvests in the Hawaii segment of the Western Pacific Region.

3.1.1.9.10.3Extent to Which Fishing Vessels will Harvest OY

Aku vessels, when they were operating was catching that fraction of the OY from the US EEZ waters around the Hawaiian Islands

3.1.1.9.10.4Extent to Which U.S. Fish Processors will Process OY

Landings of skipjack by the aku vessels were processed entirely in Hawaii and is used mainly for making poke.

3.1.1.9.11 Criteria for Determining Overfishing

Where stock assessments are conducted, overfishing is defined as Ft/Fmsy > 1.0, overfished is defined as Bt/Bmsy < Bmsst. In the absence of stock assessments other proxies are used such as the annual variation in catch per unit of effort (CPUE), changes in size frequency and average size and spawning potential ratio.

3.1.1.9.12 MSA Conservation and Management Measures

There are no MSA conservation and management measures that apply directly to the aku vessel fleet. There is a 50-75 nm area around the Main Hawaiian Islands that are closed to the Hawaii longline fishery.

3.1.1.9.13 Regulations Implementing International Recommendations and other Applicable Laws

There are international recommendations that apply to the aku vessel fleet.

3.1.1.9.14 Bycatch

There was very little bycatch in the aku boat fishery, other than fish that escaped from the pole-and-lines. Other species caught by the aku vessel fishery included mahimahi, kawakawa and yellowfin which are generally retained.

3.1.2 International Fisheries Management

3.1.2.1 Western and Central Pacific Fisheries Commission

The Western and Central Pacific Fisheries Commission (WCPFC) was established by the Convention for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPF Convention) (Figure 36) which entered into force on 19 June 2004. The Convention was concluded after six years of negotiation which commenced in

1994. The period between the conclusion of the Convention and its entry into force was taken up by a series of Preparatory Conferences that laid the foundations for the Commission to commence its work.

The WCPF Convention draws on many of the provisions of the UN Fish Stocks Agreement [UNFSA] while, at the same time, reflecting the special political, socio-economic, geographical and environmental characteristics of the western and central Pacific Ocean (WCPO) region. The WCPFC Convention seeks to address problems in the management of high seas fisheries resulting from unregulated fishing, over-capitalization, excessive fleet capacity, vessel re-flagging to escape controls, insufficiently selective gear, unreliable databases and insufficient multilateral cooperation in respect to conservation and management of highly migratory fish stocks. A framework for the participation of fishing entities in the Commission which legally binds fishing entities to the provisions of the Convention, participation by territories and possessions in the work of the Commission, recognition of special requirements of developing States, and cooperation with other Regional Fisheries Management Organizations (RFMO) whose respective areas of competence overlap with the WCPFC reflect the unique geo-political environment in which the Commission operates.

The Commission supports three subsidiary bodies; the Scientific Committee, Technical and Compliance Committee, and the Northern Committee, that each meet once during each year. The meetings of the subsidiary bodies are followed by a full session of the Commission. The work of the Commission is assisted by a Finance and Administration Committee.

The Members of the WCPC are as follows: Australia, China, Canada, Cook Islands, European Union, Federated States of Micronesia, Fiji, France, Indonesia, Japan, Kiribati, Republic of Korea, Republic of Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Philippines, Samoa, Solomon Islands, Chinese Taipei, Tonga, Tuvalu, United States of America, and Vanuatu.

The Participating Territories are American Samoa, Commonwealth of the Northern Mariana Islands, French Polynesia, Guam, New Caledonia, Tokelau, and Wallis and Futuna.

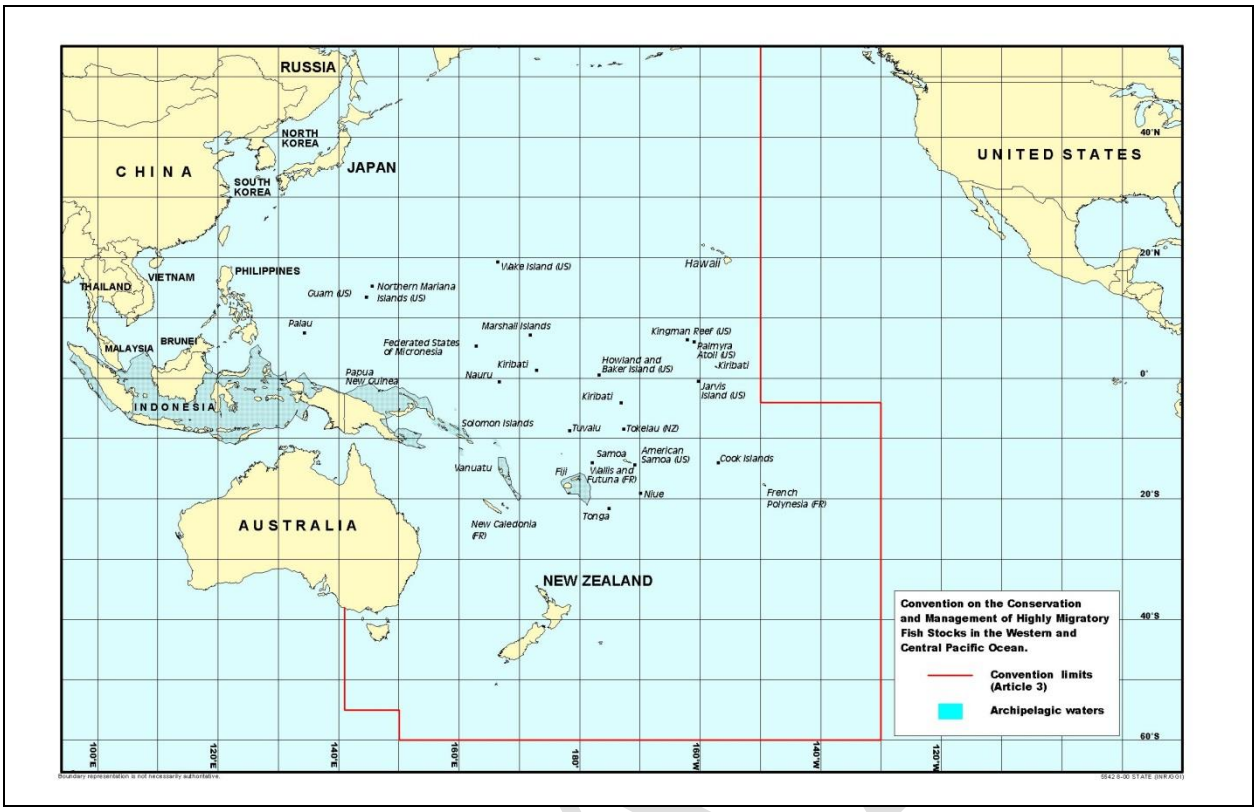

Figure 36. Area of Competence of the Western and Central Pacific Fisheries Commission

3.1.2.2 The Inter-American Tropical Tuna Commission

The IATTC is responsible for the conservation and management of tuna and other marine resources in the Eastern Pacific Ocean (Figure 37).

The members of the of the IATTC are: Belize, European Union, Nicaragua, Canada, France, Panama, China, Guatemala, Peru, Colombia, Japan, Chinese Taipei, Costa Rica, Kiribati, United States, Ecuador, Korea, Vanuatu, El Salvador, Mexico, and Venezuela

Bolivia, Honduras, Indonesia and Liberia are Cooperating Non Members

Each member of the IATTC is represented by up to four Commissioners, appointed by the respective government.

The IATTC also has significant responsibilities for the implementation of the International Dolphin Conservation Program (IDCP), and provides the Secretariat for that program.

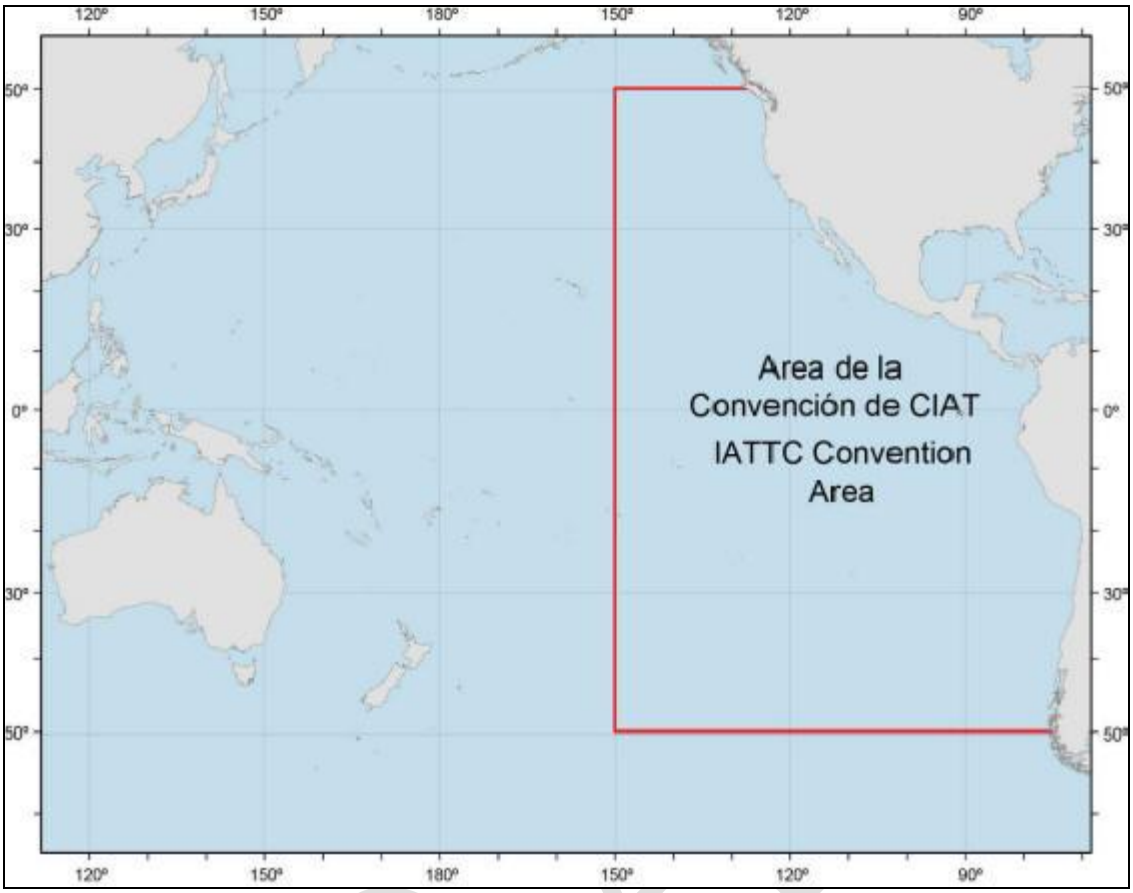

Figure 37. Area of Competence of the Inter-American Tropical Tuna Commission

3.1.2.3 South Pacific Regional Fishery Management Organization.

The South Pacific Regional Fisheries Management Organization (SPFRMO) is an inter-governmental organization that is committed to the long-term conservation and sustainable use of the fishery resources of the South Pacific Ocean and in so doing safeguarding the marine ecosystems in which the resources occur. The SPRFMO Convention applies to the high seas of the South Pacific, the largest area of responsibility for a Regional Fisheries Management Organization so far. Currently, the main commercial resources managed by the SPRFMO are Jack mackerel and jumbo flying squid in the Southwest Pacific and, to a much lesser degree, deep-sea species associated with seamounts in the Southeast Pacific.

The Organization consists of a Commission and a number of subsidiary bodies. New Zealand is the Depositary for the SPRFMO Convention and hosts the SPRFMO Secretariat in Wellington.

The membership of SPRFMO includes: Australia, Belize, Republic of Chile, People's Republic of China, Cook Islands, Republic of Cuba, Republic of Ecuador, European Union, Kingdom of Denmark in respect of the Faroe Islands, Republic of Korea, New Zealand- Russian Federation, Chinese Taipei- Republic of Vanuatu

Cooperating non-Contracting Parties (CNCPs) include Colombia, France (Territories), Republic of Liberia, Republic of Panama, Republic of Peru and United States of America.

3.1.2.4 North Pacific Fisheries Commission

The North Pacific Fisheries Commission (NPFC) is an inter-governmental organization established by the Convention on the Conservation and Management of High Seas Fisheries Resources in the North Pacific Ocean (Figure 38). The objective of the Convention is to ensure the long-term conservation and sustainable use of the fisheries resources in the Convention Area while protecting the marine ecosystems of the North Pacific Ocean in which these resources occur.

Fisheries resources covered by the Convention is all fish, mollusks, crustaceans and other marine species caught by fishing vessels within the Convention Area, excluding:
(i) sedentary species insofar as they are subject to the sovereign rights of coastal States; and indicator species of vulnerable marine ecosystems as listed in, or adopted pursuant to the NPFC Convention;
(ii) catadromous species;
(iii) marine mammals, marine reptiles and seabirds; and
(iv) other marine species already covered by pre-existing international fisheries management instruments within the area of competence of such instruments.

Canada, China, Japan, the Republic of Korea, the Russian Federation, the United States of America, and Chinese Taipei have negotiated on the Convention and the Convention was adopted on 24 February 2012.

The Convention entered on 19 July 2015 (180 days after receipt of the 4th instrument of ratification, acceptance, approval or accession). Japan has been acting as the Interim Secretariat until the NPFC Secretariat is established.

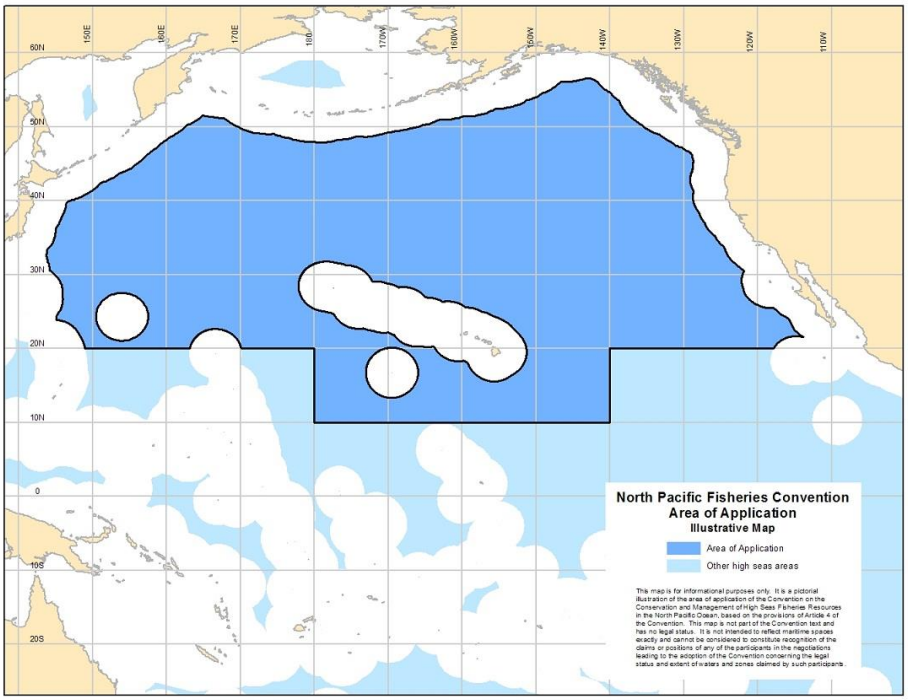

Figure 38. Area of competence for the North Pacific Fisheries Commission

3.1.2.5 Forum Fisheries Agency

The Pacific Islands Forum Fisheries Agency (FFA) strengthens national capacity and regional solidarity so its 17 members can manage, control and develop their tuna fisheries now and in the future.

Based in Honiara, Solomon Islands, FFA's 17 Pacific Island members are Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu and Vanuatu.

FFA was established to help countries sustainably manage their fishery resources that fall within their 200 mile Exclusive Economic Zones (EEZs). FFA is an advisory body providing expertise, technical assistance and other support to its members who make sovereign decisions about their tuna resources and participate in regional decision making on tuna management through agencies such as the Western Pacific Fisher (WCPFC).

Since 1979, FFA has facilitated regional cooperation so that all Pacific countries benefit from the sustainable use of tuna – worth over $3 billion a year and important for many people's livelihoods in the Pacific.

Approximately 80 staff at the regional FFA headquarters in Honiara support their national contact points in departments of foreign affairs and fisheries in each member jurisdiction. FFA focuses its work on:

Fisheries management – providing policy and legal frameworks for the sustainable management of tuna

Fisheries development – developing the capacity of members to sustainably harvest, process and market tuna to create livelihoods

Fisheries operations – supporting monitoring, control and surveillance of fisheries as well as treaty administration, information technology and vessel registration and monitoring.

Corporate services - supporting the organisation's work through administration, human resources, budgeting and other corporate functions.

The founding document of the Agency is the South Pacific Forum Fisheries Agency Convention. The Forum Fisheries Committee meets annually to consider regional policies and the budget and work program of FFA.

3.1.2.6 Parties to the Nauru Agreement

The Parties to the Nauru Agreement (PNA) controls the world's largest sustainable tuna purse seine fishery.

PNA Members are the Federated States of Micronesia, Kiribati, Marshall Islands, Nauru, Palau, Papua New Guinea, Solomon Islands and Tuvalu.

PNA conservation measures include high seas closures to fishing, controls on Fish Aggregating Devices (FADs), protection for whale sharks and the 100% coverage of purse seine fishing vessels with observers.

In 2011, the PNA skipjack tuna caught without using FADs was certified by the Marine Stewardship Council as sustainable, creating the world's largest sustainable tuna purse seine fishery.

PNA controls around 50% of the global supply of skipjack tuna, the most commonly canned tuna.The focus of PNA efforts to sustainably manage tuna is the Vessel Day Scheme (VDS). PNA members agree on a limited number of fishing days for the year, based on scientific advice about the status of the tuna stocks. Fishing days are then allocated by country and sold to the highest bidder. In this way, Pacific Islanders reap economic benefits from their sustainable management of tuna.

3.1.2.7 Secretariat of the Pacific Community's Ocean Fisheries Program

The Oceanic Fisheries Programme (OFP) is part of the Fisheries, Aquaculture and Marine Ecosystems (FAME) Division of SPC, and is the Pacific Community's regional centre for tuna fisheries research, fishery monitoring, stock assessment and data management. It was established by the 1980 South Pacific Conference (as the Tuna and Billfish Assessment Programme) to

continue and expand the work initiated by its predecessor project, the Skipjack Survey and Assessment Program.

The Secretariat of the Pacific Regional Environment Programme (SPREP)

The Secretariat of the Pacific Regional Environment Programme (SPREP) has been charged by the governments and administrations of the Pacific region with the protection and sustainable development of the region's environment. ,SPREP is based in Apia, Samoa, with over 90 staff.

SPREP's members are American Samoa, Australia, Commonwealth of the Northern Mariana Islands, Cook Islands, Federated States of Micronesia, Fiji, France, French Polynesia, Guam, Kiribati, Marshall Islands, Nauru, New Caledonia, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tokelau, Tonga, Tuvalu, United Kingdom, United States of America, Vanuatu and Wallis and Futuna.

SPREP's activities are guided by its Strategic Action Plan 2011-2015. Develop through extensive consultation with Members, Secretariat programme staff and partner organisations, the Plan establishes four strategic priorities:

- Climate Change;
- Biodiversity and Ecosystem Management;
- Waste Management and Pollution Control; and
- Environmental Monitoring and Governance.

3.1.2.8 Other Oceans: Indian Ocean Tuna Commission (IOTC), Commission for the Conservation of Southern Bluefin (CCSBT) and International Commission for the Conservation of Atlantic Tuna (ICCAT)

International tuna management is a global enterprise with Commissions in the Southern Ocean, the Indian Ocean and the Atlantic Ocean (Figure 39)

Figure 39. Global overview of the various tuna Regional Fisheries Management Organizations (tRFMOs), and the IOTC, CCSBT and ICCAT in relation to the Pacific tRFMOs.

3.1.2.9 United Nations Food and Agriculture Organization (FAO)

The key activities of the FAO Fisheries and Aquaculture Department are driven to support and promote responsible and sustainable development in fisheries and aquaculture
Activities reflect the main FAO mandate of managing knowledge and information, assuring a global neutral forum for Members and providing technical assistance. They also relate to the Department's overall goals and mission, specifically the management and conservation of aquatic resources; utilization, marketing and trade of fishery products; and development of fisheries policies. Each activity contains a brief introduction with links to available background and related information; some also have Web sites for specific programmes or projects.
The Committee on Fisheries (COFI), a subsidiary body of the FAO Council, was established by the FAO Conference at its Thirteenth Session in 1965. The Committee presently constitutes the only global inter-governmental forum where major international fisheries and aquaculture problems and issues are examined and recommendations addressed to governments, regional fishery bodies, NGOs, fishworkers, FAO and international community, periodically on a world-wide basis. COFI has also been used as a forum in which global agreements and non-binding instruments were negotiated.
COFI membership is open to any FAO Member and non-Member eligible to be an observer of the Organization. Representatives of the UN, UN bodies and specialized agencies, regional fishery bodies, international and international non-governmental organizations participate in the debate, but without the right to vote.
The First COFI meeting was in in 1966, and thereafter annually till 1975. Since 1977 the sessions have been held biennially.
The two main functions of COFI are to review the programmes of work of FAO in the field of fisheries and aquaculture and their implementation, and to conduct periodic general reviews of fishery and aquaculture problems of an international character and appraise such problems and their possible solutions with a view to concerted action by nations, by FAO, inter-governmental bodies and the civil society. The Committee also reviews specific matters relating to fisheries and aquaculture referred to it by the Council or the Director-General of FAO, or placed by the Committee on its agenda at the request of Members, or the United Nations General Assembly. In its work, the Committee supplements rather than supplants other organizations working in the field of fisheries and aquaculture.

3.1.2.10 South Pacific Tuna Treaty (SPTT)

The South Pacific Tuna Treaty entered into force in 1988, with an initial 5 year agreement, to set operational terms and conditions for the U.S. tuna purse seine fleet to fish in the Western and Central Pacific Ocean (WCPO), including waters under the jurisdiction of the Pacific Island Parties to the Treaty. The Treaty was extended in 1993, and again in 2002, when the parties agreed to amend and extend the Treaty and to extend the related Economic Assistance Agreement between the United States and the members of the Pacific Islands Forum, as

represented by the Forum Fisheries Agency, for a term of 10 years. In May of 2013, representatives from the United States and the Pacific Island Parties agreed to extend the Economic Assistance Agreement for another 10 years, and signed an interim arrangement to extend the Treaty until December 31, 2014. In October 2013 an interim arrangement was again signed, and the Treaty extended until December 31, 2015. The Treaty continues to be under negotiation to be amended and extended.

The participating members of the SPTT include Australia, Cook Islands, Federated States of Micronesia , Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, United States, and Vanuatu. The area under the competence of the SPTT is shown in Figure 35.

United States operational, administrative, and enforcement commitments under the SPTT are carried out by the NMFS. These responsibilities are implemented by the NMFS Pacific Islands Regional Administrator, located in Honolulu, Hawaii and by staff in Honolulu and Pago Pago, American Samoa. The area of competence of the SPTT is shown in Figure 40.

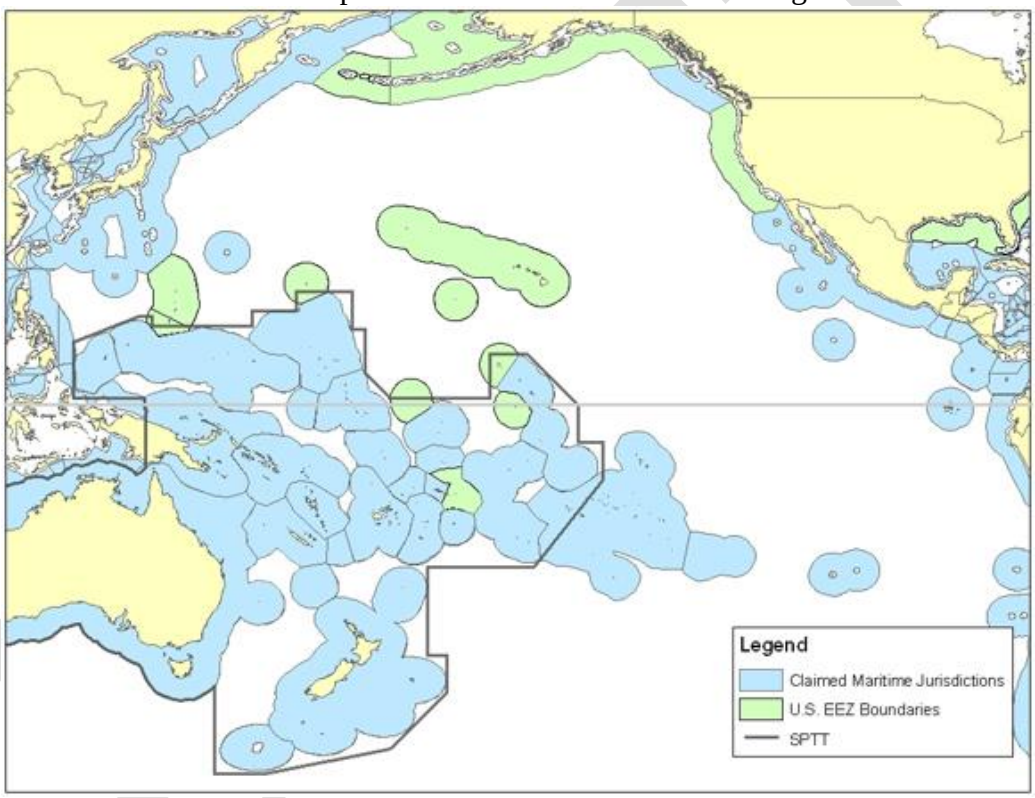

Figure 40. Area under the competence of the South Pacific Tuna Treaty

3.1.2.11 US Purse Seine Fishery

The US purse seine fleet operates in the WCPO and has operated under the multilateral treaty between the US and the countries listed above. Management of the fishery is conducted under the terms of the SPTT, but when operating in the US EEZ in the WCPO the fleet is subject to management by the WPRFMC. In American Samoa, this takes the form of an area closure out to 50 nm closed to vessels > 50 ft in length, which includes all US purse seiners.

Catches by the US purse seine fleet has been variable over time (Figure 41) and related to the

dynamics of the fleet which declined from 39 vessels in 1998 to 14 in 2006, and back to 40 by 2013. Current catches amount to about 250,000 mt, comprised primarily of skipjack, with minor amounts of yellowfin and bigeye. The bigeye purse sein catch though small has been a major management issue for the WCPFC since it is comprised primarily of juveniles and contributes to overfishing of the WCPO bigeye stock

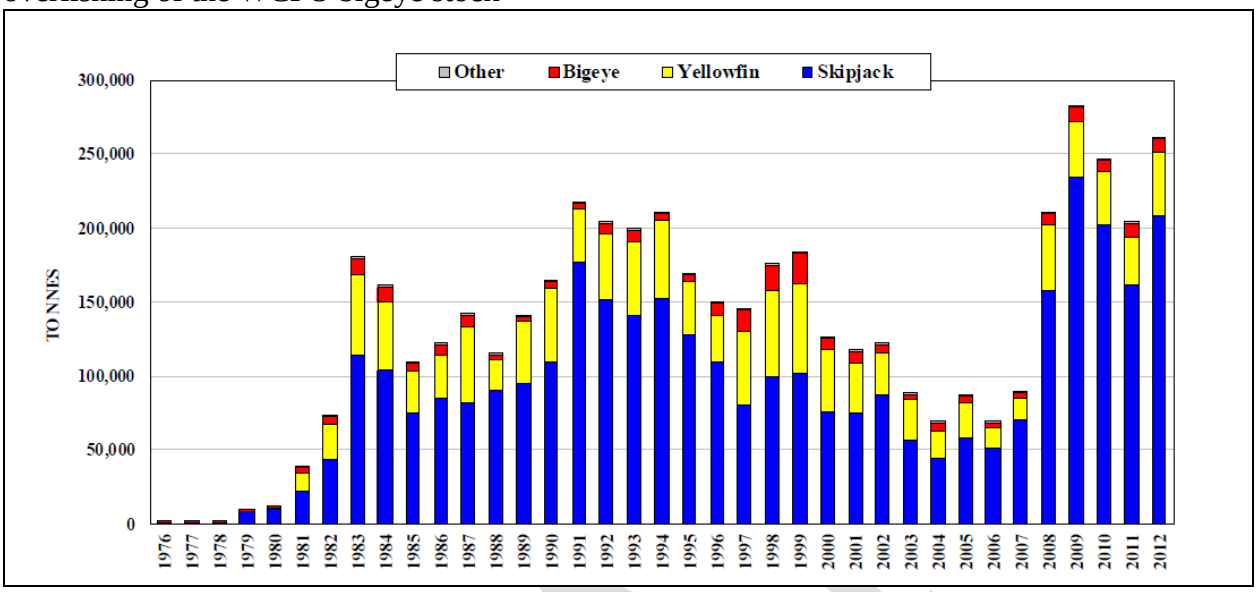

Figure 41. Catch time series for the US purse seine fleet from 1976 to 2012

3.1.2.12 Tokelau Arrangement

This Management Scheme is made pursuant to the Tokelau Arrangement for the management of the South Pacific Longline Fishery. The objective of this Management Scheme is to enhance the management of longline fishing vessel effort in the waters of the Parties by encouraging collaboration between all Parties, and:

i) promote optimal utilization, conservation and management of tuna resources;
ii) maximize economic returns, employment generation and export earnings from sustainable harvesting of tuna resources;
iii) support the development of domestic locally based longline fishing industries;
iv) secure an equitable share of fishing opportunities and equitable participation in the south pacific longline fisheries for the Parties;
v) increase control of the south Pacific longline fishery for the Parties;
vi) enhance data collection and monitoring of the fishery;
vii) promote effective and efficient administration, management and compliance; and
viii) encourage collaboration between the Parties.

Through this Management Scheme, the Parties shall seek to limit the level of fishing by longline vessels in their waters to the levels of total allowable catch agreed by the Parties to the Tokelau Arrangement.

3.2 Common to All Pelagics MUS

3.2.1 Annual Catch Limits

The PMUS caught by the Hawaii longline fleet are not subject to ACLs, as they qualify for the international exception. The MSA provides an exception to the ACL requirement for stocks or stock complexes subject to management under an international agreement, which is defined as any bilateral or multilateral treaty, convention, or agreement that relates to fishing and to which the United States is a party. However, these excepted stocks still must have SDC and MSY specified.

The Hawaii longline fleet is subject to Conservation and Management Measures (CMMs) from the Western and Central Pacific Fisheries Commission (WCPFC), and Resolutions of the Inter-American Tropical Tuna Commission (IATTC). The US engages in domestic rulemaking for the Hawaii longline fleet based on commission measures.

The principal measures enacted by these two commissions which have the greatest impact on the Hawaii longline fleet are for bigeye tuna. In 2008 the Hawaii longline fleet was forced to reduce its catch to 90% of its 2004 level (4,181) mt for the years 2009-2011 under WCPFC CMM 2008-01. This catch limit was maintained until the passage of CMM 2013-01, which required further 5% cuts in 2015 (3,554 mt)and 2017 (3,345 mt) Currently, the IATTC Resolution C-13-01, which limits vessels (US) vessels > 23 m to a catch of 500 mt of bigeye tuna.

3.2.2 Essential Fish Habitat

The following EFH designations were developed by the Council and approved by the Secretary of Commerce on February 3, 1999 (64 FR 19068).

In describing and identifying EFH for PMUS, four alternatives were considered: (1) designate EFH based on the best available scientific information (preferred alternative), (2) designate all waters EFH, (3) designate a minimal area as EFH, and (4) no action. Ultimately, the Council selected Alternative 1 designate EFH based on observed habitat utilization patterns in localized areas as the preferred alternative.

This alternative was preferred by the Council for three reasons. First, it adhered to the intent of the MSA provisions and to the guidelines that have been set out through regulations and expanded on by NMFS because the best available scientific data were used to make carefully considered designations. Second, it resulted in more precise designations of EFH at the species complex level than would be the case if Alternative 2 were chosen. At the same time, it did not run the risk of being arbitrary and capricious as would be the case if Alternative 3 were chosen. Finally, it recognized that EFH designation is an ongoing process and set out a procedure for reviewing and refining EFH designations as more information on species' habitat requirements becomes available.

The Council has used the best available scientific information to describe EFH in text and tables that provide information on the biological requirements for each life stage (egg, larvae, juvenile, adult) of all MUS. Careful judgment was used in determining the extent of the essential fish habitat that should be designated to ensure that sufficient habitat in good condition is available to

maintain a sustainable fishery and the managed species' contribution to a healthy ecosystem. Because there are large gaps in scientific knowledge about the life histories and habitat requirements of many MUS in the Western Pacific Region, the Council adopted a precautionary approach in designating EFH to ensure that enough habitats are protected to sustain managed species.

PMUS under the Council's jurisdiction are found in tropical and temperate waters throughout the Pacific Ocean. Variations in the distribution and abundance of PMUS are affected by ever changing oceanic environmental conditions including water temperature, current patterns, and the availability of food. There are large gaps in the scientific knowledge about basic life histories and habitat requirements of many PMUS. The migration patterns of PMUS stocks in the Pacific Ocean are poorly understood and difficult to categorize despite extensive tagging studies for many species. Little is known about the distribution and habitat requirements of the juvenile life stages of tuna and billfish after they leave the plankton until they recruit to fisheries. Since spawning and larvae occur only in tropical temperatures (including temperate summer), the prerecruit sizes are likely more tropically distributed than recruits, and juvenile tunas of this size (1–15 cm) are only caught in large numbers around tropical archipelagoes. Very little is known about the habitat of different life history stages of PMUS that are not targeted by fisheries (i.e., sharks, Gempylids).

To reduce the complexity and the number of EFH identifications required for individual species and life stages, the Council has designated EFH for pelagic species assemblages pursuant to Section 600.805(b) of 62 FR 66551. The species complex designations for the PMUS are temperate species, tropical species, and sharks. The designation of these complexes is based on the ecological relationships among species and their preferred habitat. The marketable species complex has been subdivided into tropical and temperate assemblages. The temperate species complex includes those PMUS that are found in greater abundance in higher latitudes such as swordfish and bigeye, bluefin, and albacore tuna. In reality, all PMUS are tropical.

3.2.2.1 Description and Identification of Essential Fish Habitat

Because of the uncertainty about the life histories and habitat utilization patterns of many PMUS, the Council has taken a precautionary approach by adopting a 1,000 meters depth as the lower bound of EFH for PMUS. Although many of the PMUS are epipelagic, bigeye tuna are abundant at depths in excess of 400 meters and swordfish have been tracked to depths of 800 meters. One thousand meters is the lower bound of the mesopelagic zone. The vertically migrating mesopelagic fishes and squids associated with the deep scattering layer are important prey organisms for PMUS and are seldom abundant below 1,000 meters. This designation is also based on anecdotal reports of fishermen that PMUS aggregate over raised bottom topographical features as deep as 2,000 meters (1,000 fm) or more. This belief is supported by research that indicates seabed features such as seamounts exert a strong influence over the superadjacent water column. For example, studies by Polzin et al. (1997) in the Atlantic and Kunze and Toole (1997) in the Northwest Pacific show that mixing occurs mostly at oceanic boundaries: along continental slopes, above seamounts and mid-ocean ridges, at fronts, and in the mixed layer at the sea surface. Mixing results in areas of high primary productivity which in turn become

foraging 'hotspots' for pelagic species including sea turtles (Polovina et al. 2006) and tunas (Gunn et al. 2005).

The eggs and larvae of all teleost PMUS are pelagic. They are slightly buoyant when first spawned, are spread throughout the mixed layer and are subject to advection by the prevailing ocean currents. Because the eggs and larvae of the PMUS are found distributed throughout the tropical (and in summer, the subtropical) epipelagic zone, EFH for these life stages has been designated as the epipelagic zone (~200 m) from the shoreline to the outer limit of the EEZ. The only generic variation in this distribution pattern occurs in the northern latitudes of the Hawaii EEZ, which extends farther into the temperate zone than any other EEZ covered by the plan. In these higher latitudes, eggs and larvae are rarely found during the winter months (November–February).

For additional details on the life history and habitat utilization patterns of individual PMUS, please see the EFH descriptions and maps contained in Amendment 8 to the Pelagic FMP (WPRFMC 2002).

3.2.2.2 Identification of Habitat Areas of Particular Concern

The Council designated the water column down to 1,000 meters that lie above all seamounts and banks within the EEZ shallower than 2,000 meters (1,000 fm) as habitat areas of particular concern (HAPC) for PMUS. In determining whether a type or area of EFH should be designated as an HAPC, one or more of the following criteria established by NMFS must be met: (a) the ecological function provided by the habitat is important; (b) the habitat is sensitive to human-induced environmental degradation; (c) development activities are, or will be, stressing the habitat type; or (c) the habitat type is rare. However, it is important to note that if an area meets only one of the HAPC criteria, it will not necessarily be designated an HAPC.

The EFH relevance of topographic features deeper than 1,000 meters is due to the influence they have on the overlying mesopelagic zone. These deeper features themselves do not constitute EFH, but the waters from the surface to 1,000 meters deep superadjacent to these features are designated as HAPC within the EFH. The 2,000-meter depth contour captures the summits of most seamounts mentioned by fishermen, and all banks within the EEZ waters under the Council's jurisdiction. The basis for designating these areas as HAPC is the ecological function provided, the rarity of the habitat type, the susceptibility of these areas to human-induced environmental degradation, and proposed activities that may stress the habitat type.

As noted above, localized areas of increased biological productivity are associated with seamounts, and many seamounts are important grounds for commercial fishing in the Western Pacific Region. There have been proposals to mine the manganese rich summits of the off-axis seamounts in the EEZ around Hawaii. The possible adverse impacts of this proposed activity on fishery resources are of concern to the Council.

Because the PMUS are highly migratory, the areas outside the EEZ in the Western Pacific Region are designated by the Council as "important habitat" because they provide essential spawning, breeding, and foraging habitat.

3.2.3 Marine Planning

In the Western Pacific Region, pelagic fisheries compete with other activities for fishing grounds and access to them. These activities include, but are not limited to, military bases and training activities, commercial shipping, marine protected areas, recreational activities and off-shore energy initiatives.

Issues of multiple human uses, ecosystem health and cumulative impacts and is a component of the National Ocean Policy. Since 2010, CMSP has been the focus of several of the Council's advisory body meetings and outreach activities. During this time, the Council also began transforming its Marine Protected Area Committee first into a CMSP Committee and then into the current Marine Planning and Climate Change Committee (see above for details on the Committee).

In 2015, the Western Pacific Regional Fishery Management Council adopted its MPCC Policy, which was drafted by the Council's MPCC Committee. The policy uses the definition of marine planning as defined in the National Ocean Policy Implementation Plan. The MPCC policy recognizes a set of overarching and specific principles and specific policy points for the Council, its advisory bodies and its staff to consider and incorporate in the Pacific Pelagic FEP as well as in Council programs and other actions. The policy notes that marine planning can be used to determine ocean management priorities across jurisdictions and identify common objectives. The MPCC Policy recognizes that traditional resource management systems, such as the `Aha Moku in Hawaii and Fa`a Samoa in American Samoa, can provide an appropriate context for marine planning. A key component of the policy is collaboration with existing organizations in data and information collection, dissemination and outreach. The Council intends to work with the Pacific Islands Regional Planning Body, community members, the private-sector, schools, policymakers and others in Hawaii, American Samoa, Guam and the CNMI. The MPCC Policy can be found on the Council's website.

The Council's Plan Team (restructured in 2015) includes a marine planning expert, and a section on marine planning will be included in the Pacific Pelagic FEP annual reports.

3.3 Other Consideration Important for FEP Implementation

3.3.1 Sociocultural Data

The MSA states the "Pacific Insular Areas contain unique historical, cultural, legal, political, and geographical circumstances which make fisheries resources important in sustaining their economic growth." In addition, ecosystem-based fishery management recognizes and attempts to manage for the interconnectedness of biological, ecological, geological, and social management dimensions. For many in islands communities, a fishery is *social system* that includes fish as well as fishermen, their families and friends, and, in the case of more commercialized fisheries, the associated support infrastructure and industry. Even those who buy and eat fish on a regular basis might be thought of as being part of a fishery.

Because of the importance of managing fishery resources as public trust, and because of the cultural uniqueness of the Pacific Islands, the Council has established several elements in its management process to incorporate science-based social data and traditional ecological

knowledge. In fact, the Council from its inception has been very sensitive to traditional and indigenous fishing issues and considerations. These issues include ensuring fishermen participation in setting ACLs, preserving indigenous way of life, navigating the relationship between federal processes and requirements and local custom and norms, and the dependence, on nearshore and pelagic resource, even in the modern era.
These process elements include formal social science input science the late 1980s via social science recommendations to the newly-established Pelagic Fisheries Research Program, and SSC subcommittee on social science, and a Council Cultural and Social Science Research Plan. In 1988, the Council spearheaded a request for proposals focused on native fishery rights issues and was instrumental in getting a Western Pacific Community Development Program and Plan included in 1996 reauthorization of the MSA. Following and in response to that, the Council established a Community Development Planning Committee. This committee is utilized under this FEP to assist with addressing Marianas Archipelago FEP Objective: Increase Traditional and Local Knowledge in Decision-making.

Between 1999-2002, the Council worked to have the Secretary of Commerce formally designate fishing communities in American Samoa, the CNMI, Guam, and Hawaii under the MSA's fishing communities provision (National Standard 8). To date, ours is the only region that has done so. In 2002, the Council established a formal Social Science Research and Planning Committee (known now as the Social Science Committee). Among other things, this Committee vets social science information needs as part of the Council's identification of fishery research priorities.

Finally, the Council works to address sociocultural considerations via its "SEEM" process and its annual fishery (SAFE) reports. The SEEM assessment quantifies social, economic, and ecological factors, as well as management uncertainty dimensions and SEEM working groups thus recommend whether the ACL is set equal or lower than the ABC based on these considerations. The Council's annual/SAFE report was overhauled in 2015 to monitor a host of social variables.

The Western Pacific Regional Fishery Management Council is the only regional fishery management council that employs both an Indigenous Coordinator and a Social Scientist.

3.3.2 Protected Species Information

The Hawaii and American Samoa longline fisheries managed under this FEP have specific management measures in place to mitigate interactions with seabirds, sea turtles and marine mammals. These measures include gear requirements, area closures, mandatory observer coverage, and training workshop requirements for vessel operators and owners. Seabird and sea turtle measures implemented under this FEP have successfully reduced interactions by approximately 90 percent in the applicable fisheries. Specific requirements under each longline fishery are listed under Section 3.1.1 of this FEP and in 50 CFR 665 Subpart F.

The Hawaii deep-set longline fishery has additional requirements implemented under the False Killer Whale Take Reduction Plan pursuant to the MMPA. Details of these measures, which include the required use of weak circle hooks and additional area closures, are described in 50 CFR 229.37.

The Pacific Pelagic FEP also prohibits the use of drift gillnets in the US EEZ of the Western Pacific, and this measure provides benefit to protected species by preventing potential interactions with non-selective fishing gear. Troll and handline fisheries managed under this FEP have limited impacts to protected species, and no specific regulations are in place to mitigate protected species interactions at this time.

NMFS has determined that fisheries operating under the Pacific Pelagic FEP are not likely to jeopardize or not likely to adversely affect ESA-listed sea turtles, marine mammals, seabirds, and scalloped hammerhead shark, and have no effects on ESA-listed reef-building corals. NMFS will reinitiate consultation if a new species is listed or critical habitat is designated that may be affected by Pacific Pelagic FEP fisheries. The current list of ESA Section 7 consultations applicable to this FEP are listed in the Annual Report.

Longline fisheries operating under the Pacific Pelagic FEP have federal observers through which protected species interactions are recorded. The Council monitors protected species interactions in the longline fisheries in the Annual Report using observer data and other available information. For troll and handline fisheries managed under the Pacific Pelagic FEP for which there are no federal observer coverage, protected species interactions are monitored in the Annual Report using other proxy indicators such as fishing effort and changes in gear types.

Information on marine mammal interactions in fisheries are also available in the Marine Mammal Stock Assessment Reports prepared pursuant to the MMPA. Seabird interactions in the Hawaii longline fishery are compiled in the annual seabird reports prepared by NMFS PIRO Sustainable Fisheries Division. Information from these reports relevant to the fisheries managed under the Pacific Pelagic FEP are summarized in the Council's FEP Annual Report.

3.3.3 Climate Change Data and Research

3.3.3.1 Background

Changing climate is already adversely impacting island communities, ecosystems, resources, cultures and economies. Increasing pressures on valuable marine and coastal habitats and resources due to changing demands for food, energy, economic growth and community sustainability make climate change an issue of community, national and regional security. In addition to economic considerations such as commercial fisheries, Pacific Island communities must address threats to culturally important species and places as well as community health and food security. Ultimately, for many low-lying coral atoll nations, climate change is a direct threat to national security as rising sea level and changes in the availability of freshwater may make at least some of those nations uninhabitable. To escape these impacts, human migration is anticipated.

The *Executive Summary of the 2012 Pacific Islands Regional Climate Assessment* (PIRCA) notes that the indicators of climate change suggest multiple concerns for human and natural communities in the Pacific Islands region: decreased freshwater supplies, especially on atolls and low-lying islands; increased coastal flooding and erosion; increased coral bleaching; unknown, negative consequences for the entire marine ecosystem; declines in open-ocean fisheries; increased risk of species extinctions; threats to the traditional lifestyles of indigenous

communities making it difficult for Pacific Island communities to sustain their connection with a defined place and their unique set of customs, beliefs, and languages; and human migration from low islands to high islands and continental sites.

At its 157th meeting in June 2013, the Council restructured its Coastal and Marine Spatial Planning (CMSP) Committee into a Marine Planning and Climate Change (MPCC) Committee. The MPCC Committee advises the Council on new and developing research and happenings related to marine planning and climate change as it relates to Western Pacific fisheries, provides input on Council actions and associated analyses and documents as it relates to marine planning and climate change, and recommends research and program priorities, including outreach and education, to address marine planning and impacts of climate change in fisheries and fishing communities. The Committee includes up to 20 members, including at least three representatives each from Hawaii, American Samoa, Guam and the Commonwealth of the Northern Mariana Islands (one of the three is a community representative), three members representing the federal government and an ecosystem modeler. The basic criteria for Committee membership is expertise and interest in marine planning and climate change, with a focus on fisheries and fishing communities. Members of the Committee are selected by the Council and serve three-year terms.

In 2015, the Council adopted the MPCC Policy and action plan drafted by the MPCC Committee. The definition of climate change included in the MPCC Policy is the one used by the Intergovernmental Panel on Climate Change, which includes natural climate variability such as El Nino Southern Oscillation and other patterns of natural variability as well as long-term changes in climate associated with anthropogenic (human) influence on greenhouse gases and other aspects of the Earth's climate system. The definition of climate change in the Council's MPCC policy also includes ocean acidification. The MPCC policy notes that, in the Pacific Ocean, anticipated climate change impacts include ocean acidification; changing migratory patterns of tuna, other commercially valuable stocks and protected species, among other species; changes in coastal and marine habitats with associated changes in socially, culturally and economically valuable coastal fisheries and other sources of ocean economy; changing patterns of El Niño and other patterns of climate variability; changes in water level including, but not limited to sea level change, increased severity of extreme weather, coral reef changes; and human migration, among others. The MPCC policy recognizes a set of overarching and specific principles and specific policy points for the Council, its advisory bodies and its staff to consider and incorporate in the Pacific Pelagic FEP as well as in Council programs and other actions. The policy can be found on the Council's website.

The Council's MPCC Action Plan prioritizes and provides guidance on implementing climate change measures adopted by the Council, including items related to climate change research and data needs.

A working group of the MPCC Committee, with additional support from PIFSC, tentatively identified climate indicators to monitor initially for the annual reports on the Council's FEPs. The working group suggested that, rather than focusing on the numeric changes and/or stability of these factors, the annual reports indicate whether the monitored indicators are in a green, yellow or red condition. The working group also suggested that the annual reports eventually

also monitor climate change *impact* indicators, such as *socioeconomic indicators*, to be determined after community consultation. The Council's 2015 restructured Plan Team includes climate change experts who will finalize decisions related to the monitoring of climate indicators and climate impact indicators to be included in the Pacific Pelagic FEP annual report. To identify the climate change impact indicators to be monitored in the Pacific, the Council intends to work with community members, schools and policymakers in Hawaii, American Samoa, Guam and the CNMI.

3.3.3.2 Council's Marine Planning and Climate Change Committee, Policy and Action Plan

At its 157th meeting in June 2013, the Council voted to restructure its Coastal and Marine Spatial Planning Committee into a Marine Planning and Climate Change (MPCC) Committee. The functions of the MPCC Committee are to a) advise the Council on new and developing research and happenings related to marine planning and climate change as it relates to Western Pacific fisheries ; b) provide input on Council actions and associated analyses and documents as it relates to marine planning and climate change; and c) recommend research and program priorities, including outreach and education, to address marine planning and impacts of climate change in fisheries and fishing communities. The Committee includes up to 20 members, including at least three representatives each from Hawaii, American Samoa, Guam and the Commonwealth of the Northern Mariana Islands (one of the three will be a community representative), three members representing the federal government and an ecosystem modeler. The basic criteria for Committee membership is expertise and interest in marine planning and climate change, with a focus on fisheries and fishing communities. Members of the Committee are selected by the Council and serve three-year terms.

In 2015, the Western Pacific Regional Fishery Management Council adopted MPCC Policy and action plan, drafted by the MPCC Committee. The definition of climate change included in the MPCC Policy is the one used by the Intergovernmental Panel on Climate Change (IPCC), which includes natural climate variability such as El Nino Southern Oscillation (ENSO) and other patterns of natural variability as well as long-term changes in climate associated with anthropogenic (human) influence on greenhouse gases and other aspects of the Earth's climate system. The definition of climate change in the Council's MPCC policy also includes ocean acidification. The MPCC policy notes that, in the Pacific Ocean, anticipated climate change impacts include ocean acidification; changing migratory patterns of tuna, other commercially valuable stocks and protected species, among other species; changes in coastal and marine habitats with associated changes in socially, culturally and economically valuable coastal fisheries and other sources of ocean economy; changing patterns of El Niño and other patterns of climate variability; changes in water level including, but not limited to sea level change, increased severity of extreme weather, coral reef changes; and human migration, among others. The MPCC policy also notes that the 2012 Pacific Islands Regional Climate Assessment (PIRCA) identified several important indicators of climate change in the region, including the rising of sea surface temperature, sea level, carbon dioxide concentrations, ocean heat content and surface air temperature; changing of rainfall, winds and waves, extreme events, ocean chemistry and habitats and species distributions; and decreases in base flow in streams. The MPCC policy recognizes a set of overarching and specific principles and specific policy points for the Council, its advisory bodies and its staff to consider and incorporate in the Mariana Archipelago FEP as well as in Council programs and other actions. The policy can be found on the Council's website.

The Council's MPCC Action Plan addresses climate change related actions adopted by the Council. The Action Plan prioritizes the Council's actions and provides recommendations on how to implement them.

3.3.3.3 Data and Research Needs

The Council's MPCC Action Plan includes about a half dozen items related to climate change research and data needs, which the Council staff and MPCC Committee are addressing. Additionally, a working group comprised of a subset of the MPCC Committee, including the Committee chair, with additional support from PIFSC met in 2015 to determine data needs for the Council's restructured annual reports. The working group has tentatively identified the following climate indicators to monitor initially for the Council's archipelagic FEPs, including the Mariana FEP. These indicators are ones that are already being monitored. Future climate change indicators to be monitored may be identified in the future.

Physical/chemical: Arangonite, pH, river/stream flow, coastal currents, coastal upwelling, and water quality and availability

Biological: coral bleaching and thermal stress

The working group has indicated than rather focusing on the numeric changes and/or stability of these factors, it will instead monitor the above as being in a green, yellow or red condition.

Climate change impact indicators, such as socioeconomic indicators, will be additionally monitored after the initial year. The exact climate change impact indicators that will be monitored will be determined after community consultation.

Specific organizations identified in the Council's MPCC Action Plan, with whom the Council intends to work to identify the climate change impact indicators (and potentially additional climate indicators) include the Guam Bureau of Statistics, Guam Department of Agriculture, Guam permanent working group on climate change (being established by executive order by Guam Governor), University of Guam, CNMI Climate Change Working Group, CNMI Bureau of Environmental and Coastal Quality, CNMI Division of Fish and Wildlife, as well as community members, schools and policymakers in the Territory and Commonwealth.

3.2.3 Marine Planning Considerations

3.3.3.4 Background

Marine planning is a key component of the National Ocean Policy and is a key tool being utilized regionally, nationally and globally to identify and address issues of multiple human uses, ecosystem health and cumulative impacts.

Since 2010, coastal and marine spatial planning (CMSP) has been the focus of several advisory body meetings and outreach activities, during which fishermen, community members and the public have voiced their appreciation and support for Council's undertaking and working with communities on this topic. The events include, but are not limited to, a 2010 Fishers Forum on CMSP in Honolulu, a 2011 community workshop on CMSP in Honolulu with participants from throughout the Western Pacific Region, a 2013 community workshop on CMSP in Saipan, CNMI, and a 2013 Fishers Forum and community workshop on CMSP in American Samoa.

During this time, the Council also began transforming its Marine Protected Area Committee first into a CMSP Committee and then into the current Marine Planning and Climate Change Committee. The Council used the term "Marine Planning" instead of CMSP based because the Implementation Plan for National Ocean Policy, released by the Obama Administration on April 16, 2013, did not include references to CMSP but rather to marine planning.

Council Marine Planning and Climate Change Committee and Policy

At its 157th meeting in June 2013, the Council voted to restructure its Coastal and Marine Spatial Planning Committee into a Marine Planning and Climate Change (MPCC) Committee. The functions of the MPCC Committee are to a) advise the Council on new and developing research and happenings related to marine planning and climate change as it relates to Western Pacific fisheries ; b) provide input on Council actions and associated analyses and documents as it relates to marine planning and climate change; and c) recommend research and program priorities, including outreach and education, to address marine planning and impacts of climate change in fisheries and fishing communities. The Committee includes up to 20 members, including at least three representatives each from Hawaii, American Samoa, Guam and the Commonwealth of the Northern Mariana Islands (one of the three will be a community representative), three members representing the federal government and an ecosystem modeler. The basic criteria for Committee membership is expertise and interest in marine planning and climate change, with a focus on fisheries and fishing communities. Members of the Committee are selected by the Council and serve three-year terms.

In 2015, the Western Pacific Regional Fishery Management Council adopted its MPCC Policy, which was drafted by the Council's MPCC Committee. The policy uses the definition of marine planning as defined in the National Ocean Policy Implementation Plan (released April 2013 by the National Ocean Council). The MPCC policy recognizes a set of overarching and specific principles and specific policy points for the Council, its advisory bodies and its staff to consider and incorporate in the Mariana Archipelago FEP as well as in Council programs and other actions. The policy can be found on the Council's website.

3.3.3.5 Marine Planning Considerations

Fishing and fisheries operate in an increasingly crowded marine environment. Gone are the days when fishing and shipping were the primary, and sometimes only, maritime constituents. In the Mariana Archipelago, contemporary marine spatial planning considerations include:

- Coastal military bases and marine training areas
- Commercial shipping
- Local MPAs
- Marine National Monuments
- Recreation

The Council's MPCC Policy notes the following overarching principles as related to marine planning:

- Marine planning is an appropriate approach to effectively address issues of intersecting human uses, ocean resources and ecosystem health at multiple geographic scales. This

approach can be applied by the Council as a tool to align regional interests, determine ocean management priorities across jurisdictions and identify common objectives.

- The MPCC Policy recognizes that traditional resource management systems such as the ahupua`a system in Hawai`i and Fa`a Samoa in American Samoa can provide an appropriate context for marine planning.

A key component of the Council's MPCC Policy is collaboration with existing organizations in data and information collection and dissemination as well as outreach related to marine planning in the region. Among the organizations with whom the Council intends to work include the Guam Bureau of Statistics, Guam Department of Agriculture, University of Guam, CNMI Bureau of Environmental and Coastal Quality, CNMI Division of Fish and Wildlife, as well as community members, schools and policymakers in the Territory and Commonwealth.

Additionally, a key partner in the region is the Pacific Islands Regional Planning Body (RPB), which was established April 2013 in response to the call for CMSP in the National Ocean Policy. The Pacific Islands RPB members are resolved to work together to develop a regional plan for the balanced, sustainable management of the coastal and marine areas of the Pacific Islands region using guidance from the National Ocean Council, the National Ocean Policy, Implementation Plan and Marine Planning Handbook. The Pacific Islands RPB is comprised of 17 members from both federal and state/territorial government agencies, as well as the Regional Fishery Management Council. Marine planning is anticipated to be more prominent in the not so distant future as the human population and associated maritime activities, such as alternative offshore energy and offshore aquaculture, continue to increase. The Council's MPCC Policy says "The Council will review and make recommendations for and participate in the development of regional marine planning for the Pacific Islands Region so that fisheries and fishery resources are included as a component of the Pacific Islands Regional Planning Body's Ocean Plan and Guidance document and associated products."

Among other marine planning components in the Council's MPCC Policy are to a) incorporate traditional knowledge and practices of affected indigenous cultures to understand and utilize marine planning to address overlapping interests; b) consider the impact on traditional fisheries, traditional fishery resources, traditional knowledge and traditional fishing rights when addressing marine planning for activities such as offshore energy development; c) to encourage collaboration with and among state and jurisdictional government agencies and universities utilizing regional marine planning in the Pacific; and d) to encourage active participation in the Pacific Islands Regional Planning Body and facilitate access to and use of marine planning approaches, tools and techniques applicable to the region, including training and support for marine planning dialogues, workshops and other participatory approaches.

3.3.3.6 Western Pacific Community Development Program

Section 305(i)(2) of the MSA authorizes the Council and the Secretary of Commerce, through NMFS, to establish a Western Pacific Community Development Program for any fishery under the authority of the Council and NMFS. The intent of the program is to provide Western Pacific communities access to fisheries that they have traditionally depended upon, but may not have the

capabilities to support continued and substantial participation in, possibly due to economic, regulatory, or other barriers.

The Western Pacific Community Development Program includes two components: (1) Development Plan Program; and (2) Demonstration Projects Program. Under the Western Pacific Community Development Program (CDP), the Council provides support for fishery projects of Western Pacific communities and indigenous communities through administrative processes. The Western Pacific Community Demonstration Project Program (CDPP) is a grant program that provides funds to Western Pacific indigenous communities for the demonstration of traditional, cultural fishery, fishery management and fishery conservation projects

To be eligible to participate in the western Pacific community development program, a community must meet the following criteria:

1. Be located in American Samoa, Guam, Hawaii, or the Northern Mariana Islands (collectively, the Western Pacific);

2. Consist of community residents descended from aboriginal people indigenous to the Western Pacific who conducted commercial or subsistence fishing using traditional fishing practices in the waters of the Western Pacific;

3. Consist of individuals who reside in their ancestral homeland

4. Have knowledge of customary practices relevant to fisheries of the Western Pacific;

5. Have a traditional dependence on fisheries of the Western Pacific;

6. Are currently experiencing economic or other constraints that have prevented full participation in the Western Pacific fisheries and, in recent years, have not had harvesting, processing or marketing capability sufficient to support substantial participation in fisheries in the area; and

7. Develop and submit a community development plan to the Council and the NMFS.

<u>Development Plan Program</u>

An eligible community seeking access to a fishery under the authority of the Council and NMFS must submit to the Council a community development plan that includes the following information[1]:

1. A statement of the purposes and goals of the plan.
2. A description and justification for the specific fishing activity being proposed, including:

[1] The description must be in sufficient detail for NMFS and the Council to determine consistency with the Council's fishery ecosystem plans, the Magnuson-Stevens Act, and other applicable laws.

- Name, address, and telephone number of the vessel owner(s) and operator(s).

Location of the proposed fishing activity.

- Management unit species to be harvested, and any potential bycatch.
- Gear type(s) to be used.
- Frequency and duration of the proposed fishing activity.

3. A statement describing the degree of involvement by the indigenous community members, including the name, address, telephone and other contact information of each individual conducting the proposed fishing activity.

4. A description of how the community and or its members meet each of the eligibility criteria in paragraph (b) of this section.

5. If a vessel is to be used by the community to conduct fishing activities, for each vessel:

- Vessel name and official number (USCG documentation, state, territory, or other registration number).
- Vessel length overall, displacement, and fish holding capacity.
- Any valid federal fishing permit number(s).

3.3.4 Aquaculture

Aquaculture is a growing industry in the U.S. producing an ever-increasing proportion of marine consumer products once solely harvested from the wild. NMFS defines aquaculture as the as the propagation and rearing of aquatic organisms for any commercial, recreational, or public purpose. In the Pacific it has evolved into a multi-million dollar industry producing a range of marine products including algae, pearls, and fish. In the twentieth century, most aquaculture in the U.S. was conducted at land-based facilities and was focused on freshwater species. Technical innovations, declines in wild marine stocks, and greater demand for seafood have led to a recent expansion of the industry into marine environments.

NMFS is responsible for managing fisheries in federal water and NOAA General Council determined that aquaculture is included in the definition of "fishing" under the Magnuson-Stevens Fishery Conservation and Management Act (MSA)[1]. This designation provides the statutory authority for NMFS and the regional fishery management councils (FMCs) to regulate aquaculture projects in federal waters. NMFS and the FMCs are just beginning to establish management plans for aquaculture activities. In 2009, The Gulf of Mexico FMC established the first fishery management plan for offshore aquaculture. That same year, the Council voted to consider including management measures for offshore aquaculture in the FEPs at its 146th Meeting in October 2009.

The WPRFMC defines aquaculture as the raising and cultivation of plants or animals, both freshwater and marine, for food or other purposes. Aquaculture, as defined by the Council, includes fish farming, fish culturing, ocean ranching, and mariculture. The Western Pacific Regional Fishery Management Council recognizes that aquaculture is a rapidly developing industry in the Western Pacific Region as well as the rest of the world, and that aquaculture

presents both potential benefits and potential negative impacts to the environment and society. The Council's Aquaculture Policy can be found at the Council's website, www.wpcouncil.org.

Currently, there are no offshore aquaculture projects in waters around Guam, CNMI or American Samoa and a couple of operations in State waters around Hawaii. With interest in projects increasing in the Pacific, NMFS and the Council must ensure that these endeavors are environmentally sustainable.

3.3.5 Fishing Rights of Indigenous People

The WPRFMC addresses the economic and social consequences of militarization, colonization and immigration on the aboriginal people in the Council's area of responsibility and authority through its FEPs. Generally, the resultant cultural hegemony has manifested in poverty, unemployment, social disruption, poor education, poor housing, loss of traditional and cultural practices, and health problems for indigenous communities. These social disorders affect island society. Rapid changes in the patterns of environmental utilization are disruptive to ecological systems that developed over millennia into a state of equilibrium with traditional native cultural practices. The environmental degradation and social disorder impacts the larger community by reducing the quality of life for all island residents. The result is stratification along social and economic lines and conflict within the greater community.

4 MANAGEMENT PROCESS

4.1 Council Process

4.1.1 Overview of Council Process

The Council process to make or change regulations involves many stages and includes many steps and opportunities for public input and comment. The Council reviews proposals, options papers, draft amendment documents, National Environmental Policy Act analysis documents, and eventually votes on a preferred alternative, which may become regulations at the end of the process.

The Council generally follows this process:

- An issue is presented from the public, an advisory body, etc.;
- The Council reviews the issue and decides whether to initiate analysis of alternatives;
- If an analysis is initiated, then:
    - Council staff develops alternatives, analysis and other needed documents for review;
    - There is a review by the Council, its advisory bodies and the public; and
    - The Council may select a preferred alternative, initiate further analysis or decide on no further action.
- After a preferred alternative is selected, the Council decision is forwarded to the Secretary of Commerce in the form of a plan or amendment for review and approval; The Secretary of Commerce may do either of the following:
    - Reject the plan/amendment;
    - Approve the plan/amendment;
    - Partially approve the plan/amendment.
- If the plan/amendment is approved, draft rules are published for public comment;
- After the rules are noticed and comments are addressed, a final decision is made by the Secretary of Commerce; and
- If approved, the rules and regulations from the plan/amendment are implemented through the Code of Federal Regulations.
- If the plan/amendment is rejected or partially approved, it is returned to the Council, with rationale for rejection/partial approval, for the Council's consideration.

4.1.1.1 Development and Approval Process for Management Actions

The process for the development and approval of fishery management actions are governed by the MSA with further guidance provided through the Operational Guidelines (OG), Regional Operating Agreements (ROA) and other applicable laws (OALs). While most actions are focused specifically on the Council-initiated fishery management actions, OALs and other rulemaking authorities provide information relevant to fisheries managed by the Secretary under the "Highly Migratory Species" (HMS) provisions of the MSA.

As described in the OG, the fishery management process for Council-managed fisheries consists of five basic phases. Section C of Appendix 2 to the OG provides detailed information about phases 5 phases, but, in general, they are as follow:

1. Planning
2. Document Drafting

3. Public Review and Council Action to Recommend a Measure
4. Post Council Action to Recommend a Measure
    (a) Preparation for Transmittal
    (b) Secretarial Review and Implementation
5. Ongoing Management (additional regulatory activity, monitoring, need identification, and response – feeds back into phase1).

While the ROA's provide for NMFS/Council cooperation and sharing of workloads, it is important to note that the MSA and other applicable laws assign different responsibilities to each entity. Therefore, both NMFS and the Councils must ensure they fulfill their required roles.

4.1.1.1.1 Specific Elements and their Relationship to Decision-making

The MSA and OALs set forth specific analytical and procedural requirements that interact with NMFS's and the Councils' decision-making processes under the MSA. The mandates on NMFS, as the federal action agency, are distinct from the requirements pertaining to the activities of the Councils, in their role as advisory bodies. Nothing precludes a Council's development of analyses and documentation to support compliance with the OALs, and in fact this practice is recommended. However, ultimate legal responsibility for most requirements lies with NMFS. It is the goal to have as complete analysis and documentation as possible available during Council deliberations.

a. MSA Role of the Councils

As set forth in sections 302(h), 303, and 304 of the MSA, Councils are responsible for:

- Conducting public hearings to allow for public input into the development of FMPs and amendments,
- Reviewing pertinent information,
- Preparing fishery management plans and amendments for fisheries requiring conservation and management
- Drafting or deeming regulations to implement the plans or amendments
- Developing ACLs,
- Identifying research priorities, and
- Transmitting complete packages containing documentation necessary for NMFS to initiate a review of compliance with all applicable laws including NEPA.

b. MSA Role of NMFS

As set forth in section 304(a) of the MSA, the role of NMFS with respect to fishery management plans and plan amendments developed by the Council is to review – and approve, disapprove, or partially approve –those plans and amendments in accordance with specified procedures, including:

- Immediately upon transmittal of the FMP or FMP amendment publish a plan or amendment in the Federal Register for a 60-day comment period.
- Approve, disapprove, or partially approve a plan or amendment within 30 days of the end of the comment period on the plan or amendment. Disapproval must be based on inconsistency with the MSA or other applicable law. In addition, disapprovals must provide guidance on what was inconsistent and how to remedy the situation, if possible (see MSA section 304(a)(3)(A)-(C)).

In addition, as set forth in section 304(b) the role of NMFS with respect to Council-

recommended draft regulations is to:

- Immediately upon transmittal of the proposed regulations initiate an evaluation of whether they are consistent with the fishery management plan, plan amendment, the MSA, and other applicable law.
- Within 15 days make a determination of consistency, and—
  - if that determination is affirmative, publish the regulations for a public comment period of 15 to 60 days; or,
  - if that determination is negative, notify the Council in writing of the inconsistencies and provide recommendations on revisions that would make the proposed regulations consistent.
- Consult with the Council before making any revisions to the proposed regulations,
- Promulgate final regulations within 30 days after the end of the comment period and publish in the Federal Register an explanation of any differences between the proposed and final regulations.

The MSA, at section 304(c), also authorizes NMFS to prepare a fishery management plan or amendment if:

> (a) the appropriate Council fails to develop and submit to NMFS, after a reasonable period of time, a fishery management plan for such fishery, or any necessary amendment to such a plan, if such fishery requires conservation and management;
> (b) NMFS disapproves or partially disapproves any such plan or amendment, or disapproves a revised plan or amendment, and the Council involved fails to submit a revised or further revised plan or amendment; or
> (c) NMFS is given authority to prepare such plan or amendment under the MSA.
> NMFS may also develop regulations to implement Secretarial plans and amendments. (MSA section 304(c)(6), (7)).

c. *Other Applicable Laws Roles for NMFS and COUNCIL*

As described in section D in Appendix 2 of the OG, the OALs set forth a variety of requirements for analysis, documentation, determinations, and procedures. Because of the close relationship between NMFS's actions and the Council's recommendations, compliance with the OALs will be most effective if NMFS and the Councils coordinate closely. The ROAs explain how these relationships work for each Council/Region pair. Council staff can often be responsible for drafting supporting analyses and documentation; however, it is NMFS's responsibility to ensure the resulting documents fully comply with all law.

4.1.1.1.2 Advisory Panels

Advisory Panels are established as necessary to assist in carrying out the functions of the Council under the MSA. Section 302(g)(4) of the MSA establishes Advisory Panels to "assist in the evaluation of information relevant to the development of any fishery management plan or plan amendment for a fishery." The Western Pacific Regional Fishery Management Council's Advisory Panel includes representation from various sectors of the fisheries. Members of the Subpanels are selected by the Council and serve four-year terms with an overall Advisory Panel Chair and a Vice-Chair, with a Chair for each Advisory Panel sub-panel. Sub-panels are designated by the Archipelago FEPs and have representation from user groups and interests concerned with management of the fishery including fair representation of commercial fishing

interests in the Council's geographical area of authority. The Advisory Panel provides advice on the content and effects of management plans, amendments and pre-season and in-season management measures, as well as issues to be discussed at Council Meetings.

The Marianas Archipelago FEP Sub-Panel includes 16 members (8 each from Guam and CNMI), not including alternates, and meets prior to Council Meetings to discuss action items and provide comments and recommendations on issues of concern to the Council. Recommendations from the Advisory Panel and its Sub-Panels are provided to the Council for its consideration at Council Meetings.

4.1.1.1.3 Plan Teams

Plan teams are a form of advisory panel authorized under Section 302(g) of the MSA. FEP Plan Teams are comprised of Federal, State and non-government specialists that are appointed by the Council and serve indefinite terms. The Council created an Archipelagic FEP Plan Team to oversee the ongoing development and implementation of the American Samoa, Hawaii, Mariana, and PRIA FEPs. The Team is also responsible for reviewing information pertaining to the performance of all the fisheries, the status of all the stocks managed under the four Archipelagic FEPs, monitoring the performance of the FEP through the production of an annual stock assessment and fishery evaluation (SAFE) report , providing information on the status of the fish stocks and other components of the ecosystem, and recommending conservation and management adjustments under framework procedures to better achieve management objectives. The Archipelagic Plan Team's findings and recommendations are reported to the Council at its regular meetings. The Archipelagic Plan Team meets at least once annually and its chair is appointed by the Council Chair after consultation with the Council's Executive Standing Committee.

4.1.1.1.4 Science and Statistical Committee

The Scientific and Statistical Committee (SSC) is mandated under MSA 302(g) to "assist the Council in the development, collection, evaluation, and peer review of such statistical, biological, economic, social, and other scientific information as is relevant to such Council's development and amendment of any fishery management plan." The Western Pacific Regional Fishery Management Council's SSC is composed of experts with scientific or technical credentials and experience from State and Federal agencies, academic institutions, and other sources. SSC Members represent a wide range of disciplines required for preparation and review of Fishery Ecosystem Plans.

The SSC typically meetings several days prior to a Council meeting to identify scientific resources required for the development of management plans and amendments and recommend resources for Plan Teams; Identify scientific resources required for the development of management plans and amendments and recommend resources for Plan Teams; Provide ongoing multi-disciplinary review of management plans or amendments and advise the Council on their scientific content, including recommendations for acceptable biological catch, preventing overfishing, maximum sustainable yield and achieving rebuilding targets, and reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures and sustainability of fishing practices; Assist the Council in the development, collection, evaluation and peer review of such statistical, biological, economic, social, and other scientific information as is relevant to the Council's activities, and recommend methods and means for the

development and collection of such information; Recommend to the Council the composition of Plan Teams; and provide scientific advice to the Council through recommendations on issues and action items.

4.1.1.1.5 Fishing Industry Advisory Committee

Section 302(g) of the MSA requires the Council to establish a Fishing Industry Advisory Committee (FIAC). It includes representation from various fishing sectors of the Western Pacific region. Members of the committee are selected by the Council and serve four year terms, with representation from each of the island jurisdictions. The FIAC reports to the Council and has representation from industry user groups concerned with the management of the fishery for which a plan is being prepared or reviewed, with fair representation of the fishing industry interests in the Council's geographical area of authority. The functions of the FIAC are to advise the Council on fishery management problems; to provide input to the fishery management planning efforts; and to advise the Council on the content and effects of management plans, amendments, and pre-season and in-season management measures. The FIAC includes 10 members from each Archipelagic FEP (with the PRIA FEP included with the Hawaii FEP).

4.1.1.1.6 REAC and other Council Committees

The Regional Ecosystem Advisory Committee (REAC)'s primary role is to provide a forum for government agencies, organizations and other entities to share information to better integrate and coordinate ocean and coastal management. Sub-committees for each area are created with members that include representation from the Council, various Federal, State and local agencies, non-government specialists and private business from each respective area. Members of the REAC are appointed by the Council with the Chair of each area sub-committee appointed by the Council Chair after consultation with the Executive and Budget Committee.

Other Council Committees created to assist the Council in carrying out its statutory functions, as provided under section 302(g)(2) of the MSA include:

- Protected Species Advisory Committee
- Social Science Planning Committee
- Community Demonstration Projects Advisory Panel
- Community Development Program Advisory Panel
- Fishery Data Collection and Research Committee
- Marine Planning and Climate Change Committee
- Education Committee
- Non-Commercial Fisheries Advisory Committee

4.1.1.1.7 Ad-hoc Committees and Working Groups

The Council develops different ad-hoc committees and working groups to deal with specific issues relevant to the FEP and assist it in carrying out its statutory function.

4.1.1.1.8 Federal Agencies

4.1.1.1.8.1 NMFS

The National Marine Fisheries Service (NMFS) to implements Council recommendations and is a primary federal enforcement agency for fisheries and other marine resource regulations.

Recommendations from the Council, including transmitted amendments and plans, are provided to the NMFS and the Department of Commerce for approval. The Secretary of Commerce may approve, partially-approve, or reject any amendment or plan, in which case the Council will revisit or revise any partially-approved or rejected amendment or plan.

Regionally, the Council works in conjunction with the NMFS Pacific Islands Regional Office (PIRO) and the Pacific Islands Fisheries Science Center (PIFSC).

4.1.1.1.8.2 US Fish and Wildlife Service

The US Fish and Wildlife Service is a non-voting member of the Council and provide information as needed. In the Mariana Archipelago, the USFWS, along with NMFS, is responsible for the Marinas Trench Marine National Monument. Coordination on fishing issues and regulations between the Council and USFWS is crucial for the success of any regulations issued in the area.

4.1.1.1.8.3 US Coast Guard

The United States Coast Guard, District 14, is responsible for fishery regulation enforcement in the Mariana Archipelago, including enforcing regulations listed in the FEP.

4.1.1.1.9 Local Agencies

In the Mariana Archipelago, the local agencies that the Council work with includes in Guam: The Department of Agriculture and its Division of Aquatics and Wildlife Resources; Department of Chamorro Affairs; Bureau of Statistics and Plans; Mayors Council of Guam.

In CNMI: The Department of Land and Natural Resources and its Division of Fish and Wildlife; Bureau of Environmental and Coastal Quality and its Division of Coastal Resource Management and Division of Environmental Quality; and the Mayor's Office for each island.

4.1.1.1.10 Regional Entities

There are no current regional entities involved in fisheries management in the Mariana Archipelago.

4.1.1.1.11 Fishery Impact Statement

The Magnuson-Stevens Act requires that fishery management plan and plan amendments that submitted to the Secretary after October 1, 1990 include a Fishery Impact Statement (FIS) that assesses the likely biological and socioeconomic effects of the conservation and management measures on fishery participants and their communities; participants in the fisheries conducted in adjacent areas under the authority of another Council; and the safety of human life at sea. Appendix D contains a list of all relevant amendments that predate this FEP, as well as amendments that were approved subsequent to its adoption. These amendment documents include an FIS, as required. To find a FIS for a specific management measure contained in this FEP, see Appendix D.

4.1.1.1.12 Public Consultation Process

The public is provided opportunity to comment on provide testimony at all meetings noticed through the Federal Register. The Council also accepts comments and testimony by phone,

email and fax.

4.1.1.2 Fishery Impact Statement

The Magnuson-Stevens Act requires that fishery management plan and plan amendments submitted to the Secretary after October 1, 1990 assesses the likely biological and socioeconomic effects of the conservation and management measures on fishery participants and their communities; participants in the fisheries conducted in adjacent areas under the authority of another Council; and the safety of human life at sea. This is typically referred to as a Fishery Impact Statement (FIS). Appendix D contains a list of all relevant amendments that predate this FEP, as well as amendments that were approved subsequent to its adoption. The elements of a FIS are integrated into the environmental impact analyses prepared for these amendment documents, as required. To find a FIS for a specific management measure contained in this FEP, see Appendix D.

4.1.1.3 Public Consultation Process

The public is provided opportunity to comment on provide testimony at all meetings noticed through the Federal Register. The Council also accepts comments and testimony by phone, email and fax.

4.1.1.4 The Role of Agreements, Statement of Organization Practices and Procedures, etc.

The Council enters into agreements to help define specific roles and responsibilities of the agencies in developing, approving, and implementing fishery management plans and actions under the MSA. In 2014, the Council entered into a Regional Operating Agreement with the NMFS PIRO and PIFSC to define specific roles and responsibilities of the Council and NMFS Offices in developing, approving and implementing fishery actins under the MSA. The ROA sets forth procedures and review processes to ensure that proposed management actions are adequately and completely analyzed upon decision making. The ROA functions with the general framework of the "Operational Guidelines" set forth by NOAA and can be amended as need for consistency.

In addition to external agreements, the Council establishes internal working policies and procedures to through which the Council conducts business and carries out its functions under the MSA. The Statement of Organization Practices and Procedures (SOPP) is updated periodically as needed. The SOPP defines the Council's organizational structure, standards of conduct, policies and procedures, advisory bodies and their role and responsibilities and administrative system.

4.1.1.5 Communication Plan

Communication is an essential component of the Council's bottom-up approach to fisheries management and is one of the Council's seven Guiding Principles: "Conduct education and outreach to foster good stewardship principles and broad and direct public participation in the Council's decision making process."

The Council's Public Involvement and Outreach Plan was prepared in 1995 and serves as the basis for the Council's ongoing communication efforts. The plan identifies training sessions, programs, information sessions, special events and product development (audio-visual, printed

materials and displays) for three targeted audiences: fishing communities, regulatory/policy setting agencies and the general public.

In 2010 and 2011, fishermen focus groups were conducted in Hawaii to assess the effectiveness of the Council's outreach efforts and elicit suggestions for improving it. This research was conducted by an independent research firm, which also conducted interviews to gauge the effectiveness of particular Council outreach projects in the Territories and the Commonwealth. The results indicated that fishermen were aware of the Council; however, their understanding of what the Council does could be improved. In 2011, in response to these comments, the Council developed a Communications Framework among other activities.

The Council publishes meeting notices in local publications in English and, in American Samoa, also in the Samoan language. Other regular Council outreach materials include a quarterly newsletter, a monograph series, brochures, displays, magazine articles and press releases and occasional videos, public serve announcements, proceedings and books.

The Council's regularly scheduled outreach and education activities, some of which have been conducted annually for more than a decade, include Fishers Forums, student art contests with teacher resources on various themes of fishery importance, traditional lunar calendars highlighting student art and traditional fishery information, and high school summer courses. The Council also occasionally conducts International Fishers Forums, teacher workshops, student symposiums, community workshops, fishermen workshops and other special events locally, regionally, nationally and internationally.

In 2013, the Council established an Education Committee, which spearheaded a memorandum of understanding signed by federal and local governments and higher education institutions in the Western Pacific Region. The aspiration of the MOU is to improve the capacities of the US Pacific Island territories to manage their fisheries and to enhance tertiary education in fisheries science and management offered in Hawai`i. In 2015, the first outcomes of the MOU included the implementation of the US Pacific Territories Fishery Capacity-Building scholarship and internship program.

The Council has increased its outreach through social media, including the Council website, Facebook, Twitter and Constant Contact distribution. It also works with the education and outreach staff of the other seven Reginal Fishery Management Councils on the fisherycouncils.org website, Managing Our Nation's Fisheries conferences and occasional publications, displays and events.

4.1.1.6 Council Five Year Research Priorities

The reauthorized Magnuson-Stevens Fishery Conservation and Management Act (MSRA), created new responsibilities and authorities for domestic regional fishery management councils and their advisory bodies. Following is the relevant MSRA text regarding the development and implementation of five-year regional research priorities by Councils. Section 302 (h) Each Council shall develop, in conjunction with the scientific and statistical committee, multi-year research priorities for fisheries, fishery interactions, habitats, and other areas of research that are

necessary for management purposes that shall –

(A) establish priorities for 5-year periods;
(B) be updated as necessary; and
(C) be submitted to the Secretary and the regional science centers of the National Marine Fisheries Service for their consideration in developing research priorities and budgets for the region of the Council.

The research priority document is vetted through the Council advisory groups and submitted to the Secretary of Commerce and NMFS on an annual basis for their consideration. These priorities are also the basis for Federal funding opportunities such as the Saltonstall Kennedy Grant Program. A process of addressing and monitoring these research priorities is yet to be developed by the Council and NMFS PIFSC.

Stock assessments for Council managed fisheries remains the highest research priority. Another priority is to understand the fishery dynamics as affected by fish imports (and exports) which is particularly critical for small island communities. For current research priorities, see the Council's website at www.wpcouncil.org.

4.1.1.7 Western Pacific Sustainable Fisheries Fund

MSA Section 204(e)(7) provides for a Western Pacific Sustainable Fisheries Fund (WPSFF) "into which any payments received by the Secretary (of Commerce) under a Pacific Insular Area fishery agreement and any funds or contriubtions received in support of conservation and management objectives under a marine conservation plan for any Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands shall be deposited." These funds are used to implement Marine Conservation Plans (MCPs) developed under MSA Section 204(e)(4) for the Pacific Insular Areas. The WPSFF may also be used for projects to support Hawaiian archipelago fisheries if there is remaining funding after funding MCP projects. The Council utilizes the WPSFF to assist in fisheries development, research, and characterization in the Western Pacific.

4.1.1.8 Annual Fishery Reports and their Use

The Council's fishery annual report will serve as the SAFE report for the Western Pacific region. It will contain additional information on top of what is required from a nominal SAFE report. The annual fishery report will be generated by the Archipelagic and the Pelagic Plan Team. The annual fishery report shall contain pertinent information about the fisheries and the ecosystem coming from fishery dependent and fishery independent data collection systems. Some of the major elements in the annual fishery report are:

> **Fishery Descriptions:** 1) number of participants; 2) number of permit holders; 3)type and quantity of fishing gear used; 4) number of vessels involved; 5) frequency of trips; 6) trip costs; 7) average number of crew or fishing party; 8) species of fish involved and their location(s); 9) disposition of catch; 10) annual catch limit; 11) Status Determination Criteria; 12) Overfishing Limit and Allowable Biological Catch; 13) measures to prevent overfishing and achieve rebuilding targets; 14) sources of fishing mortality; 15) harvest capacity and extent; 16) fishing communities associated with the fishery; 17) fishery by-catch

Fishery Ecosystems: 1) oceanographic indicators; 2) climate change indicators; 3) biological indicators; 4) habitat (status of fish habitat and marine ecosystem; EFH descriptions information; species list and locations; fishing activities that may adversely affect EFH; and non-fishing activities that may adversely affect EFH); 5) human dimensions (describing the participants; community indicators; cultural importance; economics; imports and exports); 6) protected species (incidental take data in FEP fisheries; indicators for monitoring fisheries & effectiveness of management measures under the FEPs; FEP-based conservation measures for protected species; ESA Section 7 consultations (formal & informal); marine mammals; seabirds; new and ongoing relevant research (including PIFSC research and fisheries independent research information on potential interactions); identification of research; data and assessment needs)
Data Integration and Fishery Characterizations: 1) fishery and ecosystem indicator integration; 2) fishery and socio-economic indicator integration; 3) fishery and climate indicator integration

Other Fishery Information: 1) import and export of fish and fishery products; 2) aquaculture activities and production

The annual fishery ecosystem reports are used to monitor the fisheries and the status of fishery ecosystems. Because they contain the most recent information about the fisheries, they serve as the basis for developing management measures and evaluating management alternatives as well as tracking the performance of this FEP. A comprehensive report will be generated that contains analysis of available data and will be updated on a 3-year cycle. Summaries of datasets that are generated on an annual basis will be produced annually.

4.1.1.9 Other Applicable Laws and their Role

Section 303(a)(1)(C) of the MSA requires federal fishery management plans to be consistent with other applicable laws. These other laws impose additional procedural, substantive, and timing requirements on the decision process and their applicability must be assessed on a case-by-case basis. This FEP is consistent with the Magnuson-Stevens Act (16 USC 1851), including the ten National Standards, and other applicable law. These laws typically include the following:

- Administrative Procedure Act
- Coastal Zone Management Act
- Endangered Species Act
- National Monument
- Information Quality Act
- Marine Mammal Protection Act
- National Environmental Policy Act
- National Marine Sanctuaries Act
- Paperwork Reduction Act
- Regulatory Flexibility Act
- Executive Orders 12291 (cost-benefit and avoiding duplication), 12630 (governmental actions and interference with constitutionally protected property rights), 12866 (regulatory planning and review), 12898 (environmental justice), 13089 (coral reef protection), 13132 (federalism implication of federal actions), 13158 (marine protected areas), 13175 (consultation and coordination with Indian tribal governments), 13196

(Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve), 13272 (stewardship of the ocean, our coasts, and the Great Lakes), 13547 (National Ocean Policy) and 12962 (recreational fisheries).

- Presidential Proclamation 8031 and 8112 (establishing the Papahanaumokuakea Marine National Monument)

Specific information regarding the implications of each of these can be in the Operational Guidelines for the Fishery Management Process developed by NMFS in consultation with the Council Coordinating Committee at http://www.nmfs.noaa.gov/sfa/laws_policies/operational_guidelines/index.html. The statutes themselves, along with their guidance language, regulations, and associated case law are controlling in the instance of any discrepancy between them and this document.

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5 REFERENCES

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Appendix A: List of Acronyms

APA: Administrative Procedure Act

B: Stock biomass

B_{FLAG}: Minimum Biomass Flag

B_{MSY}: Biomass Maximum Sustainable Yield

B_{OY}: Biomass Optimum Yield

BMUS: Bottomfish Management Unit Species

CFR: Code of Federal Regulations

CITES: Council on International Trade and Endangered Species

CNMI: Commonwealth of the Northern Mariana Islands

CPUE: Catch per unit effort at the reference point

$CPUE_{MSY}$: Catch per unit effort Maximum Sustainable Yield

$CPUE_{REF}$: Catch per unit effort at the Reference Point

CRAMP: Coral Reef Assessment and Monitoring Program

CRE: Coral Reef Ecosystem

CRE-FMP: Coral Reef Ecosystem Fishery Management Plan

CRTF: Coral Reef Task Force

DAR: Division of Aquatic Resources, State of Hawaii

DOC: United States Department of Commerce

DOD: United States Department of Defense

DOI: United States Department of the Interior

EEZ: Exclusive Economic Zone

EFH: Essential Fish Habitat

EIS: Environmental Impact Statement

E_{MSY}: Effort Maximum Sustainable Yield

ENSO: El Niño Southern Oscillation

EO: Executive Order

EPAP: Ecosystem Principals Advisory Panel

ESA: Endangered Species Act

F: Fishing mortality

F_{MSY}: Fishing mortality Maximum Sustainable Yield

F_{OY}: Fishing mortality Optimum Yield

FEP: Fishery Ecosystem Plan

FLPMA: Federal Land Policy and Management Act

fm: fathoms

FMP: Fishery Management Plan

FR: Federal Register

FRFA: Final Regulatory Flexibility Analysis

ft: feet

FWCA: Fish and Wildlife Coordination Act

GIS: Geographic information systems

GPS: Global Positioning System

HAPC: Habitat Areas of Particular Concern

IQA: Information Quality Act

IRFA Initial Regulatory Flexibility Analysis

kg: kilograms

km: kilometers

lb: pounds

LOF List of Fisheries

m:	meters
mt:	metric tons
MFMT:	maximum fishing mortality threshold
MHI:	Main Hawaiian Islands
min SST:	minimum spawning stock threshold
mm:	millimeters
MMPA:	Marine Mammal Protection Act
MPA:	Marine Protected Area
MSA:	Magnuson-Stevens Fishery Conservation and Management Act
MSST:	Minimum Stock Size Threshold
MSY:	Maximum Sustainable Yield
MUS:	Management Unit Species
NDSA:	Naval Defense Sea Areas
NEPA:	National Environmental Policy Act
nm or nmi:	nautical miles
NMFS:	National Marine Fisheries Service (also known as NOAA Fisheries Service)
NOAA:	National Oceanic and Atmospheric Administration
NWHI:	Northwestern Hawaiian Islands
NWR:	National Wildlife Refuge
NWRSAA:	National Wildlife Refuge System Administration Act
OMB:	Office of Management and Budget
OY:	Optimum Yield
PBR:	Potential Biological Removal
PIFSC:	Pacific Islands Fisheries Science Center, NMFS
PIRO:	Pacific Islands Regional Office, NMFS

PRA: Paperwork Reduction Act

PRIA: Pacific Remote Island Areas

RFA: Regulatory Flexibility Act

RIR: Regulatory Impact Review

SFA: Sustainable Fisheries Act

SLA: Submerged Lands Act

SPR: Spawning Potential Ratio

SSC: Scientific and Statistical Committee

TALFF: Total Allowable Level of Foreign Fishing

TSLA: Territorial Submerged Lands Act

USCG: United States Coast Guard

USFWS: United States Fish and Wildlife Service

VMS: Vessel Monitoring System

WPacFIN: Western Pacific Fisheries Information Network, NMFS

WPRFMC: Western Pacific Regional Fishery Management Council

Appendix B: List of Definitions

Adaptive Management: A program that adjusts regulations based on changing conditions of the fisheries and stocks.

Bycatch: Any fish harvested in a fishery which are not sold or kept for personal use, and includes economic discards and regulatory discards.

Barrier Net: A small-mesh net used to capture coral reef or coastal pelagic fishes.

Bioprospecting: The search for commercially valuable biochemical and genetic resources in plants, animals and microorganisms for use in food production, the development of new drugs and other biotechnology applications.

Charter Fishing: Fishing from a vessel carrying a passenger for hire (as defined in section 2101(21a) of Title 46, United States Code) who is engaged in recreational fishing.

Commercial Fishing: Fishing in which the fish harvested, either in whole or in part, are intended to enter commerce or enter commerce through sale, barter or trade. For the purposes of this Fishery Ecosystem Plan, commercial fishing includes the commercial extraction of biocompounds.

Consensual Management: Decision making process where stakeholders meet and reach consensus on management measures and recommendations.

Coral Reef Ecosystem (CRE): Those species, interactions, processes, habitats and resources of the water column and substrate located within any waters less than or equal to 50 fathoms in total depth.

Council: The Western Pacific Regional Fishery Management Council (WPRFMC).

Critical Habitat: Those geographical areas that are essential for bringing an endangered or threatened species to the point where it no longer needs the legal protections of the Endangered Species Act (ESA), and which may require special management considerations or protection. These areas are designated pursuant to the ESA as having physical or biological features essential to the conservation of listed species.

Dealer: Any person who (1) Obtains, with the intention to resell management unit species, or portions thereof, that were harvested or received by a vessel that holds a permit or is otherwise regulated under this FEP; or (2) Provides recordkeeping, purchase, or sales assistance in obtaining or selling such management unit species (such as the services provided by a wholesale auction facility).

Dip Net: A hand-held net consisting of a mesh bag suspended from a circular, oval, square or rectangular frame attached to a handle. A portion of the bag may be constructed of material, such as clear plastic, other than mesh.

Ecology: The study of interactions between an organism (or organisms) and its (their) environment (biotic and abiotic).

Ecological Integrity: Maintenance of the standing stock of resources at a level that allows ecosystem processes to continue. Ecosystem processes include replenishment of resources, maintenance of interactions essential for self-perpetuation and, in the case of coral reefs, rates of accretion that are equal to or exceed rates of erosion. Ecological integrity cannot be directly measured but can be inferred from observed ecological changes.

Economic Discards: Fishery resources that are the target of a fishery but which are not retained because they are of an undesirable size, sex or quality or for other economic reasons.

Ecosystem: A geographically specified system of organisms (including humans), the environment, and the processes that control its dynamics.

Ecosystem-Based Fishery Management: Fishery management actions aimed at conserving the structure and function of marine ecosystems in addition to conserving fishery resources.

Ecotourism: Observing and experiencing, first hand, natural environments and ecosystems in a manner intended to be sensitive to their conservation.

Environmental Impact Statement (EIS): A document required under the National Environmental Policy Act (NEPA) to assess alternatives and analyze the impact on the environment of proposed major Federal actions significantly affecting the human environment.

Essential Fish Habitat (EFH): Those waters and substrate necessary to a species or species group or complex, for spawning, breeding, feeding or growth to maturity.

Exclusive Economic Zone (EEZ): The zone established by Proclamation numbered 5030, dated March 10, 1983. For purposes of the Magnuson Act, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal states, commonwealths, territories or possessions of the United States.

Exporter: One who sends species in the fishery management unit to other countries for sale, barter or any other form of exchange (also applies to shipment to other states, territories or islands).

Fish: Finfish, mollusks, crustaceans and all other forms of marine animal and plant life other than marine mammals and birds

Fishery: One or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, recreational and economic characteristics; and any fishing for such stocks.

Fishery Ecosystem Plan: A fishery ecosystem management plan that contains conservation and management measures necessary and appropriate for fisheries within a given ecosystem to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery.

Fishing: The catching, taking or harvesting of fish; the attempted catching, taking or harvesting of fish; any other activity that can reasonably be expected to result in the catching, taking or harvesting of fish; or any operations at sea in support of, or in preparation for, any activity described in this definition. Such term does not include any scientific research activity that is conducted by a scientific research vessel.

Fishing Community: A community that is substantially dependent on or substantially engaged in the harvest or processing of fishery resources to meet social and economic needs and includes fishing vessel owners, operators and crews and United States fish processors that are based in such community.

Food Web: Inter-relationships among species that depend on each other for food (predator-prey pathways).

Framework Measure: Management measure listed in an FEP for future consideration. Implementation can occur through an administratively simpler process than a full FEP amendment.

Ghost Fishing: The chronic and/or inadvertent capture and/or loss of fish or other marine organisms by lost or discarded fishing gear.

Habitat: Living place of an organism or community, characterized by its physical and biotic properties.

Habitat Area of Particular Concern (HAPC): Those areas of EFH identified pursuant to Section 600.815(a)(8). In determining whether a type or area of EFH should be designated as a HAPC, one or more of the following criteria should be met: (1) ecological function provided by the habitat is important; (2) habitat is sensitive to human-induced environmental degradation; (3) development activities are, or will be, stressing the habitat type; or (4) the habitat type is rare.

Harvest: The catching or taking of a marine organism or fishery MUS by any means.

Hook-and-line: Fishing gear that consists of one or more hooks attached to one or more lines.

Live Rock: Any natural, hard substrate (including dead coral or rock) to which is attached, or which supports, any living marine life-form associated with coral reefs.

Longline: A type of fishing gear consisting of a main line which is deployed horizontally from which branched or dropper lines with hooks are attached.

Low-Use MPA: A Marine Protected Area zoned to allow limited fishing activities.

Main Hawaiian Islands (MHI): The islands of the Hawaiian Islands archipelago consisting of Niihau, Kauai, Oahu, Molokai, Lanai, Maui, Kahoolawe, Hawaii and all of the smaller associated islets lying east of 161° W longitude.

Marine Protected Area (MPA): An area designated to allow or prohibit certain fishing activities.

Marine National Monument (MNM):

Maximum Sustainable Yield (MSY): The largest long-term average catch or yield that can be taken, from a stock or stock complex under prevailing ecological and environmental conditions and fishery technological characteristics (e.g., gear selectivity), and the distribution of catch among fleets.

National Marine Fisheries Service (NMFS): The component of the National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, responsible for the conservation and management of living marine resources. Also known as NOAA Fisheries Service.

No-Take MPA: A Marine Protected Area where no fishing or removal of living marine resources is authorized.

Northwestern Hawaiian Islands (NWHI): the islands of the Hawaiian Islands archipelago lying to the west of 161°W longitude.

Optimum Yield (OY): With respect to the yield from a fishery "optimum" means the amount of fish that: (a) will provide the greatest overall benefit to the nation, particularly with respect to food production and recreational opportunities and taking into account the protection of marine ecosystems; (b) is prescribed as such on the basis of the MSY from the fishery, as reduced by any relevant economic, social or ecological factor; and (c) in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the MSY in such fishery.

Overfished: A stock or stock complex is considered "overfished" when its biomass has declined below a level that jeopardizes the capacity of the stock or stock complex to produce maximum sustainable yield on a continuing basis.

Overfishing: (to overfish) occurs whenever a stock or stock complex is subjected to a level of fishing mortality or total annual catch that jeopardizes the capacity of a stock or stock complex to produce maximum sustainable yield on a continuing basis.

Pacific Remote Island Areas (PRIA): Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Atoll, Wake Island and Palmyra Atoll.

Passive Fishing Gear: Gear left unattended for a period of time prior to retrieval (e.g., traps, gill nets).

Precautionary Approach: The implementation of conservation measures even in the absence of scientific certainty that fish stocks are being overexploited.

Recreational Fishing: Fishing for sport or pleasure.

Recruitment: A measure of the weight or number of fish which enter a defined portion of the stock such as fishable stock (those fish above the minimum legal size) or spawning stock (those fish which are sexually mature).

Reef: A ridgelike or moundlike structure built by sedentary calcareous organisms and consisting mostly of their remains. It is wave-resistant and stands above the surrounding sediment. It is characteristically colonized by communities of encrusting and colonial invertebrates and calcareous algae.

Reef-obligate Species: An organism dependent on coral reefs for survival.

Regulatory Discards: Any species caught that fishermen are required by regulation to discard whenever caught, or are required to retain but not sell.

Resilience: The ability of a population or ecosystem to withstand change and to recover from stress (natural or anthropogenic).

Restoration: The transplanting of live organisms from their natural habitat in one area to another area where losses of, or damage to, those organisms has occurred with the purpose of restoring the damaged or otherwise compromised area to its original, or a substantially improved, condition; additionally, the altering of the physical characteristics (e.g., substrate, water quality) of an area that has been changed through human activities to return it as close as possible to its natural state in order to restore habitat for organisms.

Rock: Any consolidated or coherent and relatively hard, naturally formed, mass of mineral matter.

Rod-and-Reel: A hand-held fishing rod with a manually or electrically operated reel attached.

Scuba-assisted Fishing: Fishing, typically by spear or by hand collection, using assisted breathing apparatus.

Secretary: The Secretary of Commerce or a designee.

Sessile: Attached to a substrate; non-motile for all or part of the life cycle.

Slurp Gun: A self-contained, typically hand-held, tube–shaped suction device that captures organisms by rapidly drawing seawater containing the organisms into a closed chamber.

Social Acceptability: The acceptance of the suitability of management measures by stakeholders, taking cultural, traditional, political and individual benefits into account.

Spear: A sharp, pointed, or barbed instrument on a shaft, operated manually or shot from a gun or sling.

Adaptive Management: A program that adjusts regulations based on changing conditions of the fisheries and stocks.

Bycatch: Any fish harvested in a fishery which are not sold or kept for personal use, and includes economic discards and regulatory discards.

Barrier Net: A small-mesh net used to capture coral reef or coastal pelagic fishes.

Bioprospecting: The search for commercially valuable biochemical and genetic resources in plants, animals and microorganisms for use in food production, the development of new drugs and other biotechnology applications.

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Dealer: Any person who (1) Obtains, with the intention to resell management unit species, or portions thereof, that were harvested or received by a vessel that holds a permit or is otherwise regulated under this FEP; or (2) Provides recordkeeping, purchase, or sales assistance in obtaining or selling such management unit species (such as the services provided by a wholesale auction facility).

Dip Net: A hand-held net consisting of a mesh bag suspended from a circular, oval, square or rectangular frame attached to a handle. A portion of the bag may be constructed of material, such as clear plastic, other than mesh.

Ecology: The study of interactions between an organism (or organisms) and its (their) environment (biotic and abiotic).

Ecological Integrity: Maintenance of the standing stock of resources at a level that allows ecosystem processes to continue. Ecosystem processes include replenishment of resources, maintenance of interactions essential for self-perpetuation and, in the case of coral reefs, rates of accretion that are equal to or exceed rates of erosion. Ecological integrity cannot be directly measured but can be inferred from observed ecological changes.

Economic Discards: Fishery resources that are the target of a fishery but which are not retained because they are of an undesirable size, sex or quality or for other economic reasons.

Ecosystem: A geographically specified system of organisms (including humans), the environment, and the processes that control its dynamics.

Ecosystem-Based Fishery Management: Fishery management actions aimed at conserving the structure and function of marine ecosystems in addition to conserving fishery resources.

Ecotourism: Observing and experiencing, first hand, natural environments and ecosystems in a manner intended to be sensitive to their conservation.

Environmental Impact Statement (EIS): A document required under the National Environmental Policy Act (NEPA) to assess alternatives and analyze the impact on the environment of proposed major Federal actions significantly affecting the human environment.

Essential Fish Habitat (EFH): Those waters and substrate necessary to a species or species group or complex, for spawning, breeding, feeding or growth to maturity.

Exclusive Economic Zone (EEZ): The zone established by Proclamation numbered 5030, dated March 10, 1983. For purposes of the Magnuson Act, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal states, commonwealths, territories or possessions of the United States.

Exporter: One who sends species in the fishery management unit to other countries for sale, barter or any other form of exchange (also applies to shipment to other states, territories or islands).

Fish: Finfish, mollusks, crustaceans and all other forms of marine animal and plant life other than marine mammals and birds

Fishery: One or more stocks of fish that can be treated as a unit for purposes of conservation and management and that are identified on the basis of geographical, scientific, technical, recreational and economic characteristics; and any fishing for such stocks.

Fishery Ecosystem Plan: A fishery ecosystem management plan that contains conservation and management measures necessary and appropriate for fisheries within a given ecosystem to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery.

Fishing: The catching, taking or harvesting of fish; the attempted catching, taking or harvesting of fish; any other activity that can reasonably be expected to result in the catching, taking or harvesting of fish; or any operations at sea in support of, or in preparation for, any activity described in this definition. Such term does not include any scientific research activity that is conducted by a scientific research vessel.

Fishing Community: A community that is substantially dependent on or substantially engaged in the harvest or processing of fishery resources to meet social and economic needs and includes fishing vessel owners, operators and crews and United States fish processors that are based in such community.

Food Web: Inter-relationships among species that depend on each other for food (predator-prey pathways).

Framework Measure: Management measure listed in an FEP for future consideration. Implementation can occur through an administratively simpler process than a full FEP amendment.

Ghost Fishing: The chronic and/or inadvertent capture and/or loss of fish or other marine organisms by lost or discarded fishing gear.

Habitat: Living place of an organism or community, characterized by its physical and biotic properties.

Habitat Area of Particular Concern (HAPC): Those areas of EFH identified pursuant to Section 600.815(a)(8). In determining whether a type or area of EFH should be designated as a HAPC, one or more of the following criteria should be met: (1) ecological function provided by the habitat is important; (2) habitat is sensitive to human-induced environmental degradation; (3) development activities are, or will be, stressing the habitat type; or (4) the habitat type is rare.

Harvest: The catching or taking of a marine organism or fishery MUS by any means.

Hook-and-line: Fishing gear that consists of one or more hooks attached to one or more lines.

Live Rock: Any natural, hard substrate (including dead coral or rock) to which is attached, or which supports, any living marine life-form associated with coral reefs.

Longline: A type of fishing gear consisting of a main line which is deployed horizontally from which branched or dropper lines with hooks are attached.

Low-Use MPA: A Marine Protected Area zoned to allow limited fishing activities.

Main Hawaiian Islands (MHI): The islands of the Hawaiian Islands archipelago consisting of Niihau, Kauai, Oahu, Molokai, Lanai, Maui, Kahoolawe, Hawaii and all of the smaller associated islets lying east of 161° W longitude.

Marine Protected Area (MPA): An area designated to allow or prohibit certain fishing activities.

Marine National Monument (MNM): A marine area designated by Presidential Proclamation, via the Antiquities Act of 1906.

Maximum Sustainable Yield (MSY): The largest long-term average catch or yield that can be taken, from a stock or stock complex under prevailing ecological and environmental conditions and fishery technological characteristics (e.g., gear selectivity), and the distribution of catch among fleets.

National Marine Fisheries Service (NMFS): The component of the National Oceanic and Atmospheric Administration (NOAA), Department of Commerce, responsible for the conservation and management of living marine resources. Also known as NOAA Fisheries Service.

No-Take MPA: A Marine Protected Area where no fishing or removal of living marine resources is authorized.

Northwestern Hawaiian Islands (NWHI): the islands of the Hawaiian Islands archipelago lying to the west of 161°W longitude.

Optimum Yield (OY): With respect to the yield from a fishery "optimum" means the amount of fish that: (a) will provide the greatest overall benefit to the nation, particularly with respect to food production and recreational opportunities and taking into account the protection of marine ecosystems; (b) is prescribed as such on the basis of the MSY from the fishery, as reduced by any relevant economic, social or ecological factor; and (c) in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the MSY in such fishery.

Overfished: A stock or stock complex is considered "overfished" when its biomass has declined below a level that jeopardizes the capacity of the stock or stock complex to produce maximum sustainable yield on a continuing basis.

Overfishing: (to overfish) occurs whenever a stock or stock complex is subjected to a level of fishing mortality or total annual catch that jeopardizes the capacity of a stock or stock complex to produce maximum sustainable yield on a continuing basis.

Pacific Remote Island Areas (PRIA): Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Atoll, Wake Island and Palmyra Atoll.

Passive Fishing Gear: Gear left unattended for a period of time prior to retrieval (e.g., traps, gill nets).

Precautionary Approach: The implementation of conservation measures even in the absence of scientific certainty that fish stocks are being overexploited.

Recreational Fishing: Fishing for sport or pleasure.

Recruitment: A measure of the weight or number of fish which enter a defined portion of the stock such as fishable stock (those fish above the minimum legal size) or spawning stock (those fish which are sexually mature).

Reef: A ridgelike or moundlike structure built by sedentary calcareous organisms and consisting mostly of their remains. It is wave-resistant and stands above the surrounding sediment. It is characteristically colonized by communities of encrusting and colonial invertebrates and calcareous algae.

Reef-obligate Species: An organism dependent on coral reefs for survival.

Regulatory Discards: Any species caught that fishermen are required by regulation to discard whenever caught, or are required to retain but not sell.

Resilience: The ability of a population or ecosystem to withstand change and to recover from stress (natural or anthropogenic).

Restoration: The transplanting of live organisms from their natural habitat in one area to another area where losses of, or damage to, those organisms has occurred with the purpose of restoring the damaged or otherwise compromised area to its original, or a substantially improved, condition; additionally, the altering of the physical characteristics (e.g., substrate, water quality) of an area that has been changed through human activities to return it as close as possible to its natural state in order to restore habitat for organisms.

Rock: Any consolidated or coherent and relatively hard, naturally formed, mass of mineral matter.

Rod-and-Reel: A hand-held fishing rod with a manually or electrically operated reel attached.

Scuba-assisted Fishing: Fishing, typically by spear or by hand collection, using assisted breathing apparatus.

Secretary: The Secretary of Commerce or a designee.

Sessile: Attached to a substrate; non-motile for all or part of the life cycle.

Slurp Gun: A self-contained, typically hand-held, tube–shaped suction device that captures organisms by rapidly drawing seawater containing the organisms into a closed chamber.

Social Acceptability: The acceptance of the suitability of management measures by stakeholders, taking cultural, traditional, political and individual benefits into account.

Spear: A sharp, pointed, or barbed instrument on a shaft, operated manually or shot from a gun or sling.

Stock Assessment: An evaluation of a stock in terms of abundance and fishing mortality levels and trends, and relative to fishery management objectives and constraints if they have been specified.

Stock of Fish: A species, subspecies, geographical grouping or other category of fish capable of management as a unit.

Submersible: A manned or unmanned device that functions or operates primarily underwater and is used to harvest fish.

Subsistence Fishing: Fishing to obtain food for personal and/or community use rather than for profit sales or recreation.

Target Resources: Species or taxa sought after in a directed fishery.

Trophic Web: A network that represents the predator/prey interactions of an ecosystem.

Trap: A portable, enclosed, box-like device with one or more entrances used for catching and holding fish or marine organism.

Western Pacific Regional Fishery Management Council (WPRFMC or Coucil): A Regional Fishery Management Council established under the MSA, consisting of the State of Hawaii, the Territory of American Samoa, the Territory of Guam, and the Commonwealth of the Northern Mariana Islands which has authority over the fisheries in the Pacific Ocean seaward of such States, Territories, Commonwealths, and Possessions of the United States in the Pacific Ocean Area. The Council has 13 voting members including eight appointed by the Secretary of Commerce at least one of whom is appointed from each of the following States: Hawaii, the Territories of American Samoa and Guam, and the Commonwealth of the Northern Mariana Islands.

Stock Assessment: An evaluation of a stock in terms of abundance and fishing mortality levels and trends, and relative to fishery management objectives and constraints if they have been specified.

Stock of Fish: A species, subspecies, geographical grouping or other category of fish capable of management as a unit.

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Appendix C: Regulations Implementing the Pelagic Fishery Ecosystem Plan and the Marianas Trench, Pacific Remote Islands, and Rose Atoll Marine National Monuments

PART 665—FISHERIES IN THE WESTERN PACIFIC

Contents

AUTHORITY: 16 U.S.C. 1801 *et seq.*

SOURCE: 75 FR 2205, Jan. 14, 2010, unless otherwise noted.

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Subpart A—General

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§665.1 Purpose and scope.

(a) The regulations in this part govern fishing for western Pacific fishery ecosystem MUS by vessels of the United States that operate or are based inside the outer boundary of the U.S. EEZ around American Samoa, Hawaii, Guam, the Northern Mariana Islands, Palmyra Atoll, Kingman Reef, Jarvis Island, Baker Island, Howland Island, Johnston Atoll, and Wake Island.

(b) General regulations governing fishing by all vessels of the United States and by fishing vessels other than vessels of the United States are contained in 50 CFR part 600.

(c) Regulations governing the harvest, possession, landing, purchase, and sale of shark fins are found in 50 CFR part 600 subpart N.

(d) This subpart contains regulations that are common to all western Pacific fisheries managed under Fishery Ecosystem Plans (FEPs) prepared by the Western Pacific Fishery Management Council under the Magnuson-Stevens Act.

(e) Regulations specific to individual areas and fisheries are included in subparts B through F of this part.

(f) Nothing in subparts B through F of this part is intended to supersede any valid state or Federal regulations that are more restrictive than those published here.

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§665.2 Relation to other laws.

NMFS recognizes that any state law pertaining to vessels registered under the laws of that state while operating in the fisheries regulated under this part, that is consistent with this part and the FEPs implemented by this part, shall continue in effect with respect to fishing activities regulated under this part.

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§665.3 Licensing and registration.

Any person who is required to do so by applicable state law or regulation must comply with licensing and registration requirements in the exact manner required by applicable state law or regulation.

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§665.4 Annual catch limits.

(a) *General.* For each fishing year, the Regional Administrator shall specify an annual catch limit, including any overage adjustments, for each stock or stock complex of management unit species defined in subparts B through F of this part, as recommended by the Council, and considering the best available scientific, commercial, and other information about the fishery for that stock or stock complex. The annual catch limit shall serve as the basis for invoking accountability measures in paragraph (f) of this section.

(b) *Overage adjustments.* If landings of a stock or stock complex exceed the specified annual catch limit in a fishing year, the Council will take action in accordance with 50 CFR 600.310(g), which may include recommending that the Regional Administrator reduce the annual catch limit for the subsequent year by the amount of the overage or other measures, as appropriate.

(c) *Exceptions.* The Regional Administrator is not required to specify an annual catch limit for a management unit species that is statutorily excepted from the requirement pursuant to 50 CFR 600.310(h)(2), or that the Council has identified as an ecosystem component species. The Regional Administrator will publish in the FEDERAL REGISTER the list of ecosystem component species, and will publish any changes to the list, as necessary.

(d) *Annual catch target.* For each fishing year, the Regional Administrator may also specify an annual catch target that is below the annual catch limit of a stock or stock complex, as recommended by the Council. When used, the annual catch target shall serve as the basis for invoking accountability measures in paragraph (f) of this section.

(e) *Procedures and timing.* (1) No later than 60 days before the start of a fishing year, the Council shall recommend to the Regional Administrator an annual catch limit, including any overage adjustment, for each stock or stock complex. The recommended limit should be based on a recommendation of the SSC of the acceptable biological catch for each stock or stock complex. The Council may not recommend an annual catch limit that exceeds the acceptable biological catch recommended by the SSC. The Council may also recommend an annual catch target below the annual catch limit.

(2) No later than 30 days before the start of a fishing year, the Regional Administrator shall publish in the FEDERAL REGISTER a notice of the proposed annual catch limit specification and any associated annual catch target, and request public comment.

(3) No later than the start of a fishing year, the Regional Administrator shall publish in the FEDERAL REGISTER and use other methods to notify permit holders of the final annual catch limit specification and any associated annual catch target.

(f) *Accountability measures.* When any annual catch limit or annual catch target is projected to be reached, based on available information, the Regional Administrator shall publish notification to that effect in the FEDERAL REGISTER and shall use other means to notify permit holders.

(1) The notice will include an advisement that fishing for that stock or stock complex will be restricted beginning on a specified date, which shall not be earlier than 7 days after the date of filing the notice for public inspection at the Office of the Federal Register. The restriction may include, but is not limited to, closure of the fishery, closure of specific areas, changes to bag limits, or restrictions in effort. The restriction will remain in effect until the end of the fishing year, except that the Regional Administrator may, based on a recommendation from the Council, remove or modify the restriction before the end of the fishing year.

(2) It is unlawful for any person to conduct fishing in violation of the restrictions specified in the notification issued pursuant to paragraph (f)(1) of this section.

[76 FR 37286, June 27, 2011]

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§§665.5-665.11 [Reserved]

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§665.12 Definitions.

In addition to the definitions in the Magnuson-Stevens Act, §600.10 of this chapter, and subparts B through F of this part, general definitions for western Pacific fisheries have the following meanings:

American Samoa FEP means the Fishery Ecosystem Plan for American Samoa.

Bottomfish FMP means the Fishery Management Plan for Bottomfish and Seamount Groundfish of the Western Pacific Region established in 1986 and replaced by FEPs.

Carapace length means a measurement in a straight line from the ridge between the two largest spines above the eyes, back to the rear edge of the carapace of a spiny lobster (see Figure 1 to this part).

Circle hook means a fishing hook with the point turned perpendicularly back towards the shank.

Commercial fishing means fishing in which the fish harvested, either in whole or in part, are intended to enter commerce or enter commerce through sale, barter, or trade. All lobster fishing in Crustacean Permit Area 1 is considered commercial fishing.

Commonwealth of the Northern Mariana Islands (CNMI) means the Northern Mariana Islands.

Coral Reef Ecosystems FMP means the Fishery Management Plan for Coral Reef Ecosystems of the Western Pacific Region established in 2004 and replaced by FEPs.

Council means the Western Pacific Fishery Management Council.

Crustacean receiving vessel means a vessel of the United States to which lobsters taken in a crustacean management area are transferred from another vessel.

Crustaceans FMP means the Fishery Management Plan for Crustacean Fisheries of the Western Pacific Region established in 1982 and replaced by FEPs.

Currently harvested coral reef taxa (CHCRT) means coral reef associated species, families, or subfamilies, as defined in §§665.121, 665.221, 665.421, and 665.621, that have annual landings greater than 454.54 kg (1,000 lb) as reported on individual state, commonwealth, or territory catch reports or through creel surveys. Fisheries and research data from many of these species have been analyzed by regional management agencies.

Customary exchange means the non-market exchange of marine resources between fishermen and community residents, including family and friends of community residents, for goods, and/or services for cultural, social, or religious reasons. Customary exchange may include cost recovery through monetary reimbursements and other means for actual trip expenses, including but not limited to ice, bait, fuel, or food, that may be necessary to participate in fisheries in the western Pacific. Actual trip expenses do not include expenses that a fisherman would incur without making a fishing trip, including expenses relating to dock space, vessel mortgage payments, routine vessel maintenance, vessel registration fees, safety equipment required by U.S. Coast Guard, and other incidental costs and expenses normally associated with ownership of a vessel.

Dead coral means any precious coral that no longer has any live coral polyps or tissue.

Ecosystem component species means any western Pacific MUS that the Council has identified to be, generally, a non-target species, not determined to be subject to overfishing, approaching overfished, or overfished, not likely to become subject to overfishing or overfished, and generally not retained for sale or personal use.

EFP means an experimental fishing permit.

First level buyer means:

(1) The first person who purchases, with the intention to resell, management unit species, or portions thereof, that were harvested by a vessel that holds a permit or is otherwise regulated under crustacean fisheries in subparts B through E of this part; or

(2) A person who provides recordkeeping, purchase, or sales assistance in the first transaction involving MUS (such as the services provided by a wholesale auction facility).

Fishing gear, as used in regulations for the American Samoa, CNMI, Hawaii, and PRIA bottomfish fisheries in subparts B through E of this part, includes:

(1) Bottom trawl, which means a trawl in which the otter boards or the footrope of the net are in contact with the sea bed;

(2) Gillnet, (see §600.10);

(3) Hook-and-line, which means one or more hooks attached to one or more lines;

(4) Set net, which means a stationary, buoyed, and anchored gill net; and

(5) Trawl, (see §600.10).

Fishing trip means a period of time during which fishing is conducted, beginning when the vessel leaves port and ending when the vessel lands fish.

Fishing year means the year beginning at 0001 local time on January 1 and ending at 2400 local time on December 31, with the exception of fishing for Hawaii Restricted Bottomfish Species and any precious coral MUS.

Freeboard means the straight line vertical distance between a vessel's working deck and the sea surface. If the vessel does not have gunwale door or stern door that exposes the working deck, freeboard means the straight line vertical distance between the top of a vessel's railing and the sea surface.

Harvest guideline means a specified numerical harvest objective.

Hawaiian Archipelago means the Main and Northwestern Hawaiian Islands, including Midway Atoll.

Hawaii FEP means the Fishery Ecosystem Plan for the Hawaiian Archipelago.

Hookah breather means a tethered underwater breathing device that pumps air from the surface through one or more hoses to divers at depth.

Incidental catch or incidental species means species caught while fishing for the primary purpose of catching a different species.

Land or landing means offloading fish from a fishing vessel, arriving in port to begin offloading fish, or causing fish to be offloaded from a fishing vessel.

Large vessel means, as used in this part, any vessel equal to or greater than 50 ft (15.2 m) in length overall.

Length overall (LOA) or length of a vessel as used in this part, means the horizontal distance, rounded to the nearest foot (with any 0.5 foot or 0.15 meter fraction rounded upward), between the foremost part of the stem and the aftermost part of the stern, excluding bowsprits, rudders, outboard motor brackets, and similar fittings or attachments (see Figure 2 to this part). “Stem” is the foremost part of the vessel, consisting of a section of timber or fiberglass, or cast forged or rolled metal, to which the sides of the vessel are united at the fore end, with the lower end united to the keel, and with the bowsprit, if one is present, resting on the upper end. “Stern” is the aftermost part of the vessel.

Live coral means any precious coral that has live coral polyps or tissue.

Live rock means any natural, hard substrate, including dead coral or rock, to which is attached, or which supports, any living marine life form associated with coral reefs.

Low-use marine protected area (MPA) means an area of the U.S. EEZ where fishing operations have specific restrictions in order to protect the coral reef ecosystem, as specified under area restrictions in subparts B through F of this part.

Main Hawaiian Islands (MHI) means the islands of the Hawaii Archipelago lying to the east of 161° W. long.

Mariana Archipelago means Guam and the Northern Mariana Islands.

Mariana FEP means the Fishery Ecosystem Plan for the Mariana Archipelago.

Medium vessel, as used in this part, means any vessel equal to or more than 40 ft (12.2 m) and less than 50 ft (15.2 m) LOA.

Non-commercial fishing means fishing that does not meet the definition of commercial fishing in the Magnuson-Stevens Fishery Conservation and Management Act, and includes, but is not limited to, sustenance, subsistence, traditional indigenous, and recreational fishing.

Non-precious coral means any species of coral other than those listed under the definitions for precious coral in §§665.161, 665.261, 665.461, and 665.661.

Non-selective gear means any gear used for harvesting coral that cannot discriminate or differentiate between types, size, quality, or characteristics of living or dead coral.

Northwestern Hawaiian Islands (NWHI) means the islands of the Hawaiian Archipelago lying to the west of 161° W. long.

No-take MPA means an area of the U.S. EEZ that is closed to fishing for or harvesting of any MUS, as defined in subparts B through F of this part.

Offload means to remove MUS from a vessel.

Offset circle hook means a circle hook in which the barbed end of the hook is displaced relative to the parallel plane of the eyed end, or shank, of the hook when laid on its side.

Owner, as used in the regulations for the crustacean fisheries in subparts B through E of this part and §665.203(i) and (j), means a person who is identified as the current owner of the vessel as described in the Certificate of Documentation (Form CG-1270) issued by the United States Coast Guard (USCG) for a documented vessel, or in a registration certificate issued by a state, a territory, or the USCG for an undocumented vessel. As used in the regulations for the precious coral fisheries in subparts B through E of this part and §665.203(c) through (h), the definition of “owner” in §600.10 of this chapter continues to apply.

Pacific Islands Regional Office (PIRO) means the headquarters of the Pacific Islands Region, NMFS, located at 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818; telephone number: 808-725-5000.

Pacific remote island areas (PRIA, or U.S. island possessions in the Pacific Ocean) means Palmyra Atoll, Kingman Reef, Jarvis Island, Baker Island, Howland Island, Johnston Atoll, Wake Island, and Midway Atoll.

Pelagics FEP means the Fishery Ecosystem Plan for Pacific Pelagic Fisheries of the Western Pacific Region.

Pelagics FMP means the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region that was established in 1987 and replaced by the western Pacific pelagic FEP.

Potentially harvested coral reef taxa (PHCRT) means coral reef associated species, families, or subfamilies, as defined in §§665.121, 665.221, 665.421, and 665.621, for which little or no information is available beyond general taxonomic and distribution descriptions. These species have either not been caught in the past or have been harvested annually in amounts less than 454.54 kg (1,000 lb).

Precious Corals FMP means the Fishery Management Plan for Precious Corals of the Western Pacific Region established in 1983 and replaced by fishery ecosystem plans (FEPs).

PRIA FEP means the Fishery Ecosystem Plan for the Pacific Remote Island Areas of Palmyra Atoll, Kingman Reef, Jarvis Island, Baker Island, Howland Island, Johnston Atoll, and Wake Island.

Protected species means an animal protected under the MMPA, as amended, listed under the ESA, as amended, or subject to the Migratory Bird Treaty Act, as amended.

Receiving vessel means a vessel that receives fish or fish products from a fishing vessel, and with regard to a vessel holding a permit under §665.801(e), that also lands western Pacific pelagic MUS taken by other vessels using longline gear.

Recreational fishing means fishing conducted for sport or pleasure, including charter fishing.

Regional Administrator means Regional Administrator, Pacific Islands Region, NMFS (see Table 1 of §600.502 of this chapter for address).

Selective gear means any gear used for harvesting coral that can discriminate or differentiate between type, size, quality, or characteristics of living or dead coral.

Special Agent-In-Charge (SAC) means the Special Agent-In-Charge, NMFS, Pacific Islands Enforcement Division, located at 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818; telephone number: 808-725-6100, or a designee.

Special permit means a permit issued to allow fishing for coral reef ecosystem MUS in low-use MPAs or to fish for any PHCRT.

SSC means the Scientific and Statistical Committee of the Western Pacific Fishery Management Council.

State of Hawaii commercial marine license means the license required by the State of Hawaii for anyone to take marine life for commercial purposes (also known as the commercial fishing license).

Transship means to offload or otherwise transfer MUS or products thereof to a receiving vessel.

Trap means a box-like device used for catching and holding lobsters or fish.

U.S. harvested coral means coral caught, taken, or harvested by vessels of the United States within any fishery for which an FMP or FEP has been implemented under the Magnuson-Stevens Act.

Vessel monitoring system unit (VMS unit) means the hardware and software owned by NMFS, installed on vessels by NMFS, and required to track and transmit the positions of certain vessels.

Western Pacific fishery management area means those waters shoreward of the outer boundary of the EEZ around American Samoa, Guam, Hawaii, CNMI, Midway, Johnston and Palmyra Atolls, Kingman Reef, and Wake, Jarvis, Baker, and Howland Islands.

[75 FR 2205, Jan. 14, 2010, as amended at 76 FR 37286, June 27, 2011; 78 FR 33003, June 3, 2013; 79 FR 64111, Oct. 28, 2014]

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§665.13 Permits and fees.

(a) *Applicability.* The requirements for permits for specific western Pacific fisheries are set forth in subparts B through I of this part.

(b) *Validity.* Each permit is valid for fishing only in the specific fishery management areas identified on the permit.

(c) *Application.* (1) An application for a permit to operate in a Federal western Pacific fishery that requires a permit and is regulated under subparts B through I of this part may be obtained from NMFS PIRO. The completed application must be submitted to PIRO for consideration. In no case shall PIRO accept an application that is not on a Federal western Pacific fisheries permit application form.

(2) A minimum of 15 days after the day PIRO receives a complete application should be allowed for processing the application for fisheries under subparts B through I of this part. If an incomplete or improperly completed application is filed, NMFS will notify the applicant of the deficiency. If the applicant fails to correct the deficiency within 30 days following the date of the letter of notification of deficiency, the application will be administratively closed.

(d) *Change in application information.* Any change in the permit application information or vessel documentation, submitted under paragraph (c) of this section, must be reported to PIRO in writing within 15 days of the change to avoid a delay in processing the permit application. A minimum of 10 days from the day the information is received by PIRO should be given for PIRO to record any change in information from the permit application submitted under paragraph (c) of this section. Failure to report such changes may result in a delay in processing an application, permit holders failing to receive important notifications, or sanctions pursuant to the Magnuson-Stevens Act at 16 U.S.C. 1858(g) or 15 CFR part 904, subpart D.

(e) *Issuance.* After receiving a complete application submitted under paragraph (c) of this section, the Regional Administrator will issue a permit to an applicant who is eligible under this part, as appropriate.

(f) *Fees.* (1) PIRO will not charge a fee for a permit issued under §§665.142, 665.162, 665.242, 665.262, 665.442, 665.462, 665.642, or 665.662 of this part, for a Ho'omalu limited access permit issued under §665.203, or for a Guam bottomfish permit issued under §665.404.

(2) PIRO will charge a non-refundable processing fee for each application (including transfer and renewal) for each permit listed in paragraphs (f)(2)(i) through (f)(2)(xiii) of this section. The amount of the fee is calculated in accordance with the procedures of the NOAA Finance Handbook for determining the administrative costs incurred in processing the permit. The fee may not exceed such costs. The appropriate fee is specified with each application form and must accompany each application. Failure to pay the fee will preclude the issuance, transfer, or renewal of any of the following permits:

(i) Hawaii longline limited access permit.

(ii) Mau Zone limited access permit.

(iii) Coral reef ecosystem special permit.

(iv) American Samoa longline limited access permit.

(v) MHI non-commercial bottomfish permit.

(vi) Western Pacific squid jig permit.

(vii) Crustacean permit.

(viii) CNMI commercial bottomfish permit.

(ix) Marianas Trench Monument non-commercial permit.

(x) Marianas Trench Monument recreational charter permit.

(xi) Pacific Remote Islands Monument recreational charter permit.

(xii) Rose Atoll Monument non-commercial permit.

(xiii) Rose Atoll Monument recreational charter permit.

(g) *Expiration.* A permit issued under subparts B through I of this part is valid for the period specified on the permit unless revoked, suspended, transferred, or modified under 15 CFR part 904.

(h) *Replacement.* Replacement permits may be issued, without charge, to replace lost or mutilated permits. An application for a replacement permit is not considered a new application.

(i) *Transfer.* An application for a permit transfer under §§665.203(d), 665.242(e), or 665.801(k), or for registration of a permit for use with a replacement vessel under §665.203(i), must be submitted to PIRO as described in paragraph (c) of this section.

(j) *Alteration.* Any permit that has been altered, erased, or mutilated is invalid.

(k) *Display.* Any permit issued under this subpart, or a facsimile of such permit, must be on board the vessel at all times while the vessel is fishing for, taking, retaining, possessing, or landing MUS shoreward of the outer boundary of the fishery management area. Any permit issued under this section must be displayed for inspection upon request of an authorized officer.

(l) *Sanctions.* Procedures governing sanctions and denials are found at subpart D of 15 CFR part 904.

(m) *Permit appeals.* Procedures for appeals of permitting and administrative actions are specified in the relevant subparts of this part.

[75 FR 2205, Jan. 14, 2010, as amended at 78 FR 33003, June 3, 2013; 78 FR 39583, July 2, 2013]

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§665.14 Reporting and recordkeeping.

(a) Except for precious coral and crustacean fisheries, any person who is required to do so by applicable state law or regulation must make and/or file all reports of MUS landings containing all data and in the exact manner required by applicable state law or regulation.

(b) *Fishing record forms*—(1) *Applicability.* (i) The operator of a fishing vessel subject to the requirements of §§665.124, 665.142, 665.162, 665.203(a)(2), 665.224, 665.242, 665.262, 665.404, 665.424, 665.442, 665.462, 665.603, 665.624, 665.642, 665.662, 665.801, 665.905, 665.935, or 665.965 must maintain on board the vessel an accurate and complete record of catch, effort, and other data on paper report forms provided by the Regional Administrator, or electronically as specified and approved by the Regional Administrator, except as allowed in paragraph (b)(1)(iii) of this section.

(ii) All information specified by the Regional Administrator must be recorded on paper or electronically within 24 hours after the completion of each fishing day. The logbook information, reported on paper or electronically, for each day of the fishing trip must be signed and dated or otherwise authenticated by the vessel operator in the manner determined by the Regional Administrator, and be submitted or transmitted via an approved method as specified by the Regional Administrator, and as required by this paragraph (b).

(iii) In lieu of the requirements in paragraph (a)(1)(i) of this section, the operator of a fishing vessel registered for use under a Western Pacific squid jig permit pursuant to the requirements of §665.801(g) may participate in a state reporting system. If participating in a state reporting system, all required information must be recorded and submitted in the exact manner required by applicable state law or regulation.

(2) *Timeliness of submission.* (i) If fishing was authorized under a permit pursuant to §§665.142, 665.242, 665.442, 665.404, 665.162, 665.262, 665.462, 665.662, or 665.801, the vessel operator must submit the original logbook information for each day of the fishing trip to the Regional Administrator within 72 hours of the end of each fishing trip, except as allowed in paragraph (iii) of this section.

(ii) If fishing was authorized under a permit pursuant to §665.203(a)(2), the vessel operator or vessel owner must submit the original logbook form for each day of the fishing trip to the Regional Administrator within 72 hours of the end of each fishing trip.

(iii) If fishing was authorized under a PRIA bottomfish permit pursuant to §665.603(a), PRIA pelagic troll and handline permit pursuant to §665.801(f), crustacean fishing permit for the PRIA (Permit Area 4) pursuant to §665.642(a), or a precious coral fishing permit for Permit Area X-P-PI pursuant to §665.662, the original logbook form for each day of fishing within EEZ waters around the PRIA must be submitted to the Regional Administrator within 30 days of the end of each fishing trip.

(iv) If fishing was authorized under a permit pursuant to §§665.124, 665.224, 665.424, 665.624, 665.905, 665.935, or 665.965, the original logbook information for each day of fishing must be submitted to the Regional Administrator within 30 days of the end of each fishing trip.

(c) *Transshipment logbooks.* Any person subject to the requirements of §§665.124(a)(2), 665.224(a)(2), 665.424(a)(2), 665.624(a)(2), or 665.801(e) must maintain on board the vessel an accurate and complete NMFS transshipment logbook containing report forms provided by the Regional Administrator. All information specified on the forms must be recorded on the forms within 24 hours after the day of transshipment. Each form must be signed and dated by the receiving vessel operator. The original logbook for each day of transshipment activity must be submitted to the Regional Administrator within 72 hours of each landing of western Pacific pelagic MUS. The original logbook for each day of transshipment activity must be submitted to the Regional Administrator within 7 days of each landing of coral reef ecosystem MUS.

(d) *Sales report.* The operator of any fishing vessel subject to the requirements of §§665.142, 665.242, 665.442, or 665.642, or the owner of a medium or large fishing vessel subject to the requirements of §665.404(a)(2) must submit to the Regional Administrator, within 72 hours of offloading of crustacean MUS, an accurate and complete sales report on a form provided by the Regional Administrator. The form must be signed and dated by the fishing vessel operator.

(e) *Packing or weigh-out slips.* The operator of any fishing vessel subject to the requirements of §§665.142, 665.242, 665.442, or 665.642 must attach packing or weighout slips provided to the operator by the first-level buyer(s), unless the packing or weighout slips have not been provided in time by the buyer(s).

(f) *Modification of reporting and recordkeeping requirements.* The Regional Administrator may, after consultation with the Council, initiate rulemaking to modify the information to be provided on the fishing record forms, transshipment logbook, and sales report forms and timeliness by which the information is to be provided, including the submission of packing or weighout slips.

(g) *Availability of records for inspection.* (1) Western Pacific pelagic MUS. Upon request, any fish dealer must immediately provide an authorized officer access to inspect and copy all records of purchases, sales, or other transactions involving western Pacific pelagic MUS taken or handled by longline vessels that have permits issued under this subpart or that are otherwise subject to subpart F of this part, including, but not limited to, information concerning:

(i) The name of the vessel involved in each transaction and the owner and operator of the vessel.

(ii) The weight, number, and size of each species of fish involved in each transaction.

(iii) Prices paid by the buyer and proceeds to the seller in each transaction.

(2) *Crustacean MUS.* Upon request, any first-level buyer must immediately allow an authorized officer and any employee of NMFS designated by the Regional Administrator, to access, inspect, and copy all records relating to the harvest, sale, or transfer of crustacean MUS taken by vessels that have permits issued under this subpart or §§665.140 through 665.145, 665.240 through 665.252, 665.440 through 665.445, or 665.640 through 665.645 of this part. This requirement may be met by furnishing the information on a worksheet provided by the Regional Administrator. The information must include, but is not limited to:

(i) The name of the vessel involved in each transaction and the owner or operator of the vessel.

(ii) The amount, number, and size of each MUS involved in each transaction.

(iii) Prices paid by the buyer and proceeds to the seller in each transaction.

(3) Bottomfish and seamount groundfish MUS. Any person who is required by state laws and regulations to maintain records of landings and sales for vessels regulated by this subpart and by §§665.100 through 665.105, 665.200 through 665.212, 665.400 through 665.407, and 665.600 through 665.606 of this part must make those records immediately available for Federal inspection and copying upon request by an authorized officer.

(4) *Coral reef ecosystem MUS.* Any person who has a special permit and who is required by state laws and regulations to maintain and submit records of catch and effort, landings and sales for coral reef ecosystem MUS by this subpart and §§665.120 through 665.128, 665.220 through 665.228, 665.420 through 665.428, or 665.620 through 665.628 of this part must make those records immediately available

for Federal inspection and copying upon request by an authorized officer as defined in §600.10 of this chapter.

(h) *State reporting.* Any person who has a permit under §§665.124, 665.203, 665.224, 665.404, 665.424, 665.603, or 665.624 and who is regulated by state laws and regulations to maintain and submit records of catch and effort, landings and sales for vessels regulated by subparts B through F of this part must maintain and submit those records in the exact manner required by state laws and regulations.

[75 FR 2205, Jan. 14, 2010, as amended at 78 FR 33003, June 3, 2013; 78 FR 39583, July 2, 2013]

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§665.15 Prohibitions.

In addition to the prohibitions in §600.725 of this chapter, it is unlawful for any person to:

(a) Engage in fishing without a valid permit or facsimile of a valid permit on board the vessel and available for inspection by an authorized officer, when a permit is required under §§665.13 or 665.17, unless the vessel was at sea when the permit was issued under §665.13, in which case the permit must be on board the vessel before its next trip.

(b) File false information on any application for a fishing permit under §665.13 or an EFP under §665.17.

(c) Fail to file reports in the exact manner required by any state law or regulation, as required in §665.14.

(d) Falsify or fail to make, keep, maintain, or submit any logbook or logbook form or other record or report required under §§665.14 and 665.17.

(e) Refuse to make available to an authorized officer or a designee of the Regional Administrator for inspection or copying, any records that must be made available in accordance with §665.14.

(f) Fail to affix or maintain vessel or gear markings, as required by §§665.16, 665.128, 665.228, 665.246, 665.428, 665.628, or 665.804.

(g) Violate a term or condition of an EFP issued under §665.17.

(h) Fail to report any take of or interaction with protected species as required by §665.17(k).

(i) Fish without an observer on board the vessel after the owner or agent of the owner has been directed by NMFS to make accommodations available for an observer under §§665.17, 665.105, 665.145, 665.207, 665.247, 665.407, 665.445, 665.606, 665.645, or 665.808.

(j) Refuse to make accommodations available for an observer when so directed by the Regional Administrator under §§665.105, 665.145, 665.207, 665.247, 665.407, 665.445, 665.606, 665.645, or 665.808, or under any provision in an EFP issued under §665.17.

(k) Fail to notify officials as required in §§665.126, 665.144, 665.205, 665.226, 665.244, 665.426, 665.444, 665.626, 665.644, 665.803, or 665.808.

(l) Fish for, take or retain within a no-take MPA, defined in §§665.99, 665.199, 665.399, or 665.599, any bottomfish MUS, crustacean MUS, western Pacific pelagic MUS, precious coral, seamount groundfish or coral reef ecosystem MUS.

(m) Fail to comply with a term or condition governing the vessel monitoring system in violation of §665.19.

(n) Fish for, catch, or harvest MUS without an operational VMS unit on board the vessel after installation of the VMS unit by NMFS, in violation of §665.19(e)(2).

(o) Possess MUS, that were harvested after NMFS has installed the VMS unit on the vessel, on board that vessel without an operational VMS unit, in violation of §665.19(e)(2).

(p) Interfere with, tamper with, alter, damage, disable, or impede the operation of a VMS unit or attempt any of the same; or move or remove a VMS unit without the prior permission of the SAC in violation of §665.19(e)(3).

(q) Make a false statement, oral or written, to an authorized officer, regarding the use, operation, or maintenance of a VMS unit, in violation of §665.19(e).

(r) Interfere with, impede, delay, or prevent the installation, maintenance, repair, inspection, or removal of a VMS unit, in violation of §665.19(e).

(s) Interfere with, impede, delay, or prevent access to a VMS unit by a NMFS observer, in violation of §665.808(f)(4).

(t) Connect or leave connected additional equipment to a VMS unit without the prior approval of the SAC, in violation of §665.19(f).

(u) Fail to comply with the restrictions specified in the notification issued pursuant to §665.4(f)(1), in violation of §665.15(f)(2).

[75 FR 2205, Jan. 14, 2010, as amended at 76 FR 37287, June 27, 2011]

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§665.16 Vessel identification.

(a) Applicability. Each fishing vessel subject to this part, except those identified in paragraph (e) of this section, must be marked for identification purposes, as follows:

(1) A vessel that is registered for use with a valid permit issued under §665.801 and used to fish on the high seas within the Convention Area as defined in §300.211 of this title must be marked in accordance with the requirements at §§300.14 and 300.217 of this title.

(2) A vessel that is registered for use with a valid permit issued under §665.801 of this part and not used to fish on the high seas within the Convention Area must be marked in accordance with either:

(i) Sections 300.14 and 300.217 of this title, or

(ii) Paragraph (b) of this section.

(3) A vessel that is registered for use with a valid permit issued under subparts B through E and subparts G through I of this part must be marked in accordance with paragraph (b) of this section.

(b) Identification. Each vessel subject to this section must be marked as follows:

(1) The vessel's official number must be affixed to the port and starboard sides of the deckhouse or hull, and on an appropriate weather deck, so as to be visible from enforcement vessels and aircraft. Marking must be legible and of a color that contrasts with the background.

(2) For fishing and receiving vessels of 65 ft (19.8 m) LOA or longer, the official number must be displayed in block Arabic numerals at least 18 inches (45.7 cm) in height, except that vessels in precious coral fisheries that are 65 ft (19.8 m) LOA or longer must be marked in block Arabic numerals at least 14 inches (35.6 cm) in height.

(3) For all other vessels, the official number must be displayed in block Arabic numerals at least 10 inches (25.4 cm) in height.

(c) The vessel operator must ensure that the official number is clearly legible and in good repair.

(d) The vessel operator must ensure that no part of the vessel, its rigging, or its fishing gear obstructs the view of the official number from an enforcement vessel or aircraft.

(e) The following fishing vessels are exempt from the vessel identification requirements in this section:

(1) A vessel registered for use under a MHI non-commercial bottomfish permit that is in compliance with State of Hawaii bottomfish vessel registration and marking requirements.

(2) A vessel less than 40 ft (12.2 m) LOA registered for use under a CNMI commercial bottomfish permit that is in compliance with CNMI bottomfish vessel registration and marking requirements.

[75 FR 2205, Jan. 14, 2010, as amended at 75 FR 3417, Jan. 21, 2010; 78 FR 33003, June 3, 2013; 78 FR 39583, July 2, 2013]

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§665.17 Experimental fishing.

(a) *General.* The Regional Administrator may authorize, for limited purposes, the direct or incidental harvest of MUS that would otherwise be prohibited by this part. No experimental fishing may be conducted unless authorized by an EFP issued by the Regional Administrator in accordance with the criteria and procedures specified in this section. EFPs will be issued without charge.

(b) *Observers.* No experimental fishing for crustacean MUS may be conducted unless a NMFS observer is aboard the vessel.

(c) *Application.* An applicant for an EFP must submit to the Regional Administrator at least 60 days before the desired date of the EFP a written application including, but not limited to, the following information:

(1) The date of the application.

(2) The applicant's name, mailing address, and telephone number.

(3) A statement of the purposes and goals of the experiment for which an EFP is needed, including a general description of the arrangements for disposition of all species harvested under the EFP.

(4) A statement of whether the proposed experimental fishing has broader significance than the applicant's individual goals.

(5) For each vessel to be covered by the EFP:

(i) Vessel name.

(ii) Name, address, and telephone number of owner and operator.

(iii) USCG documentation, state license, or registration number.

(iv) Home port.

(v) Length of vessel.

(vi) Net tonnage.

(vii) Gross tonnage.

(6) A description of the species (directed and incidental) to be harvested under the EFP and the amount of such harvest necessary to conduct the experiment.

(7) For each vessel covered by the EFP, the approximate times and places fishing will take place, and the type, size, and amount of gear to be used.

(8) The signature of the applicant.

(d) *Incomplete applications.* The Regional Administrator may request from an applicant additional information necessary to make the determinations required under this section. An applicant will be notified of an incomplete application within 10 working days of receipt of the application. An incomplete application will not be considered until corrected in writing.

(e) *Issuance.* (1) If an application contains all of the required information, NMFS will publish a notice of receipt of the application in the FEDERAL REGISTER with a brief description of the proposal and will give interested persons an opportunity to comment. The Regional Administrator will also forward copies of the application to the Council, the USCG, and the fishery management agency of the affected state, accompanied by the following information:

(i) The current utilization of domestic annual harvesting and processing capacity (including existing experimental harvesting, if any) of the directed and incidental species for which an EFP is being requested.

(ii) A citation of the regulation or regulations that, without the EFP, would prohibit the proposed activity.

(iii) Biological information relevant to the proposal.

(2) At a Council meeting following receipt of a complete application, the Regional Administrator will consult with the Council and the Director of the affected state fishery management agency concerning the permit application. The applicant will be notified in advance of the meeting at which the application will be considered, and invited to appear in support of the application, if the applicant desires.

(3) Within 5 working days after the consultation in paragraph (e)(2) of this section, or as soon as practicable thereafter, NMFS will notify the applicant in writing of the decision to grant or deny the EFP and, if denied, the reasons for the denial. Grounds for denial of an EFP include, but are not limited to, the following:

(i) The applicant has failed to disclose material information required, or has made false statements as to any material fact, in connection with his or her application.

(ii) According to the best scientific information available, the harvest to be conducted under the permit would detrimentally affect any species of fish in a significant way.

(iii) Issuance of the EFP would inequitably allocate fishing privileges among domestic fishermen or would have economic allocation as its sole purpose.

(iv) Activities to be conducted under the EFP would be inconsistent with the intent of this section or the management objectives of the FEP.

(v) The applicant has failed to demonstrate a valid justification for the permit.

(vi) The activity proposed under the EFP would create a significant enforcement problem.

(4) The decision to grant or deny an EFP is final and unappealable. If the permit is granted, NMFS will publish a notice in the FEDERAL REGISTER describing the experimental fishing to be conducted under the EFP. The Regional Administrator may attach terms and conditions to the EFP consistent with the purpose of the experiment including, but not limited to:

(i) The maximum amount of each species that can be harvested and landed during the term of the EFP, including trip limits, where appropriate.

(ii) The number, sizes, names, and identification numbers of the vessels authorized to conduct fishing activities under the EFP.

(iii) The times and places where experimental fishing may be conducted.

(iv) The type, size, and amount of gear which may be used by each vessel operated under the EFP.

(v) The condition that observers be carried aboard vessels operating under an EFP.

(vi) Data reporting requirements.

(vii) Such other conditions as may be necessary to assure compliance with the purposes of the EFP consistent with the objectives of the FEP.

(f) *Duration.* Unless otherwise specified in the EFP or a superseding notice or regulation, an EFP is effective for no longer than one (1) year from the date of issuance, unless revoked, suspended, or modified. EFPs may be renewed following the application procedures in this section.

(g) *Alteration.* Any EFP that has been altered, erased, or mutilated is invalid.

(h) *Transfer.* EFPs issued under subparts B through F of this part are not transferable or assignable. An EFP is valid only for the vessel(s) for which it is issued.

(i) *Inspection.* Any EFP issued under subparts B through F of this part must be carried aboard the vessel(s) for which it was issued. The EFP must be presented for inspection upon request of any authorized officer.

(j) *Sanctions.* Failure of the holder of an EFP to comply with the terms and conditions of an EFP, the provisions of subparts A through F of this part, any other applicable provision of this part, the Magnuson-Stevens Act, or any other regulation promulgated thereunder, is grounds for revocation, suspension, or modification of the EFP with respect to all persons and vessels conducting activities under the EFP. Any action taken to revoke, suspend, or modify an EFP will be governed by 15 CFR part 904 subpart D. Other sanctions available under the statute will be applicable.

(k) *Protected species.* Persons fishing under an EFP must report any incidental take or fisheries interaction with protected species on a form provided for that purpose. Reports must be submitted to the Regional Administrator within 3 days of arriving in port.

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§665.18 Framework adjustments to management measures.

Framework measures described below for each specific fishery are valid for all management areas, except where specifically noted in this section.

(a) *Pelagic measures*—(1) *Introduction.* Adjustments in management measures may be made through rulemaking if new information demonstrates that there are biological, social, or economic concerns in the fishery. The following framework process authorizes the implementation of measures that may affect the operation of the fisheries, gear, harvest guidelines, or changes in catch and/or effort.

(2) *Annual report.* By June 30 of each year, the Council-appointed pelagics monitoring team will prepare an annual report on the fisheries in the management area. The report shall contain, among other things, recommendations for Council action and an assessment of the urgency and effects of such action(s).

(3) *Procedure for established measures.* (i) Established measures are regulations for which the impacts have been evaluated in Council or NMFS documents in the context of current conditions.

(ii) The Council may recommend to the Regional Administrator that established measures be modified, removed, or reinstituted. Such recommendation shall include supporting rationale and analysis, and shall be made after advance public notice, public discussion, and consideration of public comment. NMFS may implement the Council's recommendation by rulemaking if approved by the Regional Administrator.

(4) *Procedure for new measures.* (i) New measures are regulations for which the impacts have not been evaluated in Council or NMFS documents in the context of current conditions.

(ii) The Council will publicize, including by FEDERAL REGISTER notice, and solicit public comment on, any proposed new management measure. After a Council meeting at which the measure is discussed, the Council will consider recommendations and prepare a FEDERAL REGISTER notice summarizing the Council's deliberations, rationale, and analysis for the preferred action, and the time and place for any

subsequent Council meeting(s) to consider the new measure. At subsequent public meeting(s), the Council will consider public comments and other information received to make a recommendation to the Regional Administrator about any new measure. NMFS may implement the Council's recommendation by rulemaking if approved by the Regional Administrator.

(b) *Crustacean measures*—(1) *Introduction.* New management measures may be added through rulemaking if new information demonstrates that there are biological, social, or economic concerns in Permit Areas 1, 2, or 3. The following framework process authorizes the implementation of measures that may affect the operation of the fisheries, gear, harvest guidelines, or changes in catch and/or effort.

(2) *Annual report.* By June 30 of each year, the Council-appointed team will prepare an annual report on the fisheries in the management area. The report shall contain, among other things, recommendations for Council action and an assessment of the urgency and effects of such action(s).

(3) *Procedure for established measures.* (i) Established measures are regulations for which the impacts have been evaluated in Council or NMFS documents in the context of current conditions.

(ii) The Council may recommend to the Regional Administrator that established measures be modified, removed, or reinstituted. Such recommendation shall include supporting rationale and analysis, and shall be made after advance public notice, public discussion, and consideration of public comment. NMFS may implement the Council's recommendation by rulemaking if approved by the Regional Administrator.

(4) *Procedure for new measures.* (i) New measures are regulations for which the impacts have not been evaluated in Council or NMFS documents in the context of current conditions.

(ii) The Council will publicize, including by a FEDERAL REGISTER document, and solicit public comment on, any proposed new management measure. After a Council meeting at which the measure is discussed, the Council will consider recommendations and prepare a FEDERAL REGISTER document summarizing the Council's deliberations, rationale, and analysis for the preferred action, and the time and place for any subsequent Council meeting(s) to consider the new measure. At subsequent public meeting(s), the Council will consider public comments and other information received to make a recommendation to the Regional Administrator about any new measure. NMFS may implement the Council's recommendation by rulemaking if approved by the Regional Administrator.

(c) *Bottomfish measures*—(1) *Annual reports.* By June 30 of each year, a Council-appointed bottomfish monitoring team will prepare an annual report on the fishery by area covering the following topics:

(i) Fishery performance data.

(ii) Summary of recent research and survey results.

(iii) Habitat conditions and recent alterations.

(iv) Enforcement activities and problems.

(v) Administrative actions (*e.g.,* data collection and reporting, permits).

(vi) State and territorial management actions.

(vii) Assessment of need for Council action (including biological, economic, social, enforcement, administrative, and state/Federal needs, problems, and trends). Indications of potential problems warranting further investigation may be signaled by the following indicator criteria:

(A) Mean size of the catch of any species in any area is a pre-reproductive size.

(B) Ratio of fishing mortality to natural mortality for any species.

(C) Harvest capacity of the existing fleet and/or annual landings exceed best estimate of MSY in any area.

(D) Significant decline (50 percent or more) in bottomfish catch per unit of effort from baseline levels.

(E) Substantial decline in ex-vessel revenue relative to baseline levels.

(F) Significant shift in the relative proportions of gear in any one area.

(G) Significant change in the frozen/fresh components of the bottomfish catch.

(H) Entry/exit of fishermen in any area.

(I) Per-trip costs for bottomfish fishing exceed per-trip revenues for a significant percentage of trips.

(J) Significant decline or increase in total bottomfish landings in any area.

(K) Change in species composition of the bottomfish catch in any area.

(L) Research results.

(M) Habitat degradation or environmental problems.

(N) Reported interactions between bottomfish fishing operations and protected species in the NWHI.

(viii) Recommendations for Council action.

(ix) Estimated impacts of recommended action.

(2) *Recommendation of management action.* (i) The team may present management recommendations to the Council at any time. Recommendations may cover actions suggested for Federal regulations, state/territorial action, enforcement or administrative elements, and research and data collection. Recommendations will include an assessment of urgency and the effects of not taking action.

(ii) The Council will evaluate the team's reports and recommendations, and the indicators of concern. The Council will assess the need for one or more of the following types of management action: Catch limits, size limits, closures, effort limitations, access limitations, or other measures.

(iii) The Council may recommend management action by either the state/territorial governments or by Federal regulation.

(3) *Federal management action.* (i) If the Council believes that management action should be considered, it will make specific recommendations to the Regional Administrator after requesting and

considering the views of its Scientific and Statistical Committee and Bottomfish Advisory Panel and obtaining public comments at a public hearing.

(ii) The Regional Administrator will consider the Council's recommendation and accompanying data, and, if he or she concurs with the Council's recommendation, will propose regulations to carry out the action. If the Regional Administrator rejects the Council's proposed action, a written explanation for the denial will be provided to the Council within 2 weeks of the decision.

(iii) The Council may appeal a denial by writing to the Assistant Administrator, who must respond in writing within 30 days.

(iv) The Regional Administrator and the Assistant Administrator will make their decisions in accord with the Magnuson-Stevens Act, other applicable law, and the bottomfish measures of the FEPs.

(v) To minimize conflicts between the Federal and state management systems, the Council will use the procedures in paragraph (c)(2) of this section to respond to state/territorial management actions. Council consideration of action would normally begin with a representative of the state or territorial government bringing a potential or actual management conflict or need to the Council's attention.

(4) *Access limitation procedures.* (i) Access limitation may be adopted under this paragraph (c)(4) only for the NWHI, American Samoa, and Guam.

(ii) If access limitation is proposed for adoption or subsequent modification through the process described in this paragraph (c)(4), the following requirements must be met:

(A) The bottomfish monitoring team must consider and report to the Council on present participation in the fishery; historical fishing practices in, and dependence on, the fishery; economics of the fishery; capability of fishing vessels used in the fishery to engage in other fisheries; cultural and social framework relevant to the fishery; and any other relevant considerations.

(B) Public hearings must be held specifically addressing the limited access proposals.

(C) A specific advisory subpanel of persons experienced in the fishing industry will be created to advise the Council and the Regional Administrator on administrative decisions.

(D) The Council's recommendation to the Regional Administrator must be approved by a two-thirds majority of the voting members.

(5) *Five-year review.* The Council will conduct a comprehensive review on the effectiveness of the Mau Zone limited access program 5 years following implementation of the program. The Council will consider the extent to which the FEP objectives have been met and verify that the target number of vessels established for the fishery is appropriate for current fishing activity levels, catch rates, and biological condition of the stocks. The Council may establish a new target number based on the 5-year review.

(d) *Precious coral measures*—(1) *Introduction.* Established management measures may be revised and new management measures may be established and/or revised through rulemaking if new information demonstrates that there are biological, social, or economic concerns in a precious coral permit area. The following framework process authorizes the implementation of measures that may affect the operation of the fisheries, gear, quotas, season, or levels of catch and/or in effort.

(2) *Annual report.* By June 30 of each year, the Council-appointed precious coral team will prepare an annual report on the fisheries in the management area. The report will contain, among other things, recommendations for Council action and an assessment of the urgency and effects of such action(s).

(3) *Procedure for established measures.* (i) Established measures are regulations for which the impacts have been evaluated in Council or NMFS documents in the context of current conditions.

(ii) The Council may recommend to the Regional Administrator that established measures be modified, removed, or reinstituted. Such recommendation will include supporting rationale and analysis and will be made after advance public notice, public discussion, and consideration of public comment. NMFS may implement the Council's recommendation by rulemaking if approved by the Regional Administrator.

(4) *Procedure for new measures.* (i) New measures are regulations for which the impacts have not been evaluated in Council or NMFS documents in the context of current conditions.

(ii) The Council will publicize, including by a FEDERAL REGISTER document, and solicit public comment on, any proposed new management measure. After a Council meeting at which the measure is discussed, the Council will consider recommendations and prepare a FEDERAL REGISTER document summarizing the Council's deliberations, rationale, and analysis for the preferred action and the time and place for any subsequent Council meeting(s) to consider the new measure. At a subsequent public meeting, the Council will consider public comments and other information received before making a recommendation to the Regional Administrator about any new measure. If approved by the Regional Administrator, NMFS may implement the Council's recommendation by rulemaking.

(e) *Coral reef ecosystem measures*—(1) *Procedure for established measures.* (i) Established measures are regulations for which the impacts have been evaluated in Council or NMFS documents in the context of current conditions.

(ii) The Council may recommend to the Regional Administrator that established measures be modified, removed, or reinstituted. Such recommendation shall include supporting rationale and analysis, and shall be made after advance public notice, public discussion and consideration of public comment. NMFS may implement the Council's recommendation by rulemaking if approved by the Regional Administrator.

(2) *Procedure for new measures.* (i) New measures are regulations for which the impacts have not been evaluated in Council or NMFS documents in the context of current conditions. New measures include, but are not limited to, catch limits, resource size limits, closures, effort limitations, reporting and recordkeeping requirements.

(ii) The Regional Administrator will publicize, including by FEDERAL REGISTER notice, and solicit public comment on, any proposed new management measure. After a Council meeting at which the measure is discussed, the Council will consider recommendations and prepare a document summarizing the Council's deliberations, rationale, and analysis for the preferred action, and the time and place for any subsequent Council meeting(s) to consider the new measure. At subsequent public meeting(s), the Council will consider public comments and other information received to make a recommendation to the Regional Administrator about any new measure. NMFS may implement the Council's recommendation by rulemaking if approved by the Regional Administrator.

(A) The Regional Administrator will consider the Council's recommendation and supporting rationale and analysis, and, if the Regional Administrator concurs with the Council's recommendation, will propose regulations to carry out the action. If the Regional Administrator rejects the Council's proposed action, the Regional Administrator will provide a written explanation for the denial within 2 weeks of the decision.

(B) The Council may appeal a denial by writing to the Assistant Administrator, who must respond in writing within 30 days.

(C) The Regional Administrator and the Assistant Administrator will make their decisions in accordance with the Magnuson-Stevens Act, other applicable laws, and the FEPs.

(D) To minimize conflicts between the Federal and state/territorial/commonwealth management systems, the Council will use the procedures in this paragraph (e)(2)(ii) to respond to state/territorial/commonwealth management actions. The Council's consideration of action would normally begin with a representative of the state, territorial or commonwealth government bringing a potential or actual management conflict or need to the Council's attention.

(3) *Annual report.* By July 31 of each year, a Council-appointed coral reef ecosystem monitoring team will prepare an annual report on coral reef fisheries of the western Pacific region. The report will contain, among other things:

(i) Fishery performance data, summaries of new information and assessments of need for Council action.

(ii) Recommendation for Council action. The Council will evaluate the annual report and advisory body recommendations and may recommend management action by either the state/territorial/commonwealth governments or by Federal regulation.

(iii) If the Council believes that management action should be considered, it will make specific recommendations to the Regional Administrator after considering the views of its advisory bodies.

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§665.19 Vessel monitoring system.

(a) *Applicability.* The holder of any of the following permits is subject to the vessel monitoring system requirements in this part:

(1) Hawaii longline limited access permit issued pursuant to §665.801(b);

(2) American Samoa longline limited entry permit, for vessel size Class C or D, issued pursuant to §665.801(c);

(3) Vessels permitted to fish in Crustacean Permit Area 1 VMS Subarea; or

(4) CNMI commercial bottomfish permit, if the vessel is a medium or large bottomfish vessel, issued pursuant to §665.404(a)(2).

(b) *VMS unit.* Only a VMS unit owned by NMFS and installed by NMFS complies with the requirement of this subpart.

(c) *Notification.* After a permit holder subject to §665.19(a) has been notified by the SAC of a specific date for installation of a VMS unit on the permit holder's vessel, the vessel must carry and operate the VMS unit after the date scheduled for installation.

(d) *Fees and charges.* During the experimental VMS program, the holder of a permit subject to §665.19(a) shall not be assessed any fee or other charges to obtain and use a VMS unit, including the

communication charges related directed to requirements under this section. Communication charges related to any additional equipment attached to the VMS unit by the owner or operator shall be the responsibility of the owner or operator and not NMFS.

(e) *Permit holder duties.* The holder of a permit subject to §665.19(a) and master of the vessel must:

(1) Provide opportunity for the SAC to install and make operational a VMS unit after notification.

(2) Carry and continuously operate the VMS unit on board whenever the vessel is at sea.

(3) Not remove, relocate, or make non-operational the VMS unit without prior approval from the SAC.

(f) *Authorization by the SAC.* The SAC has authority over the installation and operation of the VMS unit. The SAC may authorize the connection or order the disconnection of additional equipment, including a computer, to any VMS unit when deemed appropriate by the SAC.

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§665.20 Western Pacific Community Development Program.

(a) *General.* In accordance with the criteria and procedures specified in this section, the Regional Administrator may authorize the direct or incidental harvest of management unit species that would otherwise be prohibited by this part.

(b) *Eligibility.* To be eligible to participate in the western Pacific community development program, a community must meet the following criteria:

(1) Be located in American Samoa, Guam, Hawaii, or the Northern Mariana Islands (collectively, the western Pacific);

(2) Consist of community residents descended from aboriginal people indigenous to the western Pacific who conducted commercial or subsistence fishing using traditional fishing practices in the waters of the western Pacific;

(3) Consist of individuals who reside in their ancestral homeland;

(4) Have knowledge of customary practices relevant to fisheries of the western Pacific;

(5) Have a traditional dependence on fisheries of the western Pacific;

(6) Are currently experiencing economic or other constraints that have prevented full participation in the western Pacific fisheries and, in recent years, have not had harvesting, processing or marketing capability sufficient to support substantial participation in fisheries in the area; and

(7) Develop and submit a community development plan to the Council and the NMFS that meets the requirements in paragraph (c) of this section.

(c) *Community development plan.* An eligible community seeking access to a fishery under the authority of the Council and NMFS must submit to the Council a community development plan that includes, but is not limited to, the following information:

(1) A statement of the purposes and goals of the plan.

(2) A description and justification for the specific fishing activity being proposed, including:

(i) Location of the proposed fishing activity.

(ii) Management unit species to be harvested, and any potential bycatch.

(iii) Gear type(s) to be used.

(iv) Frequency and duration of the proposed fishing activity.

(3) A statement describing the degree of involvement by the indigenous community members, including the name, address, telephone and other contact information of each individual conducting the proposed fishing activity.

(4) A description of how the community and or its members meet each of the eligibility criteria in paragraph (b) of this section.

(5) If a vessel is to be used by the community to conduct fishing activities, for each vessel:

(i) Vessel name and official number (USCG documentation, state, territory, or other registration number).

(ii) Vessel length overall, displacement, and fish holding capacity.

(iii) Any valid federal fishing permit number(s).

(iv) Name, address, and telephone number of the vessel owner(s) and operator(s).

(d) *Council review.* The Council will review each community development plan to ensure that it meets the intent of the Magnuson-Stevens Act and contains all required information. The Council may consider advice of its advisory panels in conducting this review. If the Council finds the community development plan is complete, it will transmit the plan to the Regional Administrator for review.

(e) *Agency review and approval.* (1) Upon receipt of a community development plan from the Council, the Regional Administrator will review the plan for consistency with paragraphs (b), (c), and (d) of this section, and other applicable laws. The Regional Administrator may request from the applicant additional information necessary to make the determinations pursuant to this section and other applicable laws before proceeding with the review pursuant to paragraph (e)(2) of this section.

(2) If the Regional Administrator determines that a plan contains the required information and is consistent with paragraphs (b), (c), and (d) of this section, and other applicable laws, NMFS will publish a notice in the FEDERAL REGISTER to solicit public comment on the proposed plan and any associated environmental review documents. The notice will include the following:

(i) A description of the fishing activity to be conducted.

(ii) The current utilization of domestic annual harvesting and processing capacity (including existing experimental harvesting, if any) of the target, incidental, and bycatch species.

(iii) A summary of any regulations that would otherwise prohibit the proposed fishing activity.

(iv) Biological and environmental information relevant to the plan, including appropriate statements of environmental impacts on target and non-target stocks, marine mammals, and threatened or endangered species.

(3) Within 90 days from the end of the comment period on the plan, the Regional Administrator will notify the applicant in writing of the decision to approve or disapprove the plan.

(4) If disapproved, the Regional Administrator will provide the reasons for the plan's disapproval and provide the community with the opportunity to modify the plan and resubmit it for review. Reasons for disapproval may include, but are not limited to, the following:

(i) The applicant failed to disclose material information or made false statements related to the plan.

(ii) The harvest would contribute to overfishing or would hinder the recovery of an overfished stock, according to the best scientific information available.

(iii) The activity would be inconsistent with an applicable law.

(iv) The activity would create a significant enforcement, monitoring, or administrative problem, as determined by the Regional Administrator.

(5) If approved, the Regional Administrator will publish a notice of the authorization in the FEDERAL REGISTER, and may attach limiting terms and conditions to the authorization including, but not limited to, the following:

(i) The maximum amount of each management unit species and potential bycatch species that may be harvested and landed during the term of the authorization.

(ii) The number, sizes, names, identification numbers, and federal permit numbers of the vessels authorized to conduct fishing activities.

(iii) Type, size, and amount of gear used by each vessel, including trip limits.

(iv) The times and places where fishing may or may not be conducted.

(v) Notification, observer, vessel monitoring, and reporting requirements.

(f) *Duration.* Unless otherwise specified, and unless revoked, suspended, or modified, a plan may be effective for no longer than five years.

(g) *Transfer.* Plans authorized under this section are not transferable or assignable.

(h) *Sanctions.* The Regional Administrator may revoke, suspend or modify a community development plan in the case of failure to comply with the terms and conditions of the plan, any other applicable provision of this part, the Magnuson-Stevens Act, or other applicable laws.

(i) *Program review.* NMFS and the Council will periodically review and assess each plan. If fishery, environmental, or other conditions have changed such that the plan's goals or requirements are not being met, or the fishery has become in an overfished state or overfishing is occurring, the Regional Administrator may revoke, suspend, or modify the plan.

[75 FR 54046, Sept. 3, 2010]

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Subpart F—Western Pacific Pelagic Fisheries

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§665.798 Management area.

The western Pacific Pelagic fishery management area includes all areas of fishing operations in the EEZ or on the high seas for any vessels of the United States or persons that:

(a) Fish for, possess, or transship western Pacific pelagic fishery MUS within the EEZ waters around American Samoa, CNMI, Guam, Hawaii, or PRIA; or

(b) Land western Pacific pelagic fishery MUS in American Samoa, CNMI, Guam, Hawaii, or PRIA.

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§665.799 Area restrictions.

(a) Fishing is prohibited in all no-take MPAs designated in this section.

(b) No-take MPAs. The following U.S. EEZ waters are no-take MPAs:

(1) Landward of the 50-fathom (fm) (91.5-m) curve at Jarvis, Howland, and Baker Islands, and Kingman Reef; as depicted on National Ocean Survey Chart Numbers 83116 and 83153;

(2) Landward of the 50-fm (91.5-m) curve around Rose Atoll, as depicted on National Ocean Survey Chart Number 83484.

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§665.800 Definitions.

As used in §§665.798 through 665.818:

American Samoa longline limited access permit means the permit required by §665.801 to use a vessel shoreward of the outer boundary of the EEZ around American Samoa to fish for western Pacific pelagic MUS using longline gear or to land or transship western Pacific pelagic MUS that were caught in the EEZ around American Samoa using longline gear.

American Samoa pelagics mailing list means the list maintained by PIRO of names and mailing addresses of parties interested in receiving notices of availability for American Samoa longline limited access permits.

Basket-style longline gear means a type of longline gear that is divided into units called “baskets” each consisting of a segment of main line to which 10 or more branch lines with hooks are spliced. The mainline and all branch lines are made of multiple braided strands of cotton, nylon, or other synthetic fibers impregnated with tar or other heavy coatings that cause the lines to sink rapidly in seawater.

Branch line (or *dropper line*) means a line with a hook that is attached to the mainline.

Deep-set or Deep-setting means the deployment of longline gear in a manner consistent with all the following criteria: All float lines are at least 20 meters in length; a minimum of 15 branch lines are attached between any two floats (except basket-style longline gear which may have as few as 10 branch lines between any two floats); and no light sticks are used. As used in this definition, "float line" means a line used to suspend the main longline beneath a float, and "light stick" means any type of light emitting device, including any fluorescent "glow bead," chemical, or electrically-powered light that is affixed underwater to the longline gear.

Effective date means the date upon which the Regional Administrator provides written notice to the authorized official or designated representative of the U.S. participating territory that a specified fishing agreement meets the requirements of this section.

Fish dealer means any person who:

(1) Obtains, with the intention to resell, western Pacific pelagic MUS, or portions thereof, that were harvested or received by a vessel that holds a permit or is otherwise regulated under bottomfish fisheries in this subpart; or

(2) Provides recordkeeping, purchase, or sales assistance in obtaining or selling such MUS (such as the services provided by a wholesale auction facility).

Float line means a line attached to a mainline used to buoy, or suspend, the mainline in the water column.

Hawaii longline limited access permit means the permit required by §665.801 to use a vessel to fish for western Pacific pelagic MUS with longline gear in the EEZ around Hawaii or to land or transship longline-caught western Pacific pelagic MUS shoreward of the outer boundary of the EEZ around Hawaii.

Longline fishing prohibited area means the portions of the EEZ in which longline fishing is prohibited as specified in §665.806.

Longline fishing vessel means a vessel that has longline gear on board the vessel.

Longline gear means a type of fishing gear consisting of a main line that exceeds 1 nm in length, is suspended horizontally in the water column either anchored, floating, or attached to a vessel, and from which branch or dropper lines with hooks are attached; except that, within the protected species zone as defined in §665.806, longline gear means a type of fishing gear consisting of a main line of any length that is suspended horizontally in the water column either anchored, floating, or attached to a vessel, and from which branch or dropper lines with hooks are attached.

Pelagic handline fishing means fishing for western Pacific pelagic MUS from a stationary or drifting vessel using hook and line gear other than longline gear.

Pelagic troll fishing (trolling) means fishing for western Pacific pelagic MUS from a moving vessel using hook and line gear.

PRIA pelagic troll and handline fishing permit means the permit required by §665.801 to use a vessel shoreward of the outer boundary of the EEZ around the PRIA to fish for western Pacific pelagic MUS using pelagic handline or troll fishing methods.

Receiving vessel permit means a permit required by §665.801(c) for a receiving vessel to transship or land western Pacific pelagic MUS taken by other vessels using longline gear.

Shallow-set or shallow-setting means the deployment of, or deploying, respectively, longline gear in a manner that does not meet the definition of deep-set or deep-setting as defined in this section.

Squid jig fishing means fishing for squid that are western Pacific pelagic MUS using a hook or hooks attached to a line that is raised and lowered in the water column by manual or mechanical means.

U.S. participating territory means a U.S. participating territory to the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (including any annexes, amendments, or protocols that are in force, or have come into force, for the United States), and includes American Samoa, Guam, and the Northern Mariana Islands.

WCPFC means the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, including its employees and contractors.

Western Pacific general longline permit means the permit authorized under §665.801 to use a vessel shoreward of the outer boundary of the EEZ around Guam, CNMI, Johnston or Palmyra Atolls, Kingman Reef, or Wake, Jarvis, Baker or Howland Islands to fish for western Pacific pelagic MUS using longline gear or to land or to transship western Pacific pelagic MUS that were caught using longline gear.

Western Pacific pelagic management unit species means the following species:

English common name	**Scientific name**
Tunas:	
Albacore	*Thunnus alalunga.*
bigeye tuna	*Thunnus obesus.*
Pacific bluefin tuna	*Thunnus orientalis*
yellowfin tuna	*Thunnus albacares.*
skipjack tuna	*Katsuwonus pelamis.*
Kawakawa	*Euthynnus affinis.*
other tuna relatives	*Auxis* spp., *Scomber* spp., *Allothunnus* spp.
Billfishes:	
Black marlin	*Istiompax indica*
Striped marlin	*Kajikia audax*
Pacific blue marlin	*Makaira nigricans*
shortbill spearfish	*Tetrapturus angustirostris.*
Swordfish	*Xiphias gladius.*
Sailfish	*Istiophorus platypterus.*
Sharks:	

pelagic thresher shark	*Alopias pelagicus.*
bigeye thresher shark	*Alopias superciliosus.*
common thresher shark	*Alopias vulpinus.*
silky shark	*Carcharhinus falciformis.*
oceanic whitetip shark	*Carcharhinus longimanus.*
blue shark	*Prionace glauca.*
shortfin mako shark	*Isurus oxyrinchus.*
longfin mako shark	*Isurus paucus.*
salmon shark	*Lamna ditropis.*
Other pelagic fishes:	
mahimahi (dolphinfish)	*Coryphaena* spp.
Wahoo	*Acanthocybium solandri.*
Moonfish	*Lampris* spp.
Oilfish	Gempylidae.
Pomfret	Bramidae.
Squid:	
diamondback squid	*Thysanoteuthis rhombus.*
neon flying squid	*Ommastrephes bartramii.*
purpleback flying squid	*Sthenoteuthis oualaniensis.*

[75 FR 2205, Jan. 14, 2010, as amended at 76 FR 52889, Aug. 24, 2011; 77 FR 43722, July 26, 2012; 79 FR 64111, Oct. 28, 2014]

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§665.801 Permits.

(a) A vessel of the United States must be registered for use with a valid permit under the High Seas Fishing Compliance Act if that vessel is used to fish on the high seas, as required under §300.15 of this title.

(b) A vessel of the United States must be registered for use under a valid Hawaii longline limited access permit if that vessel is used:

(1) To fish for western Pacific pelagic MUS using longline gear in the EEZ around the Hawaiian Archipelago; or

(2) To land or transship, shoreward of the outer boundary of the EEZ around the Hawaiian Archipelago, western Pacific pelagic MUS that were harvested using longline gear.

(c) A vessel of the United States must be registered for use under a valid American Samoa longline limited access permit, in accordance with §665.816, if that vessel is used to:

(1) Fish for western Pacific pelagic MUS using longline gear in the EEZ around American Samoa;

(2) Land shoreward of the outer boundary of the EEZ around American Samoa western Pacific pelagic MUS that were harvested using longline gear in the EEZ around American Samoa; or

(3) Transship shoreward of the outer boundary of the EEZ around American Samoa western Pacific pelagic MUS that were harvested using longline gear in the EEZ around American Samoa or on the high seas.

(d) A vessel of the United States must be registered for use under a valid Western Pacific general longline permit, American Samoa longline limited access permit, or Hawaii longline limited access permit if that vessel is used to:

(1) Fish for western Pacific pelagic MUS using longline gear in the EEZ around Guam, CNMI, or PRIA (with the exception of Midway Atoll); or

(2) Land or transship shoreward of the outer boundary of the EEZ around Guam, CNMI, or PRIA (with the exception of Midway Atoll), western Pacific pelagic MUS that were harvested using longline gear.

(e) A receiving vessel of the United States must be registered for use with a valid receiving vessel permit if that vessel is used to land or transship, shoreward of the outer boundary of the EEZ around American Samoa, Hawaii, Guam, CNMI, or PRIA, western Pacific pelagic MUS that were harvested using longline gear.

(f) A vessel of the United States must be registered for use with a valid PRIA pelagic troll and handline fishing permit if that vessel is used to fish for western Pacific pelagic MUS using pelagic handline or trolling fishing methods in the EEZ around the PRIA (with the exception of Midway Atoll).

(g) A vessel of the United States must be registered for use under a Western Pacific squid jig fishing permit, if that vessel is more than 50 ft (15.4 m) LOA and is used to squid jig fish in EEZ waters around American Samoa, CNMI, Guam, Hawaii, or PRIA.

(h) Any required permit must be valid and on board the vessel and available for inspection by an authorized agent, except that, if the permit was issued (or registered to the vessel) during the fishing trip in question, this requirement applies only after the start of any subsequent fishing trip.

(i) A permit is valid only for the vessel for which it is registered. A permit not registered for use with a particular vessel may not be used.

(j) An application for a permit required under this section will be submitted to PIRO as described in §665.13.

(k) General requirements governing application information, issuance, fees, expiration, replacement, transfer, alteration, display, and sanctions for permits issued under this section, as applicable, are contained in §665.13.

(l) A Hawaii longline limited access permit may be transferred as follows:

(1) The owner of a Hawaii longline limited access permit may apply to transfer the permit:

(i) To a different person for registration for use with the same or another vessel; or

(ii) For registration for use with another U.S. vessel under the same ownership.

(2) [*Reserved*]

(m) A Hawaii longline limited access permit will not be registered for use with a vessel that has a LOA greater than 101 ft (30.8 m).

(n) Only a person eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a) may be issued or may hold (by ownership or otherwise) a Hawaii longline limited access permit.

(o) Permit appeals. Except as provided in subpart D of 15 CFR part 904, any applicant for a permit or any permit owner may appeal to the Regional Administrator the granting, denial, conditioning, suspension, or transfer of a permit or requested permit under this section. To be considered by the Regional Administrator, the appeal must be in writing, must state the action(s) appealed, and the reasons therefore, and must be submitted within 30 days of the action(s) by the Regional Administrator. The appellant may request an informal hearing on the appeal.

(1) Upon receipt of an appeal authorized by this section, the Regional Administrator may request additional information. Upon receipt of sufficient information, the Regional Administrator will decide the appeal in accordance with the criteria set out in this part for qualifying for, or renewing, limited access permits. In making such decision, the Administrator will review relevant portions of the Western Pacific Pelagic FEP, to the extent such review would clarify the criteria in this part. Such decision will be based upon information relative to the application on file at NMFS and the Council and any additional information available; the summary record kept of any hearing and the hearing officer's recommended decision, if any, as provided in paragraph (o)(3) of this section; and such other considerations as deemed appropriate. The Regional Administrator will notify the appellant of the decision and the reasons therefore, in writing, normally within 30 days of the receipt of sufficient information, unless additional time is needed for a hearing.

(2) If a hearing is requested, or if the Regional Administrator determines that one is appropriate, the Regional Administrator may grant an informal hearing before a hearing officer designated for that purpose. Such a hearing normally shall be held no later than 30 days following receipt of the appeal, unless the hearing officer extends the time. The appellant and, at the discretion of the hearing officer, other interested persons, may appear personally and/or be represented by counsel at the hearing and submit information and present arguments as determined appropriate by the hearing officer. Within 30 days of the last day of the hearing, the hearing officer shall recommend, in writing, a decision to the Regional Administrator.

(3) The Regional Administrator may adopt the hearing officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Regional Administrator will notify the appellant, and interested persons, if any, of the decision, and the reason(s) therefore, in writing, within 30 days of receipt of the hearing officer's recommended decision. The Regional Administrator's action shall constitute final Agency action for purposes of the Administrative Procedure Act.

(4) In the case of a timely appeal from an American Samoa longline limited access permit initial permit decision, the Regional Administrator will issue the appellant a temporary American Samoa longline limited access permit. A temporary permit will expire 20 days after the Regional Administrator's final decision on the appeal. In no event will a temporary permit be effective for longer than 60 days.

(5) With the exception of temporary permits issued under paragraph (o)(4) of this section, the Regional Administrator, for good cause, may extend any time limit prescribed in this section for a period

not to exceed 30 days, either upon his/her own motion or upon written request from the appellant stating the reason(s) therefore.

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§665.802 Prohibitions.

In addition to the prohibitions specified in §600.725 of this chapter, it is unlawful for any person to do any of the following:

(a) Falsify or fail to make and/or file all reports of western Pacific pelagic MUS landings, containing all data and in the exact manner, as required by applicable state law or regulation, as specified in §665.14(a), provided that the person is required to do so by applicable state law or regulation.

(b) Use a vessel without a valid permit issued under the High Seas Fishing Compliance Act to fish for western Pacific pelagic MUS using longline gear, on the high seas, in violation of §§665.801(a), and 300.15 of this title.

(c) Use a vessel in the EEZ around the Hawaiian Archipelago without a valid Hawaii longline limited access permit registered for use with that vessel, to fish for western Pacific pelagic MUS using longline gear, in violation of §665.801(b)(1).

(d) Use a vessel shoreward of the outer boundary of the EEZ around the Hawaiian Archipelago without a valid Hawaii longline limited access permit registered for use with that vessel, to land or transship western Pacific pelagic MUS that were harvested with longline gear, in violation of §665.801(b)(2).

(e) Use a vessel in the EEZ around American Samoa without a valid American Samoa longline limited access permit registered for use with that vessel, to fish for western Pacific pelagic MUS using longline gear, in violation of §665.801(c)(1).

(f) Use a vessel shoreward of the outer boundary of the EEZ around American Samoa without a valid American Samoa longline limited access permit registered for use with that vessel, to land western Pacific pelagic MUS that were caught with longline gear within the EEZ around American Samoa, in violation of §665.801(c)(2).

(g) Use a vessel within the EEZ around American Samoa without a valid American Samoa longline limited access permit registered for use with that vessel, to transship western Pacific pelagic MUS that were caught with longline gear, in violation of §665.801(c)(3).

(h) Use a vessel in the EEZ around Guam, CNMI, or PRIA (with the exception of Midway Atoll) without either a valid Western Pacific general longline permit, American Samoa longline limited access permit or a Hawaii longline limited access permit registered for use with that vessel, to fish for western Pacific pelagic MUS using longline gear, in violation of §665.801(d)(1).

(i) Use a vessel shoreward of the outer boundary of the EEZ around Guam, CNMI, or PRIA (with the exception of Midway Atoll) without either a valid Western Pacific general longline permit, American Samoa longline limited access permit or a Hawaii longline limited access permit registered for use with that vessel, to land or transship western Pacific pelagic MUS that were harvested using longline gear, in violation of §665.801(d)(2).

(j) Use a vessel shoreward of the outer boundary of the EEZ around American Samoa, CNMI, Guam, Hawaii, or PRIA, to land or transship western Pacific pelagic MUS caught by other vessels using

longline gear, without a valid receiving vessel permit registered for use with that vessel, in violation of §665.801(e).

(k) Use a vessel in the EEZ around the PRIA employing handline or trolling methods to fish for western Pacific pelagic MUS without a valid PRIA pelagic troll and handline fishing permit registered for use for that vessel, in violation of §665.801(f).

(l) Fish in the fishery after failing to comply with the notification requirements in §665.803.

(m) Fail to comply with notification requirements set forth in §665.803 or in any EFP issued under §665.17.

(n) Fail to comply with a term or condition governing longline gear configuration in §665.813(k) if using a vessel longer than 40 ft (12.2 m) registered for use with any valid longline permit issued pursuant to §665.801 to fish for western Pacific pelagic MUS using longline gear south of the Equator (0° lat.).

(o) Use a fishing vessel to retain on board, transship, or land pelagic MUS captured by longline gear in the WCPFC Convention Area, as defined in §300.211 of this title, in violation of any restriction announced in accordance with §665.819(d)(2).

(p)-(u) [*Reserved*]

(v) Use longline gear to fish within a longline fishing prohibited area in violation of §665.806, except as allowed pursuant to an exemption issued under §§665.17 or 665.807.

(w) Fish for western Pacific pelagic MUS with longline gear within the protected species zone, in violation of §665.806(b).

(x) Fail to comply with a term or condition governing the observer program established in §665.808, if using a vessel registered for use with a Hawaii longline limited access permit, or a vessel registered for use with a size Class B, C or D American Samoa longline limited access permit, to fish for western Pacific pelagic MUS using longline gear.

(y) Fail to comply with other terms and conditions that the Regional Administrator imposes by written notice to either the permit holder or the designated agent of the permit holder to facilitate the details of observer placement.

(z) Fail to fish in accordance with the seabird take mitigation techniques set forth at §§665.815(a)(1) or 665.815(a)(2) when operating a vessel registered for use under a Hawaii longline limited access permit.

(aa)-(bb) [*Reserved*]

(cc) Own or operate a vessel registered for use under any longline permit issued under §665.801 while engaged in longline fishing for western Pacific pelagic MUS and fail to be certified for completion of a NMFS protected species workshop, in violation of §665.814(a).

(dd) Own or operate a vessel registered for use under any longline permit issued under §665.801 while engaged in longline fishing for western Pacific pelagic MUS without having on board a valid protected species workshop certificate issued by NMFS or a legible copy thereof, in violation of §665.814(d).

(ee) Possess light sticks on board a vessel registered for use under a Hawaii longline limited access permit at any time during a trip for which notification to NMFS under §665.803(a) indicated that deep-setting would be done, in violation of §665.813(d).

(ff) Fail to carry, or fail to use, a line clipper, dip net, or dehooker on a vessel registered for use under any longline permit issued under §665.801, in violation of §665.812.

(gg)-(hh) [*Reserved*]

(ii) When operating a vessel registered for use under any longline limited access permit issued under §665.801, fail to comply with the sea turtle handling, resuscitation, and release requirements, in violation of §665.812(b).

(jj) Engage in shallow-setting from a vessel registered for use under any longline permit issued under §665.801 north of the Equator (0° lat.) with hooks other than circle hooks sized 18/0 or larger with an offset not to exceed 10 degrees, in violation of §665.813(f).

(kk) Engage in shallow-setting from a vessel registered for use under any longline permit issued under §665.801 north of the Equator (0° lat.) with bait other than mackerel-type bait, in violation of §665.813(g).

(ll) [*Reserved*]

(mm) Fail to use a line setting machine or line shooter, with weighted branch lines, to set the main longline when operating a vessel that is registered for use under a Hawaii longline limited access permit and equipped with monofilament main longline, when making deep sets north of 23° N. lat., in violation of §665.815(a)(1) or (a)(2).

(nn) Fail to employ basket-style longline gear such that the mainline is deployed slack when operating a vessel registered for use under a Hawaii longline limited access north of 23° N. lat., in violation of §665.815(a)(2)(v).

(oo) Fail to maintain and use blue dye to prepare thawed bait when operating a vessel registered for use under a Hawaii longline limited access permit that is fishing north of 23° N. lat., in violation of §665.815(a)(2)(vi) through (viii).

(pp) Fail to retain, handle, and discharge fish, fish parts, and spent bait, strategically when operating a vessel registered for use under a Hawaii longline limited access permit that is fishing north of 23° N. lat., in violation of §665.815(a)(2)(i) through (iv).

(qq) Fail to be begin the deployment of longline gear at least 1 hour after local sunset or fail to complete the setting process before local sunrise from a vessel registered for use under a Hawaii longline limited access permit while shallow-setting north of 23° N. lat., in violation of §665.815(a)(4).

(rr) Fail to handle short-tailed albatrosses that are caught by pelagic longline gear in a manner that maximizes the probability of their long-term survival, in violation of §665.815(b).

(ss) Engage in shallow-setting from a vessel registered for use under a Hawaii longline limited access permit after the shallow-set longline fishery has been closed pursuant to §665.813(b), in violation of §665.813(i).

(tt) Fail to immediately retrieve longline fishing gear upon receipt of actual notice that the shallow-set longline fishery has been closed pursuant to §665.813(b), in violation of §665.813(i).

(uu)-(vv) [*Reserved*]

(ww) Fail to handle seabirds other than short-tailed albatrosses that are caught by pelagic longline gear in a manner that maximizes the probability of their long-term survival, in violation of §665.815(c).

(xx) Use a large vessel to fish for western Pacific Pelagic MUS within an American Samoa large vessel prohibited area in violation of §665.806, except as allowed pursuant to an exemption issued under §§665.17 or 665.818.

(yy) Fish for western Pacific pelagic MUS using gear prohibited under §665.810 or not permitted by an EFP issued under §665.17.

(zz) Use a vessel that is greater than 50 ft (15.4 m) LOA to squid jig fish in EEZ waters around American Samoa, CNMI, Guam, Hawaii, or PRIA, without a Western Pacific squid jig fishing permit registered for use with that vessel, in violation of §665.801(g).

[75 FR 2205, Jan. 14, 2010, as amended at 76 FR 37288, June 27, 2011; 76 FR 52889, Aug. 24, 2011; 77 FR 60649, Oct. 4, 2012; 79 FR 64111, Oct. 28, 2014]

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§665.803 Notifications.

(a) The permit holder, or designated agent, for any vessel registered for use under a Hawaii longline limited access permit, or for any vessel greater than 40 ft (12.2 m) LOA that is registered for use under an American Samoa longline limited access permit, shall provide a notice to the Regional Administrator at least 72 hours (not including weekends and Federal holidays) before the vessel leaves port on a fishing trip, any part of which occurs in the EEZ around the Hawaiian Archipelago or American Samoa. The vessel operator will be presumed to be an agent designated by the permit holder unless the Regional Administrator is otherwise notified by the permit holder. The permit holder or designated agent for a vessel registered for use under Hawaii longline limited access permits must also provide notification of the trip type (either deep-setting or shallow-setting).

(b) The permit holder, or designated agent, for any vessel registered for use under a Western Pacific squid jig fishing permit that is greater than 50 ft (15.4 m) LOA, shall provide a notice to the Regional Administrator at least 72 hours (not including weekends and Federal holidays) before the vessel leaves port on a fishing trip, any part of which occurs in western Pacific EEZ waters. The vessel operator will be presumed to be an agent designated by the permit holder unless the Regional Administrator is otherwise notified by the permit holder.

(c) For purposes of this section, the notice must be provided to the office or telephone number designated by the Regional Administrator. The notice must provide the official number of the vessel, the name of the vessel, the intended departure date, time, and location, the name of the operator of the vessel, and the name and telephone number of the permit holder or designated agent to be available between 8 a.m. and 5 p.m. (local time) on weekdays for NMFS to contact to arrange observer placement.

(d) The operator of any vessel subject to the requirements of this subpart who does not have on board a VMS unit while transiting the protected species zone as defined in §665.806, must notify the NMFS Special-Agent-In-Charge 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 access or exit from the protected species zone, and location by latitude and longitude to the nearest minute.

(e) The permit holder for any American Samoa longline limited access permit, or an agent designated by the permit holder, must notify the Regional Administrator in writing within 30 days of any change to the permit holder's contact information or any change to the vessel documentation associated with a permit registered to an American Samoa longline limited access permit. Complete changes in the ownership of the vessel registered to an American Samoa longline limited access permit must also be reported to PIRO in writing within 30 days of the change. Failure to report such changes may result in a delay in processing an application, permit holders failing to receive important notifications, or sanctions pursuant to the Magnuson-Stevens Act at 16 U.S.C. 1858(g) or 15 CFR part 904, subpart D.

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§665.804 Gear identification.

(a) *Identification.* The operator of each permitted vessel in the fishery management area must ensure that the official number of the vessel be affixed to every longline buoy and float, including each buoy and float that is attached to a radar reflector, radio antenna, or flag marker, whether attached to a deployed longline or possessed on board the vessel. Markings must be legible and permanent, and must be of a color that contrasts with the background material.

(b) *Enforcement action.* Longline gear not marked in compliance with paragraph (a) of this section and found deployed in the EEZ will be considered unclaimed or abandoned property, and may be disposed of in any manner considered appropriate by NMFS or an authorized officer.

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§665.805 [Reserved]

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§665.806 Prohibited area management.

(a) *Longline fishing prohibited areas.* Longline fishing is prohibited in the longline fishing prohibited areas as defined in paragraphs (a)(1) through (a)(4) of this section.

(1) *NWHI protected species zone.* The NWHI protected species zone is the portion of the EEZ within 50 nm of the center geographical positions of certain islands and reefs in the NWHI, as follows:

Name	N. lat.	W. long.
Nihoa Island	23°05′	161°55′
Necker Island	23°35′	164°40′
French Frigate Shoals	23°45′	166°15′
Gardner Pinnacles	25°00′	168°00′
Maro Reef	25°25′	170°35′
Laysan Island	25°45′	171°45′

Lisianski Island	26°00′	173°55′
Pearl and Hermes Reef	27°50′	175°50′
Midway Island	28°14′	177°22′
Kure Island	28°25′	178°20′
Where the areas are not contiguous, parallel lines drawn tangent to and connecting those semicircles of the 50-nm areas that lie between Nihoa Island and Necker Island, French Frigate Shoals and Gardner Pinnacles, Gardner Pinnacles and Maro Reef, and Lisianski Island and Pearl and Hermes Reef, delimit the remainder of the NWHI longline protected species zone.		

(2) *Main Hawaiian Islands (MHI).* The MHI longline fishing prohibited area is the portion of the EEZ around Hawaii bounded by straight lines connecting the following coordinated in the order listed:

Point	N. lat.	W. long.
A	18°05′	155°40′
B	18°20′	156°25′
C	20°00′	157°30′
D	20°40′	161°40′
E	21°40′	161°55′
F	23°00′	161°30′
G	23°05′	159°30′
H	22°55′	157°30′
I	21°30′	155°30′
J	19°50′	153°50′
K	19°00′	154°05′
A	18°05′	155°40′

(3) *Guam.* The Guam longline fishing prohibited area is the portion of the EEZ around Guam bounded by straight lines connecting the following coordinates in the order listed:

Point	N. lat.	E. long.
A	14°25′	144°00′
B	14°00′	143°38′
C	13°41′	143°33′33“
D	13°00′	143°25′30“
E	12°20′	143°37′
F	11°40′	144°09′
G	12°00′	145°00′
H	13°00′	145°42′
I	13°27′	145°51′

(4) *CNMI.* The CNMI longline fishing prohibited area is the portion of the EEZ around the CNMI bounded by straight lines connecting the following coordinates in the order listed:

Point	N. lat.	E. long.
A	14°00′	144°34′
B	15°49′	145°29′
C	16°21′	145°06′
D	17°03′	145°22′
E	19°07′	145°09′
F	20°39′	144°19′
G	21°04′	145°06′
H	19°19′	146°04′
I	16°00′	146°32′
J	13°32′	145°32′

A	14°00′	144°34′

(b) *American Samoa large vessel prohibited areas.* A large vessel of the United States may not be used to fish for western Pacific pelagic MUS in the American Samoa large vessel prohibited areas as defined in paragraphs (b)(1) and (b)(2) of this section, except as allowed pursuant to an exemption issued under §665.818.

(1) *Tutuila Island, Manua Islands, and Rose Atoll (AS-1).* The large vessel prohibited area around Tutuila Island, the Manua Islands, and Rose Atoll consists of the waters of the EEZ around American Samoa enclosed by straight lines connecting the following coordinates:

Point	S. lat.	W. long.
AS-1-A	13°41′54″	167°17′
AS-1-B	15°23′10″	167°17′
AS-1-C	15°23′10″	169°00′42″
AS-1-D	15°13′	169°00′42″
and from point AS-1-A westward along latitude 13°41′54″ S. until intersecting the U.S. EEZ boundary with Samoa, and from point AS-1-D westward along latitude 15°13′ S. until intersecting the U.S. EEZ boundary with Samoa.		

(2) *Swains Island (AS-2).* The Swains Island large vessel prohibited area is the portion of the EEZ around American Samoa enclosed by straight lines connecting the following coordinates:

Point	S. lat.	W. long.
AS-2-A	11°48′	171°50′
AS-2-B	11°48′	170°20′
and from Point AS-2-A northward along the longitude 171°50′ W. until intersecting the U.S. EEZ boundary with Tokelau, and from Point AS-2-B northward along the longitude 170°20′ W. until intersecting the U.S. EEZ boundary with Tokelau.		

[76 FR 37289, June 27, 2011, as amended at 77 FR 34261, June 11, 2012; 77 FR 71286, Nov. 29, 2012]

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§665.807 Exemptions for Hawaii longline fishing prohibited areas; procedures.

(a) An exemption permitting a person to use longline gear to fish in a portion(s) of the Hawaii longline fishing prohibited area will be issued to a person who can document that he or she:

(1) Currently owns a Hawaii longline limited access permit issued under this part and registered for use with his or her vessel;

(2) Before 1970, was the owner or operator of a vessel when that vessel landed western Pacific pelagic MUS taken on longline gear in an area that is now within the Hawaii longline fishing prohibited area;

(3) Was the owner or operator of a vessel that landed western Pacific pelagic MUS taken on longline gear in an area that is now within the Hawaii longline fishing prohibited area, in at least 5 calendar years after 1969, which need not be consecutive; and

(4) In any one of the 5 calendar years, was the owner or operator of a vessel that harvested at least 80 percent of its total landings, by weight, of longline-caught western Pacific pelagic MUS in an area that is now in the Hawaii longline fishing prohibited area.

(b) Each exemption shall specify the portion(s) of the Hawaii longline fishing prohibited area, bounded by longitudinal and latitudinal lines drawn to include each statistical area, as appearing on Hawaii State Commercial Fisheries Charts, in which the exemption holder made the harvest documented for the exemption application under paragraph (a)(4) of this section.

(c) Each exemption is valid only within the portion(s) of the Hawaii longline fishing prohibited area specified on the exemption.

(d) A person seeking an exemption under this section must submit an application and supporting documentation to PIRO at least 15 days before the desired effective date of the exemption.

(e) If the Regional Administrator determines that a gear conflict has occurred and is likely to occur again in the Hawaii longline fishing prohibited area between a vessel used by a person holding an exemption under this section and a non-longline vessel, the Regional Administrator may prohibit all longline fishing in the Hawaii longline fishing prohibited area around the island where the conflict occurred, or in portions thereof, upon notice to each holder of an exemption who would be affected by such a prohibition.

(f) The Council will consider information provided by persons with Hawaii longline limited access permits issued under this part who believe they have experienced extreme financial hardship resulting from the Hawaii longline area closure, and will consider recommendations of the Pelagic Advisory Review Board to assess whether exemptions under this section should continue to be allowed, and, if appropriate, revise the qualifying criteria in paragraph (a) of this section to permit additional exemptions.

(1) If additional exemptions are needed, the Council will advise the Regional Administrator in writing of its recommendation, including criteria by which financial hardships will be mitigated, while retaining the effectiveness of the longline fishing prohibited area.

(2) Following a review of the Council's recommendation and supporting rationale, the Regional Administrator may:

(i) Reject the Council's recommendation, in which case written reasons will be provided by the Regional Administrator to the Council for the rejection; or

(ii) Concur with the Council's recommendation and, after finding that it is consistent with the goals and objectives of the Pelagics FEP, the national standards, and other applicable law, initiate rulemaking to implement the Council's recommendations.

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§665.808 Conditions for at-sea observer coverage.

(a) NMFS shall advise the permit holder or the designated agent of any observer requirement at least 24 hours (not including weekends and Federal holidays) before any trip for which NMFS received timely notice in compliance with these regulations.

(b) The “Notice Prior to Fishing Trip” requirements in this subpart commit the permit holder to the representations in the notice. The notice can be modified by the permit holder or designated agent because of changed circumstance, if the Regional Administrator is promptly provided a modification to the notice that complies with the notice requirements. The notice will also be considered modified if the Regional Administrator and the permit holder or designated agent agrees to placement changes.

(c) When NMFS notifies the permit holder or designated agent of the obligation to carry an observer in response to a notification under this subpart, or as a condition of an EFP issued under §665.17, the vessel may not engage in the fishery without taking the observer.

(d) A NMFS observer shall arrive at the observer's assigned vessel 30 minutes before the time designated for departure in the notice or the notice as modified, and will wait 1 hour for departure.

(e) A permit holder must accommodate a NMFS observer assigned under these regulations. The Regional Administrator's office, and not the observer, will address any concerns raised over accommodations.

(f) The permit holder, vessel operator, and crew must cooperate with the observer in the performance of the observer's duties, including:

(1) Allowing for the embarking and debarking of the observer.

(2) Allowing the observer access to all areas of the vessel necessary to conduct observer duties.

(3) Allowing the observer access to communications equipment and navigation equipment as necessary to perform observer duties.

(4) Allowing the observer access to VMS units to verify operation, obtain data, and use the communication capabilities of the units for official purposes.

(5) Providing accurate vessel locations by latitude and longitude or loran coordinates, upon request by the observer.

(6) Providing sea turtle, marine mammal, or seabird specimens as requested.

(7) Notifying the observer in a timely fashion when commercial fishing operations are to begin and end.

(g) The permit holder, operator, and crew must comply with other terms and conditions to ensure the effective deployment and use of observers that the Regional Administrator imposes by written notice.

(h) The permit holder must ensure that assigned observers are provided living quarters comparable to crew members and are provided the same meals, snacks, and amenities as are normally provided to other vessel personnel. A mattress or futon on the floor or a cot is not acceptable if a regular bunk is provided to any crew member, unless other arrangements are approved in advance by the Regional Administrator.

(i) Reimbursement requirements are as follows:

(1) Upon observer verification of vessel accommodations and the number of assigned days on board, NMFS will reimburse vessel owners a reasonable amount for observer subsistence as determined by the Regional Administrator.

(2) If requested and properly documented, NMFS will reimburse the vessel owner for the following:

(i) Communications charges incurred by the observer.

(ii) Lost fishing time arising from a seriously injured or seriously ill observer, provided that notification of the nature of the emergency is transmitted to the Observer Program, NMFS (see address for PIRO Regional Administrator) at the earliest practical time. NMFS will reimburse the owner only for those days during which the vessel is unable to fish as a direct result of helping the NMFS employee who is seriously injured or seriously ill. Lost fishing time is based on time traveling to and from the fishing grounds and any documented out-of-pocket expenses for medical services. Payment will be based on the current target fish market prices and that vessel's average target fish catch retained per day at sea for the previous 2 years, but shall not exceed $5,000 per day or $20,000 per claim. Detailed billing with receipts and supporting records are required for allowable communication and lost fishing time claims. The claim must be completed in ink, showing the claimant's printed name, address, vessel name, observer name, trip dates, days observer was on board, an explanation of the charges, and claimant's dated signature with a statement verifying the claim to be true and correct. Requested reimbursement claims must be submitted to the Fisheries Observer Branch, Pacific Islands Region, NMFS. NMFS will not process reimbursement invoices and documentation submitted more than 120 days after the occurrence.

(j) If a vessel normally has cabins for crew members, female observers on a vessel with an all-male crew must be accommodated either in a single person cabin or, if NMFS concludes that adequate privacy can be ensured by installing a curtain or other temporary divider, in a two-person shared cabin. If the vessel normally does not have cabins for crew members, alternative accommodations must be approved by NMFS. If a cabin assigned to a female observer does not have its own toilet and shower facilities that can be provided for the exclusive use of the observer, or if no cabin is assigned, then arrangements for sharing common facilities must be established and approved in advance by NMFS.

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§665.809 Port privileges and transiting for unpermitted U.S. longline vessels.

A U.S. longline fishing vessel that does not have a permit under subpart A of this part may enter waters of the fishery management area with western Pacific pelagic MUS on board, but may not land or transship any western Pacific pelagic MUS on board the vessel. The vessel's longline gear must be stowed or secured so it is rendered unusable during the time the vessel is in those waters.

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§665.810 Prohibition of drift gillnetting.

Fishing with drift gillnets in the fishery management area is prohibited, except where authorized by an EFP issued under §665.17.

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§665.811 [Reserved]

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§665.812 Sea turtle take mitigation measures.

(a) Possession and use of required mitigation gear. The gear required in paragraph (a) of this section must be used according to the sea turtle handling requirements set forth in paragraph (b) of this section.

(1) Hawaii longline limited access permits. Any owner or operator of a vessel registered for use under a Hawaii longline limited access permit must carry aboard the vessel line clippers meeting the minimum design standards specified in paragraph (a)(5) of this section, dip nets meeting the minimum design standards specified in paragraph (a)(6) of this section, and dehookers meeting the minimum design and performance standards specified in paragraph (a)(7) of this section.

(2) Other longline vessels with freeboards of more than 3 ft (0.91m). Any owner or operator of a longline vessel with a permit issued under §665.801 other than a Hawaii limited access longline permit and that has a freeboard of more than 3 ft (0.91 m) must carry aboard the vessel line clippers meeting the minimum design standards specified in paragraph (a)(5) of this section, dip nets meeting the minimum design standards specified in paragraph (a)(6) of this section, and dehookers meeting this minimum design and performance standards specified in paragraph (a)(7) of this section.

(3) Other longline vessels with freeboards of 3 ft (0.91 m) or less. Any owner or operator of a longline vessel with a permit issued under §665.801 other than a Hawaii limited access longline permit and that has a freeboard of 3 ft (0.91 m) or less must carry aboard their vessels line clippers capable of cutting the vessels fishing line or leader within approximately 1 ft (0.3 m) of the eye of an embedded hook, as well as wire or bolt cutters capable of cutting through the vessel's hooks.

(4) Handline, troll, pole-and-line, and other vessels using hooks other than longline vessels. Any owner or operator of a vessel fishing under the Pelagics FEP with hooks other than longline gear are not required to carry specific mitigation gear, but must comply with the handling requirements set forth in paragraph (b) of this section.

(5) *Line clippers.* Line clippers are intended to cut fishing line as close as possible to hooked or entangled sea turtles. NMFS has established minimum design standards for line clippers. The Arceneaux line clipper (ALC) is a model line clipper that meets these minimum design standards and may be fabricated from readily available and low-cost materials (see Figure 3 to this part). The minimum design standards are as follows:

(i) A protected cutting blade. The cutting blade must be curved, recessed, contained in a holder, or otherwise afforded some protection to minimize direct contact of the cutting surface with sea turtles or users of the cutting blade.

(ii) Cutting blade edge. The blade must be capable of cutting 2.0-2.1 mm monofilament line and nylon or polypropylene multistrand material commonly known as braided mainline or tarred mainline.

(iii) An extended reach holder for the cutting blade. The line clipper must have an extended reach handle or pole of at least 6 ft (1.82 m).

(iv) Secure fastener. The cutting blade must be securely fastened to the extended reach handle or pole to ensure effective deployment and use.

(6) *Dip nets.* Dip nets are intended to facilitate safe handling of sea turtles and access to sea turtles for purposes of cutting lines in a manner that minimizes injury and trauma to sea turtles. The minimum design standards for dip nets that meet the requirements of this section nets are:

(i) An extended reach handle. The dip net must have an extended reach handle of at least 6 ft (1.82 m) of wood or other rigid material able to support a minimum of 100 lb (34.1 kg) without breaking or significant bending or distortion.

(ii) Size of dip net. The dip net must have a net hoop of at least 31 inches (78.74 cm) inside diameter and a bag depth of at least 38 inches (96.52 cm). The bag mesh openings may be no more than 3 inches by 3 inches (7.62 cm by 7.62 cm).

(7) *Dehookers.* (i) Long-handled dehooker for ingested hooks. This item is intended to be used to remove ingested hooks from sea turtles that cannot be boated, and to engage a loose hook when a turtle is entangled but not hooked and line is being removed. One long-handled dehooker for ingested hooks is required on board. The minimum design and performance standards are as follows:

(A) *Hook removal device.* The hook removal device must be constructed of 5/16 inch (7.94 mm) 316L stainless steel and have a dehooking end no larger than 1⅞ inches (4.76 cm) outside diameter. The device must be capable of securely engaging and controlling the leader while shielding the barb of the hook to prevent the hook from re-engaging during removal. It must not have any unprotected terminal points (including blunt ones), as these could cause injury to the esophagus during hook removal. The device must be of a size capable of securing the range of hook sizes and styles used by the vessel.

(B) *Extended reach handle.* The hook removal device must be securely fastened to an extended reach handle or pole with a length equal to or greater than 150 percent of the vessel's freeboard or 6 ft (1.83 m), whichever is greater. It is recommended that the handle be designed so that it breaks down into sections. The handle must be sturdy and strong enough to facilitate the secure attachment of the hook removal device.

(ii) Long-handled dehooker for external hooks. This item is intended to be used to remove externally-hooked hooks from sea turtles that cannot be boated. The long-handled dehooker for ingested hooks described in paragraph (a)(7)(i) of this section meets this requirement. The minimum design and performance standards are as follows:

(A) *Construction.* The device must be constructed of 5/16 inch (7.94 mm) 316 L stainless steel rod. A 5 inch (12.70 cm) tube T-handle of 1 inch (2.54 cm) outside diameter is recommended, but not required. The dehooking end must be blunt with all edges rounded. The device must be of a size capable of securing the range of hook sizes and styles used by the vessel.

(B) *Handle.* The handle must have a length equal to or greater than the vessel's freeboard or 3 ft (0.91 m), whichever is greater.

(iii) Long-handled device to pull an “inverted V.” This item is intended to be used to pull an “inverted V” in the fishing line when disentangling and dehooking entangled sea turtles. One long-handled device to pull an “inverted V” is required on the vessel. The minimum design and performance standards are as follows:

(A) *Hook end.* It must have a hook-shaped end, like that of a standard boat hook or gaff, which must be constructed of stainless steel or aluminum.

(B) *Handle.* The handle must have a length equal to or greater than 150 percent of the vessel's freeboard or 6 ft (1.83 m), whichever is greater. The handle must be sturdy and strong enough to allow the hook end to be effectively used to engage and pull an “inverted V” in the line.

(C) The long-handled dehookers described in paragraphs (a)(7)(i) and (ii) of this section meet this requirement.

(iv) Short-handled dehooker for ingested hooks. This item is intended to be used to remove ingested hooks, externally hooked hooks, and hooks in the front of the mouth of sea turtles that can be boated. One short-handled dehooker for ingested hooks is required on board. The minimum design and performance standards are as follows:

(A) *Hook removal device.* The hook removal device must be constructed of ¼ inch (6.35 mm) 316 L stainless steel, and the design of the dehooking end must be such to allow the hook to be secured and the barb shielded without re-engaging during the hook removal process. The dehooking end must be no larger than 1-5/16 inch (3.33 cm) outside diameter. It must not have any unprotected terminal points (including blunt ones), as this could cause injury to the esophagus during hook removal. The dehooking end must be of a size appropriate to secure the range of hook sizes and styles used by the vessel.

(B) *Sliding plastic bite block.* The dehooker must have a sliding plastic bite block, which is intended to be used to protect the sea turtle's beak and facilitate hook removal if the turtle bites down on the dehooker. The bite block must be constructed of a ¾ inch (1.91 cm) inside diameter high impact plastic cylinder (for example, Schedule 80 PVC) that is 10 inches (25.40 cm) long. The dehooker and bite block must be configured to allow for 5 inches (12.70 cm) of slide of the bite block along the shaft of the dehooker.

(C) *Shaft and handle.* The shaft must be 16 to 24 inches (40.64 to 60.69 cm) in length, and must have a T-handle 4 to 6 inches (10.16 to 15.24 cm) in length and ¾ to 1¼ inches (1.90 to 3.18 cm) in diameter.

(v) Short-handled dehooker for external hooks. This item is intended to be used to remove externally hooked hooks from sea turtles that can be boated. One short-handled dehooker for external hooks is required on board. The short-handled dehooker for ingested hooks required to comply with paragraph (a)(7)(v) of this section meets this requirement. The minimum design and performance standards are as follows:

(A) *Hook removal device.* The hook removal device must be constructed of 5/16 inch (7.94 cm) 316 L stainless steel, and the design must be such that a hook can be rotated out without pulling it out at an angle. The dehooking end must be blunt, and all edges rounded. The device must be of a size appropriate to secure the range of hook sizes and styles used by the vessel.

(B) *Shaft and handle.* The shaft must be 16 to 24 inches (40.64 to 60.69 cm) in length, and must have a T-handle 4 to 6 inches (10.16 to 15.24 cm) in length and ¾ to 1¼ inches (1.90 to 3.18 cm) in diameter.

(8) Tire. This item is intended to be used for supporting a turtle in an upright orientation while it is on board. One tire is required on board, but an assortment of sizes is recommended to accommodate a range of turtle sizes. The tire must be a standard passenger vehicle tire and must be free of exposed steel belts.

(9) Long-nose or needle-nose pliers. This item is intended to be used to remove deeply embedded hooks from the turtle's flesh that must be twisted in order to be removed, and also to hold in place PVC splice couplings when used as mouth openers. One pair of long-nose or needle-nose pliers is required on board. The minimum design standards are as follows: The pliers must be 8 to 14 inches (20.32 to 35.56 cm) in length. It is recommended that they be constructed of stainless steel material.

(10) Wire or bolt cutters. This item is intended to be used to cut through hooks in order to remove all or part of the hook. One pair of wire or bolt cutters is required on board. The minimum design and performance standards are as follows: The wire or bolt cutters must be capable of cutting hard metals, such as stainless or carbon steel hooks, and they must be capable of cutting through the hooks used by the vessel.

(11) Monofilament line cutters. This item is intended to be used to cut and remove fishing line as close to the eye of the hook as possible if the hook is swallowed or cannot be removed. One pair of monofilament line cutters is required on board. The minimum design standards are as follows: Monofilament line cutters must be 6 to 9 inches (15.24 to 22.86 cm) in length. The blades must be 1¾ (4.45 cm) in length and ⅝ inches (1.59 cm) wide when closed.

(12) Mouth openers and gags. These items are intended to be used to open the mouths of boated sea turtles, and to keep them open when removing ingested hooks in a way that allows the hook or line to be removed without causing further injury to the turtle. At least two of the seven different types of mouth openers and gags described below are required on board. The seven types and their minimum design standards are as follows.

(i) A block of hard wood. A block of hard wood is intended to be used to gag open a turtle's mouth by placing it in the corner of the jaw. It must be made of hard wood of a type that does not splinter (for example, maple), and it must have rounded and smoothed edges. The dimensions must be 10 to 12 inches (24.50 to 30.48 cm) by ¾ to 1¼ inches (1.90 to 3.18 cm) by ¾ to 1¼ inches (1.90 to 3.18 cm).

(ii) A set of three canine mouth gags. A canine mouth gag is intended to be used to gag open a turtle's mouth while allowing hands-free operation after it is in place. A set of canine mouth gags must include one of each of the following sizes: small (5 inches, 12.7 cm), medium (6 inches, 15.2 cm), and large (7 inches, 17.8 cm). They must be constructed of stainless steel. A 1¾ inch (4.45 cm) long piece of vinyl tubing (¾ inch, 1.91 cm) outside diameter and ⅝ inch (1.59 cm) inside diameter) must be placed over the ends of the gags to protect the turtle's beak.

(iii) A set of two sturdy canine chew bones. A canine chew bone is intended to be used to gag open a turtle's mouth by placing it in the corner of the jaw. They must be constructed of durable nylon, zylene resin, or thermoplastic polymer, and strong enough to withstand biting without splintering. To accommodate a variety of turtle beak sizes, a set must include one large (5½ to 8 inches (13.97 to 20.32 cm) in length) and one small (3½ to 4½ inches (8.89 to 11.43 cm) in length) canine chew bones.

(iv) A set of two rope loops covered with hose. A set of two rope loops covered with a piece of hose is intended to be used as a mouth opener and to keep a turtle's mouth open during hook and/or line removal. A set consists of two 3-foot (0.91 m) lengths of poly braid rope, each covered with an 8 inch (20.32 cm) section of ½ inch (1.27 cm) or ¾ inch (1.91 cm) light-duty garden hose, and each tied into a loop.

(v) A hank of rope. A hank of rope is intended to be used to gag open a sea turtle's mouth by placing it in the corner of the jaw. A hank of rope is made from a 6 foot (1.83 m) lanyard of braided nylon rope that is folded to create a hank, or looped bundle, of rope. The hank must be 2 to 4 inches (5.08 to 10.16 cm) in thickness.

(vi) A set of four PVC splice couplings. PVC splice couplings are intended to be used to allow access to the back of the mouth of a turtle for hook and line removal by positioning them inside a turtle's mouth and holding them in place with long-nose or needle-nose pliers. The set must consist of the following Schedule 40 PVC splice coupling sizes: 1 inch (2.54 cm), 1¼ inches (3.18 cm), 1½ inches (3.81 cm), and 2 inches (5.08 cm).

(vii) A large avian oral speculum. A large avian oral speculum is intended to be used to hold a turtle's mouth open and control the head with one hand while removing a hook with the other hand. It must be 9 inches (22.86 cm) in length and constructed of 3/16 inch (4.76 mm) wire diameter surgical stainless steel (Type 304). It must be covered with 8 inches (20.32 cm) of clear vinyl tubing 5/16 inch (7.94 mm) outside diameter, 3/16 inch (4.76 mm) inside diameter.

(b) Handling requirements. If a sea turtle is observed to be hooked or entangled in fishing gear from any vessel fishing under the Pelagics FEP, vessel owners and operators must use the required mitigation gear set forth in paragraph (a) of this section to comply with these handling requirements. Any hooked or entangled sea turtle must be handled in a manner to minimize injury and promote survival.

(1) Sea turtles that cannot be brought aboard. In instances where a sea turtle is too large to be brought aboard or the sea turtle cannot be brought aboard without causing further injury to the sea turtle, the vessel owner or operator must disentangle and remove the gear, or cut the line as close as possible to the hook or entanglement, to remove the maximum amount of the gear from the sea turtle.

(2) Sea turtles that can be brought aboard. In instances where a sea turtle is not too large to be brought aboard, or the sea turtle can be brought aboard without causing further injury to the turtle, the vessel owner or operator must take the following actions:

(i) Immediately bring the sea turtle aboard;

(ii) Handle the sea turtle in accordance with the procedures in paragraphs (b)(3) and (b)(4) of this section; and

(iii) Disentangle and remove the gear, or cut the line as close as possible to the hook or entanglement, to remove the maximum amount of the gear from the sea turtle.

(3) *Sea turtle resuscitation.* If a sea turtle appears dead or comatose, the following actions must be taken:

(i) Place the sea turtle on its belly (on the bottom shell or plastron) so that the sea turtle is right side up and its hindquarters elevated at least 6 inches (15.24 cm) for a period of no less than 4 hours and no more than 24 hours. The amount of the elevation varies with the size of the sea turtle; greater elevations are needed for larger sea turtles;

(ii) Administer a reflex test at least once every 3 hours. The test is to be performed by gently touching the eye and pinching the tail of a sea turtle to determine if the sea turtle is responsive;

(iii) Keep the sea turtle shaded and damp or moist (but under no circumstances place the sea turtle into a container holding water). A water-soaked towel placed over the eyes, carapace and flippers is the most effective method of keeping a sea turtle moist; and

(iv) Return to the sea any sea turtle that revives and becomes active in the manner described in paragraph (b)(4) of this section. Sea turtles that fail to revive within the 24-hour period must also be returned to the sea in the manner described in paragraph (b)(4) of this section.

(4) *Sea turtle release.* After handling a sea turtle in accordance with the requirements of paragraphs (b)(2) and (b)(3) of this section, the sea turtle must be returned to the ocean after identification unless NMFS requests the retention of a dead sea turtle for research. In releasing a sea turtle the vessel owner or operator must:

(i) Place the vessel engine in neutral gear so that the propeller is disengaged and the vessel is stopped, and release the sea turtle away from deployed gear; and

(ii) Observe that the turtle is safely away from the vessel before engaging the propeller and continuing operations.

(5) Other sea turtle requirements. No sea turtle, including a dead turtle, may be consumed or sold. A sea turtle may be landed, offloaded, transshipped or kept below deck only if NMFS requests the retention of a dead sea turtle for research.

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§665.813 Western Pacific longline fishing restrictions.

(a) [*Reserved*]

(b) Limits on sea turtle interactions. (1) Maximum annual limits are established on the number of physical interactions that occur each calendar year between leatherback and North Pacific loggerhead sea turtles and vessels registered for use under Hawaii longline limited access permits while shallow-set fishing. The annual limit for leatherback sea turtles (*Dermochelys coriacea*) is 26, and the annual limit for North Pacific loggerhead sea turtles (*Caretta caretta*) is 34.

(2) Upon determination by the Regional Administrator that, based on data from NMFS observers, the fishery has reached either of the two sea turtle interaction limits during a given calendar year:

(i) As soon as practicable, the Regional Administrator will file for publication at the Office of the Federal Register a notification that the fishery reached a sea turtle interaction limit. The notification will include an advisement that the shallow-set longline fishery shall be closed, and that shallow-set longline fishing north of the Equator by vessels registered for use under Hawaii longline limited access permits will be prohibited beginning at a specified date until the end of the calendar year in which the sea turtle interaction limit was reached. Coincidental with the filing of the notification, the Regional Administrator will also provide actual notice that the shallow-set longline fishery shall be closed, and that shallow-set longline fishing north of the Equator by vessels registered for use under Hawaii longline limited access permits will be prohibited beginning at a specified date, to all holders of Hawaii longline limited access permits via telephone, satellite telephone, radio, electronic mail, facsimile transmission, or post.

(ii) Beginning on the fishery closure date indicated by the Regional Administrator in the notification provided to vessel operators and permit holders and published in the FEDERAL REGISTER under paragraph (b)(2)(i) of this section, until the end of the calendar year in which the sea turtle interaction limit was reached, the Hawaii-based shallow-set longline fishery shall be closed.

(c) [*Reserved*]

(d) Vessels registered for use under a Hawaii longline limited access permit may not have on board at any time during a trip for which notification to NMFS under §665.803(a) indicated that deep-setting would be done any float lines less than 20 meters in length or light sticks. As used in this paragraph “float line” means a line used to suspend the main longline beneath a float and “light stick” means any type of

light emitting device, including any fluorescent “glow bead,” chemical, or electrically powered light that is affixed underwater to the longline gear.

(e) [*Reserved*]

(f) Any owner or operator of a vessel registered for use under any longline permit issued under §665.801 must use only circle hooks sized 18/0 or larger, with an offset not to exceed 10 degrees, when shallow-setting north of the Equator (0° lat.). As used in this paragraph, an offset circle hook sized 18/0 or larger is one with an outer diameter at its widest point no smaller than 1.97 inches (50 mm) when measured with the eye of the hook on the vertical axis (y-axis) and perpendicular to the horizontal axis (x-axis). As used in this paragraph, the allowable offset is measured from the barbed end of the hook, and is relative to the parallel plane of the eyed-end, or shank, of the hook when laid on its side.

(g) Any owner or operator of a vessel registered for use under any longline permit issued under §665.801 must use only mackerel-type bait when shallow-setting north of the Equator (0° lat.). As used in this paragraph, mackerel-type bait means a whole fusiform fish with a predominantly blue, green or gray back and predominantly gray, silver or white lower sides and belly.

(h) Owners and operators of vessels registered for use under a Hawaii longline limited access permit may make sets only of the type (shallow-setting or deep-setting) indicated in the notification to NMFS pursuant to §665.803(a).

(i) Vessels registered for use under Hawaii longline limited access permits may not be used to engage in shallow-setting north of the Equator (0° lat.) any time during which the shallow-set component of the longline fishery is closed pursuant to paragraph (b)(2)(ii) of this section.

(j) *Swordfish limits.* When fishing north of the Equator (0° lat.), owners and operators of vessels registered for use under a Hawaii longline limited access permit, on a trip for which the permit holder notified NMFS under §665.803(a) that the vessel would deep-set, may possess or land no more than the following number of swordfish for such trip:

(1) If an observer is on board, there is no limit.

(2) If there is no observer on board, and if only circle hooks are used, the limit is 25.

(3) If there is no observer on board, and if any type of hook other than a circle hook is used, the limit is 10.

(k) When fishing south of the Equator (0° lat.) for western Pacific pelagic MUS, owners and operators of vessels longer than 40 ft (12.2 m) registered for use with any valid longline permit issued pursuant to §665.801 must use longline gear that is configured according to the requirements in paragraphs (k)(1) through (k)(5) of this section.

(1) Each float line must be at least 30 m long.

(2) At least 15 branch lines must be attached to the mainline between any two float lines attached to the mainline.

(3) Each branch line must be at least 10 meters long.

(4) No branch line may be attached to the mainline closer than 70 meters to any float line.

(5) No more than 10 swordfish may be possessed or landed during a single fishing trip.

[75 FR 2205, Jan. 14, 2010, as amended at 76 FR 13299, Mar. 11, 2011; 76 FR 52889, Aug. 24, 2011; 77 FR 43722, July 26, 2012; 77 FR 60649, Oct. 4, 2012]

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§665.814 Protected species workshop.

(a) Each year, both the owner and the operator of a vessel registered for use under any longline permit issued under §665.801 must attend and be certified for completion of a workshop conducted by NMFS on interaction mitigation techniques for sea turtles, seabirds and other protected species.

(b) A protected species workshop certificate will be issued by NMFS annually to any person who has completed the workshop.

(c) An owner of a vessel registered for use under any longline permit issued under §665.801 must have a valid protected species workshop certificate issued by NMFS to the owner of the vessel, in order to maintain or renew their vessel registration.

(d) An owner and an operator of a vessel registered for use under any longline permit issued under §665.801 must have on board the vessel a valid protected species workshop certificate issued by NMFS to the operator of the vessel, or a legible copy thereof.

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§665.815 Pelagic longline seabird mitigation measures.

(a) *Seabird mitigation techniques.* When deep-setting or shallow-setting north of 23° N. lat. or shallow-setting south of 23° N. lat., owners and operators of vessels registered for use under a Hawaii longline limited access permit, must either side-set according to paragraph (a)(1) of this section, or fish in accordance with paragraph (a)(2) of this section.

(1) Side-setting. Owners and operators of vessels opting to side-set under this section must fish according to the following specifications:

(i) The mainline must be deployed as far forward on the vessel as practicable, and at least 1 m (3.3 ft) forward from the stern of the vessel;

(ii) The mainline and branch lines must be set from the port or the starboard side of the vessel;

(iii) If a mainline shooter is used, the mainline shooter must be mounted as far forward on the vessel as practicable, and at least 1 m (3.3 ft) forward from the stern of the vessel;

(iv) Branch lines must have weights with a minimum weight of 45 g (1.6 oz);

(v) One weight must be connected to each branch line within 1 m (3.3 ft) of each hook;

(vi) When seabirds are present, the longline gear must be deployed so that baited hooks remain submerged and do not rise to the sea surface; and

(vii) A bird curtain must be deployed. Each bird curtain must consist of the following three components: a pole that is fixed to the side of the vessel aft of the line shooter and which is at least 3 m (9.8 ft) long; at least three main streamers that are attached at regular intervals to the upper 2 m (6.6 ft) of

the pole and each of which has a minimum diameter of 20 mm (0.8 in); and branch streamers attached to each main streamer at the end opposite from the pole, each of which is long enough to drag on the sea surface in the absence of wind, and each of which has a minimum diameter 10 mm (0.4 in).

(2) Alternative to side-setting. Owners and operators of vessels that do not side-set must do the following:

(i) Discharge fish, fish parts (offal), or spent bait while setting or hauling longline gear, on the opposite side of the vessel from where the longline gear is being set or hauled, when seabirds are present;

(ii) Retain sufficient quantities of fish, fish parts, or spent bait between the setting of longline gear for the purpose of strategically discharging it in accordance with paragraph (a)(2)(i) of this section;

(iii) Remove all hooks from fish, fish parts, or spent bait prior to its discharge in accordance with paragraph (a)(2)(i) of this section;

(iv) Remove the bill and liver of any swordfish that is caught, sever its head from the trunk and cut it in half vertically and periodically discharge the butchered heads and livers in accordance with paragraph (a)(2)(i) of this section;

(v) When using basket-style longline gear north of 23° N. lat., ensure that the main longline is deployed slack to maximize its sink rate;

(vi) Use completely thawed bait that has been dyed blue to an intensity level specified by a color quality control card issued by NMFS;

(vii) Maintain a minimum of two cans (each sold as 0.45 kg or 1 lb size) containing blue dye on board the vessel; and

(viii) Follow the requirements in paragraphs (a)(3) and (a)(4) of this section, as applicable.

(3) Deep-setting requirements. The following additional requirements apply to vessels engaged in deep-setting using a monofilament main longline north of 23° N. lat. that do not side-set. Owners and operators of these vessels must do the following:

(i) Employ a line shooter; and

(ii) Attach a weight of at least 45 g (1.6 oz) to each branch line within 1 m (3.3 ft) of the hook.

(4) Shallow-setting requirement. In addition to the requirements set forth in paragraphs (a)(1) and (a)(2) of this section, owners and operators of vessels engaged in shallow-setting that do not side-set must begin the deployment of longline gear at least 1 hour after local sunset and complete the deployment no later than local sunrise, using only the minimum vessel lights to conform with navigation rules and best safety practices.

(b) Short-tailed albatross handling techniques. If a short-tailed albatross is hooked or entangled by a vessel registered for use under a Hawaii longline limited access permit, owners and operators must ensure that the following actions are taken:

(1) Stop the vessel to reduce the tension on the line and bring the bird on board the vessel using a dip net;

(2) Cover the bird with a towel to protect its feathers from oils or damage while being handled;

(3) Remove any entangled lines from the bird; and

(4) Determine if the bird is alive or dead.

(i) If dead, freeze the bird immediately with an identification tag attached directly to the specimen listing the species, location and date of mortality, and band number if the bird has a leg band. Attach a duplicate identification tag to the bag or container holding the bird. Any leg bands present must remain on the bird. Contact NMFS, the USCG, or the USFWS at the numbers listed on the Short-tailed Albatross Handling Placard distributed at the NMFS protected species workshop, inform them that you have a dead short-tailed albatross on board, and submit the bird to NMFS within 72 hours following completion of the fishing trip.

(ii) If alive, handle the bird in accordance with paragraphs (b)(5) through (11) of this section.

(5) Place the bird in a safe enclosed place;

(6) Immediately contact NMFS, the USCG, or the USFWS at the numbers listed on the Short-tailed Albatross Handling Placard distributed at the NMFS protected species workshop and request veterinary guidance;

(7) Follow the veterinary guidance regarding the handling and release of the bird;

(8) If the bird is externally hooked and no veterinary guidance is received within 24-48 hours, handle the bird in accordance with paragraphs (c)(4) and (c)(5) of this section, and release the bird only if it meets the following criteria:

(i) Able to hold its head erect and respond to noise and motion stimuli;

(ii) Able to breathe without noise;

(iii) Capable of flapping and retracting both wings to normal folded position on its back;

(iv) Able to stand on both feet with toes pointed forward; and

(v) Feathers are dry.

(9) Any seabird that is released in accordance with paragraph (b)(8) of this section or under the guidance of a veterinarian must be placed on the sea surface;

(10) If the hook has been ingested or is inaccessible, keep the bird in a safe, enclosed place and submit it to NMFS immediately upon the vessel's return to port. Do not give the bird food or water; and

(11) Complete the short-tailed albatross recovery data form issued by NMFS.

(c) Non-short-tailed albatross seabird handling techniques. If a seabird other than a short-tailed albatross is hooked or entangled by a vessel registered for use under a Hawaii longline limited access permit owners and operators must ensure that the following actions are taken:

(1) Stop the vessel to reduce the tension on the line and bring the seabird on board the vessel using a dip net;

(2) Cover the seabird with a towel to protect its feathers from oils or damage while being handled;

(3) Remove any entangled lines from the seabird;

(4) Remove any external hooks by cutting the line as close as possible to the hook, pushing the hook barb out point first, cutting off the hook barb using bolt cutters, and then removing the hook shank;

(5) Cut the fishing line as close as possible to ingested or inaccessible hooks;

(6) Leave the bird in a safe enclosed space to recover until its feathers are dry; and

(7) After recovered, release seabirds by placing them on the sea surface.

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§665.816 American Samoa longline limited entry program.

(a) *General.* Under §665.801(c), certain U.S. vessels are required to be registered for use under a valid American Samoa longline limited access permit. With the exception of reductions in permits in vessel size Class A under paragraph (c)(1) of this section, the maximum number of permits will be capped at the number of initial permits actually issued under paragraph (f) of this section.

(b) *Terminology.* For purposes of this section, the following terms have these meanings:

(1) Documented participation means participation proved by, but not necessarily limited to, a properly submitted NMFS or American Samoa logbook, an American Samoa creel survey record, a delivery or payment record from an American Samoa-based cannery, retailer or wholesaler, an American Samoa tax record, an individual wage record, ownership title, vessel registration, or other official documents showing:

(i) Ownership of a vessel that was used to fish in the EEZ around American Samoa, or

(ii) Evidence of work on a fishing trip during which longline gear was used to harvest western Pacific pelagic MUS in the EEZ around American Samoa. If the applicant does not possess the necessary documentation of evidence of work on a fishing trip based on records available only from NMFS or the Government of American Samoa (*e.g.,* creel survey record or logbook), the applicant may issue a request to PIRO to obtain such records from the appropriate agencies, if available. The applicant should provide sufficient information on the fishing trip to allow PIRO to retrieve the records.

(2) Family means those people related by blood, marriage, and formal or informal adoption.

(c) Vessel size classes. The Regional Administrator shall issue American Samoa longline limited access permits in the following size classes:

(1) Class A: Vessels less than or equal to 40 ft (12.2 m) LOA. The maximum number will be reduced as Class B-1, C-1, and D-1 permits are issued under paragraph (f)(5) of this section.

(2) Class B: Vessels over 40 ft (12.2 m) to 50 ft (15.2 m) LOA.

(3) Class B-1: Maximum number of 14 permits for vessels over 40 ft (12.2 m) to 50 ft (15.2 m) LOA, to be made available according to the following schedule:

(i) Four permits in the first calendar year after the Regional Administrator has issued all initial permits in Classes A, B, C, and D (initial issuance);

(ii) In the second calendar year after initial issuance, any unissued, relinquished, or revoked permits of the first four, plus four additional permits;

(iii) In the third calendar year after initial issuance, any unissued, relinquished, or revoked permits of the first eight, plus four additional permits; and

(iv) In the fourth calendar year after initial issuance, any unissued, relinquished, or revoked permits of the first 12, plus two additional permits.

(4) Class C: Vessels over 50 ft (15.2 m) to 70 ft (21.3 m) LOA.

(5) Class C-1: Maximum number of six permits for vessels over 50 ft (15.2) to 70 ft (21.3 m) LOA, to be made available according to the following schedule:

(i) Two permits in the first calendar year after initial issuance;

(ii) In the second calendar year after initial issuance, any unissued, relinquished, or revoked permits of the first two, plus two additional permits; and

(iii) In the third calendar year after initial issuance, any unissued, relinquished, or revoked permits of the first four, plus two additional permits.

(6) Class D: Vessels over 70 ft (21.3 m) LOA.

(7) Class D-1: Maximum number of 6 permits for vessels over 70 ft (21.3 m) LOA, to be made available according to the following schedule:

(i) Two permits in the first calendar year after initial issuance;

(ii) In the second calendar year after initial issuance, any unissued, relinquished, or revoked permits of the first two, plus two additional permits; and

(iii) In the third calendar year after initial issuance, any unissued, relinquished, or revoked permits of the first four, plus two additional permits.

(d) A vessel subject to this section may only be registered with an American Samoa longline limited access permit of a size class equal to or larger than the vessel's LOA.

(e) Initial permit qualification. Any U.S. national or U.S. citizen or company, partnership, or corporation qualifies for an initial American Samoa longline limited access permit if the person, company, partnership, or corporation, on or prior to March 21, 2002, owned a vessel that was used during the time of their ownership to harvest western Pacific pelagic MUS with longline gear in the EEZ around American Samoa, and that fish was landed in American Samoa:

(1) Prior to March 22, 2002; or

(2) Prior to June 28, 2002, provided that the person or business provided to NMFS or the Council, prior to March 22, 2002, a written notice of intent to participate in the pelagic longline fishery in the EEZ around American Samoa.

(f) Initial permit issuance.

(1) Any application for issuance of an initial permit must be submitted to PIRO no later than 120 days after the effective date of this final rule. The Regional Administrator shall publish a notice in the FEDERAL REGISTER, send notices to persons on the American Samoa pelagics mailing list, and use other means to notify prospective applicants of the availability of permits. Applications for initial permits must be made, and application fees paid, in accordance with §§665.13(c)(1), 665.13 (d), and 665.13 (f)(2). A complete application must include documented participation in the fishery in accordance with §665.816(b)(1). If the applicant is any entity other than a sole owner, the application must be accompanied by a supplementary information sheet obtained from the Regional Administrator, containing the names and mailing addresses of all owners, partners, and corporate officers.

(2) Only permits of Class A, B, C, and D will be made available for initial issuance. Permits of Class B-1, C-1, and D-1, will be made available in subsequent calendar years.

(3) Within 30 days of receipt of a completed application, the Assistant Regional Administrator for Sustainable Fisheries, PIRO, shall make a decision on whether the applicant qualifies for an initial permit and will notify the successful applicant by a dated letter. The successful applicant must register a vessel, of the equivalent size class or smaller to which the qualifying vessel would have belonged, to the permit within 120 days of the date of the letter of notification, and maintain this vessel registration to the permit for at least 120 days. The successful applicant must also submit a supplementary information sheet, obtained from the Regional Administrator, containing the name and mailing address of the owner of the vessel to which the permit is registered. If the registered vessel is owned by any entity other than a sole owner, the names and mailing addresses of all owners, partners, and corporate officers must be included.

(4) An appeal of a denial of an application for an initial permit shall be processed in accordance with §665.801(o) of this subpart.

(5) After all appeals on initial permits are concluded in any vessel size class, the maximum number of permits in that class shall be the number of permits issued during the initial issuance process (including appeals). The maximum number of permits will not change, except that the maximum number of Class A permits will be reduced if Class A permits are replaced by B-1, C-1, or D-1 permits under paragraph (h) of this section. Thereafter, if any Class A, B, C, or D permit becomes available, the Regional Administrator shall re-issue that permit according to the process set forth in paragraph (g) of this section.

(g) Additional permit issuance.

(1) If the number of permits issued in Class A, B, C, or D, falls below the maximum number of permits, the Regional Administrator shall publish a notice in the FEDERAL REGISTER, send notices to persons on the American Samoa pelagics mailing list, and use other means to notify prospective applicants of any available permit(s) in that class. Any application for issuance of an additional permit must be submitted to PIRO no later than 120 days after the date of publication of the notice on the availability of additional permits in the FEDERAL REGISTER. A complete application must include documented participation in the fishery in accordance with §665.816(b)(1). The Regional Administrator shall issue permits to persons according to the following priority standard:

(i) First priority accrues to the person with the earliest documented participation in the pelagic longline fishery in the EEZ around American Samoa on a Class A sized vessel.

(ii) The next priority accrues to the person with the earliest documented participation in the pelagic longline fishery in the EEZ around American Samoa on a Class B size, Class C size, or Class D size vessel, in that order.

(iii) In the event of a tie in the priority ranking between two or more applicants, the applicant whose second documented participation in the pelagic longline fishery in the EEZ around American Samoa is first in time will be ranked first in priority. If there is still a tie between two or more applicants, the Regional Administrator will select the successful applicant by an impartial lottery.

(2) Applications must be made, and application fees paid, in accordance with §§665.13(c)(1), 665.13(d), and 665.13(f)(2). If the applicant is any entity other than a sole owner, the application must be accompanied by a supplementary information sheet, obtained from the Regional Administrator, containing the names and mailing addresses of all owners, partners, and corporate officers that comprise ownership of the vessel for which the permit application is prepared.

(3) Within 30 days of receipt of a completed application, the Assistant Regional Administrator for Sustainable Fisheries shall make a decision on whether the applicant qualifies for a permit and will notify the successful applicant by a dated letter. The successful applicant must register a vessel of the equivalent vessel size or smaller to the permit within 120 days of the date of the letter of notification. The successful applicant must also submit a supplementary information sheet, obtained from the Regional Administrator, containing the name and mailing address of the owner of the vessel to which the permit is registered. If the registered vessel is owned by any entity other than a sole owner, the names and mailing addresses of all owners, partners, and corporate officers must be included. If the successful applicant fails to register a vessel to the permit within 120 days of the date of the letter of notification, the Assistant Regional Administrator for Sustainable Fisheries shall issue a letter of notification to the next person on the priority list or, in the event that there are no more prospective applicants on the priority list, re-start the issuance process pursuant to paragraph (g)(1) of this section. Any person who fails to register the permit to a vessel under this paragraph (g)(3) within 120 days shall not be eligible to apply for a permit for 6 months from the date those 120 days expired.

(4) An appeal of a denial of an application for a permit shall be processed in accordance with §665.801(o).

(h) Class B-1, C-1, and D-1 Permits.

(1) Permits of Class B-1, C-1, and D-1 will be initially issued only to persons who hold a Class A permit and who, prior to March 22, 2002, participated in the pelagic longline fishery around American Samoa.

(2) The Regional Administrator shall issue permits to persons for Class B-1, C-1, and D-1 permits based on each person's earliest documented participation, with the highest priority given to that person with the earliest date of documented participation.

(3) A permit holder who receives a Class B-1, C-1, or D-1 permit must relinquish his or her Class A permit and that permit will no longer be valid. The maximum number of Class A permits will be reduced accordingly.

(4) Within 30 days of receipt of a completed application for a Class B-1, C-1, and D-1 permit, the Regional Administrator shall make a decision on whether the applicant qualifies for a permit and will notify the successful applicant by a dated letter. The successful applicant must register a vessel of the equivalent vessel size or smaller to the permit within 120 days of the date of the letter of notification. The successful applicant must also submit a supplementary information sheet, obtained from the Regional Administrator, containing the name and mailing address of the owner of the vessel to which the permit is registered. If the registered vessel is owned by any entity other than a sole owner, the names and mailing addresses of all owners, partners, and corporate officers must be included.

(5) An appeal of a denial of an application for a Class B-1, C-1, or D-1 permit shall be processed in accordance with §665.801(o).

(6) If a Class B-1, C-1, or D-1 permit is relinquished, revoked, or not renewed pursuant to paragraph (j)(1) of this section, the Regional Administrator shall make that permit available according to the procedure described in paragraph (g) of this section.

(i) Permit transfer. The holder of an American Samoa longline limited access permit may transfer the permit to another individual, partnership, corporation, or other entity as described in this section. Applications for permit transfers must be submitted to the Regional Administrator within 30 days of the transfer date. If the applicant is any entity other than a sole owner, the application must be accompanied by a supplementary information sheet, obtained from the Regional Administrator, containing the names and mailing addresses of all owners, partners, and corporate officers. After such an application has been made, the permit is not valid for use by the new permit holder until the Regional Administrator has issued the permit in the new permit holder's name under §665.13(c).

(1) Permits of all size classes except Class A. An American Samoa longline limited access permit of any size class except Class A may be transferred (by sale, gift, bequest, intestate succession, barter, or trade) to the following persons only:

(i) A western Pacific community located in American Samoa that meets the criteria set forth in §305(I)(2) of the Magnuson-Stevens Act, 16 U.S.C. §1855(I)(2), and its implementing regulations, or

(ii) Any person with documented participation in the pelagic longline fishery in the EEZ around American Samoa.

(2) Class A Permits. An American Samoa longline limited access permit of Class A may be transferred (by sale, gift, bequest, intestate succession, barter, or trade) to the following persons only:

(i) A family member of the permit holder,

(ii) A western Pacific community located in American Samoa that meets the criteria set forth in §305(I)(2) of the Magnuson-Stevens Act, 16 U.S.C. 1855, and its implementing regulations, or

(iii) Any person with documented participation in the pelagic longline fishery on a Class A size vessel in the EEZ around American Samoa prior to March 22, 2002.

(3) Class B-1, C-1, and D-1 Permits. Class B-1, C-1, and D-1 permits may not be transferred to a different owner for 3 years from the date of initial issuance, except by bequest or intestate succession if the permit holder dies during those 3 years. After the initial 3 years, Class B-1, C-1, and D-1 permits may be transferred only in accordance with the restrictions in paragraph (i)(1) of this section.

(j) Permit renewal and registration of vessels.

(1) Use requirements. An American Samoa longline limited access permit will not be renewed following 3 consecutive calendar years (beginning with the year after the permit was issued in the name of the current permit holder) in which the vessel(s) to which it is registered landed less than:

(i) For permit size Classes A or B: a total of 1,000 lb (455 kg) of western Pacific pelagic MUS harvested in the EEZ around American Samoa using longline gear, or

(ii) For permit size Classes C or D: a total of 5,000 lb (2,273 kg) of western Pacific pelagic MUS harvested in the EEZ around American Samoa using longline gear.

(2) [Reserved]

(k) Concentration of ownership of permits. No more than 10 percent of the maximum number of permits, of all size classes combined, may be held by the same permit holder. Fractional interest will be counted as a full permit for the purpose of calculating whether the 10-percent standard has been reached.

(l) Three year review. Within 3 years of the effective date of this final rule, the Council shall consider appropriate revisions to the American Samoa limited entry program after reviewing the effectiveness of the program with respect to its biological and socioeconomic objectives, concerning gear conflict, overfishing, enforceability, compliance, and other issues.

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§665.817 [Reserved]

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§665.818 Exemptions for American Samoa large vessel prohibited areas.

(a) An exemption will be issued to a person who currently owns a large vessel to use that vessel to fish for western Pacific pelagic MUS in the American Samoa large vessel prohibited management areas, if the person seeking the exemption had been the owner of that vessel when it was registered for use with a Western Pacific general longline permit, and has made at least one landing of western Pacific pelagic MUS in American Samoa on or prior to November 13, 1997.

(b) A landing of western Pacific pelagic MUS for the purpose of this section must have been properly recorded on a NMFS Western Pacific Federal daily longline form that was submitted to NMFS, as required in §665.14.

(c) An exemption is valid only for a vessel that was registered for use with a Western Pacific general longline permit and landed western Pacific pelagic MUS in American Samoa on or prior to November 13, 1997, or for a replacement vessel of equal or smaller LOA than the vessel that was initially registered for use with a Western Pacific general longline permit on or prior to November 13, 1997.

(d) An exemption is valid only for the vessel for which it is registered. An exemption not registered for use with a particular vessel may not be used.

(e) An exemption may not be transferred to another person.

(f) If more than one person, *e.g.,* a partnership or corporation, owned a large vessel when it was registered for use with a Western Pacific general longline permit and made at least one landing of western Pacific pelagic MUS in American Samoa on or prior to November 13, 1997, an exemption issued under this section will be issued to only one person.

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§665.819 Territorial catch and fishing effort limits.

(a) *General.* (1) Notwithstanding §665.4, if the WCPFC agrees to a catch or fishing effort limit for a stock of western Pacific pelagic MUS that is applicable to a U.S. participating territory, the Regional Administrator may specify an annual or multi-year catch or fishing effort limit for a U.S. participating territory, as recommended by the Council, not to exceed the WCPFC adopted limit. The Regional Administrator may authorize such U.S. participating territory to allocate a portion, as recommended by the Council, of the specified catch or fishing effort limit to a fishing vessel or vessels holding a valid permit issued under §665.801 through a specified fishing agreement pursuant to paragraph (c) of this section.

(2) If the WCPFC does not agree to a catch or fishing effort limit for a stock of western Pacific pelagic MUS applicable to a U.S. participating territory, the Council may recommend that the Regional Administrator specify such a limit that is consistent with the Pelagics FEP, other provisions of the Magnuson-Stevens Act, and other applicable laws. The Council may also recommend that the Regional Administrator authorize a U.S. participating territory to allocate a portion of a specified catch or fishing effort limit to a fishing vessel or vessels holding valid permits issued under §665.801 through a specified fishing agreement pursuant to paragraph (c) of this section.

(3) The Council shall review any existing or proposed catch or fishing effort limit specification and portion available for allocation at least annually to ensure consistency with the Pelagics FEP, Magnuson-Stevens Act, WCPFC decisions, and other applicable laws. Based on this review, at least annually, the Council shall recommend to the Regional Administrator whether such catch or fishing effort limit specification or portion available for allocation should be approved for the next fishing year.

(4) The Regional Administrator shall review any Council recommendation pursuant to paragraph (a) of this section and, if determined to be consistent with the Pelagics FEP, Magnuson-Stevens Act, WCPFC decisions, and other applicable laws, shall approve such recommendation. If the Regional Administrator determines that a recommendation is inconsistent with the Pelagics FEP, Magnuson-Stevens Act, WCPFC decisions and other applicable laws, the Regional Administrator will disapprove the recommendation and provide the Council with a written explanation of the reasons for disapproval. If a catch or fishing effort limit specification or allocation limit is disapproved, or if the Council recommends and NMFS approves no catch or fishing effort limit specification or allocation limit, no specified fishing agreements as described in paragraph (c) of this section will be accepted for the fishing year covered by such action.

(b) *Procedures and timing.* (1) After receiving a Council recommendation for a catch or fishing effort limit specification, or portion available for allocation, the Regional Administrator will evaluate the recommendation for consistency with the Pelagics FEP, other provisions of the Magnuson-Stevens Act, and other applicable laws.

(2) The Regional Administrator will publish in the FEDERAL REGISTER a notice and request for public comment of the proposed catch or fishing effort limit specification and any portion of the limit that may be allocated to a fishing vessel or vessels holding a valid permit issued under §665.801.

(3) The Regional Administrator will publish in the FEDERAL REGISTER, a notice of the final catch or fishing effort limit specification and portion of the limit that may be allocated to a fishing vessel or vessels holding valid permits issued under §665.801. The final specification of a catch or fishing effort limit will also announce the deadline for submitting a specified fishing agreement for review as described in paragraph (c) of this section. The deadline will be no earlier than 30 days after the publication date of the FEDERAL REGISTER notice that specifies the final catch or fishing effort limit and the portion of the limit that may be allocated through a specified fishing agreement.

(c) *Specified fishing agreements.* A specified fishing agreement means an agreement between a U.S. participating territory and the owner or a designated representative of a fishing vessel or vessels holding a valid permit issued under §665.801 of this part. An agreement provides access to an identified portion of a catch or fishing effort limit and may not exceed the amount specified for the territory and made available for allocation pursuant to paragraph (a) of this section. The identified portion of a catch or fishing effort limit in an agreement must account for recent and anticipated harvest on the stock or stock complex or fishing effort, and any other valid agreements with the territory during the same year not to exceed the territory's catch or fishing effort limit or allocation limit.

(1) An authorized official or designated representative of a U.S. participating territory may submit a complete specified fishing agreement to the Council for review. A complete specified fishing agreement must meet the following requirements:

(i) Identify the vessel(s) to which the fishing agreement applies, along with documentation that such vessel(s) possesses a valid permit issued under §665.801;

(ii) Identify the amount (weight) of western Pacific pelagic MUS to which the fishing agreement applies, if applicable;

(iii) Identify the amount of fishing effort to which the fishing agreement applies, if applicable;

(iv) Be signed by an authorized official of the applicable U.S. participating territory, or designated representative;

(v) Be signed by each vessel owner or designated representative; and

(vi) Satisfy either paragraph (c)(1)(vi)(A) or (B) of this section:

(A) Require the identified vessels to land or offload catch in the ports of the U.S. participating territory to which the fishing agreement applies; or

(B) Specify the amount of monetary contributions that each vessel owner in the agreement, or his or her designated representative, will deposit into the Western Pacific Sustainable Fisheries Fund.

(vii) Be consistent with the Pelagics FEP and implementing regulations, the Magnuson-Stevens Act, and other applicable laws; and

(viii) Shall not confer any right of compensation to any party enforceable against the United States should action under such agreement be prohibited or limited by NMFS pursuant to its authority under Magnuson-Stevens Act, or other applicable laws.

(2) *Council review.* The Council, through its Executive Director, will review a submitted specified fishing agreement to ensure that it is consistent with paragraph (1) of this section. The Council will advise the authorized official or designated representative of the U.S. participating territory to which the agreement applies of any inconsistency and provide an opportunity to modify the agreement, as appropriate. The Council will transmit the complete specified fishing agreement to the Regional Administrator for review.

(3) *Agency review.* (i) Upon receipt of a specified fishing agreement from the Council, the Regional Administrator will consider such agreement for consistency with paragraph (c)(1) of this section, the Pelagics FEP and implementing regulations, the Magnuson-Stevens Act, and other applicable laws.

(ii) Within 30 calendar days of receipt of the fishing agreement from the Council, the Regional Administrator will provide the authorized official or designated representative of the U.S. participating territory to which the agreement applies and the signatory vessel owners or their designated representatives with written notice of whether the agreement meets the requirements of this section. The Regional Administrator will reject an agreement for any of the following reasons:

(A) The agreement fails to meet the criteria specified in this subpart;

(B) The applicant has failed to disclose material information;

(C) The applicant has made a material false statement related to the specified fishing agreement;

(D) The agreement is inconsistent with the Pelagics FEP, implementing regulations, the Magnuson-Stevens Act, or other applicable laws; or

(E) The agreement includes a vessel identified in another valid specified fishing agreement.

(iii) The Regional Administrator, in consultation with the Council, may recommend that specified fishing agreements include such additional terms and conditions as are necessary to ensure consistency with the Pelagics FEP and implementing regulations, the Magnuson-Stevens Act, and other applicable laws.

(iv) The U.S. participating territory must notify NMFS and the Council in writing of any changes in the identity of fishing vessels to which the specified fishing agreement applies within 72 hours of the change.

(v) Upon written notice that a specified fishing agreement fails to meet the requirements of this section, the Regional Administrator may provide the U.S. participating territory an opportunity to modify the fishing agreement within the time period prescribed in the notice. Such opportunity to modify the agreement may not exceed 30 days following the date of written notice. The U.S. participating territory may resubmit the agreement according to paragraph (c)(1) of this section.

(vi) The absence of the Regional Administrator's written notice within the time period specified in paragraph (c)(3)(ii) of this section or, if applicable, within the extended time period specified in paragraph (c)(3)(v) of this section shall operate as the Regional Administrator's finding that the fishing agreement meets the requirements of this section.

(4) *Transfer.* Specified fishing agreements authorized under this section are not transferable or assignable, except as allowed pursuant to paragraph (c)(3)(iv) of this section.

(5) A vessel shall not be identified in more than one valid specified fishing agreement at a time.

(6) *Revocation and suspension.* The Regional Administrator, in consultation with the Council, may at any time revoke or suspend attribution under a specified fishing agreement upon the determination that either: Operation under the agreement would violate the requirements of the Pelagics FEP or implementing regulations, the Magnuson-Stevens Act, or other applicable laws; or the U.S. participating territory fails to notify NMFS and the Council in writing of any changes in the identity of fishing vessels to which the specified fishing agreement applies within 72 hours of the change.

(7) *Cancellation.* The U.S. participating territory and the vessel owner(s), or designated representative(s), that are party to a specified fishing agreement must notify the Regional Administrator in writing within 72 hours after an agreement is cancelled or no longer valid. A valid notice of cancellation shall require the signatures of both parties to the agreement. All catch or fishing effort attributions under the agreement shall cease upon the written date of a valid notice of cancellation.

(8) *Appeals.* An authorized official or designated representative of a U.S. participating territory or signatory vessel owners or their designated representatives may appeal the granting, denial, conditioning, or suspension of a specified fishing agreement affecting their interests to the Regional Administrator in accordance with the permit appeals procedures set forth in §665.801(o) of this subpart.

(9) *Catch or fishing effort attribution procedures.* (i) For vessels identified in a valid specified fishing agreement that are subject to a U.S. limit and fishing restrictions set forth in 50 CFR part 300, subpart O, NMFS will attribute catch made by such vessels to the applicable U.S. participating territory starting seven days before the date NMFS projects the annual U.S. limit to be reached, or upon the effective date of the agreement, whichever is later.

(ii) For U.S. fishing vessels identified in a valid specified fishing agreement that are subject to catch or fishing effort limits and fishing restrictions set forth in this subpart, NMFS will attribute catch or fishing effort to the applicable U.S. participating territory starting seven days before the date NMFS projects the limit to be reached, or upon the effective date of the agreement, whichever is later.

(iii) If NMFS determines catch or fishing effort made by fishing vessels identified in a specified fishing agreement exceeds the allocated limit, NMFS will attribute any overage of the limit back to the U.S. or Pacific island fishery to which the vessel(s) is registered and permitted in accordance with the regulations set forth in 50 CFR part 300, subpart O and other applicable laws.

(d) *Accountability measures.* (1) NMFS will monitor catch and fishing effort with respect to any territorial catch or fishing effort limit, including the amount of a limit allocated to vessels identified in a valid specified fishing agreement, using data submitted in logbooks and other information. When NMFS projects a territorial catch or fishing effort limit or allocated limit to be reached, the Regional Administrator shall publish notification to that effect in the FEDERAL REGISTER at least seven days before the limit will be reached.

(2) The notice will include an advisement that fishing for the applicable pelagic MUS stock or stock complex, or fishing effort, will be restricted on a specific date. The restriction may include, but is not limited to, a prohibition on retention, closure of a fishery, closure of specific areas, or other catch or fishing effort restrictions. The restriction will remain in effect until the end of the fishing year.

(e) *Disbursement of contributions from the Sustainable Fisheries Fund.* (1) NMFS shall make available to the Western Pacific Fishery Management Council monetary contributions, made to the Fund pursuant to a specified fishing agreement, in the following order of priority:

(i) Project(s) identified in an approved Marine Conservation Plan (16 U.S.C. 1824) of a U.S. participating territory that is a party to a valid specified fishing agreement, pursuant to §665.819(c); and

(ii) In the case of two or more valid specified fishing agreements in a fishing year, the projects listed in an approved Marine Conservation Plan applicable to the territory with the earliest valid agreement will be funded first.

(2) At least seven calendar days prior to the disbursement of any funds, the Council shall provide in writing to NMFS a list identifying the order of priority of the projects in an approved Marine Conservation Plan that are to be funded. The Council may thereafter revise this list.

[79 FR 64111, Oct. 28, 2014]

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Subpart G—Marianas Trench Marine National Monument

SOURCE: 78 FR 33003, June 3, 2013, unless otherwise noted.

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§665.900 Scope and purpose.

The regulations in this subpart codify certain provisions of the Proclamation, and govern the administration of fishing in the Monument. Nothing in this subpart shall be deemed to diminish or enlarge the jurisdiction of the Territory of Guam or the Commonwealth of the Northern Mariana Islands.

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§665.901 Boundaries.

The Marianas Trench Marine National Monument includes the following:

(a) *Islands Unit.* The Islands Unit includes the waters and submerged lands of the three northernmost Mariana Islands (Farallon de Pajaros (Uracas), Maug, and Asuncion). The shoreward boundary of the Islands Unit is the mean low water line. The seaward boundary of Islands Unit is defined by straight lines connecting the following coordinates in the order listed:

ID	E. long.	N. lat.
1	144°1′22.97″	21°23′42.40″
2	145°33′25.20″	21°23′42.40″
3	145°44′31.14″	21°11′14.60″
4	146°18′36.75″	20°49′17.46″
5	146°18′36.75″	19°22′0.00″
6	145°3′12.22″	19°22′0.00″
7	144°1′22.97″	20°45′44.11″
1	144°1′22.97″	21°23′42.40″

(b) *Volcanic Unit.* The Volcanic Unit includes the submerged lands of designated volcanic sites. The boundaries of the Volcanic Unit are defined as circles of a one nautical mile radius centered on each of the following points:

ID	E. long.	N. lat.
Fukujin	143°27′30″	21°56′30″
Minami Kasuga #2	143°38′30″	21°36′36″
N.W. Eifuku	144°2′36″	21°29′15″
Minami Kasuga #3	143°38′0″	21°24′0″
Daikoku	144°11′39″	21°19′27″
Ahyi	145°1′45″	20°26′15″

Maug	145°13′18″	20°1′15″
Alice Springs	144°30′0″	18°12′0″
Central trough	144°45′0″	18°1′0″
Zealandia	145°51′4″	16°52′57″
E. Diamante	145°40′47″	15°56′31″
Ruby	145°34′24″	15°36′15″
Esmeralda	145°14′45″	14°57′30″
N.W. Rota #1	144°46′30″	14°36′0″
W. Rota	144°50′0″	14°19′30″
Forecast	143°55′12″	13°23′30″
Seamount X	144°1′0″	13°14′48″
South Backarc	143°37′8″	12°57′12″
Archaean site	143°37′55″	12°56′23″
Pika site	143°38′55″	12°55′7″
Toto	143°31′42″	12°42′48″

(c) *Trench Unit.* The Trench Unit includes the submerged lands of the Marianas Trench. The boundary of the Trench Unit extends from the northern limit of the EEZ around the Commonwealth of the Northern Mariana Islands to the southern limit of the EEZ around Guam as defined by straight lines connecting the following coordinates in the order listed:

ID	E. long.	N. lat.
1	145°5′46″	23°53′35″
2	145°52′27.10″	23°45′50.54″
3	146°36′18.91″	23°29′18.33″
4	147°5′16.84″	23°11′43.92″

5	147°22′31.43″	20°38′41.35″
6	147°40′48.31″	19°59′23.30″
7	147°39′59.51″	19°27′2.96″
8	147°48′51.61″	19°8′18.74″
9	148°21′47.20″	18°56′6.46″
10	148°42′50.50″	17°58′2.20″
11	148°34′47.12″	16°40′53.86″
12	148°5′39.95″	15°25′51.09″
13	146°23′24.38″	12°21′38.38″
14	145°28′33.28″	11°34′7.64″
15	143°3′9″	10°57′30″
16	142°19′54.93″	11°47′24.83″
17	144°42′31.24″	12°21′24.65″
18	145°17′59.93″	12°33′5.35″
19	147°29′32.24″	15°49′25.53″
20	147°27′32.35″	17°57′52.76″
21	147°20′16.96″	19°9′19.41″
22	146°57′55.31″	20°23′58.80″
23	145°44′31.14″	21°11′14.60″
24	144°5′27.55″	23°2′28.67″
1	145°5′46″	23°53′35″

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§665.902 Definitions.

The following definitions are used in this subpart:

Management unit species or MUS means the Mariana Archipelago management unit species as defined in §§665.401, 665.421, 665.441, and 665.461, and the pelagic management unit species as defined in §665.800.

Monument means the submerged lands and, where applicable, waters of the Marianas Trench Marine National Monument as defined in §665.901.

Proclamation means Presidential Proclamation 8335 of January 6, 2009, "Establishment of the Marianas Trench Marine National Monument."

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§665.903 Prohibitions.

In addition to the general prohibitions specified in §600.725 of this chapter, and §665.15 and subpart D of this part, the following activities are prohibited in the Islands Unit and, thus, unlawful for a person to conduct or cause to be conducted.

(a) Commercial fishing in violation of §665.904(a).

(b) Non-commercial fishing, except as authorized under permit and pursuant to the procedures and criteria established in §665.905.

(c) Transferring a permit in violation of §665.905(d).

(d) Commercial fishing outside the Islands Unit and non-commercial fishing within the Islands Unit on the same trip in violation of §665.904(c).

[78 FR 33003, June 3, 2013, as amended at 78 FR 39583, July 2, 2013]

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§665.904 Regulated activities.

(a) Commercial fishing is prohibited in the Islands Unit.

(b) Non-commercial fishing is prohibited in the Islands Unit, except as authorized under permit and pursuant to the procedures and criteria established in §665.905.

(c) Commercial fishing outside the Islands Unit and non-commercial fishing within the Islands Unit during the same trip is prohibited.

[78 FR 33003, June 3, 2013, as amended at 78 FR 39583, July 2, 2013]

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§665.905 Fishing permit procedures and criteria.

(a) *Marianas Trench Monument Islands Unit non-commercial permit*—(1) *Applicability.* Both the owner and operator of a vessel used to non-commercially fish for, take, retain, or possess MUS in the Islands Unit must have a permit issued under this section, and the permit must be registered for use with that vessel.

(2) *Eligibility criteria.* A permit issued under this section may be issued only to a community resident of Guam or the CNMI.

(3) *Terms and conditions.* (i) Customary exchange of fish harvested within the Islands Unit under a non-commercial permit is allowed, except that customary exchange by fishermen engaged in recreational fishing is prohibited.

(ii) Monetary reimbursement under customary exchange shall not exceed actual fishing trip expenses, including but not limited to ice, bait, fuel, or food.

(b) *Marianas Trench Monument Islands Unit recreational charter permit*—(1) *Applicability.* Both the owner and operator of a vessel chartered to recreationally fish for, take, retain, or possess MUS in the Islands Unit must have a permit issued under this section, and the permit must be registered for use with that vessel. Charter boat customers are not required to obtain a permit.

(2) *Eligibility criteria.* To be eligible for a permit issued under this section, a charter business must be established legally under the laws of Guam or the CNMI.

(3) *Terms and conditions.* (i) The sale or exchange through barter or trade of fish caught in the Monument by a charter boat is prohibited.

(ii) No MUS harvested under a recreational charter fishing permit may be used for the purposes of customary exchange.

(c) *Application.* An application for a permit required under this section must be submitted to PIRO as described in §665.13.

(d) *Transfer.* A permit issued under this section is not transferrable.

(e) *Reporting and recordkeeping.* The operator of a vessel subject to the requirements of this section must comply with the terms and conditions described in §665.14.

[78 FR 33003, June 3, 2013, as amended at 78 FR 39583, July 2, 2013]

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§665.906 International law.

The regulations in this subpart shall be applied in accordance with international law. No restrictions shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States (including foreign flag vessels) unless in accordance with international law.

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Subpart H—Pacific Remote Islands Marine National Monument

SOURCE: 78 FR 33003, June 3, 2013, unless otherwise noted.

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§665.930 Scope and purpose.

The regulations in this subpart codify certain provisions of the Proclamations, and govern the administration of fishing in the Monument.

[80 FR 15695, Mar. 25, 2015]

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§665.931 Boundaries.

The Monument, including the waters and submerged and emergent lands of Wake, Baker, Howland, and Jarvis Islands, Johnston Atoll, Kingman Reef, and Palmyra Atoll, is defined as follows:

(a) *Wake Island.* The Wake Island unit of the Monument includes the waters and submerged and emergent lands around Wake Island to the seaward limit of the U.S. EEZ.

(b) *Howland and Baker Islands.* The Howland and Baker Islands units of the Monument include the waters and submerged and emergent lands around Howland and Baker Islands within an area defined by straight lines connecting the following coordinates in the order listed:

ID	W. long.	Lat.
1	177°27′7″	1°39′15″ N.
2	175°38′32″	1°39′15″ N.
3	175°38′32″	0°38′33″ S.
4	177°27′7″	0°38′33″ S.
1	177°27′7″	1°39′15″ N.

(c) *Jarvis Island.* The Jarvis Island unit of the Monument includes the waters and submerged and emergent lands around Jarvis Island to the seaward limit of the U.S. EEZ.

(d) *Johnston Atoll.* The Johnston Atoll unit of the Monument includes the waters and submerged and emergent lands around Johnston Atoll to the seaward limit of the U.S. EEZ.

(e) *Kingman Reef and Palmyra Atoll.* The Kingman Reef and Palmyra Atoll units of the Monument include the waters and submerged and emergent lands around Kingman Reef and Palmyra Atoll within an area defined by straight lines connecting the following coordinates in the order listed:

ID	W. long.	N. lat.
1	163°11′16″	7°14′38″

2	161°12′3″	7°14′38″
3	161°12′3″	5°20′23″
4	161°25′22″	5°1′34″
5	163°11′16″	5°1′34″
1	163°11′16″	7°14′38″

[78 FR 33003, June 3, 2013, as amended at 80 FR 15695, Mar. 25, 2015]

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§665.932 Definitions.

The following definitions are used in this subpart:

Management unit species or MUS means the Pacific Remote Island Areas management unit species as defined in §§665.601, 665.621, 665.641, and 665.661, and the pelagic management unit species as defined in §665.800.

Monument means the waters and submerged and emergent lands of the Pacific Remote Islands Marine National Monument and the Pacific Remote Islands Marine National Monument Expansion, as defined in §665.931.

Proclamations means Presidential Proclamation 8336 of January 6, 2009, “Establishment of the Pacific Remote Islands Marine National Monument,” and Presidential Proclamation 9173 of September 29, 2014, “Pacific Remote Islands Marine National Monument Expansion.”

[78 FR 33003, June 3, 2013, as amended at 80 FR 15695, Mar. 25, 2015]

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§665.933 Prohibitions.

In addition to the general prohibitions specified in §600.725 of this chapter, and §665.15 and subparts E and F of this part, the following activities are prohibited in the Monument and, thus, unlawful for a person to conduct or cause to be conducted.

(a) Commercial fishing in the Monument.

(b) Non-commercial fishing in the Monument, except as authorized under permit and pursuant to the procedures and criteria established in §665.935.

(c) Transferring a permit in violation of §665.935(d).

(d) Commercial fishing outside the Monument and non-commercial fishing within the Monument on the same trip in violation of §665.934(c).

(e) Non-commercial fishing within 12 nm of emergent land within the Monument, unless authorized by the U.S. Fish & Wildlife Service, in consultation with NMFS and the Council, in violation of §665.934(d). For the purposes of this subsection, consultation means that the U.S. Fish & Wildlife Service will consult with NMFS, which in turn will consult with the Council.

[78 FR 33003, June 3, 2013, as amended at 78 FR 39583, July 2, 2013]

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§665.934 Regulated activities.

(a) Commercial fishing is prohibited in the Monument.

(b) Non-commercial fishing is prohibited in the Monument, except under permit and pursuant to the procedures and criteria established in §665.935 or pursuant to §665.934(d).

(c) Commercial fishing outside the Monument and non-commercial fishing within the Monument during the same trip is prohibited.

(d) Non-commercial fishing is prohibited within 12 nm of emergent land within the Monument, unless authorized by the U.S. Fish & Wildlife Service, in consultation with NMFS and the Council. For the purposes of this subsection, consultation means that the U.S. Fish & Wildlife Service will consult with NMFS, which in turn will consult with the Council.

[78 FR 33003, June 3, 2013, as amended at 78 FR 39583, July 2, 2013]

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§665.935 Fishing permit procedures and criteria.

(a) *Non-commercial fishing*—(1) *Applicability.* Except as provided in section 665.934(d), a vessel that is used to non-commercially fish for, take, retain, or possess MUS in the Monument must be registered for use with a permit issued pursuant to §§665.603, 665.624, 665.642, 665.662, 665.801(f), or 665.801(g).

(2) *Terms and conditions.* Customary exchange of fish harvested in the Monument is prohibited.

(b) *Pacific Remote Islands Monument recreational charter permit*—(1) *Applicability.* Except as provided in §665.934(d), both the owner and operator of a vessel that is chartered to recreationally fish for, take, retain, or possess MUS in the Monument must have a permit issued under this section, and the permit must be registered for use with that vessel. Charter boat customers are not required to obtain a permit.

(2) *Terms and conditions.* (i) The sale or exchange through barter or trade of fish caught by a charter boat fishing in the Monument is prohibited.

(ii) Customary exchange of fish harvested under a Monument recreational charter permit is prohibited.

(c) *Application.* An application for a permit required under this section must be submitted to PIRO as described in §665.13.

(d) *Transfer.* A permit issued under this section is not transferrable.

(e) *Reporting and recordkeeping.* The operator of a vessel subject to the requirements of this section must comply with the terms and conditions described in §665.14.

[78 FR 33003, June 3, 2013, as amended at 78 FR 39583, July 2, 2013]

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§665.936 International law.

The regulations in this subpart shall be applied in accordance with international law. No restrictions shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States (including foreign flag vessels) unless in accordance with international law.

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Subpart I—Rose Atoll Marine National Monument

SOURCE: 78 FR 33003, June 3, 2013, unless otherwise noted.

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§665.960 Scope and purpose.

The regulations in this subpart codify certain provisions of the Proclamation, and govern the administration of fishing within the Monument. Nothing in this subpart shall be deemed to diminish or enlarge the jurisdiction of the Territory of American Samoa.

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§665.961 Boundaries.

The Monument consists of emergent and submerged lands and waters extending seaward approximately 50 nm from Rose Atoll. The boundary is defined by straight lines connecting the following coordinates in the order listed:

ID	W. long.	S. lat.
1	169°0′42″	13°41′54″
2	167°17′0″	13°41′54″
3	167°17′0″	15°23′10″
4	169°0′42″	15°23′10″
1	169°0′42″	13°41′54″

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§665.962 Definitions.

The following definitions are used in this subpart:

Management Unit Species or MUS means the American Samoa management unit species as defined in §§665.401, 665.421, 665.441, and 665.461, and the pelagic management unit species as defined in §665.800.

Monument means the waters and emergent and submerged lands of the Rose Atoll Marine National Monument, as defined in §665.961.

Proclamation means Presidential Proclamation 8337 of January 6, 2009, "Establishment of the Rose Atoll Marine National Monument."

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§665.963 Prohibitions.

In addition to the general prohibitions specified in §600.725 of this chapter, and §665.15 and subpart B of this part, the following activities are prohibited in the Monument and, thus, unlawful for a person to conduct or cause to be conducted.

(a) Commercial fishing in the Monument.

(b) Non-commercial fishing in the Monument, except as authorized under permit and pursuant to the procedures and criteria established in §665.965.

(c) Transferring a permit in violation of §665.965(d).

(d) Commercial fishing outside the Monument and non-commercial fishing within the Monument on the same trip in violation of §665.964(c).

(e) Fishing within 12 nm of emergent land within the Monument in violation of §665.964(d).

[78 FR 33003, June 3, 2013, as amended at 78 FR 39583, July 2, 2013]

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§665.964 Regulated activities.

(a) Commercial fishing is prohibited in the Monument.

(b) Non-commercial fishing is prohibited in the Monument, except as authorized under permit and pursuant to the procedures and criteria established in §665.965.

(c) Commercial fishing outside the Monument and non-commercial fishing within the Monument during the same trip is prohibited.

(d) All fishing is prohibited within 12 nm of emergent land within the Monument.

[78 FR 33003, June 3, 2013, as amended at 78 FR 39583, July 2, 2013]

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§665.965 Fishing permit procedures and criteria.

(a) *Rose Atoll Monument non-commercial fishing permit*—(1) *Applicability.* Both the owner and operator of a vessel used to non-commercially fish for, take, retain, or possess MUS in the Monument must have a permit issued under this section, and the permit must be registered for use with that vessel.

(2) *Eligibility criteria.* A permit issued under this section may be issued only to a community resident of American Samoa.

(3) *Terms and conditions.* (i) Customary exchange of fish harvested under a non-commercial permit within the Monument is allowed, except that customary exchange by fishermen engaged in recreational fishing is prohibited.

(ii) Monetary reimbursement under customary exchange shall not exceed actual fishing trip expenses, including but not limited to ice, bait, fuel, or food.

(b) *Rose Atoll Monument recreational charter permit* — (1) *Applicability.* Both the owner and operator of a vessel that is chartered to fish recreationally for, take, retain, or possess MUS in the Monument must have a permit issued under this section, and the permit must be registered for use with that vessel. Charter boat customers are not required to obtain a permit.

(2) *Permit eligibility criteria.* To be eligible for a permit issued under this section, a charter business must be established legally under the laws of American Samoa.

(3) *Terms and conditions.* (i) The sale or exchange through barter or trade of fish caught by a charter boat fishing in the Monument is prohibited.

(ii) No MUS harvested under a recreational charter fishing permit may be used for the purposes of customary exchange.

(c) *Application.* An application for a permit required under this section must be submitted to PIRO as described in §665.13.

(d) *Transfer.* A permit issued under this section is not transferrable.

(e) *Reporting and recordkeeping.* The operator of a vessel subject to the requirements of this section must comply with the terms and conditions described in §665.14.

[78 FR 33003, June 3, 2013, as amended at 78 FR 39583, July 2, 2013]

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§665.966 International law.

The regulations in this subpart shall be applied in accordance with international law. No restrictions shall apply to or be enforced against a person who is not a citizen, national, or resident alien of the United States (including foreign flag vessels) unless in accordance with international law.

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Figure 1 to Part 665—Carapace Length of Lobsters

FIGURE 1 TO PART 665. CARAPACE LENGTH OF LOBSTERS

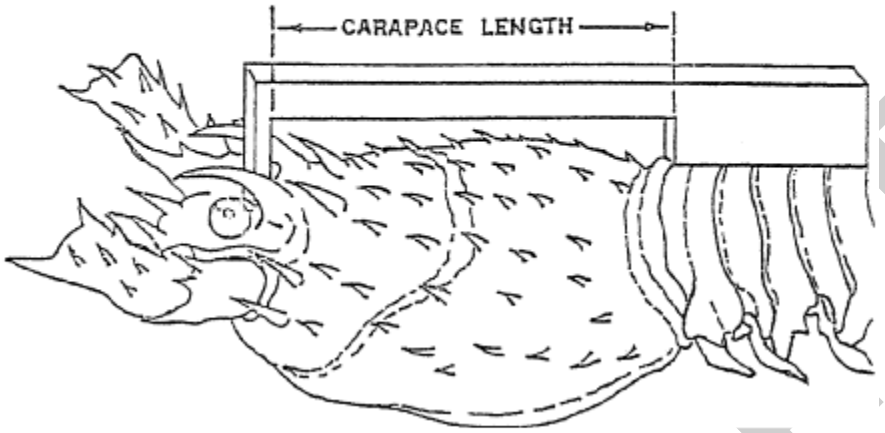

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Figure 2 to Part 665—Length of Fishing Vessels

FIGURE 2 TO PART 665. LENGTH OF FISHING VESSELS

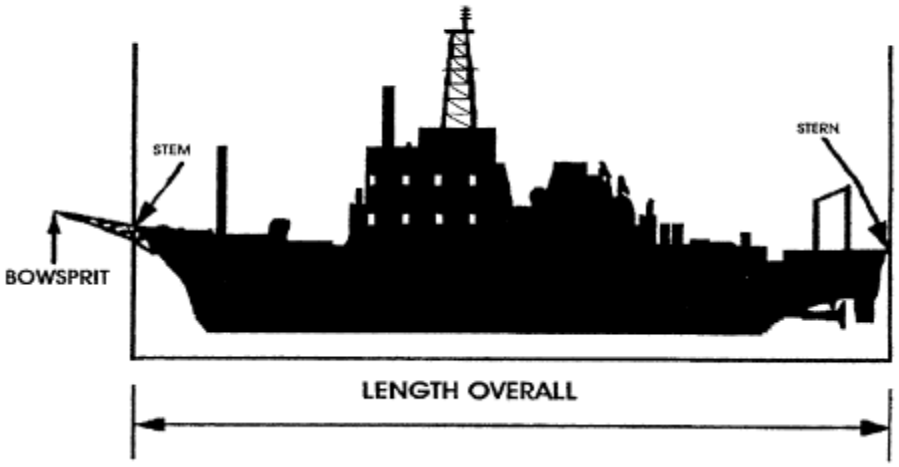

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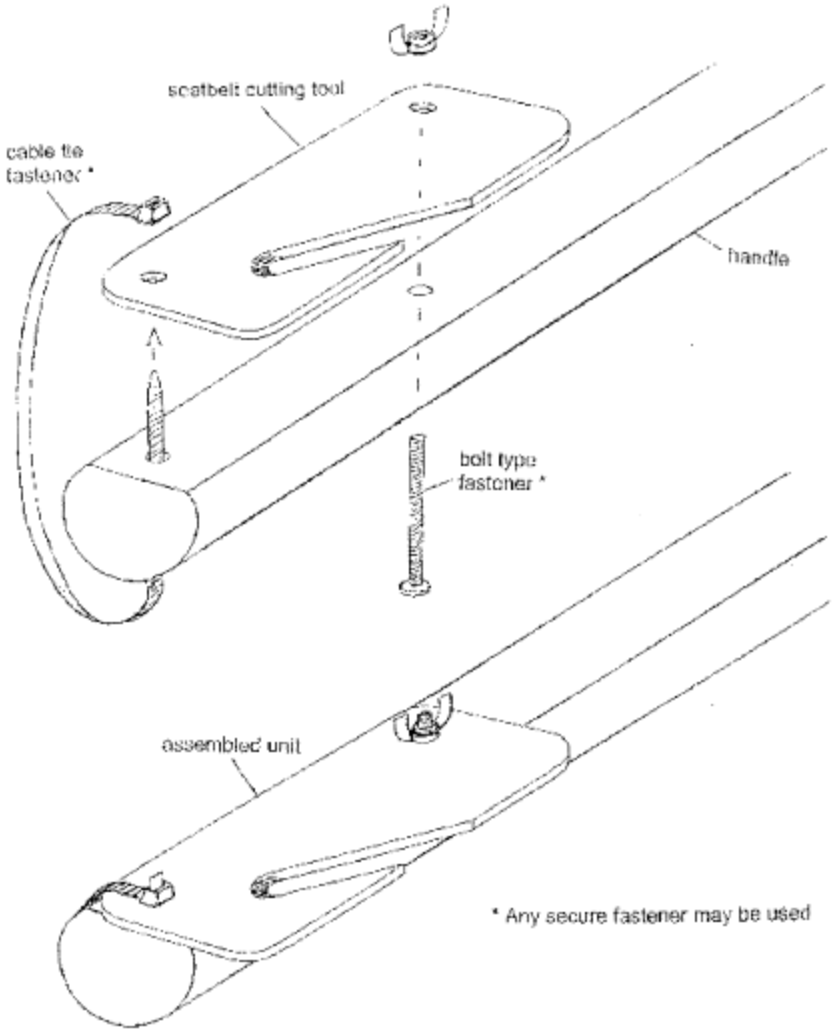
Figure 3 to Part 665—Sample Fabricated Arceneaux Line Clipper

FIGURE 3 TO PART 665. SAMPLE FABRICATED ARCENEAUX LINE CLIPPER



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Appendix D: Summary of Fishery Management Plan and Fishery Ecosystem Plan Amendments

1. Fishery Management Plan Amendments

FMP for Precious Corals of the Western Pacific Region

The fishery management plan (FMP) for Precious Coral Fisheries of the Western Pacific Region was implemented in September 1983 (48 FR 39229, September 29, 1983) and established the plan's management unit species, management areas and classified several known precious coral beds. Since 1983, the FMP has been amended seven times with each amendment summarized in **Table** 1.

Table 1. Amendments to the Precious Coral FMP

No.	Effective Date/Federal Register Notice	Action
7	8/13/08 73 FR 47098	Designated the Auau Channel bed as an established bed with a harvest quota for black coral of 5,000 kg every two years for Federal and state waters combined. Implemented a five year gold harvest moratorium for the entire region.
6	9/12/06 71 FR 53605	Included Federal waters around CNMI and the Pacific Remote Island Areas within the FMP's management area. Extended existing requirements for Federal permits and logbooks to include all harvests of precious corals in EEZ waters in these areas.
5	2/24/04 69 FR 8336	Prepared in parallel with the Coral Reef FMP. Prohibits the harvest of Precious Coral Management Unit Species in the no-take marine protected areas established under the Coral Reef FMP, including areas around Rose Atoll in American Samoa, Kingman Reef, Jarvis Island, Howland Island, and Baker Island.
4	4/19/99 64 FR 19067 8/5/03 56 FR 14866	Addressed new requirements under the 1996 Sustainable Fisheries Act (SFA). Portions of the amendment that were immediately approved included designations of essential fish habitat, definitions of overfishing and descriptions of bycatch and of some fishing communities. Those provisions became effective on February 3, 1999. Remaining provisions regarding Hawaii fishing communities became effective August 5, 2003.
3	10/19/98 63 FR 55809	Established a framework procedure for adjusting management measures in the fishery.
2	1/28/91 56 FR 3072	Defined overfishing for Established beds as: an Established bed shall be deemed overfished with respect to recruitment when the total spawning biomass (all species combined) has been reduced to 20% of its unfished condition. This definition applies to all species of precious corals and is based on cohort analysis of the pink coral, *Corallium secundum*.
1	7/21/88	Applied the management measures of the FMP to the Pacific

No.	Effective Date/Federal Register Notice	Action
	50 FR 27519	Remote Island Areas by incorporating them into a single Exploratory Permit Area, expanded the management unit species to include all species of the genus *Corallium*, and outlined provisions for the issuance of experimental fishing permits designed to stimulate the domestic fishery

In addition to FMP amendments, the management program for precious coral fisheries has been modified through several regulatory amendments and framework actions as described below.

Regulatory Amendment 1: Removed an exemption allowing fishermen who reported black coral harvest to the State of Hawaii within five years prior to April 17, 2002 to harvest black coral at a minimum base diameter of 3/4 inch. All harvest of black corals must be done at a minimum of 1 inch base diameter or 48 inch minimum height (72 FR 59259, September 14, 2007).

Framework Action 1: Revised the definitions of "live coral" and "dead coral," suspended the harvest of gold coral at Makapu'u Bed, applied minimum size restrictions only to live precious corals, prohibited the harvest of black coral with a stem diameter of less than one inch or a height of less than 48 inches (with certain exceptions), prohibited the use of non-selective fishing gear to harvest precious corals, and applied the minimum size restrictions for pink coral to all permit areas (67 FR 11941, February 16, 2002).

FMP for Crustacean Fisheries of the Western Pacific Region

The FMP for Crustacean Fisheries of the Western Pacific Region was approved in 1983. Initial provisions of the FMP, which was initially named "Spiny Lobster Fisheries of the Western Pacific Region," went into effect March 9, 1983 (48 FR 5560, 7 February 1983). The FMP implemented the following management measures for the Northwestern Hawaiian Islands (NWHI) management area: federal permit requirements, a minimum size limit for spiny lobsters, gear restrictions, a ban on the harvest of egg-bearing female spiny lobsters, the closure of waters within 20 nm of Laysan Island, all NWHI waters shallower than 10 fm, and all NWHI lagoons, to fishing for spiny lobsters, a mandatory logbook program, and a requirement to carry a fishery observer if directed by the National Marine Fisheries Service. The FMP also implemented permit, data reporting, and observer requirements within EEZ waters around the Main Hawaiian Islands (MHI), American Samoa, and Guam. Since 1983, the Crustacean FMP has been amended 13 times with each amendment summarized in **Table** 2.

Table 2. Amendments to the Crustaceans FMP

No.	Effective Date/Federal Register Notice	Action
13	11/21/08 73 FR 70603	Included the deepwater shrimp genus *Heterocarpus* as Management Unit Species (MUS) within the Crustaceans FMP. Required Federal permits and reporting for deepwater shrimp fishing in all Federal waters of the Western Pacific Region.

No.	Effective Date/Federal Register Notice	Action
12	10/26/06 71 FR 53605	Included federal waters around CNMI and the Pacific Remote Island Areas in the Crustaceans FMP and implemented federal permit and reporting requirements (71 FR 231) for vessels targeting crustacean MUS in these areas.
11	2/24/04 69 FR 8336	Prepared in parallel with the Coral Reef Ecosystems FMP. This amendment prohibits the harvest of Crustacean MUS in the no-take marine protected areas established under the Coral Reef Ecosystems FMP, including Rose Atoll in American Samoa, Kingman Reef, Jarvis Island, Howland Island, and Baker Island. The final rule implementing the Coral Reef Ecosystem FMP (including Amendment 11 to the Crustaceans FMP) became effective 3/25/04.
10	4/19/99 64 FR 19067 8/5/03 68 FR 46112	Addressed new requirements under the 1996 Sustainable Fisheries Act. Portions of the amendment that were immediately approved included designations of essential fish habitat, and descriptions of bycatch and of some fishing communities. Those provisions became effective on February 3, 1999. Remaining portions approved on August 5, 2003, included provisions regarding Hawaii fishing communities, overfishing definitions, and bycatch.
9	7/5/96 61 FR 35145	Established a system by which the annual harvest guideline would be set based on a constant percent of the population (i.e., proportional to the estimated exploitable population size) based on a specified acceptable risk of overfishing. Amendment 9 set this risk level at 10% and specified that annual harvest guidelines be published by NMFS no later than February 28 of each year. Earlier in-season adjustment procedures were eliminated. Earlier minimum size limits and prohibitions on harvesting of egg bearing females were eliminated and a mechanism was provided for certain regulatory adjustments to be made through framework procedures of the FMP.
8	11/10/94 59 FR 56004	Eliminated the NWHI minimum landings requirements for permit renewal, allowed the catch per unit effort target that is used to set the harvest guideline to be changed through the framework process, and modified reporting requirements
7	3/26/92 57 FR 10437	Established a NWHI limited access program, an adjustable fleet-wide NWHI annual harvest guideline, and a closed season (January through June) in the NWHI fishery. Participation was limited to 15 permits (and vessels). Other measures include a maximum limit on the number of traps per vessel (1,100), revisions to reporting requirements, and other provisions
6	1/28/91 56 FR 3071	Defined recruitment overfishing for lobster stocks in terms of reference points expressed in terms of the spawning potential ratio (SPR). The minimum SPR threshold, below which the stock would be considered recruitment overfished, is 20%.

No.	Effective Date/Federal Register Notice	Action
5	1987	Implemented a minimum size for slipper lobster (5.6 cm tail width), required the release of egg-bearing female slipper lobsters, required escape vents in all lobster traps, and revised some of the permit application and reporting requirements. It also changed the name of the FMP from "Spiny Lobster Fisheries" to "Crustaceans Fisheries."
4	1986	Applied existing NWHI closed areas to slipper lobsters.
3	1985	Revised the minimum spiny lobster size specifications for the NWHI management area to a limit on tail width (5.0 cm).
2	1983	Modified the allowable trap opening dimensions with the intent of minimizing the risk of harm to the Hawaiian monk seal while allowing sufficient flexibility in trap design.
1	1983	Adopted the State of Hawaii's lobster fishing regulations for the federal waters around the MHI.

In addition to FMP amendments, the management program for crustacean fisheries has been modified through several regulatory amendments described below.

Regulatory Amendment 1: Implemented VMS for the crustacean fishery in the NWHI (64 FR 36820, June 8, 1999).

Regulatory Amendment 2: Allocated 1998 NWHI lobster harvest among three individual banks and a fourth combined area (63 FR 40337, June 29, 1998).

Regulatory Amendment 3: Divided the NWHI into four fishing grounds across which harvest is allocated and allowed fishing vessels with NMFS-certified VMS to transit through fishing grounds during a closure (64 FR 36820, June 7, 1999).

FMP for Bottomfish and Seamount Groundfish of the Western Pacific Region

The FMP for Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region became effective on August 27, 1986 (51 FR 27413). Initial bottomfish fishery management measures prohibited certain destructive fishing techniques, including explosives, poisons, trawl nets, and bottom-set gillnets; established a moratorium on the commercial harvest of seamount groundfish stocks at the Hancock Seamounts, and implemented a permit system for fishing for bottomfish in the waters of the Exclusive Economic Zone (EEZ) around the Northwestern Hawaiian Islands (NWHI). The plan also established a management framework that provided for regulatory adjustments to be made, such as catch limits, size limits, area or seasonal closures, fishing effort limitations, fishing gear restrictions, access limitations, permit and/or catch reporting requirements, as well as a rules-related notice system. Since 1986, the Bottomfish and Seamount Groudfish FMP has been amended multiple times with each amendment summarized in **Tabl**e 3.

Table 3. Amendments to the Bottomfish and Seamount Groundfish FMP.

No.	Effective Date/Federal Register Notice	Action
14	4/04/08 73 FR 18450	Addressed bottomfish overfishing in the Hawaiian Archipelago by implementing a total allowable catch limit (TAC), federal non-commercial permits and reporting requirements, non-commercial bag limits and a closed season for fishing for Deep 7 species in the Main Hawaiian Islands. It also defined the Main Hawaiian Islands bottomfish fishing year as September 1-August 31, and became effective April 1, 2008 (73 FR 18450) with the permit and reporting requirements effective as of August 18, 2008 (73 FR 41296).
11-13		Amendments 11-13 were intended to address various issues which have now become moot due to changing circumstances.
10	12/12/08 73 FR 75615	Prohibited commercial fishing for bottomfish from vessels greater than 40' long in waters 0-10 miles around the Southern Islands of CNMI and 0-10 miles around the Northern Island of Alamagan. Commercial bottomfishing vessels over 40' long must carry active VMS units owned, installed, and maintained by NMFS. Also, the operators of all vessels commercially fishing for bottomfish in EEZ waters around CNMI must obtain federal permits and complete federal logbooks.
9	11/02/06 71 FR 67774	Prohibited vessels greater than 50' long from targeting Bottomfish species within 50 miles of Guam and required these vessels to obtain federal permits and to submit federal logbooks effective December 4, 2006 (71 FR 69496).
8	9/12/06 71 FR 53605	Included federal waters around CNMI and the Pacific Remote Island Areas in the Bottomfish FMP. Implemented federal permitting and reporting requirements for bottomfish fishing in the PRIA effective 1/2/07 (71 FR 69496).
7	2/24/04 69 FR 8336	Developed in parallel with the Coral Reef Ecosystems FMP. Prohibited harvest of Bottomfish and Seamount Groundfish Management Unit Species (MUS) in the no-take marine protected areas established under the Coral Reef Ecosystems FMP. The Coral Reef Ecosystems established such areas around Rose Atoll in American Samoa, Kingman Reef, Jarvis Island, Howland Island, and Baker Island. The final rule implementing the Coral Reef Ecosystem FMP (including Amendment 7 to the Bottomfish FMP) became effective 3/25/04.
6	4/19/99 64 FR19067 8/5/03 68 FR 46112	Addressed new requirements under the 1996 Sustainable Fisheries Act. Portions of the amendment that were immediately approved included designations of essential fish habitat, and descriptions of bycatch and of some fishing communities. Those provisions became effective on 2/3/99. Remaining portions approved on 8/5/03, included provisions regarding Hawaii fishing communities, overfishing definitions, and bycatch.
5	4/28/99	Established a limited entry program for the Mau Zone in the NWHI

No.	Effective Date/Federal Register Notice	Action
	64 FR 22810	with non-transferable permits and landing requirements for permit renewal. Included in requirements was attendance by the primary vessel operator at a protected species workshop. Also reserved 20% of Mau Zone permits a Western Pacific Community Development Program (CDP), as well as instituting a maximum vessel length of 60' for replacement vessels in the Hoomalu or Mau Zones
4	5/30/91 56 FR 24351	Implemented a requirement for vessel owners or operators to notify NMFS at least 72 hours before leaving port if they intend to fish in a "protected species study zone" that extends 50 nautical miles (nm) around the NWHI to allow federal observers to be placed on board bottomfish vessels to record interactions with protected species if this action is deemed necessary
3	1/16/91 56 FR 2503	Defined recruitment overfishing as a condition in which the ratio of the spawning stock biomass per recruit at the current level of fishing to the spawning stock biomass per recruit that would occur in the absence of fishing is equal to or less than 20%. Amendment 3 also delineated a process by which overfishing would be monitored and evaluated.
2	9/6/88 53 FR 29907	Divided the EEZ around the NWHI into the Hoomalu and Mau zones. A vessel limited access system was established for the Ho'omalu Zone, with non-transferable permits and landing requirements for permit renewal and for new entry into the fishery. Access to the Mau Zone was left unrestricted, except for vessels permitted to fish in the Hoomalu Zone.
1	11/11/87 52 FR 38102	Established a system to allow implementation of limited access systems for bottomfish fisheries in EEZ waters around American Samoa and Guam within the framework measures of the FMP.

FMP for Pelagic Fisheries of the Western Pacific Region

The FMP for Pelagic Fisheries of the Western Pacific Region became effective on March 23, 1987 (52 FR 5987). The Pelagic Management Unit Species (PMUS) at that time were billfish, wahoo, mahimahi, and oceanic sharks. The FMP's first measures prohibited drift gillnet fishing within the region's waters of the U.S. EEZ and prohibited foreign longline fishing within certain areas of the EEZ. Since 1987, the Pelagic FMP has been amended multiple times with each amendment summarized in **Table** 4.

Table 4. Amendments to the Pelagic FMP.

No.	Effective Date/Federal Register Notice	Action

No.	Effective Date/Federal Register Notice	Action
18	12/10/09 74 FR 65460	Removed 2,120 set limit for Hawaii-based shallow-set longline fishery. Implemented a new loggerhead sea turtle hard cap of 46 annual interactions.
16-17		Was intended to address issues which have now become moot due to changing circumstances.
15	11/21/08 73 FR 70600	Added the following pelagic squid species to the FMP: *Ommastrephes bartramii*, *Thysanoteuthis rhombus*, and *Sthenoteuthis oualaniensis*. Also, required owners of U.S. vessels greater than 50 ft in length overall that fish for pelagic squid in U.S. EEZ of the western Pacific to obtain Federal permits under the Pelagics Fishery Management Plan, to carry Federal observers if requested by NMFS, and to report any Pacific pelagic squid catch and effort either in Federal logbooks or via existing local reporting systems.
14	6/18/07 72 FR 33442	Partially approved by NMFS. This amendment contained recommendations regarding international and domestic management, including a mechanism by which the Council could participate in international negotiations regarding these stocks. Amendment 14 contained measures to implement control dates for Hawaii's non-longline commercial pelagic vessels (70 FR 47781) and purse seine and longline vessels (70 FR 47782), as well as requirements for federal permits and reporting for Hawaii-based non-longline commercial pelagic vessels. NMFS disapproved the Amendment's international measures as premature. NMFS disapproved the domestic permit and reporting requirements as duplicative of existing State requirements. NMFS noted that Amendment 14 met the requirements of the Magnuson-Act regarding overfishing.
12-13		Was intended to address issues which have now become moot due to changing circumstances.
11	5/24/05 70 FR 29646	Effective August 1, 2005, Amendment 11 established a limited access system for pelagic longlining in EEZ waters around American Samoa. Longline vessel operators were required to obtain federal permits, to complete federal logbooks, to carry and use vessel monitoring systems installed, owned and operated by NFMS on vessels greater than 40 ft in length, to carry federal observers if requested by NMFS, and to follow sea turtle handling and resuscitation requirements.
10	2/24/04 69 FR 8336	Amendment 10 prohibits the harvest of Pelagic Management Unit Species in the no-take marine protected areas established under the Coral Reef Ecosystems FMP. The Coral Reef FMP establishes such areas around Rose Atoll in American Samoa, Kingman Reef, Jarvis Island, Howland Island, and Baker Island. The final rule implementing the Coral Reef Ecosystem FMP includes Amendment

No.	Effective Date/Federal Register Notice	Action
		10 to the Pelagics FMP.
9		Was intended to address issues which have now become moot due to changing circumstances.
8	4/19/99 64 FR 19067 8/5/03 68 FR 46112	Addressed new requirements under the 1996 Sustainable Fisheries Act. Portions of the amendment that were immediately approved (4/19/99) included designations of essential fish habitat and descriptions of some fishing communities. Remaining portions were provisions regarding Hawaii fishing communities, overfishing definitions, and bycatch (approved 8/5/03).
7	5/24/94 59 FR 26979	Replaced Amendment 4 moratorium with a limited entry program for Hawaii-based domestic longline fishery with transferable permits, a limit of 164 vessels, and a maximum vessel size of 101' in length overall. It also established a framework procedure for use with implementation of certain new regulations.
6	11/2/92 57 FR 36637	Specified that all tuna species are designated as fish under U.S. management authority and included tunas and related species as Pelagic Management Unit Species under the FMP. It also applied the longline exclusion zones of 50 nm around the island of Guam and the 25-75 nm zone around the MHI to foreign vessels.
5	3/2/92 57 FR 7661	Created a domestic longline vessel exclusion zone around the Main Hawaiian Islands (MHI) ranging from 50 to 75 nm, and a similar 50 nm exclusion zone around Guam and its offshore banks. A seasonal reduction in the size of the closure was implemented in October 1992; between October and January longline fishing is prohibited within 25 nm of the windward shores of all Main Hawaiian Islands except Oahu, where it is prohibited within 50 nm from the shore.
4	10/14/91 56 FR 52214	Created a 50 nm longline exclusion zone around the NWHI to protect endangered Hawaiian monk seals. It also implemented framework provisions for establishing a mandatory observer program to collect information on interactions between longline fishing and sea turtles.
3	10/14/91 56 FR 52214	Created a 50 nm longline exclusion zone around the NWHI to protect endangered Hawaiian monk seals. It also implemented framework provisions for establishing a mandatory observer program to collect information on interactions between longline fishing and sea turtles.
2	5/26/91 56 FR 24731	Implemented requirements for domestic pelagic longline fishing and transhipment vessel operators to have Federal permits, maintain Federal fishing logbooks, and, if fishing within 50 nm of the Northwestern Hawaiian Islands, to have observers on board if directed by NMFS. It required longline gear to be marked with the official number of the permitted vessel, and incorporated waters of the EEZ around CNMI into the area managed under the FMP.

No.	Effective Date/Federal Register Notice	Action
1	3/1/91 56 FR 9686	Defined recruitment overfishing for each PMUS. Defined the optimum yield for PMUS.

In addition to FMP amendments, the management program for pelagic fisheries has been modified through several regulatory amendments and framework actions described below.

Regulatory Amendment 1: Incorporated reasonable and prudent alternative of the March 2001 Biological Opinion issued by NMFS. This amendment prohibited shallow set pelagic longlining north of the equator and closed waters between 0° and 15° N from April-May annually to longline fishing. It instituted sea turtle handling requirements for all vessels using hooks to target pelagic species in the region's EEZ waters and extended the protected species workshop requirement to include the operators of vessels registered to longline general permits (67 FR 40232, May 8, 2002**)**.

Regulatory Amendment 2: Established Federal permit and reporting requirements for any vessel using troll or handline gear to catch PMUS in EEZ waters around the Pacific Remote Island Areas of Kingman Reef, Howland, Baker, Jarvis, Johnston and Wake Islands, and Palmyra and Midway Atolls (67 FR 59813, September 3, 2002)

Regulatory Amendment 3: Implemented measures for the longline fisheries to achieve optimum yield while not jeopardizing the long term existence of sea turtles and other listed species. The amendment established a limited Hawaii-based shallow-set swordfish fishery using circle hooks with mackerel bait. Fishing effort in the shallow-set swordfish fishery was limited to 50% of the 1994-1999 annual average number of sets (just over 2,100 sets) allocated between fishermen applying to participate in the fishery. A 'hard' limit on the number of leatherback (16) and loggerhead (17) turtle interactions that could occur in the swordfish fishery was implemented; the fishery closed for the remainder of the calendar year if either limit was reached. The amendment re-implemented earlier sea turtle handling and resuscitation requirements and included conservation projects to protect sea turtles in their nesting and coastal habitats. This rule implemented the requirement for night setting imposed by the USFWS Biological Opinion on Hawaii-based longline vessels targeting swordfish north of 23 degrees north latitude (69 FR 17329, April 2, 2004**)**.

Regulatory Amendment 4: Included measures to minimize turtle interactions by non-Hawaii based domestic longline vessels operating in the Western Pacific under general longline permits. Vessels with longline general permits making shallow sets north of the equator were required to use 18/0 circle hooks with mackerel-type bait and dehookers to release any accidentally caught turtles. The amendment required vessel operators and owners with general longline permits to annually attend protected species training workshops. Operators of vessels with general longline permits were required to carry and use specific mitigation gear to aid release of sea turtles accidentally hooked or entangled by longlines. This amendment required operators of non-longline pelagic vessels (e.g. trollers and handliners) to follow handling guidelines and remove trailing gear wherever they fish (70 FR 69282, November 14, 2005).

Regulatory Amendment 5: Allowed operators of Hawaii-based longline vessels fishing north of 23 degrees north latitude, as well as those targeting swordfish south of 23 degrees north, to utilize side-setting to reduce seabird interactions in lieu of the seabird mitigation measures required by Framework Measure 1 (70 FR 75075, December 17, 2005).

Regulatory Amendment 6: Removed the seven day delay in effectiveness when closing the Hawaii based shallow-set longline fishery as a result of reaching interaction limits for sea turtles, allowing instead for an immediate closure of the fishery (72 FR 8289, February 26, 2007).

Regulatory Amendment 7: Provided pelagic fishery participants the option of using NMFS approved electronic logbooks in lieu of paper logbooks (72 FR 19123, April 16, 2007)

Framework Amendment 1: Prohibited fishing for pelagic species by vessels greater than 50 ft in length overall within EEZ waters 0-50 nm around the islands of American Samoa. Exception: vessels that landed PMUS in American Samoa under a Federal longline general permit prior to November 13, 1997 (67 FR 4369, January 30, 2002)

Framework Amendment 2: Incorporated terms and conditions developed by the Council and contained in the November 28, 2000 USFWS seabird Biological Opinion requiring Hawaii-based pelagic longline vessel operators to use blue-dyed bait, strategic offal discards, and line shooters with weighted branch lines when fishing north of 23° N. Also included requirement that all Hawaii-based longline vessel owners and operators annually attend a protected species workshop conducted by NMFS (67 FR 34408, May 12, 2002)

FMP for Coral Reef Ecosystem Fisheries of the Western Pacific Region

The FMP for Coral Reef Ecosystems of the Western Pacific Region was partially approved on June 14, 2002. NMFS disapproved a portion of the plan that governs fishing in the Northwestern Hawaiian Islands (NWHI) west of 160°50' W. long. because it would be inconsistent with or duplicate certain provisions of Executive Orders 13178 and 13196, which together established the NWHI Coral Reef Ecosystem Reserve. A final rule implementing the Coral Reef Ecosystem FMP was published on February 24, 2004 (69 FR 8336). The FMP is the nation's first ecosystem-based plan for fisheries and includes specific measures to promote sustainable fisheries while providing for substantial protection of coral reef ecosystem resources and habitats throughout the Council's jurisdiction. The management measures of the Coral Reef Ecosystems FMP:

- Established a network of marine protected areas (MPA) in the Pacific Remote Island Areas (PRIA). Howland, Baker, Jarvis Islands, Rose Atoll, and Kingman Reef have been designated as no-take MPAs. Palmyra and Johnston Atolls, and Wake Islands are designated as low-use MPAs where fishing is allowed under special fishing permits. Both no-take and low-use MPAs were proposed for the NWHI in the FMP, but were disapproved by NMFS;
- Requires a special permit and federal reporting system for controlling and monitoring the harvest of certain coral reef ecosystem management unit species (MUS) for which there is little or no information. Special permits are also required to fish in all areas designated as low-use MPAs. The FMP also uses data collected under existing local reporting systems to monitor the harvest of currently fished coral reef ecosystem MUS;
- Prohibits the use of destructive and non-selective fishing gears;

- Prohibits harvesting of coral and live rock, but allow limited take under the special permit system for collection of seed stock by aquaculture operations, and religious/cultural use by indigenous peoples;
- Incorporates an adaptive management approach using a framework process for rapid regulatory modifications in the event of major changes within coral reef ecosystems or coral reef fisheries;
- Considers and take into account in management, the historical and cultural dependence of coral reef resources by indigenous people and;
- Identifies and prioritize coral reef related research needs for each island area, including socio-economic and cultural research for future potential allocation of resources.

Since its implementation in 2004, the Coral Reef FMP has not been amended.

2. Fishery Ecosystem Plan Amendments

Omnibus Amendment: Community Development Program Process, 9/3/10

The Council amended all FEPs to establish eligibility requirements and procedures for reviewing and approving community development plans. The intent is to promote participation of island communities in fisheries that they traditionally depend on, but may not have the capabilities to support continued and substantial participation. A second final rule was published 11/05/10 in which OMB approved the collection-of-information requirements (75 FR 68199).

Omnibus Amendment: Establish a Western Pacific Region Process for Specifying Annual Catch Limits and Accountability Measures, 6/27/11

The Council amended all FEPs to establish the mechanism the Council will use to specify ACLs and AMs for each FEP fishery. Specifically, the proposed action described in this document consists of three components that would: 1) in each FEP, establish a mechanism the Council will use to determine ACLs and AMs , including a process for setting acceptable biological catch limits (ABCs); 2) adopt the ecosystem component (EC) species classification described in the NMFS advisory guidelines for National Standard 1 (NS1) so the Council can develop specific criteria for identifying EC species in subsequent amendments to the FEPs; and 3) identify pelagic management unit species that have statutory exceptions to the ACL and AM requirements.

Amendment to the Pacific Pelagic, American Samoa, Mariana, and Pacific Remote Island Area FEPs: Fishery Management in the Marianas Trench, Pacific Remote Islands, and Rose Atoll Marine National Monuments,

The Council amended the Pacific Pelagics, American Samoa, Pacific Remote Island Areas, and the Mariana Islands FEPs, to establish certain provisions relating to non-commercial fishing practices. Consistent with the monument Proclamations, the amendments:

- Codified the boundaries of the Monuments and their various management units.
- Implemented the prohibition on commercial fishing at Rose Atoll and PRI Monuments, and in the Islands Unit of the Marianas Trench Monument.

- Established management measures for non-commercial and recreational fishing in the Monuments including, but not limited to:
    - Requiring Federal permits and reporting for non-commercial and recreational charter fishing to aid in the monitoring of fishing activities.
    - Limiting fishing permit eligibility to residents and businesses of local fishing communities in the Rose Atoll Monument and Marianas Trench Monument, Islands Unit.
    - Allowing customary exchange in non-commercial fishing in the Marianas Trench Islands Unit and Rose Atoll Monuments to help preserve traditional indigenous and cultural fishing practices.
    - Defining customary exchange as the non-market exchange of marine resources between fishermen and community residents for goods, services, and/or social support for cultural, social or religious reasons, and may include cost recovery through monetary reimbursements and other means for actual trip expenses (ice, bait, food, or fuel) that may be necessary to participate in fisheries in the western Pacific. Customary exchange of fish harvested in the Monuments includes family and friends of residents of the fishing communities.
    - Prohibiting all fishing within 12 nautical miles (nm) of the Pacific Remote Islands, subject to USFWS's authority to allow non-commercial fishing, in consultation with NMFS and the Council.
    - Prohibit all fishing within 12 nm around Rose Atoll.
- Prohibited the conduct of commercial fishing outside of a monument, and noncommercial fishing within a monument, on the same trip.

Amendment 2 to the Pacific Pelagic FEP: Establishment of Longline Prohibited Areas in the Mariana Archipelago, 3/4/2011

The Council amended the Pacific Pelagic FEP to establish a 30 mile longline fishing prohibited areas in the CNMI to promote sustained participation in fishing by Guam and CNMI fishing communities.

Amendment 5 to the Pacific Pelagic FEP: Measures to Reduce Interactions between the American Samoa Longline Fishery and Green Sea Turtles, 8/24/11

The American Samoa longline fishery has been observed to interact with (hook or entangle) with green sea turtles (Chelonia mydas) which are listed as threatened under the Endangered Species Act. To address this issue, the Council amended the Pelagics FEP to provide for the longterm survival, recovery, and sustainability of the sea turtles by reducing the number of sea turtle interactions with the fishery.

Amendment 7 to the Pacific Pelagic FEP: Use and Assignment of Catch and Effort Limits of Pelagic Management Unit Species by the U.S. Pacific Island Territories. 3/28/14

Amendment 7 establishes a management framework and process for specifying fishing catch and effort limits and accountability measures for pelagic fisheries in the U.S. Pacific territories (American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands). The framework authorizes the government of each territory to allocate a portion of its specified catch or effort limit to a U.S. fishing vessel or vessels through a specified fishing agreement, and

establish criteria, which a specified fishing agreement must satisfy. The framework also includes measures to ensure accountability for adhering to fishing catch and effort limits.

Table 5. Amendments to the Fishery Ecosystem Plans (post-2009).

FEP	No.	Effective Date/Federal Register Notice	Action
AS	1	6/27/11 76 FR 37285	Omnibus amendment. Establishes eligibility requirements and procedures for reviewing and approving community development plans. The intent is to promote participation of island communities in fisheries that they traditionally depend on, but may not have the capabilities to support continued and substantial participation. . A second final rule was published 11/05/10 in which OMB approved the collection-of-information requirements (75 FR 68199).
AS	2	09/03/10 75 FR 54044	Omnibus amendment that establishes a mechanism for specifying annual catch limits.
HI	1	09/03/10 75 FR 54044	Omnibus amendment. Establishes eligibility requirements and procedures for reviewing and approving community development plans. The intent is to promote participation of island communities in fisheries that they traditionally depend on, but may not have the capabilities to support continued and substantial participation. A second final rule was published 11/05/10 in which OMB approved the collection-of-information requirements (75 FR 68199).
HI	2	11/10/10 75 FR 69015	Establishes the Hancock Seamounts Ecosystem Management Area as well as continues the moratorium on armorhead and other seamount groundfish until the armorhead stock is rebuilt.
HI	3	6/27/11 76 FR 37285	Omnibus amendment that establishes a mechanism for specifying annual catch limits
MA	1	09/03/10 75 FR 54044	Omnibus amendment. Establishes eligibility requirements and procedures for reviewing and approving community development plans. The intent is to promote participation of island communities in fisheries that they traditionally depend on, but may not have the capabilities to support continued and substantial participation. A second final rule was published 11/05/10 in which OMB approved the collection-of-information requirements (75 FR 68199).
MA	2	6/27/11 76 FR 37285	Omnibus amendment that establishes a mechanism for specifying Annual Catch Limits.
PRIA	1	6/27/11	Omnibus amendment that establishes a mechanism for

FEP	No.	Effective Date/Federal Register Notice	Action
		76 FR 37285	specifying annual catch limits.
PRIA	2	6/03/13 78 FR 32996	Establishes management measures for non-commercial and recreational fishing within the Pacific Remote Islands Marine National Monument; prohibits commercial fishing within monument
PEL	1	09/03/10 75 FR 54044	Eligibility requirements and procedures for reviewing and approving community development plans. The intent is to promote participation of island communities in fisheries that they traditionally depend on, but may not have the capabilities to support continued and substantial participation.
PEL	2	Disapproval: 7/11/11 76 FR 40764	Establishes a purse seine area closure in American Samoa. The purse seine area closure was disapproved.
PEL	3	6/27/11 76 FR 37287	Establishes a purse seine area closure and longline area closure in CNMI. The final rule only approved the longline closure.
PEL	4	6/27/11 76 FR 37285	Omnibus amendment that establishes a mechanism for specifying annual catch limits.
PEL	5	8/24/11 76 FR 52888	American Samoa longline gear configuration modifications to reduce sea turtle interactions.
PEL	6		
PEL	7		Catch and effort limits for the US Participating Territories; Specification of annual bigeye tuna catch limits for the US Participating Territories.

Appendix E: MSY Control Rule & Stock Status Determination Criteria

MSY Control Rule and Stock Status Determination Criteria

A MSY control rule is a control rule that specifies the relationship of F to B or other indicator of productive capacity under an MSY harvest policy. Because fisheries must be managed to achieve optimum yield, not MSY, the MSY control rule is a benchmark control rule rather than an operational one. However, the MSY control rule is useful for specifying the "objective and measurable criteria for identifying when the fishery to which the plan applies is overfished" that are required under the MSA. The National Standard Guidelines (74 FR 3178) refer to these criteria as "status determination criteria" and state that they must include two limit reference points, or thresholds: one for F that identifies when overfishing is occurring and a second for B or its proxy that indicates when the stock is overfished.

The status determination criterion for F is the maximum fishing mortality threshold (MFMT). Minimum stock size threshold (MSST) is the criterion for B. If fishing mortality exceeds the MFMT for a period of one year or more, overfishing is occurring. A stock or stock complex is considered overfished when its biomass has declined below a level that jeopardizes the capacity of the stock to produce MSY on a continuing basis (i.e., the biomass falls below MSST). A Council must take remedial action in the form of a new FMP, an FMP amendment, or proposed regulations within two years following notification by the Secretary of Commerce that overfishing is occurring, a stock or stock complex is overfished or approaching an overfished condition[1] or existing remedial action to end previously identified overfishing or to rebuild an overfished stock has not resulted in adequate progress.

The National Standard Guidelines state that the MFMT may be expressed as a single number or as a function of some measure of the stock's productive capacity. Guidance in Restrepo et al. (1998:17) regarding specification of the MFMT is based on the premise that the MSY control rule constitutes the MFMT. In the example in Figure 1 the MSY control rule sets the MFMT constant at F_{MSY} for values of B greater than the MSST and decreases the MFMT linearly with biomass for values of B less than the MSST. This is the default MSY control rule recommended in Restrepo et al. (1998). Again, if F is greater than the MFMT for a period of one year or more, overfishing is occurring.

The National Standard Guidelines state that to the extent possible, the MSST should equal whichever of the following is greater: One-half the MSY stock size, or the minimum stock size at which rebuilding to the MSY level would be expected to occur within 10 years if the stock or stock complex were exploited at the MFMT. The MSST is indicated in Figure 1 by a vertical line at a biomass level somewhat less than B_{MSY}. A specification of MSST below B_{MSY} would allow for some natural fluctuation of biomass above and below B_{MSY}, which would be expected under, for example, an MSY harvest policy. Again, if B falls below MSST the stock is overfished.

[1] A stock or stock complex is approaching an overfished condition when it is projected that there is more than a 50 percent chance that the biomass of the stock or stock complex will decline below MSST within two years (74 FR 3178).

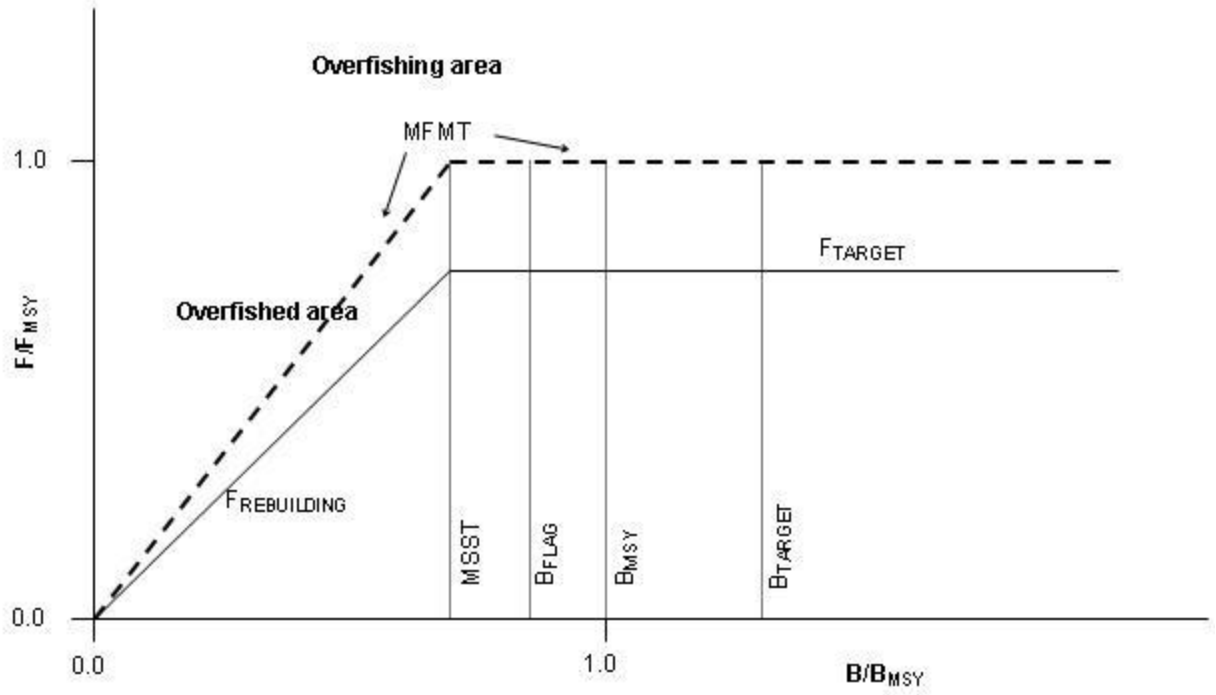

Figure 1. Example of MSY, Target and Rebuilding Control Rules
Source: Restrepo et al. 1998

Warning reference points comprise a category of reference points that will be considered in this FEP together with the required thresholds. Although not required under the MSA, warning reference points could be specified in order to provide warning in advance of B or F approaching or reaching their respective thresholds. Considered in this FEP is a stock biomass flag (B_{FLAG}) that would be specified at some point above MSST, as indicated in Figure 1. The control rule would not call for any change in F as a result of breaching B_{FLAG} – it would merely serve as a trigger for consideration of action or perhaps preparatory steps towards such action. Intermediate reference points set above the thresholds could also be specified in order to trigger changes in F – in other words, the MFMT could have additional inflection points.

Target Control Rule and Reference Points
A target control rule specifies the relationship of F to B for a harvest policy aimed at achieving a given target. Optimum yield (OY) is one such target, and National Standard 1 requires that conservation and management measures both prevent overfishing and achieve OY on a continuing basis. Optimum yield is the yield that will provide the greatest overall benefits to the nation, and is prescribed on the basis of MSY, as reduced by any relevant economic, social, or ecological factor. MSY is therefore an upper limit for OY.

A target control rule can be specified using reference points similar to those used in the MSY control rule, such as F_{TARGET} and B_{TARGET}. For example, the recommended default in Restrepo et al. (1998) for the target fishing mortality rate for certain situations (ignoring all economic, social, and ecological factors except the need to be cautious with respect to the thresholds) is 75 percent

of the MFMT, as indicated in Figure 1. Simulation results using a deterministic model have shown that fishing at 0.75 F_{MSY} would tend to result in equilibrium biomass levels between 1.25 and 1.31 B_{MSY} and equilibrium yields of 0.94 MSY or higher (Mace 1994).

It is emphasized that while MSST and MFMT are limits, the target reference points are merely targets. They are guidelines for management action, not constraints. For example Restrepo et al. (1998) state that target reference points should not be exceeded more than 50% of the time, nor on average.

Rebuilding Control Rule and Reference Points

If it has been determined that overfishing is occurring, a stock or stock complex is overfished or approaching an overfished condition, or existing remedial action to end previously identified overfishing or to rebuild an overfished stock has not resulted in adequate progress, the Council must take remedial action within two years. In the case that a stock or stock complex is overfished (i.e., biomass falls below MSST in a given year), the action must be taken through a stock rebuilding plan (which is essentially a rebuilding control rule as supported by various analyses) with the purpose of rebuilding the stock or stock complex to the MSY level (B_{MSY}) within an appropriate time frame, as required by MSA §304(e)(4). The details of such a plan, including specification of the time period for rebuilding, would take into account the best available information regarding a number of biological, social, and economic factors, as required by the MSA and National Standard Guidelines.

If B falls below MSST, management of the fishery would shift from using the target control rule to the rebuilding control rule. Under the rebuilding control rule in the example in Figure 1, F would be controlled as a linear function of B until B recovers to MSST (see $F_{REBUILDING}$), then held constant at F_{TARGET} until B recovers to B_{MSY}. At that point, rebuilding would have been achieved and management would shift back to using the target control rule (F set at F_{TARGET}). The target and rebuilding control rules "overlap" for values of B between MSST and the rebuilding target (B_{MSY}). In that range of B, the rebuilding control rule is used only in the case that B is recovering from having fallen below MSST. In the example in Figure 1 the two rules are identical in that range of B (but they do not need to be), so the two rules can be considered a single, integrated, target control rule for all values of B.

Measures to Prevent Overfishing and Overfished Stocks

The control rules specify how fishing mortality will be controlled in response to observed changes in stock biomass or its proxies. Implicitly associated with those control rules are management actions that would be taken in order to manipulate fishing mortality according to the rules. In the case of a fishery which has been determined to be "approaching an overfished condition or is overfished," MSA §303(a)(10) requires that the FMP "contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery."

Use of National Standard 1 Guidelines in FEPs

This FEP carries forward the provisions pertaining to compliance with the Sustainable Fisheries Act which were recommended by the Council and subsequently approved by NMFS (68 FR 16754, April 7, 2003). Because biological and fishery data are limited for all species managed by

this FEP, MSY-based control rules and overfishing thresholds are specified for multi-species stock complexes.

Appendix F: Hawaii Longline Bycatch

COMMON NAME	SCIENTIFIC NAME	BYCATCH (lb)
Hawaii-Based Deep-Set Pelagic Longline Fishery for Tuna		
Albacore - North Pacific	*Thunnus alalunga*	40,077.60
Bigeye thresher	*Alopias superciliosus*	770,878.86
Bigeye tuna - Pacific	*Thunnus obesus*	159,617.39
Bignose shark	*Carcharhinus altimus*	0.00
Billfishes	Istiophoridae	10,434.98
Black mackerel	*Scombrolabrax heterolepis*	158.94
Black marlin	*Istiompax indica*	0.00
Blacktip shark	*Carcharhinus limbatus*	0.00
Blue marlin - Pacific	*Makaira nigricans*	38,223.88
Blue shark - Pacific	*Prionace glauca*	4,826,418.82
Bony fishes (other)	Osteichthyes	86.03
Bony fishes (unidentified)	Osteichthyes	954.25
Brama pomfrets (unidentified)	Bramidae	2,158.49
Brilliant pomfret	*Eumegistus illustris*	258.03
Cookiecutter shark	*Isistius brasiliensis*	14.33
Cottonmouth jacks (unidentified)	*Uraspis*	29.52
Crestfish	*Lophotus lacepede*	2,017.11
Crocodile shark	*Pseudocarcharias kamoharai*	8,434.81
Dolphinfish - Pacific	*Coryphaena hippurus*	77,889.38
Driftfishes	*Cubiceps*	13.23
Escolar	*Lepidocybium flavobrunneum*	27,295.00
Galapagos shark	*Carcharhinus galapagensis*	2,332.77
Great barracuda	*Sphyraena barracuda*	3,225.54
Grey reef shark	*Carcharhinus amblyrhynchos*	0.00
Hammerhead sharks	*Sphyrna*	1,486.40
Hammerjaw	*Omosudis lowii*	348.33
Kawakawa	*Euthynnus affinis*	0.00
King-of-salmon	*Trachipterus altivelis*	0.00
Knifetail pomfret	*Taractes rubescens*	17,070.07
Longfin mako	*Isurus paucus*	16,268.13
Longnose lancetfish	*Alepisaurus ferox*	1,239,805.68
Louvar	*Luvarus imperialis*	0.00
Makos	*Isurus*	5,949.18
Manta	*Manta birostris*	8,113.01
Manta and/or mobula (unidentified)	*Mobulidae*	1,719.61
Ocean sunfish	*Mola mola*	33,284.50

COMMON NAME	SCIENTIFIC NAME	BYCATCH (lb)
Oceanic whitetip shark	*Carcharhinus longimanus*	43,887.43
Oilfish	*Ruvettus pretiosus*	4,193.85
Opah - Pacific	*Lampris guttatus*	47,214.83
Pacific bluefin tuna - Pacific	*Thunnus orientalis*	0.00
Pacific bonito	*Sarda chiliensis*	0.00
Pelagic puffer	*Lagocephalus lagocephalus*	883.35
Pelagic stingray	*Pteroplatytrygon violacea*	29,159.21
Pelagic thresher	*Alopias pelagicus*	6,083.46
Pompano dolphinfish	*Coryphaena equiselis*	1,102.18
Rainbow runner	*Elagatis bipinnulata*	0.00
Rays (unidentified)	*Rajiformes*	39.68
Razorback scabbardfish	*Assurger anzac*	1,387.86
Roudi escolar	*Promethichthys prometheus*	2,606.98
Rough pomfret	*Taractes asper*	1,210.87
Rough triggerfish	*Canthidermis maculata*	30.86
Sailfish	*Istiophorus platypterus*	2,524.58
Salmon shark	*Lamna ditropis*	1,614.64
Sandbar shark	*Carcharhinus plumbeus*	7,003.64
Scalloped hammerhead	*Sphyrna lewini*	301.57
Scalloped ribbonfish	*Zu cristatus*	108.86
Sharks (unidentified)	*Chondrichthyes*	47,811.21
Sharptail mola	*Masturus lanceolatus*	10,317.63
Shortbill spearfish - Pacific	*Tetrapturus angustirostris*	19,335.72
Shortfin mako	*Isurus oxyrinchus*	195,329.87
Sickle pomfret	*Taractichthys steindachneri*	6,190.58
Silky shark	*Carcharhinus falciformis*	35,751.69
Skipjack tuna - Central Western Pacific	*Katsuwonus pelamis*	40,594.51
Slender mola	*Ranzania laevis*	26,609.79
Smooth hammerhead	*Sphyrna zygaena*	3,173.91
Snake mackerel	*Gempylus serpens*	177,363.46
Striped marlin - Central Western Pacific	*Kajikia audax*	3,306.53
Swordfish - North Pacific	*Xiphias gladius*	23,979.88
Tapertail ribbonfish	*Trachipterus fukuzakii*	3,644.50
Thresher shark	*Alopias vulpinus*	204.58
Thresher sharks (unidentified)	*Alopiidae*	31,627.25
Tiger shark	*Galeocerdo cuvier*	6,135.46
Tunas	*Scombridae*	11,520.53
Velvet dogfish	*Scymnodon squamulosus*	1,840.95
Wahoo - Pacific	*Acanthocybium solandri*	10,642.09
White shark	*Carcharodon carcharias*	0.00

COMMON NAME	SCIENTIFIC NAME	BYCATCH (lb)
Yellowfin tuna - Central Western Pacific	*Thunnus albacares*	8,408.37
TOTAL FISHERY BYCATCH		8,107,706.23
TOTAL FISHERY LANDINGS		20,085,934.23
TOTAL CATCH (Bycatch + Landings)		28,193,640.46
FISHERY BYCATCH RATIO (Bycatch/Total Catch)		0.29
Hawaii-Based Shallow-Set Pelagic Longline Fishery for Swordfish		
Albacore - North Pacific	*Thunnus alalunga*	16,065.65
Bigeye thresher	*Alopias superciliosus*	7,313.10
Bigeye tuna - Pacific	*Thunnus obesus*	3,508.32
Billfishes	*Istiophoridae*	406.06
Black marlin	*Istiompax indica*	0.00
Blue marlin - Pacific	*Makaira nigricans*	1,405.34
Blue shark - Pacific	*Prionace glauca*	666,311.06
Bony fishes (other)	*Osteichthyes*	7.30
Bony fishes (unidentified)	*Osteichthyes*	66.75
Brama pomfrets (unidentified)	*Bramidae*	58.28
Brilliant pomfret	*Eumegistus illustris*	2.73
Cookiecutter shark	*Isistius brasiliensis*	2.67
Crestfish	*Lophotus lacepede*	10.79
Crocodile shark	*Pseudocarcharias kamoharai*	43.03
Dolphinfish - Pacific	*Coryphaena hippurus*	1,458.98
Escolar	*Lepidocybium flavobrunneum*	8,543.94
Galapagos shark	*Carcharhinus galapagensis*	0.00
Knifetail pomfret	*Taractes rubescens*	31.89
Longfin mako	*Isurus paucus*	330.88
Longnose lancetfish	*Alepisaurus ferox*	14,761.51
Louvar	*Luvarus imperialis*	0.00
Makos	*Isurus*	252.84
Manta	*Manta birostris*	396.83
Manta and/or mobula (unidentified)	*Mobulidae*	881.85
Ocean sunfish	*Mola mola*	28,836.46
Oceanic whitetip shark	*Carcharhinus longimanus*	3,665.70
Oilfish	*Ruvettus pretiosus*	5,744.52
Opah - Pacific	*Lampris guttatus*	4,596.85
Pacific bluefin tuna - Pacific	*Thunnus orientalis*	0.00
Pelagic puffer	*Lagocephalus lagocephalus*	94.71
Pelagic stingray	*Pteroplatytrygon violacea*	1,753.34
Pelagic thresher	*Alopias pelagicus*	182.96
Razorback scabbardfish	*Assurger anzac*	0.00

COMMON NAME	SCIENTIFIC NAME	BYCATCH (lb)
Rough pomfret	*Taractes asper*	2.92
Salmon shark	*Lamna ditropis*	1,614.64
Sandbar shark	*Carcharhinus plumbeus*	242.51
Sharks (unidentified)	*Chondrichthyes*	12,706.73
Sharptail mola	*Masturus lanceolatus*	661.39
Shortbill spearfish - Pacific	*Tetrapturus angustirostris*	213.88
Shortfin mako	*Isurus oxyrinchus*	43,614.19
Sickle pomfret	*Taractichthys steindachneri*	41.67
Silky shark	*Carcharhinus falciformis*	1,472.28
Skipjack tuna - Central Western Pacific	*Katsuwonus pelamis*	53.39
Slender mola	*Ranzania laevis*	11.02
Smooth hammerhead	*Sphyrna zygaena*	0.00
Snake mackerel	*Gempylus serpens*	2,595.84
Striped marlin - Central Western Pacific	*Kajikia audax*	839.36
Swordfish - North Pacific	*Xiphias gladius*	40,186.51
Tapertail ribbonfish	*Trachipterus fukuzakii*	84.96
Thresher shark	*Alopias vulpinus*	273.59
Thresher sharks (unidentified)	*Alopiidae*	1,499.75
Tiger shark	*Galeocerdo cuvier*	2,231.08
Tunas	*Scombridae*	43.83
Wahoo - Pacific	*Acanthocybium solandri*	20.00
Yellowfin tuna - Central Western Pacific	*Thunnus albacares*	176.85
TOTAL FISHERY BYCATCH		875,320.73
TOTAL FISHERY LANDINGS		3,622,334.17
TOTAL CATCH (Bycatch + Landings)		4,497,654.90
FISHERY BYCATCH RATIO (Bycatch/Total Catch)		0.19

Appendix G: EFH Impacts Provisions

The EFH provisions of the Magnuson Stevens Act impose procedural requirements on both Councils and federal agencies related to marine planning. First, for each FMP, Councils must identify adverse impacts to EFH resulting from both fishing and non-fishing activities, and describe measures to minimize these impacts. Second, the provisions allow Councils to provide comments and make recommendations to federal or state agencies that propose actions that may affect the habitat, including EFH, of a managed species. NMFS is required to consult with federal agencies on actions that may adversely affect EFH, which usually occurs concurrently with the NEPA planning process.

None of the fisheries operating under the Hawaii Archipelago FEP are expected to have adverse impacts on EFH or HAPC for species managed under the different fisheries. Continued and future operations of fisheries under the Hawaii Archipelago FEP are not likely to lead to substantial physical, chemical, or biological alterations to the habitat, or result in loss of, or injury to, these species or their prey.

1. MSA and non-MSA fishing activities that may adversely affect EFH

The Council is required to act to prevent, mitigate, or minimize adverse effects from fishing on evidence that a fishing practice has identifiable adverse effects on EFH for any MUS covered by an FMP. Adverse fishing impacts may include physical, chemical, or biological alterations of the substrate and loss of, or injury to, benthic organisms, prey species, and their habitat or other components of the ecosystem.

The predominant fishing gear types—hook and line, longline, troll, traps—used in the fisheries managed by the Council cause few fishing-related impacts to the benthic habitat utilized by coral reef species, bottomfish, crustaceans, or precious corals. The current management regime prohibits the use of bottom trawls, bottom-set nets, explosives, and poisons. The use of non-selective gear to harvest precious corals is prohibited and only selective and non-destructive gear may be allowed to fish for Coral Reef Ecosystem MUS. Although lobster traps have a potential impact on the benthic habitat, the tropical lobster *Panulirus penicillatus* does not enter lobster traps. In the limited areas where harvesting does occur in the Hawaii Archipelago, lobsters are caught by hand. This technique causes limited damage or no fishing-related impacts to the benthic habitat, and its continued use is likely.

The Council has determined that current management measures to protect fishery habitat are adequate and that no additional measures are necessary at this time. However, the Council has identified the following potential sources of fishery-related impacts to benthic habitat that may occur during normal fishing operations:

- Anchor damage from vessels attempting to maintain position over productive fishing habitat.
- Heavy weights and line entanglement occurring during normal hook-and-line fishing operations.
- Lost gear from lobster fishing operations.

- Remotely operated vehicle (ROV) tether damage to precious coral during harvesting operations.

Trash and discarded and lost gear (leaders, hooks, weights) by fishing vessels operating in the EEZ, are a Council concern. A report on the first phase of a submersible-supported research project conducted in Hawaii in 2001 preliminarily determined that bottomfish gear exhibited minimal to no impact on the coral reef habitat (C. Kelley, personal communication). A November 2001 cruise in the Main Hawaiian Islands determined that precious corals harvesting has "negligible" impact on the habitat (R. Grigg, personal communication). The Council is concerned with habitat impacts of marine debris originating from fishing operations outside the Western Pacific Region. NMFS is currently investigating the source and impacts of this debris. International cooperation will be necessary to find solutions to this broader problem.
Because the habitat of pelagic species is the open ocean, and managed fisheries employ variants of hook-and-line gear, there are no direct impacts to EFH. Lost gear may be a hazard to some species due to entanglement, but it has no direct effect on habitat. A possible impact would be caused by fisheries that target and deplete key prey species, but currently there is no such fishery. There is also a concern that invasive marine and terrestrial species may be introduced into sensitive environments by fishing vessels transiting from populated islands and grounding on shallow reef areas. Of most concern is the potential for unintentional introduction of rats (*Rattus* spp.) to the remote islands in the NWHI and PRIA that harbor endemic land birds. Although there are no restrictions that prohibit fishing vessels from transiting near these remote island areas, no invasive species introductions due to this activity have been documented. However, the Council is concerned that this could occur as fisheries expand and emerging fisheries develop in the future.

While the Council has determined that current management measures to protect fishery habitat are adequate, should future research demonstrate a need, the Council will act accordingly to protect habitat necessary to maintain a sustainable and productive fishery in the Western Pacific Region.

In modern times, some reefs have been degraded by a range of human activities. Comprehensive lists of human threats to coral reefs in the U.S. Pacific Islands are provided by Maragos et al. (1996), Birkeland (1997a), Grigg 2002, and Clark and Gulko (1999). (These findings are summarized in Table 27.) More recently, the U.S. Coral Reef Task Force identified six key threats to coral reefs: (1) landbased sources of pollutions, (2) overfishing, (3) recreational overuse, (4) lack of awarness, (5) climate change, and (6) coral bleaching and disease. In general, reefs closest to human population centers are more heavily used and are in worse condition than those in remote locations (Green 1997). Nonetheless, it is difficult to generalize about the present condition of coral reefs in the U.S. Pacific Islands because of their broad geographic distribution and the lack of long-term monitoring to document environmental and biological baselines. Coral reef conditions and use patterns vary throughout the U.S. Pacific Islands.
A useful distinction is between coral reefs near inhabited islands of American Samoa, CNMI, Guam, and the main Hawaiian islands and coral reefs in the remote NWHI, PRIAs, and northern islands of the CNMI. Reefs near the inhabited islands are heavily used for small-scale artisanal, recreational, and subsistence fisheries, and those in Hawaii, CNMI and Guam are also the focus for extensive non-consumptive marine recreation. Rather than a relatively few large-scale mechanized operations, many fishermen each deploy more limited gear. The more accessible

banks in the main Hawaiian Islands (Penguin Bank, Kaula Rock), Guam (southern banks), and the CNMI (Esmeralda Bank, 300 Reef, Marpi Reef, Dump Coke and Malakis Reef are the most heavily fished offshore reefs in the Western Pacific Region management area.
The vast majority of the reefs in the Western Pacific Region are remote and, in some areas, they have protected status. Most of these are believed to be in good condition. Existing fisheries are limited. The major exception is in the NWHI, where there are commercial fisheries for spiny lobster and deep-slope bottomfish (Green 1997). Poaching by foreign fishing fleets is suspected at Guam's southern banks, in the PRIA, and possibly in other areas. Poachers usually target high-value and often rare or overfished coral reef resources. These activities are already illegal but difficult to detect.

2. Non-fishing related activities that may adversely affect EFH

On the basis of the guidelines established by the Secretary under Section 305 (b)(1)(A) of the MSA, NMFS has developed a set of guidelines to assist councils meet the requirement to describe adverse impacts to EFH from non-fishing activities in their FMPs (67 FR 2376). A wide range of non-fishing activities throughout the U.S. Pacific Islands contribute to EFH degradation. FEP implementation will not directly mitigate these activities. However, as already noted, it will allow NMFS and the Council to make recommendations to any federal or state agency about actions that may impact EFH. Not only could this be a mechanism to minimize the environmental impacts of agency action, it will help them focus their conservation and management efforts.

The Council is required to identify non-fishing activities that have the potential to adversely affect EFH quality and, for each activity, describe its known potential adverse impacts and the EFH most likely to be adversely affected. The descriptions should explain the mechanisms or processes that may cause the adverse effects and how these may affect habitat function. The Council considered a wide range of non-fishing activities that may threaten important properties of the habitat used by managed species and their prey, including dredging, dredge material disposal, mineral exploration, water diversion, aquaculture, wastewater discharge, oil and hazardous substance discharge, construction of fish enhancement structures, coastal development, introduction of exotic species, and agricultural practices. These activities and impacts, along with mitigation measures, are detailed in the next section.

Table 1: Threats to Coral Reefs in the Hawaiian Archipelago

Activity	**MHI**	**NWHI**
Coastal construction	x	
Destructive fishing	x	
Flooding	x	
Industrial pollution		
Overuse/over harvesting	x	
Nutrient loading (sewage/eutrophication)	x	
Soil erosion/sedimentation	x	

Vessel groundings/oil spills		x
Military activity	x	x
Hazardous waste		x
Tourist impacts	x	
Urbanization	x	
Thermal pollution	x	
Marine debris	x	x
Introduced species	x	

Sources: Birkeland 1997a; Clark and Gulko 1999; Grigg 2002; Jokiel 1999; Maragos et al. 1996

3. Cumulative Impacts Assessment

A cumulative impacts analysis (CIA) is required by the NMFS EFH Final Rule (2002) to the extent feasible and practicable. The CIA "should analyze how the cumulative impacts of fishing and non-fishing activities influence the function of EFH on an ecosystem or watershed scale" (67 FR 2378, January 17, 2002). The assessment should include multiple threats, including natural stresses.

There are a variety of past, present, and future activities that have the potential to affect EFH in the Hawaiian Archipelago. In the Main Hawaiian Islands, there has been interest in aquaculture, inter-island electricity cables, and offshore energy development as the state moves toward self-sufficiency in energy and food production. Since many water column impacts are temporary in nature, benthic alteration associated with laying cables and anchoring are most likely to have an adverse impact and pose the greatest threat to EFH for juvenile and adult life stages. Nearshore impacts associated with development have the potential to impact shallow water species. Large-scale impacts such as global climate change that affect ocean temperatures, currents, and potentially food chain dynamics are most likely to threaten EFH for egg and larval pelagic stages.

The Northwestern Hawaiian Islands are very remote. All commercial fishing for bottomfish and seamount groundfish species is under moratorium in the Hancock Seamount Ecosystem Management Area; commercial fishing is banned within the Papahānaumokuākea Marine National Monument. Activity within the Monument is generally limited to scientific research. Similar to larval and egg life stages, global environmental problems pose the largest threat to EFH in the NWHI.

Future analyses will seek to analyze cumulative impact of habitat conversion and the impacts of discharges in order to evaluate the cumulative impacts on EFH. Information and techniques that are developed for this process will be used to supplement future revisions of these EFH provisions as the information becomes available.

4. Conservation and Enhancement Recommendations

According to NMFS guidelines, Councils should describe ways to avoid, minimize, or compensate for the adverse effects to EFH and promote the conservation and enhancement of EFH. Generally, non-water dependent actions that may have adverse impacts should not be located in EFH. Activities that may result in significant adverse effects on EFH should be avoided where less environmentally harmful alternatives are available. If there are no alternatives, the impacts of these actions should be minimized. Environmentally sound engineering and management practices should be employed for all actions that may adversely affect EFH. Disposal or spillage of any material (dredge material, sludge, industrial waste, or other potentially harmful materials) that would destroy or degrade EFH should be avoided. If avoidance or minimization is not possible, or will not adequately protect EFH, compensatory mitigation to conserve and enhance EFH should be recommended. FEPs may recommend proactive measures to conserve or enhance EFH. When developing proactive measures, Councils may develop a priority ranking of the recommendations to assist federal and state agencies undertaking such measures. Councils should describe a variety of options to conserve or enhance EFH, which may include, but are not limited to the following:

Enhancement of rivers, streams, and coastal areas through new federal, state, or local government planning efforts to restore river, stream, or coastal area watersheds.

Improve water quality and quantity through the use of the best land management practices to ensure that water-quality standards at state and federal levels are met. The practices include improved sewage treatment, disposing of waste materials properly, and maintaining sufficient in-stream flow to prevent adverse effects to estuarine areas.

Restore or create habitat, or convert non-EFH to EFH, to replace lost or degraded EFH, if conditions merit such activities. However, habitat conversion at the expense of other naturally functioning systems must be justified within an ecosystem context.
Established policies and procedures of the Council and NMFS provide the framework for conserving and enhancing EFH. Components of this framework include adverse impact avoidance and minimization, provision of compensatory mitigation whenever the impact is significant and unavoidable, and incorporation of enhancement. New and expanded responsibilities contained in the MSA will be met through appropriate application of these policies and principles. In assessing the potential impacts of proposed projects, the Council and the NMFS are guided by the following general considerations:

- The extent to which the activity would directly and indirectly affect the occurrence, abundance, health, and continued existence of fishery resources.
- The extent to which the potential for cumulative impacts exists.
- The extent to which adverse impacts can be avoided through project modification, alternative site selection, or other safeguards.
- The extent to which the activity is water dependent if loss or degradation of EFH is involved.
- The extent to which mitigation may be used to offset unavoidable loss of habitat functions and values.

Seven non-fishing activities have been identified that directly or indirectly affect habitat used by MUS. Impacts and conservation measures are summarized below for each of these activities.

Although not all inclusive, what follows is a good example of the kinds of measures that can help to minimize or avoid the adverse effects of identified non-fishing activities on EFH.

- Habitat Loss and Degradation

Impacts:

- Changes in abundance of infaunal and bottom-dwelling organisms
- Turbidity plumes
- Biological availability of toxic substances
- Damage to sensitive habitats
- Current patterns/water circulation modification
- Loss of habitat function
- Contaminant runoff
- Sediment runoff
- Shoreline stabilization projects

Conservation Measures:

1. To the extent possible, fill materials resulting from dredging operations should be placed on an upland site. Fills should not be allowed in areas with subaquatic vegetation, coral reefs, or other areas of high productivity.
2. The cumulative impacts of past and current fill operations on EFH should be addressed by federal, state, and local resource management and permitting agencies and should considered in the permitting process.
3. The disposal of contaminated dredge material should not be allowed in EFH.
4. When reviewing open-water disposal permits for dredged material, state and federal agencies should identify the direct and indirect impacts such projects may have on EFH. When practicable, benthic productivity should be determined by sampling prior to any discharge of fill material. Sampling design should be developed with input from state and federal resource agencies.
5. The areal extent of the disposal site should be minimized. However, in some cases, thin layer disposal may be less deleterious. All non-avoidable impacts should be mitigated.
6. All spoil disposal permits should reference latitude–longitude coordinates of the site so that information can be incorporated into GIS systems. Inclusion of aerial photos may also be required to help geo-reference the site and evaluate impacts over time.
7. Further fills in estuaries and bays for development of commercial enterprises should be curtailed.
8. Prior to installation of any piers or docks, the presence or absence of coral reefs and submerged aquatic vegetation should be determined. These areas should be avoided. Benthic productivity should also be determined, and areas with high productivity avoided. Sampling design should be developed with input from state and federal resource agencies.
9. The use of dry stack storage is preferable to wet mooring of boats. If that method is not feasible, construction of piers, docks, and marinas should be designed to minimize impacts to the coral reef substrate and subaquatic vegetation.
10. Bioengineering should be used to protect altered shorelines. The alteration of natural, stable shorelines should be avoided.

- Pollution and Contamination

Impacts:

- Introduction of chemicals
- Introduction of animal wastes
- Increased sedimentation
- Wastewater effluent with high contaminant levels
- High nutrient levels downcurrent of outfalls
- Biocides to prevent biofouling
- Thermal effects
- Turbidity plumes
- Affected submerged aquatic vegetation sites
- Stormwater runoff
- Direct physical contact
- Indirect exposure
- Cleanup

Conservation Measures:

1. Outfall structures should be placed sufficiently far offshore to prevent discharge water from affecting areas designated as EFH. Discharges should be treated using the best available technology, including implementation of up-to-date methodologies for reducing discharges of biocides (e.g., chlorine) and other toxic substances.
2. Benthic productivity should be determined by sampling prior to any construction activity. Areas of high productivity should be avoided to the maximum extent possible. Sampling design should be developed with input from state and federal resource agencies.
3. Mitigation should be provided for the degradation or loss of habitat from placement of the outfall structure and pipeline as well as the treated water plume.
4. Containment equipment and sufficient supplies to combat spills should be on-site at all facilities that handle oil or hazardous substances.
5. Each facility should have a Spill Contingency Plan, and all employees should be trained in how to respond to a spill.
6. To the maximum extent practicable, storage of oil and hazardous substances should be located in an area that would prevent spills from reaching the aquatic environment.
7. Construction of roads and facilities adjacent to aquatic environments should include a storm-water treatment component that would filter out oils and other petroleum products.
8. The use of pesticides, herbicides, and fertilizers in areas that would allow for their entry into the aquatic environment should be avoided.
9. The best land management practices should be used to control topsoil erosion and sedimentation.

- Dredging

Impacts:

- Changes in abundance of infaunal and bottom-dwelling organisms
- Turbidity plumes
- Bioavailability of toxic substances

- Damage to sensitive habitats
- Water circulation modification

Conservation Measures:

1. To the maximum extent practicable, dredging should be avoided. Activities that require dredging (such as placement of piers, docks, marinas, etc.) should be sited in deep-water areas or designed in such a way as to alleviate the need for maintenance dredging. Projects should be permitted only for water-dependent purposes, when no feasible alternatives are available.
2. Dredging in coastal and estuarine waters should be performed during the time frame when MUS and prey species are least likely to be entrained. Dredging should be avoided in areas with submerged aquatic vegetation and coral reefs.
3. All dredging permits should reference latitude–longitude coordinates of the site so that information can be incorporated into Geographic Information Systems (GIS). Inclusion of aerial photos may also be required to help geo-reference the site and evaluate impacts over time.
4. Sediments should be tested for contaminants as per the EPA and U.S. Army Corps of Engineers requirements.
5. The cumulative impacts of past and current dredging operations on EFH should be addressed by federal, state, and local resource management and permitting agencies and should be considered in the permitting process.
6. If dredging needs are caused by excessive sedimentation in the watershed, those causes should be identified and appropriate management agencies contacted to assure action is done to curtail those causes.
7. Pipelines and accessory equipment used in conjunction with dredging operations should, to the maximum extent possible, avoid coral reefs, seagrass beds, estuarine habitats, and areas of subaquatic vegetation.

o Marine Mining

Impacts:

- Loss of habitat function
- Turbidity plumes
- Resuspension of fine-grained mineral particles
- Composition of the substrate altered

Conservation Measures:

1. Mining in areas identified as a coral reef ecosystem should be avoided.
2. Mining in areas of high biological productivity should be avoided.
3. Mitigation should be provided for loss of habitat due to mining.

o Water Intake Structures

Impacts:

- Entrapment, impingement, and entrainment
- Loss of prey species

Conservation Measures:

1. New facilities that rely on surface waters for cooling should not be located in areas where coral reef organisms are concentrated. Discharge points should be located in areas that have low concentrations of living marine resources, or they should incorporate cooling towers that employ sufficient safeguards to ensure against release of blow-down pollutants into the aquatic environment.
2. Intake structures should be designed to prevent entrainment or impingement of MUS larvae and eggs.
3. Discharge temperatures (both heated and cooled effluent) should not exceed the thermal tolerance of the plant and animal species in the receiving body of water.
4. Mitigation should be provided for the loss of EFH from placement of the intake structure and delivery pipeline.

o Aquaculture Facilities

Impacts:

- Discharge of organic waste from the farms
- Impacts to the seafloor below the cages or pens

Conservation Measures:

1. Facilities should be located in upland areas as often as possible. Tidally influenced wetlands should not be enclosed or impounded for mariculture purposes. This includes hatchery and grow-out operations. Siting of facilities should also take into account the size of the facility, the presence or absence of submerged aquatic vegetation and coral reef ecosystems, proximity of wild fish stocks, migratory patterns, competing uses, hydrographic conditions, and upstream uses. Benthic productivity should be determined by sampling prior to any operations. Areas of high productivity should be avoided to the maximum extent possible. Sampling design should be developed with input from state and federal resource agencies.
2. To the extent practicable, water intakes should be designed to avoid entrainment and impingement of native fauna.
3. Water discharge should be treated to avoid contamination of the receiving water and should be located only in areas having good mixing characteristics.
4. Where cage mariculture operations are undertaken, water depths and circulation patterns should be investigated and should be adequate to preclude the buildup of waste products, excess feed, and chemical agents.
5. Non-native, ecologically undesirable species that are reared may pose a risk of escape or accidental release, which could adversely affect the ecological balance of an area. A thorough scientific review and risk assessment should be undertaken before any non-native species are allowed to be introduced.
6. Any net pen structure should have small enough webbing to prevent entanglement by prey species.
7. Mitigation should be provided for the EFH areas impacted by the facility.

o Introduction of Exotic Species

Impacts:

- Habitat alteration
- Trophic alteration

- Gene pool alteration
- Spatial alteration
- Introduction of disease

Conservation Measures:

1. Vessels should discharge ballast water far enough out to sea to prevent introduction of nonnative species to bays and estuaries.
2. Vessels should conduct routine inspections for presence of exotic species in crew quarters and hull of the vessel prior to embarking to remote islands (PRIAs, NWHI, and northern islands of the CNMI).
3. Exotic species should not be introduced for aquaculture purposes unless a thorough scientific evaluation and risk assessment are performed (see section on aquaculture).
4. Effluent from public aquaria display laboratories and educational institutes using exotic species should be treated prior to discharge.

5. Essential Fish Habitat Research Needs

The Council conducted an initial inventory of available environmental and fisheries data sources relevant to the EFH of each managed fishery. Based on this inventory, a series of tables were created that indicated the existing level of data for individual MUS in each fishery. These tables are available in Supplements to Amendment 4, 6, and 10 to the Precious Corals, Bottomfish and Seamount Groundfish, and Crustaceans FMPs respectively (WPRFMC 2002), and the Coral Reef Ecosystems FMP (WPRFMC 2001) and are summarized below.

Additional research is needed to make available sufficient information to support a higher level of description and identification of EFH and HAPC. Additional research may also be necessary to identify and evaluate actual and potential adverse effects on EFH, including, but not limited to, direct physical alteration; impaired habitat quality/functions; cumulative impacts from fishing; or indirect adverse effects, such as sea level rise, climate change, and climate shifts. The following scientific data are needed to more effectively address EFH provisions:

All Species

- Distribution of early life history stages (eggs and larvae) of MUS by habitat
- Juvenile habitat (including physical, chemical, and biological features that determine suitable juvenile habitat)
- Food habits (feeding depth, major prey species, etc.)
- Habitat-related densities for all MUS life history stages
- Habitat utilization patterns for different life history stages and species for BMUS
- Growth, reproduction, and survival rates for MUS within habitats

Bottomfish Species

- Inventory of marine habitats in the EEZ of the Western Pacific Region
- Data to obtain a better SPR estimate for American Samoa's bottomfish complex
- Baseline (virgin stock) parameters (CPUE, percent immature) for the Guam/NMI deep- and shallow-water bottomfish complexes
- High-resolution maps of bottom topography/currents/water masses/primary productivity

Crustaceans Species

- Identification of postlarval settlement habitat of all CMUS
- Identification of source–sink relationships in the NWHI and other regions (i.e., relationships between spawning sites settlement using circulation models, and genetic techniques)
- Establish baseline parameters (CPUE) for the Guam/Northern Marinas crustacean populations
- Research to determine habitat related densities for all CMUS life history stages in American Samoa, Guam, Hawaii, and NMI
- High-resolution mapping of bottom topography, bathymetry, currents, substrate types, algal beds, and habitat relief

Precious Corals Species

- Distribution, abundance, and status of precious corals in the Western Pacific Region

Coral Reef Ecosystem Species

- The distribution of early life history stages (eggs and larvae) of MUS by habitat
- Description of juvenile habitat (including physical, chemical, and biological features that determine suitable juvenile habitat)
- Food habits (feeding depth, major prey species, etc.)
- Habitat-related densities for all MUS life history stages
- Habitat utilization patterns for different life history stages and species
- Growth, reproduction, and survival rates for MUS within habitats.
- Inventory of coral reef ecosystem habitats in the EEZ of the Western Pacific Region
- Location of important spawning sites
- Identification of postlarval settlement habitat
- Establishment of baseline parameters for coral reef ecosystem resources
- High-resolution mapping of bottom topography, bathymetry, currents, substrate types, algal beds, and habitat relief

NMFS guidelines suggest that the Council and NMFS periodically review and update the EFH components of FMPs as new data become available. The Council recommends that new information be reviewed, as necessary, during preparation of the annual and SAFE reports by the Plan Teams, in accordance with the National Standards guidelines. EFH designations may be changed under the FEP amendment process if information presented in an annual review indicates that modifications are justified.

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Appendix H: Essential Fish Habitat and Habitat Areas of Particular Concern Maps

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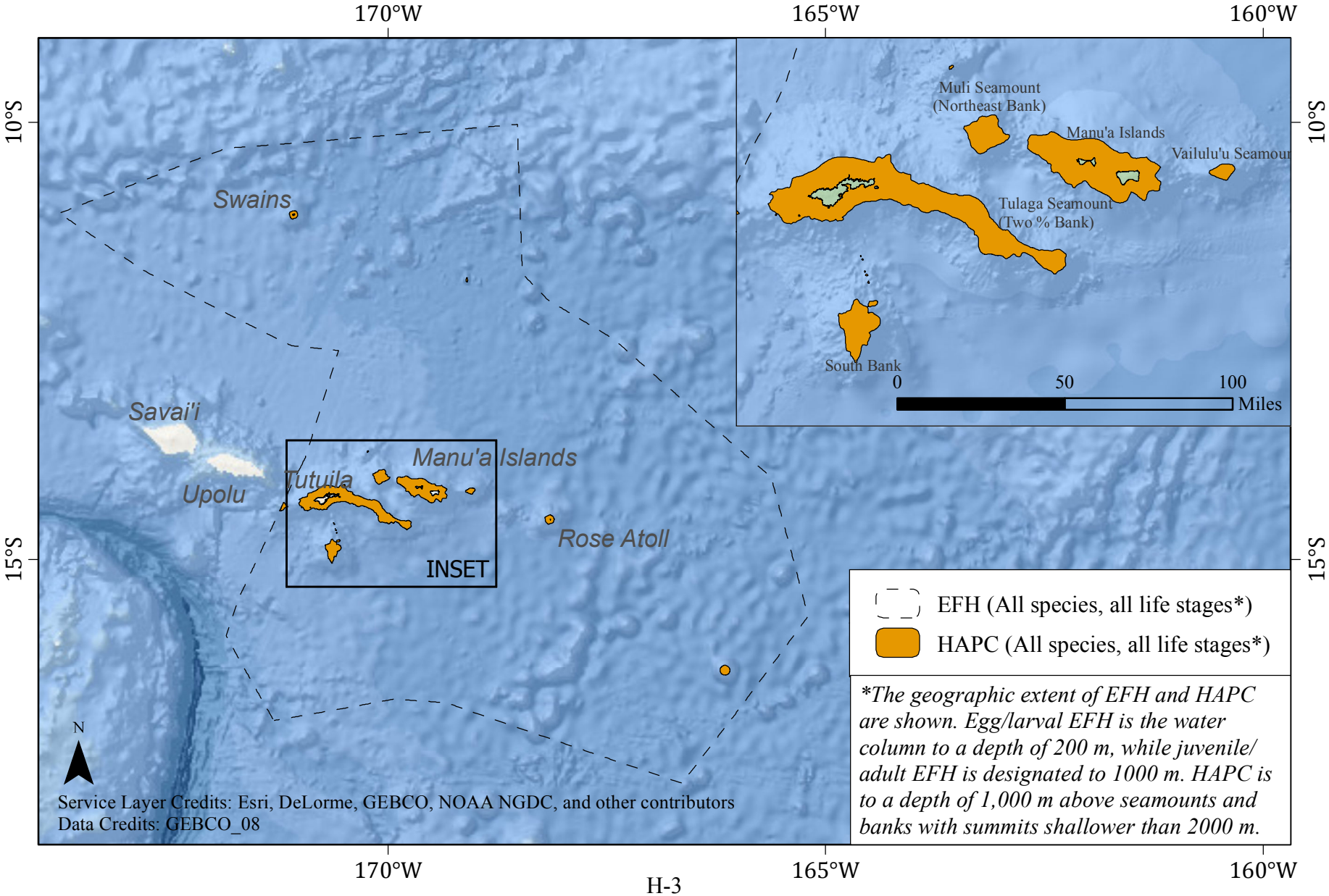
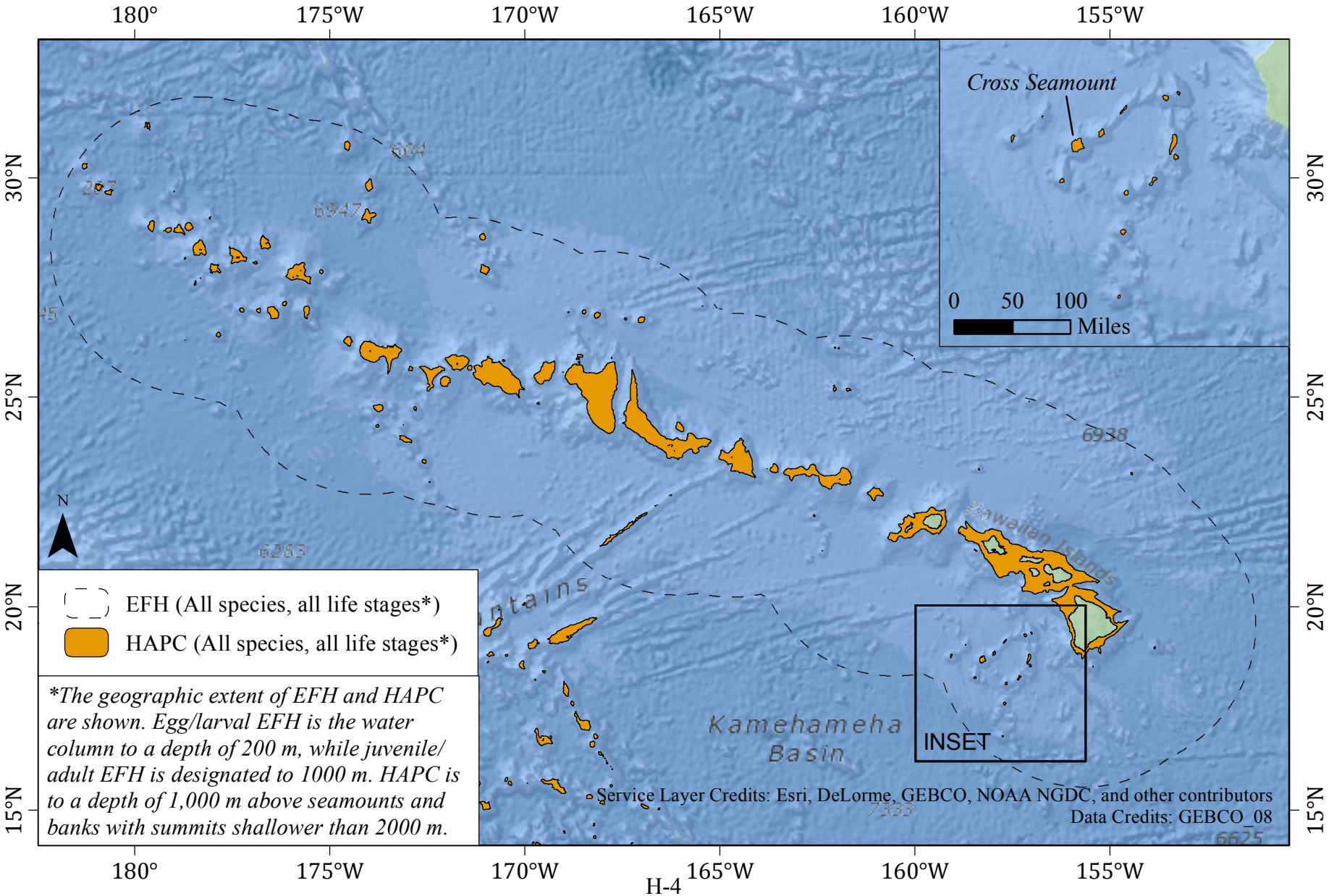
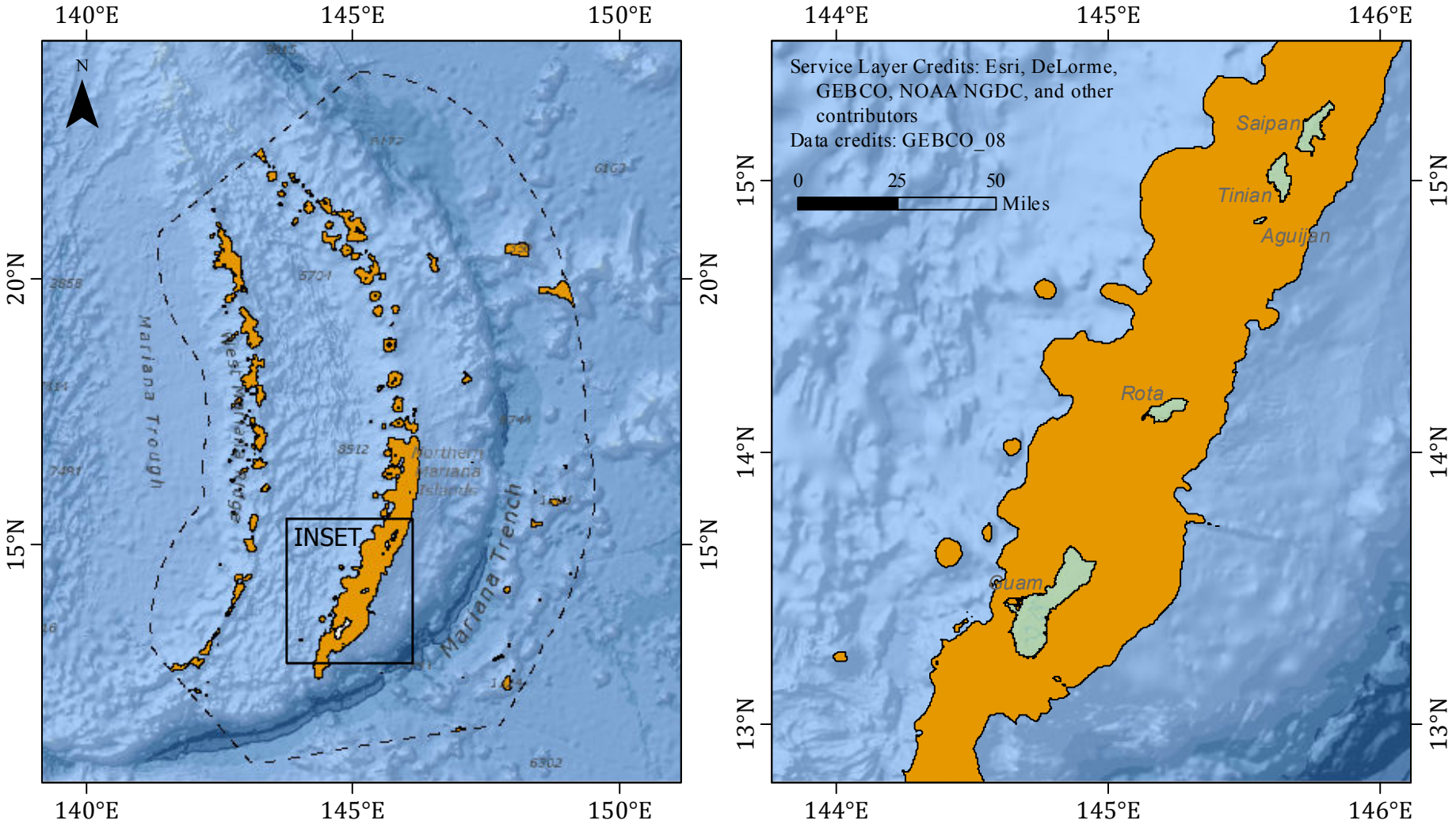
American Samoa Pelagic MUS EFH and HAPC



Hawaiian Archipelago Pelagic MUS EFH and HAPC



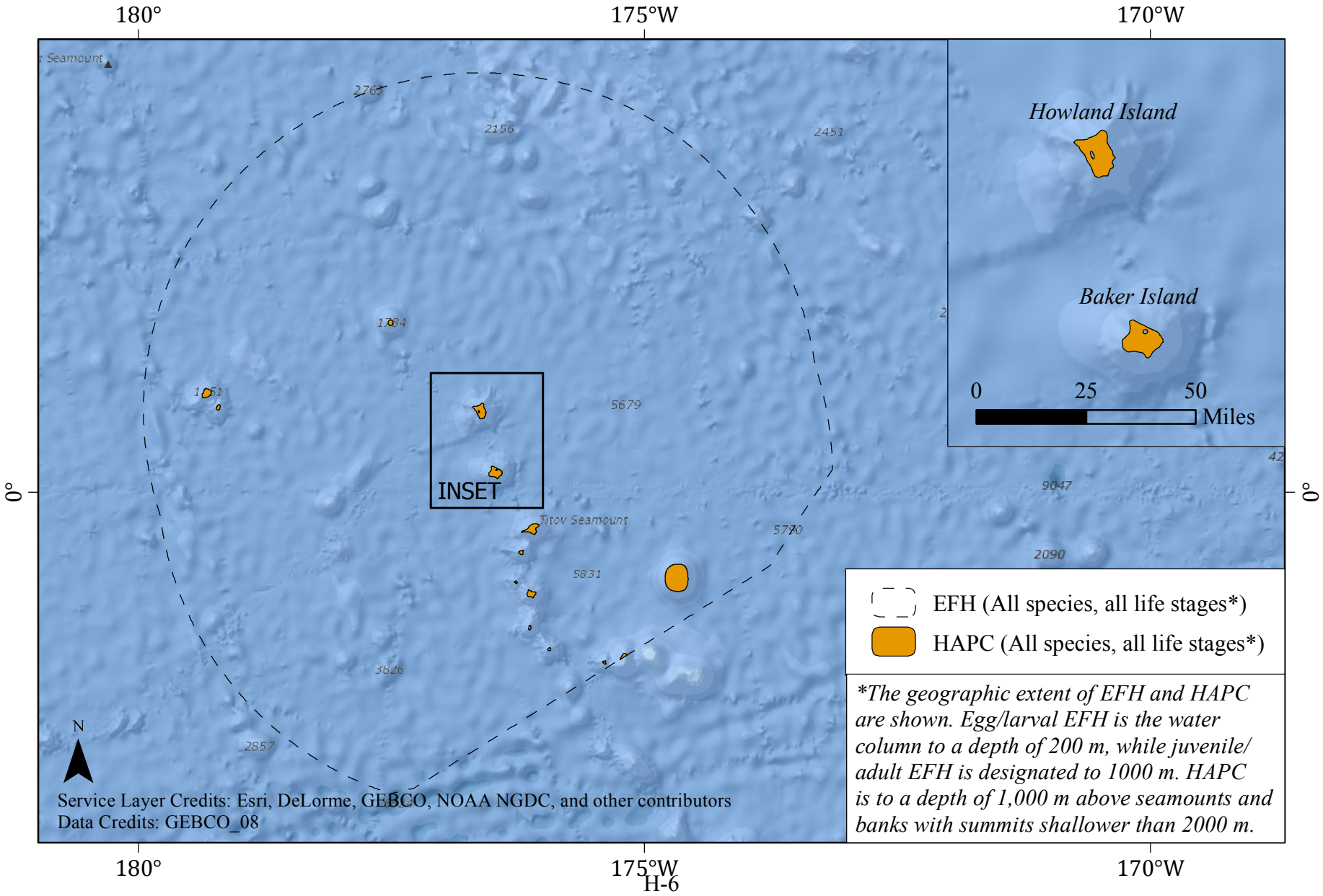
Mariana Islands Pelagic MUS EFH and HAPC



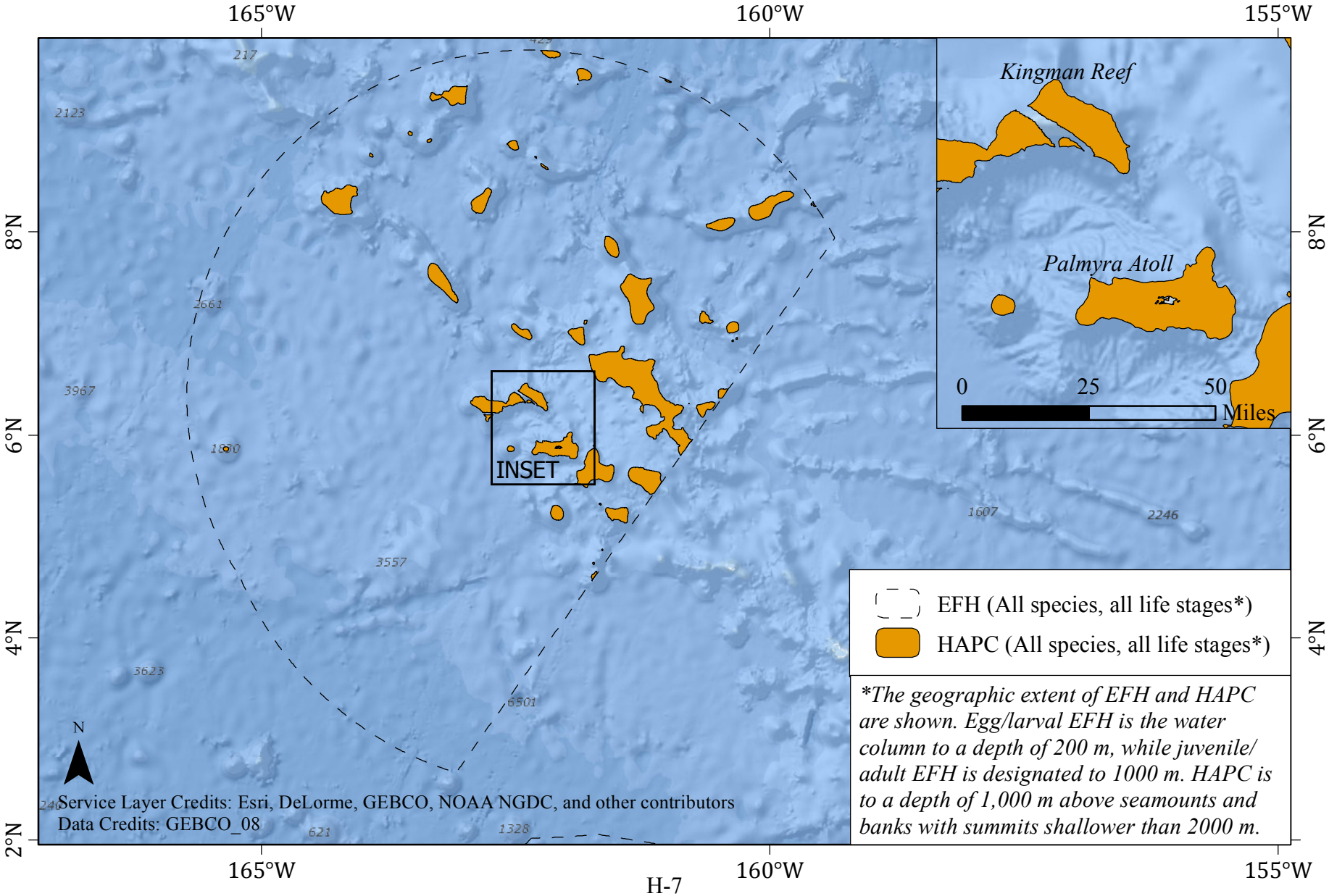
HAPC (All species, all life stages)* EFH (All species, all life stages*)

** The geographic extent of EFH and HAPC are shown. Egg/larval EFH is the water column to a depth of 200 m, while juvenile/adult EFH is designated to 1000 m. HAPC is to a depth of 1,000 m above seamounts and banks with summits shallower than 2000 m.*

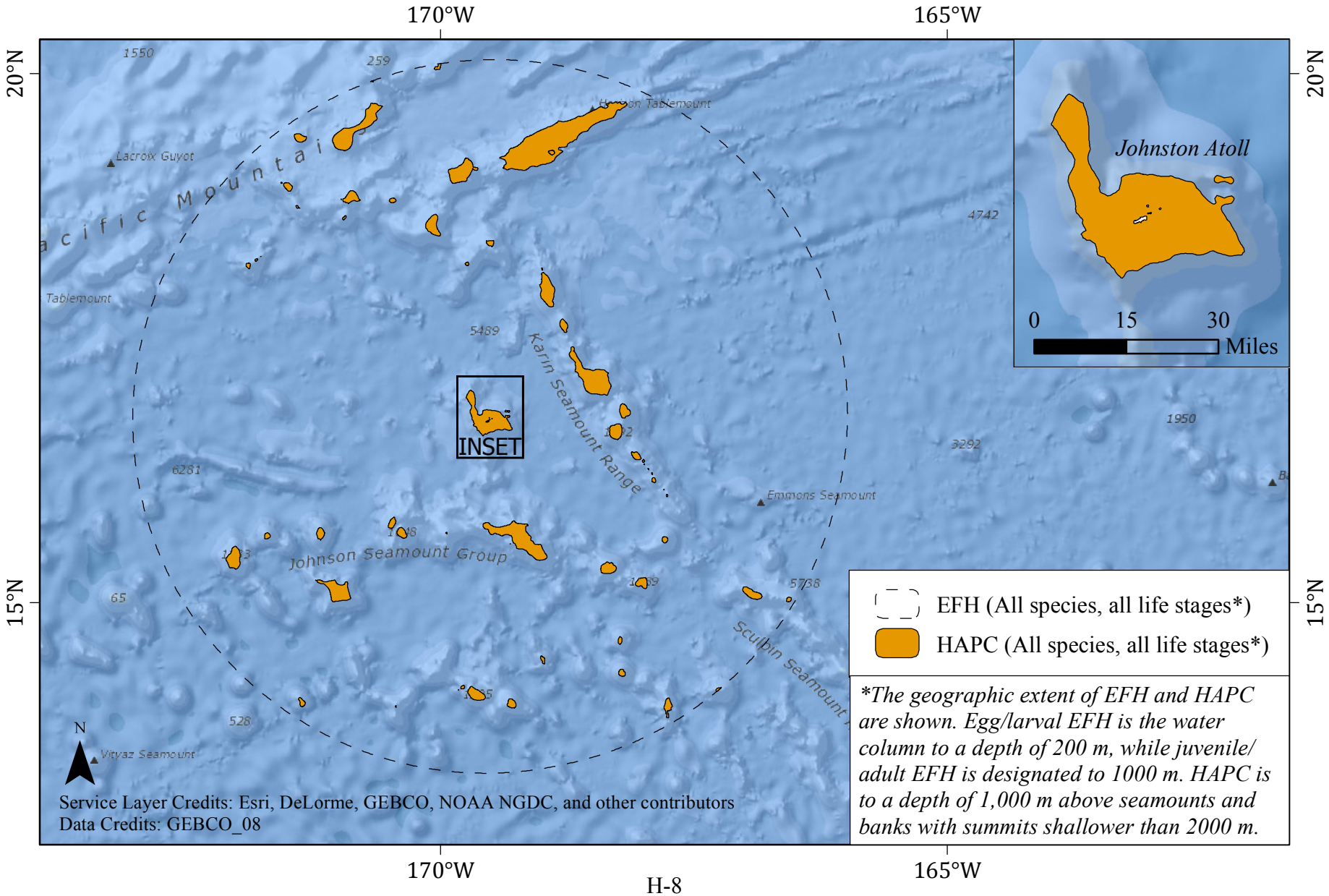
Howland and Baker Islands Pelagic MUS EFH and HAPC



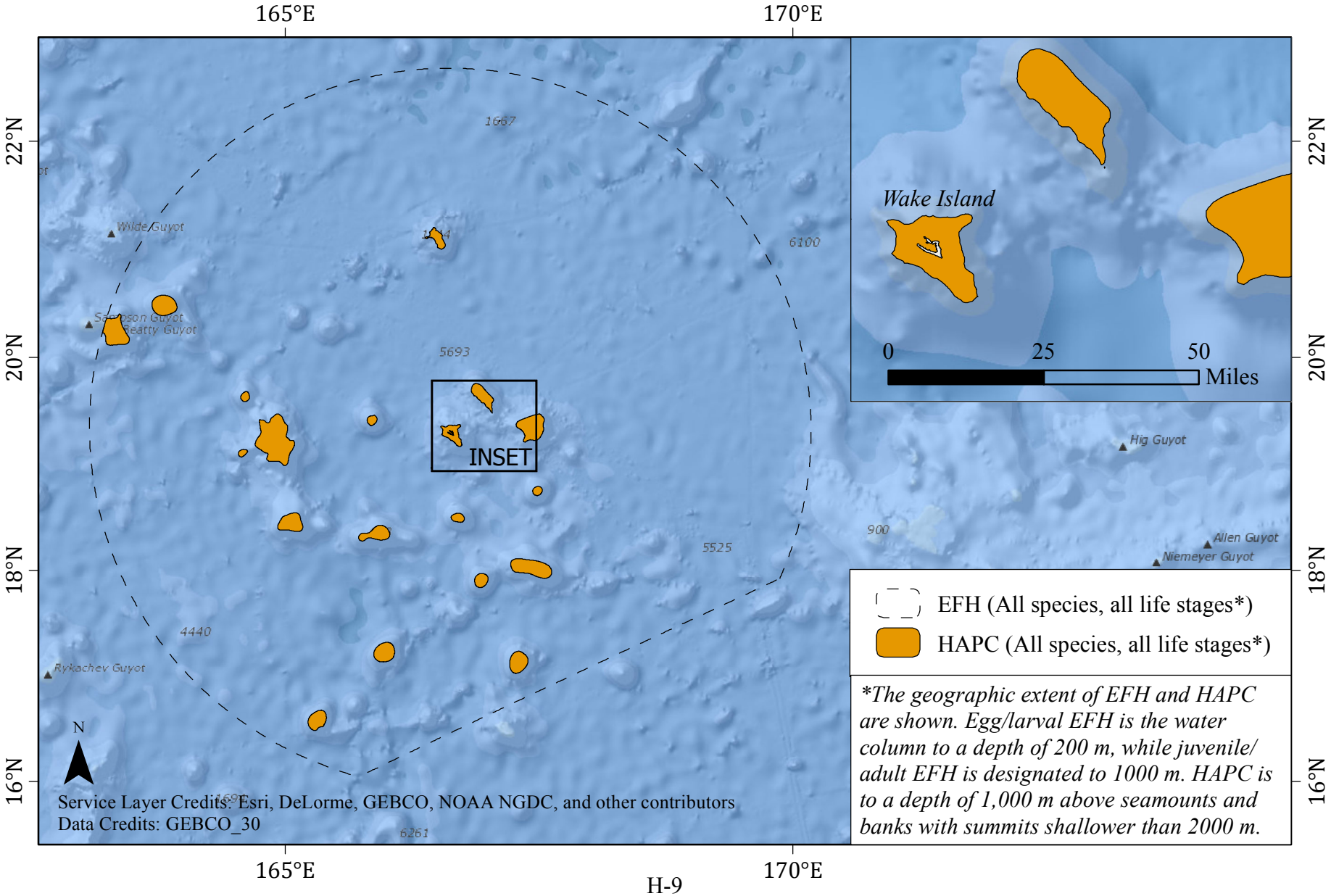
Palmyra Atoll and Kingman Reef Pelagic MUS EFH and HAPC



Johnston Atoll Pelagic MUS EFH and HAPC



Wake Island Pelagic MUS EFH and HAPC



Jarvis Island Pelagic MUS EFH and HAPC