Pacific Islands Regional Office
NOAA Fisheries

RECORD OF DECISION

FISHERY MANAGEMENT PLAN
PELAGIC FISHERIES OF THE WESTERN PACIFIC REGION

A. Introduction and Background

The Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (Pelagics FMP) was implemented in 1987 to manage unique and diverse fisheries (Final Environmental Impact Statement for the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region (FEIS) pp. 3-144 through 3-357. The FEIS is included here at Attachment 11). The western Pacific region includes the U.S. exclusive economic zone (EEZ) surrounding the State of Hawaii, the Territories of American Samoa and Guam, the Commonwealth of the Northern Mariana Islands (CNMI), and the U.S. Pacific remote island areas (PRIA) including Howland, Baker, and Jarvis islands, Midway, Wake, Palmyra and Johnston Atolls, and Kingman Reef.

The Pelagics FMP manages Federal fisheries in the U.S. EEZ in the context of a complex set of marine boundaries and various authorities with jurisdiction over activity in the western Pacific region. For example, in addition to state and territorial jurisdiction, the U.S. Fish and Wildlife Service (FWS) has authority to manage a number of national wildlife reserves in the western Pacific region. Additionally, as noted in the FEIS (pp. 1-32 through 1-34), Executive Order (EO) 13178 of December 4, 2000, and EO 13196 of January 18, 2001, established the Northwestern Hawaiian Islands (NWHI) Coral Reef Ecosystem Reserve (Reserve) in the Federal waters within 50 nautical miles (nm) of those islands. This reserve, prohibits all commercial pelagic fishing, except for trolling for pelagics by individual fishers who possessed a Federal NWHI bottomfish permit on December 4, 2000, (Hawaii-based longline vessels had already been excluded from inshore areas in the NWHI by a 50 nautical mile protected species zone). The Reserve, placed under the authority of the National Oceanic and Atmospheric Administration (NOAA), complements the two national wildlife refuges in the NWHI managed by the FWS. The FWS also administers refuges in the Pacific Remote Island Areas, American Samoa, and Guam. The FEIS, and this Record of Decision (ROD), considers the combined and cumulative effects on the quality of the human environment that result from continued management of domestic fisheries under the Pelagics FMP with these, as well as other, actions. As per the March 30, 2001, distribution memo for the FEIS, the FEIS also incorporates by reference the National Marine Fisheries Services= (NMFS=) Endangered Species Act (ESA) Section 7 biological opinion (BiOp) for Authorization of Pelagic Fisheries under the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region, March 2001, as clarified January 31, 2002 (Pelagics BiOp), analyzing effects on protected species.

This ROD documents the NMFS= final decision(s) concerning the management of fisheries governed by the Pelagics FMP. The NMFS is making these decisions after consideration of the information and analysis in the FEIS, comments submitted on the Draft Environmental Impact Statement and the FEIS, applicable BiOps, and other factors, including the mission responsibilities of the Agency.

NMFS issued the FEIS for public review and comment on March 30, 2001. The notice of availability

of the FEIS appeared in the Federal Register at 66 FR 18243 (April 6, 2001). The FEIS includes a Preferred Alternative that consists of multiple separate actions or components and that serves as the basis for NMFS= final decision (FEIS pp. 2-23 through 2-26).

Implementing the final agency decision requires several Western Pacific Fishery Management Council (Council) recommendations and NMFS decisions and actions. The Council process is now complete for measures necessary to implement the agency=s final action. Major Council actions were completed during a meeting held October 23-26, 2001, when the Council voted to prepare, and submit to NMFS, a proposed rule for the long-term implementation of the sea turtle conservation measures included in the Preferred Alternative. This rule, submitted for implementation on February 4, 2002, and published as a proposed rule on April 29, 2002 (67 FR 20945), applies not only to the Hawaii-based longline fishery, but also to other fisheries managed under the FMP that potentially interact with sea turtles. In this regard, it goes beyond the emergency rules currently in effect, and advances implementation of the final agency action.

Although there are different schedules for implementing each of the components, this ROD describes the decisions and provides rationales for all components of the agency=s final decision. The ROD is being issued in conjunction with NMFS= final rule implementing NMFS actions for sea turtle conservation because it is the last component of the Preferred Alternative of the FEIS with a potentially significant impact on the human environment. With implementation of this rule, all major components of the final agency action are effective.

NMFS determined that this ROD, representing NMFS= final decision on the complete set of action items, should not be issued until the required procedural and rulemaking processes, i.e., the public deliberations, were completed according to law. Specifically, under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 et seq., the Council takes the lead in developing fishery management plans for the western Pacific region, and drafting regulations for such plans. Under the Magnuson-Stevens Act, the Council is given the first opportunity for initiating management actions and modifying regulations implementing an FMP or FMP amendment. The Secretary of Commerce (Secretary) has responsibility to review proposals (i.e., FMPs, FMP amendments, or other regulations submitted under FMP frameworks) recommended by the Council; solicit and consider public comment on those proposals; approve, disapprove, or partially approve the proposals; and implement proposals, or those portions of proposals, that have been approved. The Secretary is not authorized to prepare a new FMP or amend an existing FMP unless the appropriate Council fails to develop and submit to the Secretary, after a reasonable period of time, a needed action (Act, sections 303(c) and 304). These processes were required to be completed before the Agency rendered a final decision in order to comply with the Magnuson-Stevens Act and the Administrative Procedure Act. Furthermore, through public deliberations on the several rules, the Agency might uncover information requiring adjustment of the actions proposed.

NMFS has prepared this ROD pursuant to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act (NEPA) (40 CFR Parts 1500-1508), and NOAA guidance (NOAA Administrative Order 216-6) implementing NEPA.

B. Final Decision

The Agency is taking final action to continue to authorize and manage the conduct of the U.S. pelagic fisheries in the western Pacific region under a comprehensive management regime consistent with the goals of the Magnuson-Stevens Act, the Pelagics FMP, and other applicable law (FEIS pp. 1-13 through 1-17 and 2-31 through 2-54). As described in more detail below, the final decision is to adopt a comprehensive approach to management through implementation of the suite of components comprising the Preferred Alternative identified in the FEIS. This is the alternative that, with modifications described here, the Agency has selected to implement as its final action. This final action will result in continued application of some measures in effect under the Pelagics FMP and earlier amendments, as well as the revision of existing and/or introduction of additional management measures. Specifically, revision of the FMP=s regulations is necessary for the management regime to reflect recent Council initiatives concerning potential

gear conflicts and catch competition in American Samoa; permitting and reporting requirements for pelagic troll and handline fisheries in the PRIA; the amendment of the Magnuson-Stevens Act to prohibit shark finning; and provisions of BiOps mandating reductions and mitigation of interactions of the Pelagics FMP fisheries with protected species of sea turtles and the Hawaii-based longline fleet with protected species of seabirds.

C. Final Action - FEIS Alternative 10: Continued Operation of the Pelagics FMP Fisheries, with Adjustments as Described Below.

With minor adjustments (as described below), the components of the final agency action are described and analyzed in the FEIS as Alternative 10 (FEIS pp. 2-23 through 2- 26). This alternative incorporates sea turtle conservation measures of the Pelagics BiOp and most of the components of Alternative 2 (FEIS pp. 2-10 through 2-17). Alternative 2 would require annual completion by Hawaii-based longline vessel owners/captains of protected species workshops; require employment of albatross deterrent measures in the Hawaii-based longline fishery when fishing north of a specified latitude; establish near-shore area closures around the islands of American Samoa to pelagic fishing by large vessels; and provide more comprehensive pelagic fisheries monitoring through permit and logbook requirements for troll and handline fisheries in the U.S. EEZ around the U.S. PRIA. Note that, although measures to restrict the retention and landing of pelagic sharks and shark products by U.S. vessels were included in the FEIS Preferred Alternative as part of Alternative 2, they are not implemented here, as discussed in more detail below. NMFS implementation of a final rule to implement the Shark Finning Prohibition Act, along with subsequent Council action to withdraw other shark conservation measures for further consideration, removed shark management measures from consideration here. The final agency action also incorporates the regulatory, permitting, logbook, gear marking, observer, and area closure management measures already in place and described in Alternative 1 (FEIS pp. 2-6 through 2-7). The final action changes the baseline (prior to December 27, 1999) management regime in the following ways:

Sea Turtle Conservation Measures

- Operators of all U.S. longline vessels permitted under the Pelagics FMP (including vessels based in American Samoa, Guam, and the CNMI are prohibited from using longline gear to target swordfish north of the equator. To accomplish this, NMFS has decided to issue rules to require that:
    - Operators of all U.S. longline vessels permitted under the Pelagics FMP fishing north of the equator are required to deploy all longline gear such that the Asag@ (deepest point) between any two floats is at least 100m (328.1 ft.) below the sea surface and the length of each float line used to suspend the longline beneath a float must be longer than 20m (65.6 ft.), with a minimum of 15 branch lines deployed between any two floats when fishing with monofilament gear or a minimum of 10 branch lines deployed between any two floats when fishing with tarred-rope basket gear.
    - Possession of light sticks, including any type of light emitting device including any flourescent Aglow-bead@ chemical or electrically powered light type product, is prohibited on board all U.S. longline vessels permitted under the Pelagics FMP during trips north of the equator.
    - Possession or landing of more than 10 swordfish per trip by any U.S. longline vessel permitted under the Pelagics FMP is prohibited.

Additionally, NMFS has decided to issue rules to require that:

- Operators of all U.S. longline vessels permitted under the Pelagics FMP are prohibited from fishing with longline gear during the months of April and May in the area bounded on the

south by the equator, on the west by 180 W. longitude, on the east by 145 W. longitude, and on the north by 15 N. latitude.

- The transhipment to vessels registered for use under a western Pacific receiving vessel permit of pelagic fish caught by longline gear within the closed area during April and May is prohibited.

- Operators of all U.S. longline vessels permitted under the Pelagics FMP are required to cease gear retrieval if a sea turtle is discovered hooked or entangled on a longline until the turtle has been removed from the gear or brought onto the vessel=s deck.

- Operators of U.S. longline vessels with a working platform 3 feet or more above the sea surface are required, if practicable, to use a dip net meeting NMFS= specifications to hoist a sea turtle onto the deck to facilitate the removal of the hook and/or to revive a comatose sea turtle.

- Operators of U.S. longline vessels with a working platform less than 3 feet above the sea surface are required, if practicable, to ease a sea turtle onto the deck by grasping its carapace (shell) or flippers to facilitate the removal of the hook and/or to revive a comatose sea turtle.

- The re-registration of a Hawaii-based longline vessel that has been deregistered from a Hawaii longline limited access permit after March 29, 2001, be allowed only during the month of October.

- Operators of all U.S. longline vessels permitted under the Pelagics FMP are required to annually attend a protected species workshop, obtain a certificate documenting completion of the workshop, and carry the certificate or a copy on board the vessel.

- Operators of all pelagic fishing vessels fishing with hooks for pelagic management unit species within U.S. EEZ waters of the western Pacific region are required to carry and use line-clippers and wire or bolt cutters capable of cutting through fishing hooks, and must remove all hooks from sea turtles as quickly and carefully as possible or cut the line as close to the hook as possible. In addition, the operators are required to handle all incidentally taken sea turtles brought aboard for dehooking and/or disentanglement in a manner to minimize injury and promote post-hooking survival.

Detailed information and determinations supporting these actions are provided in Attachments 9 and 10.

Seabird Conservation Measures

On May 14, 2002, NMFS published a final rule requiring that:

- Hawaii-based vessels operating with longline gear north of 23E N., are required to use thawed blue-dyed bait and strategic offal discards to distract birds during setting and hauling of longline gear.

- When making deep sets (targeting tuna) north of 23E N., Hawaii-based vessel operators are required to employ a line setting machine with weighted branch lines (minimum weight = 45 g), or use basket-style longline gear deployed slack.

- Hawaii-based longline vessel owners and operators are required to follow prescribed handling techniques so that seabirds brought onboard alive are released in a manner that maximizes

the probability of their long-term survival.

- Hawaii-based vessel owners and operators must annually complete a protected species educational workshop conducted by NMFS.

Detailed information and determinations supporting this action are provided in Attachments 1 and 2.

Shark Conservation Measures

- NMFS published a final rule to implement the Shark Finning Prohibition Act at 67 FR 6194, on February 11, 2002, effective March 13, 2002. This rule prohibits any person under U.S. jurisdiction from engaging in shark finning, possessing shark fins harvested on board a U.S. fishing vessel without corresponding shark carcasses, or landing shark fins harvested without corresponding carcasses. Detailed information and determinations supporting this action are provided in Attachments 3 and 4.

  Accommodated in the FEIS= Preferred Alternative, the Shark Finning Prohibition Act=s ban on shark finning removed the need for regional decisions regulating shark finning under the Pelagics FMP. Particularly with respect to the Hawaii-based fisheries, the State of Hawaii=s ban on shark finning, in conjunction with implementation of the Shark Finning Prohibition Act, superceded most of the Council=s recommendations on shark finning that were contained in Amendment 9 to the Pelagics FMP (Amendment 9). Recently, at its March 2002 meeting, the Council voted to withdraw Amendment 9. In the letter withdrawing Amendment 9 from the review process (Letter dated April 3, 2002, from Kitty M. Simonds to Dr. William Hogarth) the Council (1) recognized that the State of Hawaii and Federal ban on shark finning had rendered moot its proposal for an annual harvest guideline for blue sharks as it was based on retention of sharks for fin harvesting, (2) expressed the view that the Coral Reef Ecosystem FMP under review would address concerns about the use of demersal longline gear to target coastal shark species, and (3) indicated the Council hoped for future implementation of a one non-blue shark per trip limit for the Hawaii-based longline fishery.

  After consideration of the effects of the alternatives considered, including implementation of the Shark Finning Prohibition Act and the Council=s withdrawal of Amendment 9, the Agency has determined it will not proceed with implementation of Amendment 9.

American Samoa - Nearshore restrictions and control date

- NMFS published a final rule establishing 50-nm area closures in nearshore waters of the U.S. EEZ around the islands of American Samoa. All domestic fishing vessels greater than 50 feet (length overall), except as exempted, are prohibited from fishing for Pacific pelagic management unit species within the closed area (67 FR 4369, January 30, 2002). Detailed information and determinations supporting this action are provided in Attachments 5 and 6.

Permit/Reporting Requirements for Pelagic Troll and Handline Fisheries in the PRIA

- The Council has recommended and the Agency is reviewing and soliciting comments on a proposed rule to establish permit and logbook requirements applicable to troll and handline fisheries in the U. S. EEZ around the U.S. PRIA. The proposed rule to establish permit and reporting requirements for the pelagic troll/handline fishery in the U.S. Pacific Remote Island Areas was published on May 6, 2002 (67 FR 30346), and there are no plans to return it to the Council for further action. A final rule is anticipated to be published in July 2002. In the event that the rule is not approved after consideration of public comment, any needed additional NEPA analysis will be done. Detailed information on actions proposed is provided

in Attachments 12 and 13.

Existing FMP Measures - Retained

- All other existing management measures will be retained Aas is@, including prohibitions on drift gillnets, requirements for permits, logbooks, marked gear, observers, vessel monitoring systems, and area closures to avoid interactions with specific protected species and to avoid gear conflicts (FEIS pp. 2-6 and 2-7). As described in the FEIS (ES-10, 1-17 through 1-24, and 3-144 through 3-357), other domestic fishing types in the western Pacific region include pole and line, troll, and handline. Fishery participants using these gear types may be recreational, commercial, charter boat, or a combination of recreational and commercial. Generally, these fisheries do not require Federal management.

D. Rationale

Alternative 10 of the FEIS, as described above, was identified as the Preferred Alternative and, with the modifications described in this ROD, is the alternative chosen by the Agency to implement as its final decision. Implementation of the suite of management measures comprising Alternative 10 provides a comprehensive approach while bringing the management regime into conformity with the respective Areasonable and prudent alternatives@ and terms and conditions of the Pelagics BiOp and the November 28, 2000, BiOp for the Effects of the Hawaii-Based Domestic Longline Fleet on the Short-Tailed Albatross, issued by the FWS and amended October 2001 (Albatross BiOP). Implementation of the suite of management measures selected is consistent with objectives of the Pelagics FMP (FEIS pp. 2-31 through 2-53), applicable laws (FEIS, Appendices J and K), and with Council initiatives to address protected species issues and data and information needs. In making decisions reflected in this ROD, NMFS considered the information and analysis in the FEIS, along with other factors such as DOC, NOAA, and NMFS statutory mission requirements, costs, schedules, and risks inherent in basing decisions on available data and analyses.

The measures described as Alternative 10 best address the controversial problem areas identified in the FEIS (FEIS at ES-2), especially those involving sea turtle and seabird interactions with the Hawaii-based longline fishery. Consistent with this focus, major components of Alternative 10 are sea turtle conservation measures, including monitoring, enforcement, and interaction mitigation measures to ensure that continued utilization of sustainable fisheries in the western Pacific region are not likely to jeopardize the continued existence of ESA listed sea turtles (FEIS pp. 4-11 through 4-22, and the Pelagics BiOp at VIII). These conservation measures are expected to result in the lowest numbers of turtle takes and kills of any alternative except Alternative 8. However, the selected Alternative 10 was chosen rather than Alternative 8 because, in closing the Hawaii-based longline fishery, Alternative 8 would impose social, cultural, and economic costs without assuring commensurate increases in protections for sea turtle populations over those anticipated under Alternative 10 (FEIS pp. 4-19 through 4-20). The chosen alternative selectively reduces fishing, and is expected to perform as well as or better than any other alternative (except Alternative 8) in reducing interactions with all four species of sea turtles taken by the Hawaii-based longline fishery. The selected alternative is also anticipated to have a beneficial effect for endangered short-tailed albatross and other protected seabirds. Although alternative 8 is likely to result in the greatest reduction of seabird bycatch in the U.S. EEZ around Hawaii due to closure of the fishery, Alternative 10 has been chosen by the Agency to implement as its final decision. This is because Alternative 10's closures, combined with observer requirements and the required use of seabird deterrent methods north of 23E N, afford adequate protections to seabirds (FEIS pp. 4-22 through 4-26) while minimizing social, cultural, and economic costs associated with the management measures (FEIS, summary tables at 4-227 through 238). Selection of Alternative 10, the Preferred Alternative, also assures the continued collection of data and information necessary for domestic and international initiatives seeking to recover protected species.

The Agency recognizes that implementation of the measures directed at conservation of protected resources will eliminate the swordfish segment of the fishery using Ashallow set@ techniques north of the equator. This action is based on information showing that swordfish fishing

practices used by the Hawaii-based longline fleet were the source of most of the sea turtle and sea bird interactions. The adverse economic effects of eliminating the swordfish segment are offset, in part, by allowing the tuna segment of the fishery to remain economically viable, which also provides a viable fishing alternative for swordfish fishers. Cognizant of the limitations of the available data (FEIS pp. 4-11 through 4-14 and 4-22 through 4-23), the Agency has determined that the significant reduction in impacts to protected species from fishing activity allowed under the Preferred Alternative justifies the selection of Alternative 10 for final action.

This action is responsive to concerns identified by the Agency during the EIS process because Alternative 10 addresses, in a balanced manner, the need to implement effective management measures to conserve endangered and threatened species. Implementation of this action advances these management initiatives beyond current emergency regulations, addresses threats and risks, and achieves, in a comprehensive way, the goals of the Pelagics FMP.

Shark conservation measures have been implemented nationwide, in accordance with the Shark Finning Prohibition Act. Alternative 10 incorporates and accommodates the requirements of this law, in coordination with other initiatives.

Similarly, Alternative 10 incorporates and accommodates Council initiatives for establishment of 50-nm area closures in near-shore waters of the U.S. EEZ around the islands of American Samoa and permit/reporting requirements for PRIA. Alternative 10 incorporates and accommodates these Council initiatives in coordination with other necessary management actions.

Certain geographical restrictions on the operations of the Hawaii-based longline fishery, including maintenance of the protected species zone around the NWHI and the gear conflict buffer zone around the main Hawaiian Islands, will remain in effect and continue to be monitored and enforced through mandatory participation in the Vessel Monitoring System (VMS) system. The VMS system will also allow facilitate monitoring and enforcement of time and area closure(s).

E. Major Management Objectives

This action is undertaken to evaluate and address current issues affecting management of sustainable resources and fisheries of the western Pacific region (FEIS pp. 1-26 through 1-34). The constellation of issues associated with pelagic fishing, the number and variety of applicable statutes, requirements, and governing authorities, the evolution of new information and analyses, and the incremental nature of management under the FMP process support the need for application of a comprehensive approach to management of sustainable resources. The final agency action takes into account analyses prepared in the context of litigation, current ESA Section 7 BiOps, and the FEIS=s examination of a broad array of practicable means to avoid or minimize harm to protected biological resources while furthering other management initiatives. It also addresses monitoring and enforcement needs. For example, continuing to maintain the increased observer coverage on the Hawaii-based longline fishery will aid evaluation of the required provisions of the final agency action, and provide a greater degree of confidence in data concerning protected species stocks and interactions, target species stocks, and bycatch. Continuation of existing geographic closures and mandatory participation in the VMS program will allow monitoring and facilitate enforcement of the time and area closures. The maintenance of existing, and implementation of improved, data collection mechanisms will facilitate monitoring of mitigation measures and enhance the science involved. The creation and conduct of protected species workshops will facilitate fishery participant awareness, education, and innovation.

F. Other Alternatives/Why Not Selected

Alternative 1. The AExisting Pelagics FMP Regime@ (the Ano action@ alternative) (FEIS pp. 2-5 through 2-10), analyzed a return to fisheries as managed under the Pelagics FMP prior to December 1999. Alternative 1 was rejected because under this regime, sea turtle interactions, as well as seabird interactions, would remain unacceptably high as the management regime would not incorporate the requirements of the Pelagics BiOp or the Albatross BiOp. Further, selection of this alternative would not reflect the shark finning prohibition recently added to the Act, nor

would it address the emerging issues of gear conflict and catch competition in American Samoa and the lack of information with which to more effectively manage the pelagic fisheries around the PRIA.

Alternative 2. The AExisting FMP Measures Plus Pending Council and NMFS Actions@ (FEIS pp. 2-10 through 2-17) would incorporate measures to restrict shark finning, address the emerging issues in American Samoa and the PRIA, and reduce albatross mortality by nearly an order of magnitude. It would not, however, sufficiently reduce turtle takes or mortalities to comport with the Pelagics BiOp, and therefore was not selected as the final agency action.

Alternative 3. The APelagics FMP Management Regime Modified by Court-Ordered Actions@ (FEIS pp. 2-18 through 2-19), represents the situation under the terms of the August 2000, court-ordered injunction. Although it was an interim measure, this alternative was included as a baseline against which the effectiveness of the other alternatives in protecting turtles and seabirds could be compared. Alternative 3 is not as effective as the Preferred Alternative in reducing protected species interactions, fails to comply with the Albatross BiOp, and therefore was not selected as the final agency action.

Alternative 4. The ASeasonal Longline Fishery Closure@ (FEIS pp. 2-19), would have all the benefits of Alternative 2, and was estimated to reduce albatross mortality slightly more than that alternative. However, as the seasonal area closure without a prohibition of shallow swordfish or mixed target sets would continue to result in unacceptably high levels of turtle takes and kills that would not comport with the Pelagics BiOp, Alternative 4 was not selected as the final agency action.

Alternative 5. The AIncrease Fishing Gear Depth@ alternative (FEIS pp. 2-19 through 2-10) addressed the major source of turtle takes and mortality by prohibiting shallow swordfish style longline fishing methods. Nevertheless, turtle takes and kills under this alternative were estimated to be about twice those of the Preferred Alternative. This alternative would not comport with the Pelagics BiOp or the Albatross BiOp, as amended, and so was rejected as the final agency action.

Alternative 6. The APermanent and Seasonal Closure of All Longline Fishery Areas@ (FEIS p. 2-20), analyzed a permanent closure of the northern portion (above 29E N. latitude) of the Hawaii-based longline fleet=s range along with a seasonal (April-July) closure of all areas to longline fishing. This alternative was not as effective as Alternative 5's prohibition of shallow-set gear in reducing takes and kills of turtles and albatross and would not comport with the Pelagics BiOp or the Albatross BiOp. Consequently, Alternative 6 was rejected as the final agency action.

Alternative 7. The AIncrease Gear Deployment Depth and Seasonal Closure of All Longline Fishery Areas@ (FEIS p. 2-21), combined aspects of Alternatives 5 and 6 such that takes and kills of turtles and albatross were estimated to be lower than under either of those alternatives. Takes and kills of turtles, however, were still more than one and one half times those expected under the Preferred Alternative. As Alternative 7 would not comport with the Pelagics BiOp or the Albatross BiOp, it was rejected as the final agency action.

Alternative 8. The ARegional Longline Closure@ (FEIS pp. 2-21 through 2-22), identified as the environmentally preferred alternative, prohibited longline fishing throughout the region. All impacts, negative and positive, of the longline fishery throughout the region would be curtailed under this alternative. Takes and kills of turtles and albatross from U.S. longline fishery interactions would fall to zero under this alternative. Although this effect causes Alternative 8 to be the environmentally preferred alternative, it was not the Preferred Alternative and is not the course of action finally chosen by NMFS. In large part this is because it would impose social, cultural, and economic costs without guaranteed commensurate increases in protections for protected species. The course of action chosen by NMFS over Alternative 8 reduces protected species takes to within biologically acceptable limits while maintaining the Hawaii-based longline fishery at a level between 60 and 90 percent of its previous value. It also offers opportunities for continued data collection and research related to protected species

interactions with fisheries. The final action selected by the Agency, when compared with Alternative 8, represents a more balanced management approach consistent with the goals of applicable law and the FMP.

Alternative 9. The AAnalyze Gear Conflicts and Catch Interactions Among Fisheries@ alternative (FEIS pp. 2-22 through 2-23), provided for institution of a comprehensive research program to investigate emerging issues of gear conflict and catch interactions among fisheries. General types of research considered likely included tag-recapture studies and time-trend analyses of catch/effort records for fisheries targeting the same fish sub-populations. Alternative 9 could be combined with any other Alternative, save for Alternative 8, but would not impose restrictions on longline fishing in the region. As Alternative 9 would not reduce immediately the take of protected species in any fishery managed under the FMP, it was not selected for final agency action.

G. Mitigations

To be exempt from the prohibitions of Section 9 of the ESA, NMFS must comply or ensure compliance with the applicable terms and conditions implementing the reasonable and prudent measures described in the Pelagics BiOp and the Albatross BiOp. All required mitigation measures appear in Attachments 7 and 8, along with additional conservation recommendations. The required mitigation measures have been implemented. The conservation recommendations for developing management policies and regulations and to encourage multilateral research efforts are under consideration. At present, some of these recommended actions are beyond the legal authority of NMFS. Others, scientific in nature, require additional analysis and/or data for development. As demonstrated by Amendment 10's consideration of scientific research such as Option A, and the agency=s issuance of Scientific Research Permit 2002-1-31, the Agency is working to accomplish a variety of suggested conservation recommendations.

H. Action Implementation Schedule

This ROD is being produced after the expiration of the 30-day period following the Environmental Protection Agency=s notice that the FEIS had been filed (30-day Acooling off@ period). During the Acooling off@ period, comments on the selection of the Preferred Alternative were accepted. In addition, due to the number and varied nature of the actions required, as well as requirements associated with applicable court orders, prerequisite council action(s) and procedural and substantive requirements of other applicable laws, management measures comprising the Preferred Alternative are being implemented as component actions. The varied schedules for implementation of the individual components of the Preferred Alternative accommodate the Council and public processes, while ensuring coordination among all elements of the agency=s final action.

This ROD is issued in conjunction with NMFS= final decision implementing rules for sea turtle conservation because that determination is the last component of the agency=s final action with potentially significant impacts on the human environment. One measure remaining to be implemented by final rule involves permit and reporting requirements for PRIAs. However, that action as proposed is administrative in nature and is not expected to have potentially significant impacts on the human environment. Consequently, ROD decisions are appropriate at this time.

Action Schedule

Sea Turtle Conservation Measures

- In compliance with the Order Modifying Injunction issued by the U.S. District Court for the District of Hawaii on March 30, 2001, NMFS promulgated an emergency interim rule on June 12, 2001, (66 FR 3156) restricting the Hawaii-based longline fleet in accordance with the Preferred Alternative of the FEIS. The emergency rule, which would have expired on December 10, 2001, was extended by NMFS for an additional 180 days, and is effective through June 8, 2002 (67 FR 63630). Seabird conservation measures are included in the same rule.

- The proposed rule to implement the sea turtle mitigation measures was published on April 29, 2002, at 67 FR 20945, with a 15-day public comment period. Following review and consideration of comments, a final rule will be published. Sea turtle mitigation measures governing the Hawaii-based longline fishery will take effect on June 9, 2002, in order to ensure applicable sea turtle protection measures remain in effect upon expiration of the emergency rule (effective through June 8, 2002). Other measures will be in effect following a 30-day delayed effectiveness period.

- Protected Species Workshops: Hawaii longline fishery. During 2001, NMFS implemented the protected species workshop element of the Preferred Alternative with respect to the Hawaii-based longline fishery. Attendance at the Protected Species Workshop was a requirement for all Hawaii-based longline vessel operators by the emergency rule put into effect on June 12, 2001. These measures were subsequently implemented for the longer term on May 14, 2002 (67 FR 34408) and are effective on June 13, 2002.
- Six workshops were conducted in August, September, and October 2001. The workshops were presented in the three primary languages of fishermen participating in the fishery: English, Vietnamese, and Korean. Ninety eight vessel captains, owners, and crew received the certification card at the regularly scheduled workshops. Make-up workshops for new captains in the fishery are also available. Workshop materials are being adapted to the requirements of the fisheries in American Samoa, and workshops are planned for American Samoa in July of 2002 and for Hawaii in September 2002.

- Protected Species Educational Materials. NMFS has prepared and is continuing to refine educational materials for pelagic troll and handline fishers, which will be distributed to approximately 5,000 to 11,000 persons throughout the western Pacific region, including Hawaii.

- Observer coverage. Since the fall of 2000, NMFS has placed observers on more than 20% of the fishing trips of the Hawaii-based longline fishery. This is considered a statistically sufficient coverage level for determining with reasonable precision the take levels of sea turtles in the fishery. Consistent with prescribed mitigation measures, observer coverage at this level will be maintained.

- Optional Sea Turtle Mitigation Measures. The FEIS considered the possibility of structured experiments (Option A) to assess methodology for reducing sea turtle takes as an optional element of a number of alternatives, including the Preferred Alternative. In an action independent of decisions relating to implementation of the selected action, as described here in footnote 6, NMFS issued a Scientific Research Permit under Section 10(a)(1)(A) of the ESA to the Southwest Fisheries Science Center, Honolulu Laboratory, NMFS, to take sea turtles while conducting experiments on methods for reducing sea turtle take by longline fisheries and determining target species catch per unit effort viability.

Seabird Conservation Measures

- Certain elements prescribed by the Albatross BiOp were implemented by NMFS as part of the emergency interim rule published on June 12, 2001 (66 FR 3156). On October 18, 2001, the FWS revised the November 28 BiOp to allow a single vessel using tarred Abasket style gear@ to fish for tuna without a line shooter. The emergency rule, which would have expired on December 10, 2001, was extended by NMFS for an additional 180 days through June 8, 2002 (67 FR 63630), with a revision to implement the October 18 BiOp adjustment.

- On July 5, 2000 (65 FR 41424), NMFS published a proposed rule to address seabird interactions in the Hawaii-based longline fishery. On February 4, 2002, Council staff submitted to NMFS a draft final rule consistent with FWS consultations. This rule is intended to replace the emergency interim rule with longer term management measures. The final rule was published on May 14, 2002 (67 FR 34408) and will be effective June 13, 2002.

Shark Conservation Measures

- On June 28, 2001, NMFS published a proposed rule to implement the Shark Finning Prohibition Act (66 FR 34401). The final rule was published February 11, 2002 (67 FR 6104), effective March 13, 2002. As described earlier, at its March 2002 meeting, the Council voted to withdraw Amendment 9 to the FMP in order to further consider regulatory adjustments for conserving non-blue shark stocks in the western Pacific region. Considering this Council action, the Agency has determined it will not proceed with action on the existing Amendment 9 proposals for implementation of the NWHI bottom longline prohibitions and non-blue shark trip limits.

American Samoa Near-shore Restrictions

- NMFS has published a final rule prohibiting fishing for pelagic management unit species near shore to the islands of American Samoa by vessels greater than 50 feet in length, with an exception for several longline vessels with a history of fishing in the area. 67 FR 4369 (January 30, 2002), effective March 1, 2002.

Permit/Reporting Requirements for PRIA

- A tentative decision is made to establish permit and reporting requirements for the pelagic troll/handline fishery in the U.S. PRIA with a final rule anticipated to be published in July 2002. If a different action is chosen to be implemented, although impacts on the human and natural environment would be anticipated to be minor, NMFS will do additional NEPA analysis as warranted.

Retained measures

- As discussed earlier in this ROD, all other measures presently in effect will remain in effect. As rules implementing these measures are currently in place, no additional action is required.

Attachments:

Attachment 1	Final Decision Memo - Fisheries off West Coast States and in the Western Pacific; Pelagics Fisheries; Measures to Reduce the Incidental Catch of Seabirds in the Hawaii Pelagic Longline Fishery - dated April 30, 2002.
Attachment 2	Final Rule - Fisheries off West Coast States and in the Western Pacific; Pelagics Fisheries; Measures to Reduce the Incidental Catch of Seabirds in the Hawaii Pelagic Longline Fishery - (67 FR 34408), May, 14, 2002.
Attachment 3	Decision Memo - Fisheries off West Coast States and in the Western Pacific; Atlantic Highly Migratory Species; Fisheries of the Northeastern United States; Implementation of the Shark Finning Prohibition Act - dated January 16, 2002.
Attachment 4	Final Rule - Fisheries off West Coast States and in the Western Pacific; Atlantic Highly Migratory Species;

	Fisheries of the Northeastern United States; Implementing Provisions of the Shark Finning Prohibition Act - 67 FR 6194 (February 11, 2002).
Attachment 5	Decision Memo - Final Rule to Prohibit Fishing for Pelagic Management Unit Species Near-shore to the Islands of American Samoa by Vessels Greater than 50 Feet in Length, dated November 30, 2001.
Attachment 6	Final Rule - Fisheries off West Coast States and in the Western Pacific; Pelagic Fisheries; Prohibition on Fishing for Pelagic Management Unit Species; Nearshore Area Closures Around American Samoa by Vessels More than 50 Feet in Length - 67 FR 4369 (January 30, 2002).
Attachment 7	Terms and Conditions which implement the Reasonable and Prudent Measures and Conservation Recommendations contained in the Incidental Take Statement of the Biological Opinion of the U.S. Fish and Wildlife Service for the Effects of the Hawaii-Based Domestic Longline Fleet on the short-tailed Albatross, November 2000, as amended, at pp. 48 - 56.
Attachment 8	Terms and Conditions which implement the reasonable and prudent measures and Conservation Recommendations contained in the Incidental Take Statement of the Biological Opinion of the National Marine Fisheries Service on the Authorization of Pelagic Fisheries under the Fishery Management Plan for the Pelagic Fisheries of the Western Pacific Region, March 2001, at pp. 141 - 144, as clarified by the memo dated November 20, 2001, from Rodney R. McInnis, Acting Regional Administrator to Donald P. Knowles, Director, Office of Protected Resources (Request for clarification) and the memo dated January 31, 2002, from Donald P. Knowles to Rodney R. McInnis responding to the request for clarification.
Attachment 9	Final Decision Memo - Fisheries Off West Coast States and in the Western Pacific; Western Pacific Pelagic Fisheries; Pelagic longline Gear Restrictions, Seasonal Area Closure, and Other Sea Turtle Take Mitigation Measures - May 23, 2002.
Attachment 10	Proposed Rule - Fisheries Off West Coast States and in the Western Pacific; Western Pacific Pelagic Fisheries; Pelagic longline Gear Restrictions, Seasonal Area Closure, and Other Sea Turtle Take Mitigation Measures - 67 FR 20945 (April 29, 2002).
Attachment 11	Final Environmental Impact Statement Fishery Management Plan Pelagic Fisheries of the Western Pacific Region, March 30, 2001.
Attachment 12	Decision Memo For Proposed rule - Fisheries Off West Coast States and in the Western Pacific; Western Pacific Pelagics Fisheries; Pacific Remote Island Areas; Permit and Reporting Requirements for the Pelagic Troll and Handline Fishery -

	dated December 26, 2001.
Attachment 13	Proposed rule - Fisheries Off West Coast States and in the Western Pacific; Western Pacific Pelagics Fisheries; Pacific Remote Island Areas; Permit and Reporting Requirements for the Pelagic Troll and Handline Fishery - 67 FR 30346 (May 6, 2002)

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