UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
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Finding of No Significant Impact for the Environmental Assessment to Implement a Program for the Conservation of Tuna in the Eastern Pacific Ocean in 2009-2011 as Agreed Upon by the Inter-American Tropical Tuna Commission

National Oceanic and Atmospheric Administration Administrative Order 216-6 (NAO 216-6) (May 20, 1999) contains criteria for determining the significance of the impacts of a proposed action. In addition, the Council on Environmental Quality regulations at 40 C.F.R. '1508.27 state that the significance of an action should be analyzed both in terms of "context" and "intensity." Each criterion listed below is relevant in making a finding of no significant impact and has been considered individually, as well as in combination with the others. The significance of this action is analyzed based on the NAO 216-6 criteria and CEQ's context and intensity criteria. These include:

1) Can the proposed action reasonably be expected to jeopardize the sustainability of any target species that may be affected by the action?

Response: The target species of the U.S. eastern Pacific Ocean (EPO) longline fisheries are bigeye tuna and swordfish, with yellowfin tuna being an incidentally caught target species. The target species in the U.S. EPO purse seine fishery are skipjack and yellowfin tunas, and bigeye tuna is an incidentally caught target species. The objective of the proposed action is to reduce the fishing mortality rate on bigeye tuna, as well as yellowfin tuna. Bigeye tuna in the Pacific and the EPO yellowfin tuna stock are shared international resources that are both currently subject to overfishing according to National Marine Fisheries Service (NMFS). It is estimated that the 500 metric ton (mt) catch limit on bigeye tuna caught by longline vessels over 24 meters (m) in length would not be met in any of the years 2009, 2010, or 2011, thus fishing effort and related fishing mortality in the Hawaii- and west-coast-based longline fisheries would not change from the status quo. The quota would establish a limit on the amount of bigeye tuna that can be caught and retained, thus it could benefit this target species if fishing effort were to increase dramatically in the future and the limit were to be reached. The EPO purse seine closures have the potential to decrease the fishing mortality of the target tuna species. Purse seine sets would be prohibited for 16, 17, and 19 percent of the year in 2009, 2010, and 2011, respectively, thus catches would be expected to be affected accordingly. However, the majority of these vessels are capable of fishing outside of the closure area during the closure period, or fishing during the remainder of the year because the fishery operates year round. In addition, currently there are only five U.S. purse seine vessels class size 4-6 authorized to fish in the Inter-American Tropical

Tuna Commission (IATTC) Convention Area[1], so any decrease in effort is unlikely to have much effect on the stock status of any species.

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

Response: For reasons similar to those stated above in the response to criterion 1, the proposed action is not expected to jeopardize the sustainability of any non-target species. The NMFS forecast of bigeye tuna catch in the longline fishery in the EPO indicates that the 500 mt catch limit on bigeye tuna will not be reached in 2009-2011, thus fishing effort and related fishing mortality of non-target species is unlikely to change from the status quo. The EPO purse seine closure does have the potential to minimally decrease the fishing mortality of non-target species in the purse seine fishery in the EPO. Purse seine sets would be prohibited for 16, 17, and 19 percent of the year in 2009, 2010, and 2011, respectively, thus it is expected that non-target catch may decrease accordingly. However, the majority of the affected purse seine vessels are capable of fishing outside of the closure area during the closure period, or fishing during the remainder of the year because the fishery operates year round.

3) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat (EFH) as defined under the Magnuson-Stevens Act and identified in FMPs?

Response: No. Some of the areas affected by the proposed action in the purse seine fishery have been identified as EFH; however the proposed action will not result in damage to the ocean and coastal habitats or EFH. The proposed rule only applies to purse seine vessels class sizes 4-6, and longline vessels greater than 24 m in length operating in the EPO. Longline vessels are prohibited from fishing in the U.S. West Coast Exclusive Economic Zone (EEZ), so there would be no effect on EFH. Purse seine vessels can fish within the U.S. West Coast EEZ; although, the majority, if not all, of the fleet operates on the high seas. The proposed action has the objective of reducing the fishing effort in the purse seine fleet. In addition, purse seine gear is generally not associated with adverse physical impacts to pelagic habitats. NMFS Sustainable Fisheries Division (SFD) received a memo from NMFS Habitat Conservation Division concurring with the determination that the proposed action will not have an adverse impact on EFH on October 29, 2009.

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

Response: No. The proposed action is not expected to have an adverse impact on public health or safety. The proposed action establishes limits on fishing effort and mortality in the purse seine and longline fisheries that primarily operate on the high seas in the EPO. Currently there are no public health or safety concerns in either fishery, and this is not expected to change with the proposed action.

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[1] The IATTC Convention Area includes the waters bounded by the coast of the Americas, the 50° N. and 50° S. parallels, and the 150° W. meridian.

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

Response: No. The proposed action would not be expected to adversely affect species listed as endangered or threatened under the Endangered Species Act (ESA), their critical habitat or marine mammals. To the extent that there could be a slight reduction in fishing effort in the purse seine fishery, and limits are being established on the target species in the longline fishery, any effects to listed species or critical habit of these species would be beneficial, since there would be a reduced risk of interaction with the protected resource. Moreover, the proposed action would not cause any impacts to ESA-listed threatened or endangered species that have not been addressed in prior or ongoing consultations. NMFS SFD sent a memo to NMFS Protected Resources Division on October 1, 2009 explaining the proposed action and its potential impacts to protected species.

Summary of Prior Endangered Species Act Consultations for U.S. Pelagic Fisheries in the EPO

• Hawaii deep-set longline	October 4, 2005, Biological Opinion by NMFS; 2004 Biological Opinion by USFWS, and currently undergoing Section 7 consultation with USFWS.
• Hawaii shallow-set longline	October 15, 2008, Biological Opinion by NMFS; 2004 Biological Opinion by USFWS, and currently undergoing Section 7 consultation with USFWS.
• American Samoa longline	February 23, 2004, Biological Opinion by NMFS
• West Coast deep-set longline	Currently undergoing Section 7 analysis by NMFS; 2004 Biological Opinion by USFWS.
• West Coast purse seine	December 8, 1999, Biological Opinion by NMFS; ITS amended January 8, 2001, and July 7, 2004.

6) Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?

Response: No. The objective of the proposed action is to reduce the fishing mortality rate on bigeye tuna, as well as yellowfin tuna. While no decreases in fishing mortality are anticipated in the longline fishery, the closure periods in the purse seine fishery may result in minimal decreases in fishing mortality on both target and non-target catch. Most of the catch in both the longline and purse seine fisheries in the EPO are apex predators, which are at the top of the food chain. Decreases in the catch of these species could lead to trophic interactive effects, including increased competition for prey species with other top predators. Larval and juvenile bigeye tuna and yellowfin tuna are also sources of food for other marine species, such as fish, seabirds, porpoises, marine mammals, and sharks. Thus, increases in larval and juvenile tuna could increase the food available for these other species. However, the overall effects from the proposed action would be so minor that any effects to ecosystem function and biodiversity would not be expected.

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

Response: No. It is estimated that the 500 mt catch limit on bigeye tuna caught by longline vessels over 24 m in length would not be met in any of the years 2009, 2010, or 2011, thus fishing effort and economic viability in the Hawaii- and California-based longline fisheries would not change from the status quo. The EPO purse seine closure does have the potential to minimally decrease the fishing effort in the purse seine fishery in the EPO which could have a minimal socioeconomic impact. Currently there are only five U.S. purse seine vessels class size 4-6 authorized to fish in the IATTC Convention Area. Purse seine sets would be prohibited for 16, 17, and 19 percent of the year in 2009, 2010, and 2011, respectively; however, the majority of the affected purse seine vessels are capable of fishing outside of the closure area during the closure period, or fishing during the remainder of the year because the fishery operates year round.

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

Response: No. It is estimated that the proposed action will have very minor, if any, effects on the human environment, thus it is unlikely to be controversial. The EA was published in the Federal Register on October 19, 2009, for public comment along with the proposed rule to implement the proposed action. NMFS received one letter that included six substantive comments; only one of the comments pertained to the draft EA and pointed out an error in one of the tables in the EA. All of the comments are addressed in the final rule.

9) Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, park land, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas?

Response: No. The proposed action has the objective of limiting the fishing effort in both the longline and purse seine fisheries already operating in the EPO. The majority, if not all, of the fishing operations of these fleets takes place on the high seas. The proposed action does establish a closure area to the west of the Galapagos Islands which was chosen by IATTC scientists due to the large catch of juvenile tunas by foreign purse seine fleets in this area. However, the U.S. purse seine fleet has seldom, if ever fished in this area. Any geographical shifts in fishing effort caused by the proposed action would be minor and would not be expected to adversely affect any unique areas or ecologically critical areas.

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

Response: No. As stated in Chapter 4 of the EA, although the magnitude of the effects on the human environment cannot be quantified with certainty, the types of effects and the direction of those effects can be predicted and are likely to be very minor. Any impacts to target and non-target species caused by the proposed action are likely to be minor and beneficial. Any impacts to the socioeconomic environment caused by the proposed action are also likely to be minor, but would be negative. In addition, the duration of the rule would be limited to three years, thus the

overall direct and indirect impacts from implementation of the rule under any of the action alternatives would be minor. In terms of the cumulative effects of the proposed action as well as similar actions taken by other IATTC members to implement IATTC Resolution C-09-01, there could be greater conservation benefits to the target and non-target species caught in the longline and purse seine fisheries. In addition, these cumulative impacts could offset some of the potentially negative economic impacts of the proposed rule because limiting the catch in foreign and domestic fisheries could increase the ex-vessel price of the target species, and/or fishery operations could be continued in the long term because the resources would be harvested sustainably which is the objective of the resolution.

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

Response: No. The cumulative impacts on the affected environment from the proposed action, other present actions, and all reasonably foreseeable future actions would likely be beneficial. The objective of the proposed action and some of the other identified actions that could affect the affected environment is to implement conservation and management measures to help sustain the resources in the affected environment and maintain fishing operations in the long term. However, any beneficial effects could be counteracted by changes in ocean conditions, including those caused by climate change, which could lead to adverse effects on resources in the affected environment, as well as potential adverse effects caused by some reasonably foreseeable future actions, such as changes to current fishing operations and increases in illegal, unreported, and unregulated fishing. Any such adverse effects are difficult to quantify and would be counteracted by the actions of fishery managers. Thus, the overall cumulative impacts are not expected to be significant or adverse.

12) Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources?

Response: No. Items eligible for listing, or listed in the National Register of Historic Places, or significant scientific, cultural or historical resources are not located in the affected environment, thus they would not be affected by the proposed action.

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

Response: No. The objective of the proposed action is to limit the current fishing effort in the longline and purse seine fisheries that operate primarily on the high seas in the EPO. Any shift in fishing practices is likely to be minor and will not result in any introduction or spread of nonindigenous species.

14) Is the proposed action likely to establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration?

Response: No. As stated in Chapter 1 of the EA, the purpose of the proposed action is to implement IATTC Resolution C-09-01, which has the conservation objective of reducing the fishing mortality rate of bigeye tuna in the EPO. This action is necessary for the United States to satisfy its international obligations under the 1949 Convention for the Establishment of an Inter-American Tropical Tuna Commission (Convention), to which it is a Contracting Party, as well as to reduce fishing pressure on bigeye tuna, a shared international resource which is currently subject to overfishing according to NMFS. The resolution specifies that the measures that were adopted only apply to 2009-2011. Thus, the rule is limited to an immediate and focused objective and it does not establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration.

15) Can the proposed action reasonably be expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment?

Response: No. The objective of the proposed action is to reduce the fishing pressure on bigeye tuna, which is currently subject to overfishing, and satisfy U.S. international obligations under the 1949 Convention. Federal, State, and local laws and requirements imposed for the protection of the environment are consistent with the proposed action, which will benefit the environment.

16) Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

Response: No. See the response to criterion 11 above for a discussion of cumulative effects. The proposed action has the objective of reducing the fishing pressure on bigeye tuna, one of the primary target species in the longline and purse seine fisheries, thus any effects of the proposed action would be beneficial for target and non-target species.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting "Environmental Assessment to Implement a Program for the Conservation of Tuna in the Eastern Pacific Ocean in 2009-2011 as Agreed Upon by the Inter-American Tropical Tuna Commission", it is hereby determined that the rule "Fishing Restrictions in the Longline and Purse Seine Fisheries in the Eastern Pacific Ocean in 2009, 2010, and 2011" will not significantly impact the quality of the human environment as described above and in the supporting Environmental Assessment. In addition, all beneficial and adverse impacts of the proposed action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an EIS for this action is not necessary.

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Date