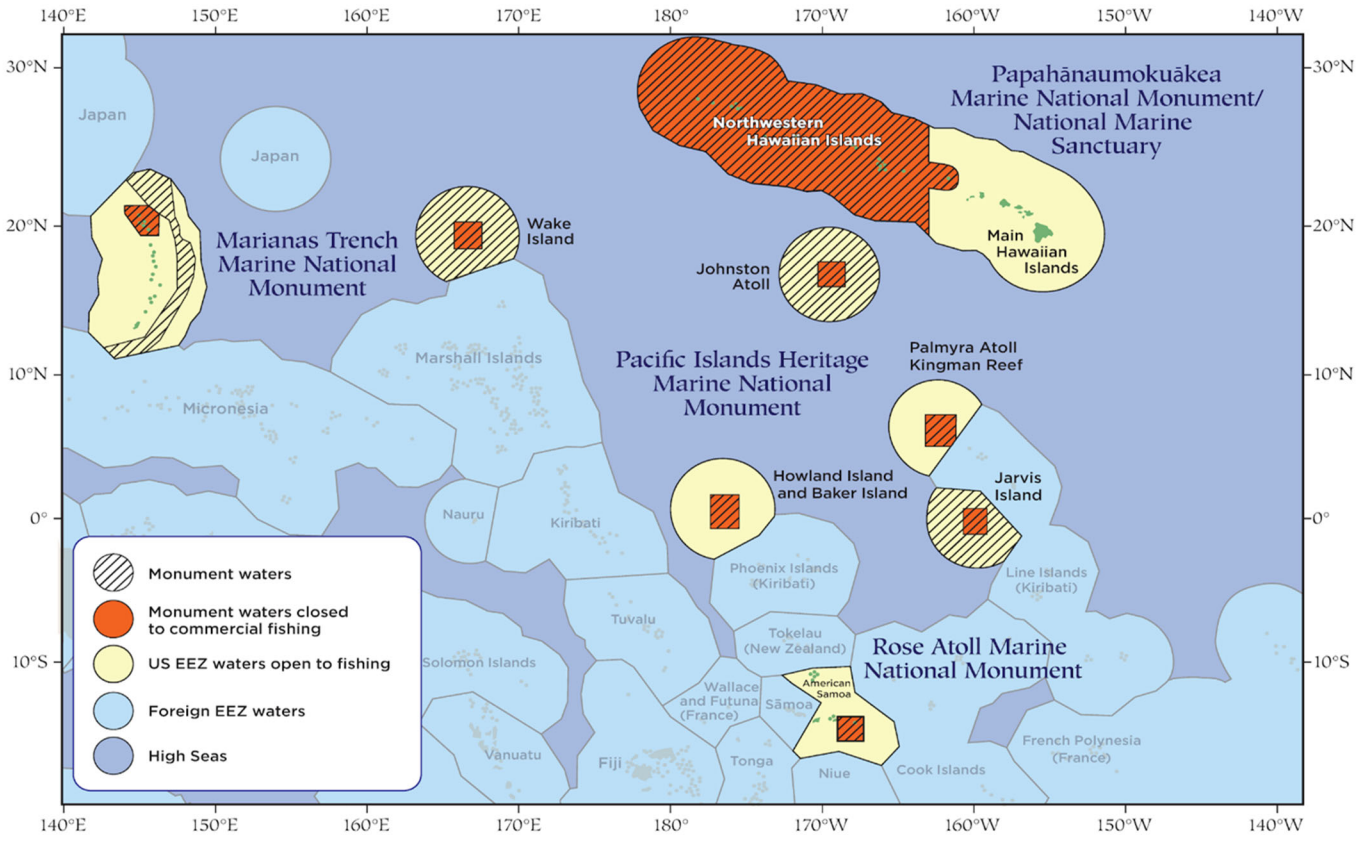
Options for Commercial Fishing Regulations in the Pacific Remote Islands and Pacific Islands Marine National Monument Expansion Area

Revised September 15, 2025



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ACRONYMS AND ABBREVIATIONS

EO	Executive Order
FEP	Fishery Ecosystem Plan
MSA	Magnuson Stevens Fishery Conservation and Management Act
PRIA	Pacific Remote Island Areas
PIHMNM	Pacific Islands Heritage Marine National Monument
PRIMNM	Pacific Remote Islands Marine National Monument
WPRFMC or Council	Western Pacific Regional Fishery Management Council

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1 INTRODUCTION

1.1 Background Information

The National Marine Fisheries Service (NMFS) and the Western Pacific Fishery Management Council (Council) manage fishing in the Exclusive Economic Zone (EEZ or federal waters, generally 3-200 nautical miles or nm from shore) around American Samoa, Guam, the Commonwealth of the Northern Mariana Islands (CNMI), Hawaii, the Pacific Remote Island Areas (PRIA) through archipelagic-based Fishery Ecosystem Plans (FEPs); and on the high seas through the FEP for Pelagic Fisheries of the Western Pacific Region (Pelagic FEP) as authorized by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. § 1801 *et seq.*).

On January 6, 2009, Presidential Proclamation 8336 established the Pacific Remote Islands Marine National Monument (PRIMNM) to protect and preserve the marine environment around Wake, Baker, Howland, and Jarvis Islands, Johnston and Palmyra Atolls, and Kingman Reef for the care and management of the historic and scientific objects therein (74 FR 1565, January 12, 2009). At that time, the PRIMNM comprised the waters and submerged and emergent lands around each island, reef, and atoll, seaward to a distance approximately 50 nm from the mean low water line. Proclamation 8336 also directed the Secretaries of Commerce and Interior to prohibit commercial fishing within the boundaries of the Monument and to permit non-commercial fishing and provide a process to ensure that recreational fishing be managed as a sustainable activity.

On February 9, 2009, NMFS informed fishermen by letter that the commercial fishing prohibitions and other terms set out in Proclamation 8336 became immediately effective upon issuance on January 6, 2009, and that commercial fishing within the PRIMNM is immediately prohibited. As a result of the February 9, 2009 letter, federal regulations and permits authorizing commercial fishing in the U.S exclusive economic zone (EEZ) encompassed by the PRIMNM were no longer in effect and commercial fishing vessels immediately ceased commercial fishing operations within waters of the PRIMNM.

On June 3, 2013, NMFS issued a final rule to codify in regulations, the boundaries of the PRIMNM and the commercial fishing prohibitions established by Proclamation 8336. The final rule also established non-commercial fishing requirement in the PRIMNM, as recommended by the Western Pacific Fishery Management Council (78 FR 32996). These include permit and reporting requirements, areas restrictions among other measures.

On September 25, 2014, Presidential Proclamation 9173 established the PRIMNM Expansion and extended the boundaries of the PRIMNM around Wake and Jarvis Islands and Johnston Atoll to the full extent of the 200 nautical mile EEZ. The intent of the PRI Monument Expansion was to provide expanded protection to objects of scientific interest, including seamounts, deep sea corals, sea turtles, seabirds, and other
species. The proclamation also extended the commercial fishing prohibitions and allowances of non-commercial fishing, including recreational fishing in the PRIMNM Expansion (79 FR 58645, September 29, 2014).

On March 25, 2015, NMFS issued a final rule to codify in regulations, the boundaries of the PRIMNM Expansion and the commercial fishing prohibitions in the PRIMNM Expansion established by Proclamation 9173. The final rule also established non-commercial fishing requirement in the PRIMNM Expansion, as recommended by the Council, (80 FR 15693).

On January 2, 2025, Presidential Proclamation renamed the PRIMNM and the PRIMNM Expansion to the Pacific Islands Heritage Marine National Monument and Pacific Islands Heritage Marine National Monument Expansion, respectively (90 FR 2575, January 13, 2025).

On April 17, 2025, Presidential Proclamation 10918 "Unleashing American Commercial Fishing in the Pacific" determined that a prohibition on commercial fishing is not, at this time, necessary for the proper care and management of the monument or the objects of historic or scientific interest therein and declared that between 50 to 200 nautical miles from the landward boundaries of the Monument, the Secretary of Commerce shall not prohibit commercial fishing within the boundary of the PRIMNM and PRIMN Expansion. The proclamation provides that only United States flagged vessels shall be allowed to commercially fish within the boundaries of the Monument and the Monument Expansion, except that permits may be issued to foreign flagged vessels to transship fish harvested by United States fishermen.

The proclamation also directed the Secretary of Commerce and the Secretary of the Interior to take appropriate action pursuant to their respective authorities under the Antiquities Act; the Magnuson-Stevens Fishery Conservation and Management Act; and such other authorities as may be available to implement the proclamation, to regulate fisheries, and to ensure proper care and management of the Monument Expansion. The proclamation further directed the Secretary of Commerce to expeditiously publish new proposed rules in the *Federal Register* to amend or repeal all burdensome regulations that restrict commercial fishing in the PRIMNM.

On April 25, 2025, NMFS informed fishery permit holders by letter that Presidential Proclamation amended Proclamation 9173, to remove the commercial fishing prohibition in the areas 50-200 nautical miles created by Proclamation 9173, and became effective upon issuance on April 17, 2025. As a result, the letter advised that the federal regulations prohibiting commercial fishing were no longer effective between 50-200 nautical miles around Wake Island, Johnston Atoll, and Jarvis Island and commercial fishing may be conducted seaward of 50 nautical miles around Wake Island, Johnston Atoll, and Jarvis Island to the full extent of the 200-mile U.S. EEZ, to the extent authorized under regulations implementing the Fishery Ecosystem Plan for Western Pelagic Fisheries (50 CFR 665 Subpart F), the Fishery Ecosystem Plan for the Pacific Remote Island Areas (50 CFR 665 Subpart E), and International Fishing Regulations set forth in 50 CFR Part 300. The letter also informed permit holders of NMFS plan to expeditiously initiate rulemaking to bring fishing regulations into compliance with the amended terms of Proclamation 9173.

On May 22, 2025, Kapa'a, Conservation Council for Hawaii and the Center for Biological Diversity filed a complaint in U.S. District Court of Hawaii challenging Presidential Proclamation 10918 and the opening of the PIHMNM to commercial fishing.

On August 8, 2025, the U.S. District Court for Hawaii issued a decision that vacated NMFS's letter of April 25, 2025. In issuing its decision, the Court held that the proclamation itself did not repeal existing regulations prohibiting commercial fishing, and that notice and public comment rulemaking is required to remove the commercial fishing prohibition.

1.2 Proposed Action

The Council proposes to address Presidential Proclamation 10918 by amending its Pelagic and PRIA FEPs to remove the prohibition on commercial fishing in waters 50-200 nm around Wake Atoll, Johnston Atoll, and Jarvis Island.

1.3 Purpose and Need for Action

Presidential Proclamation 10918, "Unleashing American Commercial Fishing in the Pacific," directs the Secretary of Commerce to "expeditiously publish new proposed rules in the Federal Register to amend or repeal all burdensome regulations that restrict commercial fishing in the Pacific Islands Heritage Marine National Monument." The Proclamation further directs that the Secretary shall not prohibit commercial fishing in the MEA.

The purpose of this action is to remove commercial fishing prohibitions in the PIHMNM Expansion Area between 50-200 nautical miles around Wake Island, Johnston Atoll, and Jarvis, and to regulate commercial fishing activities in this area in a manner that ensures proper care and management of the PIHMNM Expansion and the objects of historic or scientific interest therein. This action is needed to comply with the provisions of Proclamation 10918.

1.4 Action Area

The Action Area includes the waters 50-200 nm around Wake Atoll, Johnston Atoll, and Jarvis Island. These areas are currently designated as the PIHMNM Expansion Area, per Presidential Proclamation 9173 (September 25, 2014).

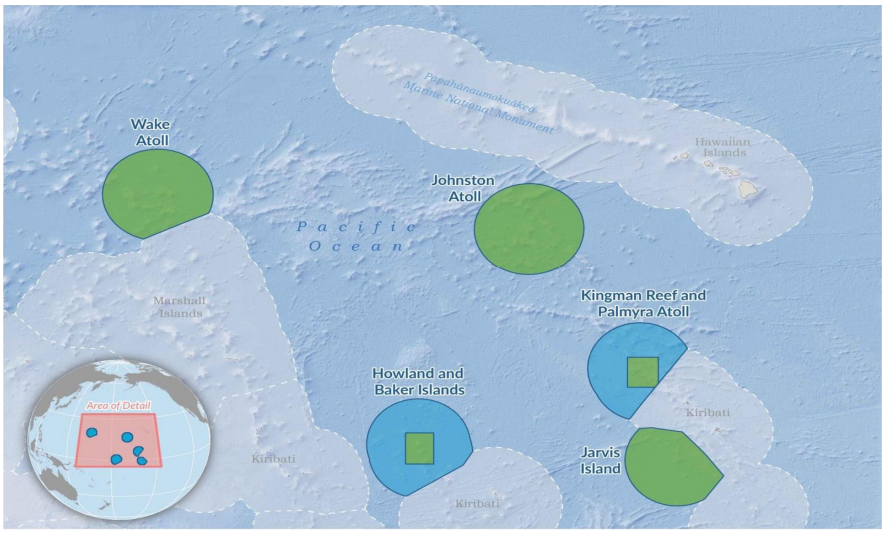

Figure 1: Action Area-Pacific Islands Heritage Marine National Monument

Source: NOAA Fisheries, Pacific Islands Regional office; MPAAtlas; Marine Conservation Institute; MarineRegions.org; Natural Earth.

1.5 Public Involvement

The Council proposes to take initial action at its 204th Meeting at the Ala Moana Hotel in Honolulu, Hawaii on September 16-17, 2025. The Council will review draft alternatives and may select a preliminarily preferred alternative for staff to develop for final action. Public comments will be solicited at the meeting.

2 DESCRIPTION OF THE OPTIONS CONSIDERED

2.1 Description of the Options

2.1.1 Option 1: No Action (Status Quo/Current Management)

Under Option 1, the Council would take no action. MSA regulations prohibiting commercial fishing in the PRIMNM Expansion codified at 50 CFR 665 Subpart H – Pacific Remote Island Marine National Monument would not be repealed. The NMFS would work on implementing aspects from the Proclamation and developing a rule that would remove the commercial fishing prohibitions.

Expected Fishery Outcomes
Commercial fishing would continue to be prohibited in the PIHMNM Expansion Area, in violation of Proclamation 10918. The fisheries currently excluded from the PIHMNM Expansion Area are expected to continue to operate as they do currently, in the Hawaii portion of the US EEZ or the high seas. However, there are efforts to close the high seas to fishing, in which case those fleets would face a tremendous hardship without having additional areas to fish. The impacts of climate change may also see the migration of fish into new areas, including the US EEZ in the PRIAs. Without the ability to fish in the US EEZ, the US fleet would be forced to pay to fish in the EEZ of surrounding foreign countries.

2.1.2 Option 2: Remove Commercial Fishing Prohibitions in the PRIMNM Expansion Area and Manage Commercial Fishing Through Existing Regulations

Under Option 2, the Council would recommend NMFS remove the commercial fishing prohibitions from 50-200 nm around Wake Atoll, Johnston Atoll, and Jarvis Island through an amendment to the Council's Fishery Ecosystem Plans. MSA regulations prohibiting commercial fishing in the PRIMNM Expansion codified at 50 CFR 665 Subpart H – Pacific Remote Island Marine National Monument would be repealed from the code of federal regulations and commercial fisheries authorized under of the Fishery Ecosystem Plan for Western Pelagic Fisheries (Pelagics FEP), the Fishery Ecosystem Plan for the Pacific Remote Island Areas (PRIA FEP), and international treaty agreements operating in the PIHMNM Expansion would be managed through existing regulations at 50 CFR 665 Subpart F (Pelagic Fisheries), 50 CFR 665 Subpart E (PRIA Fisheries) and 50 CFR Part 300 (International Fisheries Regulations).

Expected Fishery Outcomes
Commercial fishing would be allowed under this option, via federal permits, in the same manner as Howland and Baker Islands, Kingman Reef, and Palmyra Atoll. Federal fishing permits are required for pelagic troll and handline, pelagic longline, bottomfish, crustaceans, coral reef ecosystems, and precious corals.

2.1.3 Option 3: Repeal Commercial Fishing Prohibitions in the PRIMNM Expansion Area and Manage Commercial Fishing Through Enhanced Regulations

Under Option 3, the Council would recommend NMFS remove the commercial fishing prohibitions from 50-200 nm around Wake Atoll, Johnston Atoll, and Jarvis Island, as in Option 2, but also recommend enhanced regulatory requirements that could address the proper care and management of the PIHMNM Expansion and the objects of historic or scientific interest therein. MSA regulations prohibiting commercial fishing in the PRIMNM Expansion codified at 50 CFR 665 Subpart H – Pacific Remote Island Marine National Monument would be repealed from the code of federal regulations and commercial fisheries authorized under the Pelagics FEP, PRIA FEP and international treaty agreements operating in the PIHMNM Expansion. Under this Option, permits may be issued to foreign flagged vessels to transship fish harvested by United States fishermen consistent with existing regulations at 50 CFR 600 Part F – Foreign Fishing

Expected Fishery Outcomes
Enhanced regulations on existing fisheries would allow for additional controls on fisheries that may operate in the monument expansion area. Additional restrictions on gears, quotas, observers and electronic monitoring, and areas could be placed upon any or all fisheries and may discourage participation in certain fisheries.

Table 1. Comparison of Features of the Alternatives

Longline Fishing	Alternative 1 (Status quo)	Alternative 2 Commercial Fishing	Alternative 3 Enhanced Regs
Longline Fishing	Allowed	Allowed	Potentially Limited
Purse Seine Fishing	Allowed	Allowed	Potentially Limited
Pelagic Troll/Handline	Allowed	Allowed	Potentially Limited
Bottomfish	Allowed	Allowed	Potentially Limited
Crustaceans	Allowed	Allowed	Potentially Limited
Precious Coral	Allowed	Allowed	Potentially Limited
Coral Reef SCREP	Allowed	Allowed	Potentially Limited

3 DESCRIPTION OF THE AFFECTED ENVIRONMENT

3.1 Fisheries, Target and Non-target Species

As many tropical pelagic species (e.g., skipjack tuna) are highly migratory, the fishing fleets targeting them often travel great distances. Although the EEZ waters around Howland and Baker Islands, Kingman Reef and Palmyra Atoll are over 1000 nm away from Honolulu, the Hawaii

longline fleet does seasonally fish in those areas. For example, the EEZ around Palmyra is visited by Hawaii-based longline vessels targeting yellowfin tuna. Similarly, the U.S. purse seine fleet also targets pelagic species (primarily skipjack tuna) in the EEZs around equatorial areas of the PRIA, including Howland, Baker, and Jarvis Islands. The combined amount of fish harvested from these areas from the U.S. purse seine on average is less than five percent of their total annual harvest [1]. Troll and handline fisheries operate at depths of less than 3 m, purse seine fisheries operate up to 200 m in depth, and longline fisheries operate up to 400-500 m in depth.

Federal permits are required to fish for certain MUS in federal waters around the PRIA. The number of federal permit holders in the FEP fisheries of the PRIA had been steady up until 2020 (see Table 1).[2] Since 202, NMFS has not issued any permits. Hawaii Longline Limited Entry and American Samoa Longline Limited Entry federal permits also allow for fishing within the PRIA outside of the PRIMNM. However, landing in the PRIA or elsewhere outside of their permit would require a Western Pacific General Longline permit.

Table 1: Number of permits in PRIA fisheries 2013-2022

PRIA Fisheries	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022
Bottomfish	2	2	1	1	1	4	4	0	0	0
Lobster	0	0	0	0	0	0	0	0	0	0
Shrimp	0	0	0	0	0	0	0	0	0	0
Troll and Handline	6	9	5	3	3	8	2	0	0	0

Source: NMFS unpublished data

Bottomfish fishing typically targets depths of 75 to 400 m and utilize bottomfish vessels that are relatively small ranging from 20-30 feet in length. The fishery uses basic handline gear that consists of a 3-to-5-pound weight attached to the end with 2 to 8 branch lines with circle hooks attached above the weight at 6-to-10 foot intervals. A chum bag containing chopped fish or squid is usually attached above the highest of these hooks to attract the fish. The gear is retrieved using a mechanical line hauler after one or more fish are hooked.

Federally permitted crustacean fisheries target spiny and slipper lobsters, Kona crab and deepwater shrimp. Spiny lobsters are typically found from 1-to-73 meters but can be found up to 180 m depth. Slipper lobsters can be found up to 500 m of water. Typically harvested by hand, spiny and slipper lobsters have also been caught by traps in some places. Kona crab can be found in sandy areas from 2-to-200 m and spend their time buried in the sand. Deepwater shrimp (*Heterocarpus*) can be found in abundance between 365-455 m in depth and are caught using traps. There have been no federal permits issued for bottomfish, lobster, or shrimp in the past 10 years.

Precious corals are those deep corals that are used in the jewelry industry and includes black, red/pink, bamboo, and gold corals. The exploratory areas, which include any other beds found in the rest of the EEZ, had an optimum yield limited to 1,000 kilograms, which was considered

[1] WPRFMC. 2023. 2022 Pelagic Annual Stock Assessment and Fishery Evaluation Report
[2] WPRFMC. 2023. 2022 PRIA Annual Stock Assessment and Fishery Evaluation Report

enough to incentivize exploration to find additional beds that could then be delineated, surveyed for abundance, and permitted as conditional or established beds. Precious corals are characterized by great longevity, slow growth, and relatively low rates of mortality and recruitment (Grigg, 1976). Unfished coral populations are relatively stable from year to year and moderate changes in vital rates should have comparatively small effects on total abundance. Pink, red, gold, bamboo, and black corals all have larval planktonic and sessile adult stages. Larvae settle on solid substrata, where they form colonial branching colonies. Gold coral planula settle on hosts, and are only found as parasitic overgrowths of bamboo or other non- gorgonian deep sea corals. Precious corals are most typically found between 200 and 600 m depth but the expanded area of the monument remains largely unexplored and distribution and abundance of precious corals in the area are unknown.

3.2 Protected Species

Protected species such as sharks, sea turtles, marine mammals and seabirds do occur in the expansion area. All Pacific sea turtles are designated under the Endangered Species Act as either threatened or endangered. The breeding populations of Mexico olive ridley sea turtles (*Lepidochelys olivacea*) are currently listed as endangered, while all other ridley populations are listed as threatened. Leatherback sea turtles (*Dermochelys coriacea*) and hawksbill turtles (*Eretmochelys imbricata*) are also classified as endangered. Loggerhead (*Caretta caretta*) and green sea turtles (*Chelonia mydas*) are listed as threatened. These five species of sea turtles are highly migratory, or have a highly migratory phase in their life history.

Cetaceans listed as endangered under the ESA and that have been observed in the Western Pacific Region include the humpback whale (*Megaptera novaeangliae*), sperm whale (*Physeter macrocephalus*), blue whale (*Balaenoptera musculus*), fin whale (*B. physalus*) and sei whale (*B. borealis*). In addition, one endangered pinniped, the Hawaiian monk seal (*Monachus schauinslandi*), occurs in the region. A resident population of bottlenose dolphins are reported to occur near Jarvis Island (Brainard et. al 2005). Although other cetaceans such as sperm whales are believed to occur in the EEZ around Jarvis Island, information on the types of species and their abundance is currently unknown. Spinner dolphins, Pacific bottle-nose dolphins *(Tursiops truncatus*) and Cuvier's beaked whales are thought to occur at Wake Island.

Seabirds found in the region include the short-tailed albatross (*Phoebastria immutabilis*), Newell's shearwater (*Puffinus auricularis newelli*), black-footed albatross (*Phoebastria nigripes*); Laysan albatross (*Phoebastria immutabilis*), Masked booby (*Sula dactylatra*); brown booby (*Sula leucogaster*); red-footed booby (*Sula sula*,); wedge-tailed shearwater (*Puffinus pacificus*); Christmas shearwater (*Puffinus nativitatis*), petrels (*pseudobulweria spp*., *Pterodroma spp.),* tropicbirds (*Phaethon spp*.), frigatebirds (*Fregata spp*.) and noddies (*Anous spp.)*

Manta Rays are also likely to occur in the expansion area and are likely the larger giant oceanic manta (*Mobula birostris*). Incidental bycatch of manta rays and unidentified mobula rays are rare in these longline fisheries, and most rays are released alive.

3.3 Ecosystems and Habitat

The monument expansion area around the PRIA are deep waters that range from 2,300 m to 5,000 m. Much of the region is unmapped but seamounts are known to occur in the monument. Recent dives have identified a seamount at Johnston Atoll that has a peak at its shallowest depth of 1500 m.

Reef building corals typically occur at depths shallower than 70 m. Due to the depths in the 50-200 nm area around Johnston Atoll, Wake Atoll, and Jarvis Island these types of corals are unlikely to occur in the monument expansion area. Little is known about the deep coral communities in these areas as much of it remains remote and unexplored.

4 ENVIRONMENTAL EFFECTS OF THE ALTERNATIVES

This section describes the potential effects of each alternative on the components of the affected environment or other socio-economic elements identified in Section 3.0 above.

4.1 Fisheries, Target and Non-target Species

Under Option 1, commercial fishing would continue to be prohibited and the impacts to the fishery would remain at the status quo. Under all options, fishery participants would continue to be impacted by factors such as weather, catchability, fuel prices, among others. However, current commercial fishing levels are low and there have been no non-commercial or recreational charter permits issued for the PRIA in the last three years. The Hawaii-based longline fishing fleet itself is managed by a limited-entry system that caps participation, but all of the permitted vessels could, in theory, fish in the PRIA and present competition for longline-caught species such as Bigeye Tuna and Swordfish if they also have a general longline fishing permit.

Fisheries may experience increased impacts by other factors such as fuel prices due to having to travel a greater distance, which may in turn affect fish prices. Secondary impacts of closing commercial fishing would impact businesses that rely on those fish and smaller businesses that may receive fish from the U.S. fishing vessels.

All options would be expected to continue the current fishing pressure, which is very low and concentrated on longline and purse seine fishing. Primary target species in these fisheries have stock assessments that have generated MSY of which catch from the PRIA is just a small fraction of that total.

Fishing pressure could be limited under Option 3, ranging from continued fishing pressure with non-commercial fishing permits to prohibition of existing fisheries with nearly all of the existing fishers being affected. The stocks currently being targeted are unlikely to be affected by a complete prohibition on commercial fishing as those stocks are highly migratory and would likely be caught elsewhere in the area outside of the sanctuary. Fishing pressure would not decrease and be transferred to a different area or to foreign fleets. The impacts on the fishery

would be negative with existing fishers having to compete on the high seas with foreign countries.

Under all options that permit fishing, fishery participants would continue to face the burden of applying for permits, paying the fee, and providing reports/logbooks on their fishing catch and effort. However, this does not difference from the no action option, so no effect is anticipated. Fishing rules and regulations may also provide a baseline of information that causes further increased burden through future management measures. Implementing permits with reporting would have little direct impact on fishing communities, but may provide additional information for future social, economic, and cultural analyses.

4.2 Protected Species

Under Options 1 and 2, the impacts to protected species from longline and purse seine vessels would continue as expected and as authorized pursuant to the Incidental Take Statement contained in the current NMFS' Biological Opinion on the deep-set longline fishery. Because fisheries are managed throughout their range rather than to a specific location, the expected impacts would be similar between no action and eliminating commercial fishing prohibitions. Longline vessels would continue to be required to adhere to all seabird, sea turtle, and other protected species mitigation and avoidance measures currently in effect for deep-set longline fishing activities. The impacts to protected species from any existing non-commercial fisheries would be negligible with zero permits issued for non-commercial fishing since 2020 and permittee are required to adhere to all seabird, sea turtle, and other protected species mitigation and avoidance measures currently in effect and all regulations that apply under the ESA, MMBA, MBTA and other applicable law.

Option 3 may allow for increased restrictions on fishing that could further minimize any potential protected species impact depending on the approach chosen by the Council, but because interactions are low, it is unlikely that adding limits on gears, effort or catch would provide substantial additional benefits to protected species. All options would allow for additional information to be collected on potential protected species interactions or bycatch through federal permitting regulations.

There are no targeted fisheries for manta rays in the US Western Pacific. Under all options, interactions with manta rays are likely to be rare and minimal. Available observer data indicate that the catch per unit effort (CPUE) has been variable between <0.001 and 0.003 per 1,000 hooks in the Hawaii deep-set longline fishery since 2002 with approximately 20% observer coverage, between 0 and 0.005 in the Hawaii shallow-set longline fishery since 2004 with 100% observer coverage, and <0.001 and 0.003 in the American Samoa longline fishery since 2007 with approximately 20% observer coverage. This level of bycatch is likely to have minimal impacts on the giant manta ray populations.

4.3 Ecosystems and Habitat

Because existing fishery gears do not come into contact with the seabed, no impacts on marine habitat are anticipated under any of these options. Any perceived potential impacts from bottom-tending gears could be addressed through Option 3, though no impacts have been identified to

date in the expansion area. Research in Hawaii found that impacts to benthic habitat from bottomfish fishing gear was negligible. If bottomfish fishing were to occur under these options, there could be impacts from any bottom-tending gear; however, because of the depth in most of the open areas of the PRIA, bottomfish fishing is unlikely to occur and any impacts are expected to be negligible. Option 3 could provide additional regulations to address any ecosystem and habitat concerns regarding bottom-tending gear. All options could provide a means to collect information on fishing and impacts in the PRIA.