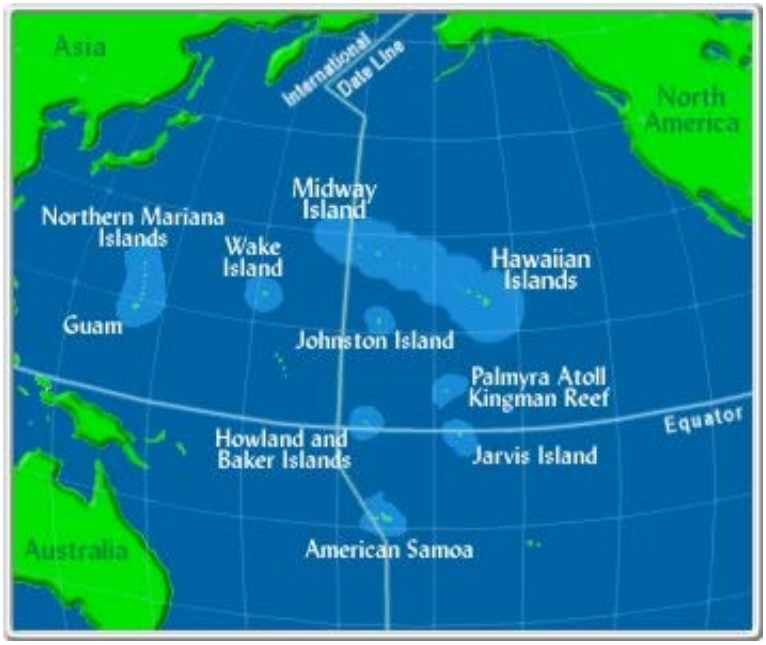
WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL

Western Pacific Community Development Program Process

Amending the Fishery Ecosystem Plans for the American Samoa Archipelago, the Hawaii Archipelago, the Marianas Archipelago, and Pacific Pelagics of the Western Pacific Region



May 11, 2010

1.0 Summary

The Western Pacific Regional Fishery Management Council (Council), since its inception, has continuously worked on issues related to indigenous fishing rights for Pacific Islanders. In 1996, amendments to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) recognized special fishing practices, including traditional indigenous practices, for native peoples in American Samoa, Guam, Hawaii and the Northern Mariana Islands in part through establishment of the Western Pacific Community Development Program (CDP). The CDP was reaffirmed in the 2006 reauthorization of the Magnuson Stevens Act. In developing the eligibility criteria for participating in the CDP, Section 305(i)(2)(C) of the Magnuson Stevens Act mandates that the Council "base the criteria on traditional fishing practices in or dependence on the fishery, the cultural and social framework relevant to the fishery, and economic barriers to access to the fishery."

The CDP was established with broad latitude in program development and implementation. However there is no standardized method by which indigenous communities may become involved in fisheries and for this reason, different implementing approaches have been used by the Council to date.

A broad variety of community initiatives may be presented for consideration under the CDP. Therefore, to facilitate the process the Council seeks to establish a standard procedure to receive, review, approve and implement future CDP initiatives. In addition, community initiatives under the CDP may include the need for access to fisheries which would otherwise be restricted through current regulations. Thus, the Council also seeks to establish a standard administrative process to solicit, receive, review, approve and implement future community initiatives under the CDP.

This document describes and analyzes alternatives to establish a process to inform eligible communities of the CDP; and to solicit, receive, review and approve community development plan proposals. It also would establish a mechanism within the CDP process to provide communities with an approved plan, access to fisheries managed by the Council and the National Marine Fisheries Service (NMFS).

2.0 Table of Contents

3.0 Introduction and Background

The Western Pacific Regional Fishery Management Council (Council), since its inception, has worked on issues related to indigenous fishing rights for Pacific Islanders. Recognizing the unique historical, cultural, legal, political and geographic characteristics of the Pacific Islands Area, and recognizing the importance of historical and cultural fishing practices, including traditional indigenous practices for native peoples in American Samoa, Guam, Hawaii and the Northern Mariana Islands, the United States Congress in 1996, reauthorized the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson Stevens Act) and included provisions authorizing the establishment of western Pacific Community Development Programs (Section 305(i)(2) 67 FR 18512, April 16, 2002). The overarching goal of this provision is to encourage and promote the participation of indigenous communities in western Pacific fisheries.

The 2006 reauthorization of the Magnuson Stevens Act carried forth the Western Pacific CDP (Section 305 (i)(2)(A)). Specifically, the Magnuson Stevens Act states that:

> (A) The Western Pacific Council and the Secretary may establish a western Pacific community development program for any fishery under the authority of such Council in order to provide access to such fishery for western Pacific communities that participate in the program.
>
> (B) To be eligible to participate in the western Pacific community development program, a community shall—
>
> (i) be located within the Western Pacific Regional Fishery Management Area;
>
> (ii) meet criteria developed by the Western Pacific Council, approved by the Secretary and published in the Federal Register;
>
> (iii) consist of community residents who are descended from the aboriginal people indigenous to the area who conducted commercial or subsistence fishing using traditional fishing practices in the waters of the Western Pacific region;
>
> (iv) not have previously developed harvesting or processing capability sufficient to support substantial participation in fisheries in the Western Pacific Regional Fishery Management Area; and
>
> (v) develop and submit a community development plan to the Western Pacific Council and the Secretary.

Section (305(i)(2)(E) of the Magnuson Stevens Act provides that development of any fishery management plan take into account traditional indigenous fishing practices and/or customs notwithstanding any other provisions of the Magnuson Stevens Act. In

developing the criteria for eligible communities provisions of the Magnuson Stevens Act mandate that the Council shall base the criteria on "traditional fishing practices in or dependence on the fishery, the cultural and social framework relevant to the fishery, and economic barriers to access to the fishery."

On April 16, 2002, the Council developed and NMFS published a final rule (67 FR 18514, April 16, 2002) containing the eligibility criteria for determining which western Pacific communities may participate in the Community Development Program. In order to participate, a community must:

1. Be located in American Samoa, the Northern Mariana Islands, Guam or Hawaii (Western Pacific Area);
2. Consist of community residents descended from aboriginal people indigenous to the western Pacific area who conducted commercial or subsistence fishing using traditional fishing practices in the waters of the western Pacific;
3. Consist of community residents who reside in their ancestral homeland;
4. Have knowledge of customary practices relevant to fisheries of the western Pacific;
5. Have a traditional dependence on fisheries of the western Pacific;
6. Experience economic or other barriers that have prevented full participation in the western Pacific fisheries and, in recent years, have not had harvesting, processing or marketing capability sufficient to support substantial participation in fisheries in the area; and
7. Develop and submit a community development plan to the Western Pacific Council and the National Marine Fisheries Service.

Currently, there is no standard method by which the Council may provide access to fisheries to indigenous communities under the MSA. To date, the Council has relied on several approaches to promote indigenous participation. For example, past initiatives to utilize the CDP provision included reserving two permits for native communities to participate in the Mau Zone limited entry bottomfish fishery in the Northwestern Hawaiian Islands. However, after designation of the NWHI as a Coral Reef Ecosystem Reserve in 2000 and eventually a monument in 2006, these permits could not be issued because new entry into the fishery was prohibited. The administrative mechanism to reserve the two Mau Zone CDP permits was the FMP regulatory amendment process.

During the Council's 118th meeting, the Council's Guam Advisors proposed a voluntary program to gather fishery data under the CDP. The Guam Volunteer Fishery Data Collection Program became a unified effort of the Council, Western Pacific Fishery Information Network (WPacFIN), Guam Division of Aquatic & Wildlife Resources (DAWR), and the Guam Fishermen's Cooperative Association (GFCA) to collect fishery data and develop sustainable fisheries for the benefit of the people of Guam. The primary motivation for the voluntary reporting of fishery data by the small boat fleet is their desire to use a community-based data collection system in lieu of a mandatory reporting system. The secondary motivation was awareness that international negotiations might result in the establishment of quotas for each fishing nation and, therefore, having

recorded catch histories could become important. The GFCA, which was established in the late 1970's, volunteered to spearhead the program with technical assistance from WPacFIN and DAWR. The Guam Volunteer Fishery Data Collection Project facilitates data collection through the Guam Fishermen's Cooperative. This project, however, does not provide for access to fisheries but it has filled a need by gathering fishing data that were not being recorded through other channels.

4.0 Purpose and Need for Action

A broad variety of community initiatives may be presented for consideration under the CDP. Although eligibility criteria for participation in the CDP were developed in 2002 (67 FR 18514, April 16, 2002), there is currently no mechanism to solicit, receive, review, approve and implement CDP proposals. Therefore, the Council seeks to establish a standard administrative process to solicit, receive, review, approve and implement initiatives under the CDP with this amendment.

In addition to needing a standardized process for soliciting, receiving, reviewing, and approving community initiatives through the CDP, the Council also seeks to establish a mechanism within this process authorizing NMFS Regional Administrator to grant communities with an approved community development plan, access to one or more fisheries under the authority of the Council and NMFS. This action would provide a process and the authority to approve and implement a community development plan proposal without amending a Fishery Ecosystem Plan (FEP). Under this process, NMFS will be responsible for ensuring that each community development plan proposal submitted through the CDP is compliant with the National Environmental Policy Act (NEPA), Endangered Species Act (ESA) and other applicable laws prior to authorizing any community access to a fishery.

Participation by indigenous communities in western Pacific fisheries could be achieved through the CDP. Examples of community participation may include direct access to fisheries, restoration of traditional fishing practices, passing on traditional knowledge through educating youth and other community members, providing employment opportunities by fishery development, providing for sustenance by reviving fishing practices and customs and developing fishing opportunities, as well as other community-based activities related to fishing.

The purpose of this amendment is to establish a standardized administrative process for the solicitation, receipt, review, approval, and implementation of community initiatives under the CDP. Establishment of this process would also enable the Council and NMFS to provide communities with an approved community development plan, access to fisheries managed by the Council and NMFS without amending the FEPs. Implementation of this process would fulfill the mandates of the Magnuson Stevens Act by promoting the participation of indigenous communities in Western Pacific fisheries.

5.0 Initial Actions

At its 139th Council meeting (October 9-12, 2007) regarding the CDP, the Council reviewed available information and recommended development of a draft amendment to evaluate the following preliminarily preferred options for each issue (in bold) from the matrix shown in Figure 1:

- **Trigger:** Letters of interests may be received at any time. (Option 1 or 2)

- **Level of Help**: The Council, through its Island Coordinators, should take lead for providing community support. (Option 2)

- **First Package:** Completed plans should be transmitted by applicants to the Council. (Option 2)

- **Review:** Review should use the existing Council advisory bodies, including the Community Development Program Advisory Panel. (Option 2)

- **Approval:** Recommendations will come through the full Council to the Regional Administrator who will approve or disapprove them. (Option 2)

- **Monitoring:** Monitoring of community programs will be conducted through Island Coordinators and NMFS. (Options 1 & 2)

At the Council's 140th meeting (March 2008), the Council reviewed the draft amendment, considered public comments and directed staff to work with NMFS to create a comprehensive document. Based on this recommendation, each issue listed above was incorporated into one of three topic areas: Trigger, Process and Access. A range of alternatives were then developed for each of three topics areas and are presented in this document.

At the Council's 142nd meeting (June 2008), the Council reviewed the comprehensive amendment, and the presented alternatives, considered public comments and took final action to recommend adoption of Alternatives 1A, 2A and 3A.

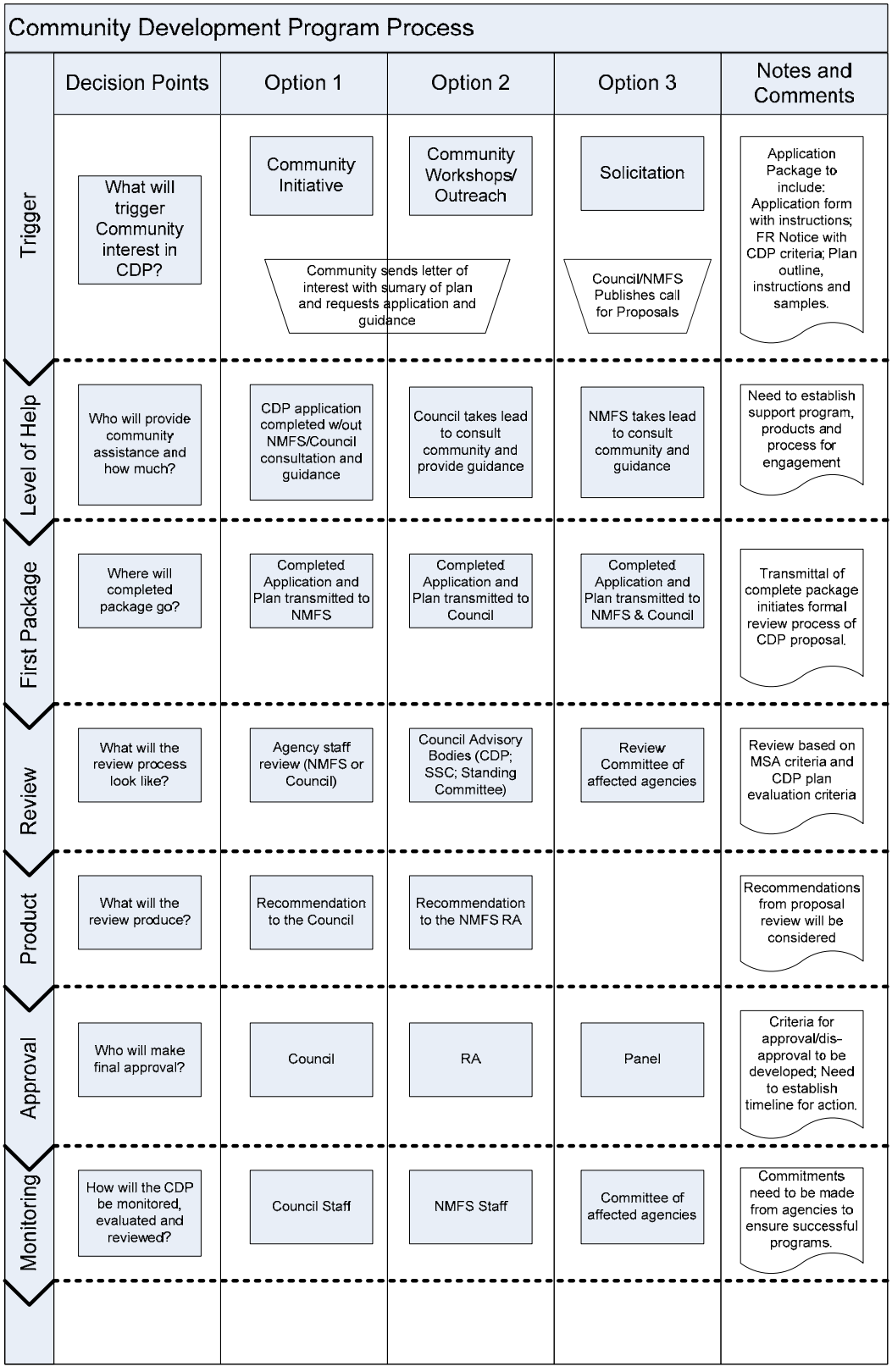


Figure 1: CDP Implementation Matrix

6.0. Description of Alternatives

Based on an options table summarizing options at each decision point (Figure 1) the following alternatives were considered by the Council and a preferred alternative under each topic was selected. These step-wise alternatives were developed based on the following previously established administrative processes: (1) the Exempted Fishing Permit Process (50 CFR 600.745) which is used for scientific research purposes; (2) the new entry process for Hawaii Hoʻomalu Zone limited entry bottomfish vessels (50 CFR 665.61) which has been used once; and (3) the grant solicitation and application review and approval process used for the Community Demonstration Projects Program (CDPP) (67 FR 18512; April 16, 2002) which has been used three times to solicit and award grants under a similar program.

Under all alternatives, communities would need to meet the eligibility criteria set forth in (67 FR 18512, April 16, 2002) to participate in the CDP and be eligible to submit a community development plan proposal. Under all alternatives, CDP letters of interest and community development plans will be reviewed and evaluated by the Council and NMFS in consultation with Council advisory bodies. Plans submitted by eligible communities would be required to include sufficient information to evaluate the plan. If needed, a request would be made to the community applicant to provide additional information necessary for effective evaluation. See Appendix A for CDP definition of terms and goals (from 67 FR 18512).

6.1 Topic 1: Trigger

The following alternatives are being considered regarding the method by which CDP proposals would be solicited.

Alternative 1A: Community Trigger (Preferred)

Under this alternative, the Council would conduct community outreach workshops describing the CDP process to communities. Communities could initiate the process, at any time, by sending a letter of interest with a description of their proposal and request guidance on the process.

Alternative 1B: Council/NMFS Trigger

Under this alternative the Council and NMFS would initiate the process by publishing a call for proposals and community development plan proposals would only be accepted after they have done so.

Alternative 1C: Council/NMFS or Community Trigger

Under this alternative the Council and NMFS would periodically initiate the process by publishing a call for proposals. In addition, communities could, at any time, initiate the process by sending a letter of interest with a description of the proposed plan and request guidance on the process.

6.2 Topic 2: Process

The following three alternatives regarding how the CDP plan development, review and approval process would be conducted and which entities would take the lead at each step are being considered.

Alternative 2A: Council-guided Process (Preferred)

Under this alternative the Council, through its Island Coordinators, would take the lead for providing guidance to communities by providing information on the program and assisting communities in developing a community development plan proposal. Eligible communities interested in participating in the CDP would provide to the Council, a community development plan detailing its proposal that includes, but is not limited to, the following information:

(1) A statement of the purposes and goals of the plan for which access to the fishery is needed.

(2) A description and justification for any specific fishery access (relief from certain regulations) requested to harvest management unit species.

(3) A statement describing the degree of involvement by the indigenous community members and including the names of anyone proposed to be included in authorization to access a fishery.

(4) If a vessel is to be used by the community as part of the Plan, for each vessel: vessel name; the name, address, and telephone number of owner and operator; USCG documentation, state or territory registration number; vessel length and net tonnage.

Review of community development plans would be conducted by the Council, through its advisory bodies, including the Community Development Program Advisory Panel who may make recommendations regarding the structure or content of the community development plan proposal. The Council's advisory bodies' recommendations [to approve or not] would go through the full Council process and then to NMFS Pacific Islands Regional Administrator (RA) for consideration. NMFS would determine whether the proposal complies with all applicable law (including NEPA and the ESA). If the community development plan contained all of the required information, NMFS would publish a notice of receipt in the Federal Register and request comments on the community development plan proposal as well as any associated environmental review document. The Federal Register notice would include the following information:

> (i) The current utilization of domestic annual harvesting and processing capacity (including existing experimental harvesting, if any) of any directed and incidental species for which access is being requested by a community,
> (ii) A citation of any regulation or regulations that, without the authorized community development access, would prohibit access.
> (iii) Environmental impact information relevant to the proposal.

After review of a community development plan proposal, the RA would notify the community applicant of the decision to approve or disapprove the proposal and would provide the specific arrangement, including any limitations. The RA may attach limiting terms and conditions to the proposal consistent with the purposes and goals of the community development plan, including, but not limited to:

> (i) The maximum amount of each species that can be harvested and landed, including trip limits, where appropriate.
> (ii) The number, sizes, names, and identification numbers of the vessels, as well as type, size, and amount of gear used by such vessels authorized to conduct fishing activities under community development access.
> (iii) The times and places where community development access fishing may not be conducted.

Following implementation of approved plans, periodic review and evaluation of plans would be conducted by the Council's Island Coordinators and NMFS at least every five years.

Alternative 2B: NMFS-guided Process

Under this alternative, NMFS would take the lead for providing community support (i.e. providing information on the program and assisting communities in developing a community development plan proposal), and completed plans would be transmitted to NMFS. Review of project proposals would use NMFS and the Council's advisory bodies, including the Community Development Program Advisory Panel. NMFS would ascertain whether the proposal complies with all applicable law (including NEPA and the ESA). Recommendations for approval or disapproval of a plan would be by the full Council process and NMFS would approve or disapprove of a plan based on compliance with the CDP criteria and applicable laws. Periodic review and evaluation of community plans would be conducted by the Council's Island Coordinators at least every five years.

Alternative 2C: Council and NMFS-guided Process

Under this alternative NMFS would take the lead for providing community support (i.e. providing information on the program and assisting communities in developing a community development plan proposal). Completed plans would be transmitted to NMFS and the Council. Review of proposals would use a NMFS-led Review Committee of affected agencies. NMFS would ascertain whether the proposal complies with all applicable law (including NEPA and the ESA). Recommendations for approval or disapproval would come through the full Council process and NMFS would approve or disapprove them. Periodic review and evaluation of community plans would be conducted by a Committee of affected agencies at least every five years.

6.3 Topic 3: Access

Two alternatives are being considered for mechanisms to provide eligible communities with approved community development plans, access [which would otherwise be restricted by regulations] to a fishery or fisheries under the authority of NMFS and the Council.

Alternative 3A: Omnibus Approach (Preferred)

Under this alternative access to fisheries would be provided to eligible community participants, as defined in Section 305 of the Magnuson Stevens Act, through the CDP process. The community development plan would provide information supporting the need for access. NMFS would ensure the access would comply with all applicable environmental laws (including NEPA and the ESA) and then the RA would approve it and the community would be granted a Letter of Authorization (LOA) for Community Access. This authorization would include specific terms of access and include a specified duration. NMFS would publish a Federal Register notice announcing the decision to grant the applicants an LOA granting access.

Alternative 3B: FMP Amendment Approach

Under this alternative access to a fishery would be considered on a case-by case approach and if requested as part of a community development plan. Access would require an FMP amendment to implement.

7.0 Description of the Affected Environment

This section contains general descriptions of social and economic characteristics of American Samoa, the Commonwealth of the Northern Mariana Islands, Guam, and Hawaii. A broad overview of their populations, economies, political histories, and fisheries is provided.

Complete information on the fisheries including information on target and non-target stocks, bycatch, protected species, and fishing communities in each of the islands areas is available in the Council's Fishery Ecosystem Plans, including the Fishery Ecosystem Plan for the Hawaiian Archipelago (WPFMC 2009a), the Fishery Ecosystem Plan for the American Samoa Archipelago (WPFMC 2009b), the Fishery Ecosystem Plan for the Mariana Archipelago (WPFMC 2009c), the Fishery Ecosystem Plan for the Pacific Remote Island Areas (WPFMC 2009d), the Fishery Ecosystem Plan for Pacific Pelagic Fisheries (WPFMC 2009e); as well as in the Final Programmatic Environmental Impact Statement: Towards and Ecosystem Approach to Management[1]. Additional pelagic fishery landings, revenue, and effort data are available in the Council's Pelagics Annual Report[2].

7.1 American Samoa

American Samoa has been a U.S. territory since 1899, in part because of U.S. interests in the harbor at Pago Pago. New Zealand occupied Western Samoa in 1914, and in 1962 Western Samoa gained independence. In 1997, Western Samoa changed its name to Samoa (it is also referred to as Independent Samoa). The demarcation between Independent Samoa and American Samoa is political. Cultural and commercial exchange continues with families living and commuting between the two. American Samoa is more

[1] Found at: http://wpcouncil.org/documents/Final%20DPEIS%20Ecosystem%2030March07.pdf
[2] Found at: http://www.wpcouncil.org/pelagic-data.html

than 89 percent native Samoan. This population is descended from the aboriginal people who, prior to discovery by Europeans, occupied and exercised sovereignty in Samoa. There is approximately 199 sq km (~ 77 sq mi) of land divided between five islands and two coral atolls (Rose and Swains Islands). EEZ waters around American Samoa are truncated due to the nearby presence of other island nations, and comprise 390,000 square kilometers. Under the Magnuson Stevens Act, American Samoa is recognized as a fishing community.

The seven islands that make up American Samoa were ceded in 1900 and 1904 to the U.S. and governed by the U.S. Navy until 1951, when administration was passed to the U.S. Department of the Interior, which continues to provide technical assistance, represent territorial views to the federal government, and oversee federal expenditures and operations. American Samoa elected its first governor in 1978, and is represented by a non-voting member of Congress. Approximately 95 percent of the landmass in American Samoa is held under the traditional land tenure system and under the direct authority of the Samoan chiefs known as "matai." Under this system, traditional land cannot be purchased or sold and the current reigning chief from within the family unit has final say over the disposition of a family's holdings. This system ensures the passage of assets to future generations and serves as the catalyst in the preservation of the Samoan culture.

American Samoa's history, culture, geography, and relationship with the U.S. are vastly different from those of the typical community in the continental U.S. and are closely related to the heritage, traditions, and culture of neighboring independent Samoa. The Samoan Constitution, the Convention of 1899, and subsequent amendments and authority recognize the primacy of Samoan custom over all sources of traditional law. Article 1, Section 3 of the Bill of Rights of the Constitution of American Samoa states: "It shall be the policy of the government of American Samoa to protect persons of Samoan Ancestry against alienation of their lands and the destruction of the Samoan way of life and language, contrary to their best interests. Such legislation as may be necessary may be enacted to protect the lands, customs, culture and traditional Samoan family organization of persons of Samoan ancestry, and to encourage business enterprises by such persons. No change in the law respecting the alienation or transfer of land or any interest therein, shall be effective unless the same be approved by two successive legislatures by a two-thirds vote of the entire membership of each house and by the Governor."

American Samoa has a small developing economy, dependent mainly on the American Samoa Government (ASG), which receives income and capital subsidies from the federal government, and the tuna canneries on Tutuila, Starkist Tuna, and Samoa Packing Co. which operates under the label "Chicken of the Sea. Together the canneries employed over 4,000 workers with most coming from neighboring Western Samoa. These two primary income sources gave rise to a third: a services sector that derives from and complements the first two. However, in September 2009, Samoa Packing Co. ceased operations resulting in a lay off over 2,000 workers. The recent implementation of federal minimum wage rules in American Samoa may impact the ability of Starkist Tuna pay its

workforce which could result in closure of the remaining cannery and a ripple effect on other service sectors and businesses.

From the time of the Deeds of Cession to the present, despite increasing Western influences on American Samoa, native American Samoans have expressed a very strong preference for and commitment to the preservation of their traditional matai (chief), `aiga (extended family), and communal land system, which provides for social continuity, structure, and order. The traditional system is ancient and complex, containing nuances that are not well understood by outsiders (TPC/Dept. of Commerce 2000).

American Samoan dependence on fishing undoubtedly goes back as far as the peopled history of the islands of the Samoan archipelago, which is about 3,500 years ago (Severance and Franco 1989). Many aspects of the culture have changed in contemporary times, but American Samoans have retained a traditional social system that continues to strongly influence and depend on the culture of fishing. Traditional American Samoan values still exert a strong influence on when and why people fish, how they distribute their catch, and the meaning of fish within the society. When distributed, fish and other resources move through a complex and culturally embedded exchange system that supports the food needs of `aiga, as well as the status of both matai and village ministers (Severance et al. 1999).

Fish and fishing play a stronger and more central role in the Manu'a islands when compared with the main island of Tutuila. It is conceivable that, for some purposes, it would make sense to distinguish these as separate fishing communities. While the subsistence contribution of local fish to the diet of most islanders on the island of Tutuila may be small, it remains a significant source of food to Manu'a islanders. Manu'a residents continue to rely on nearshore fish as a substantial portion of their diet, as transportation limitations make store bought food harder to come by and more expensive. Demographic trends also differ dramatically in the Manu'a islands, where the population has aged (and decreased) significantly over recent years. These factors allow the lifestyle of Manu'a islanders to more closely resemble the islands' traditional past, with local residents more reliant on nearshore marine resources, while still minimizing the population's environmental footprint. Manu'a islanders continue to use some traditional fishing gear and techniques that are now rare or lost in Tutuila. Per capital fishing effort in Manu'a is also higher, but due to its remote location there is less detailed information about fish populations and fishing effort in Manu'a than on neighboring Tutuila. Because of the islands' strong reliance on fishing and ties to the traditional past, it is important to assess and monitor the Manu'a islands' social and biological character and track changes over time.

Fishing also continues to contribute to the cultural integrity and social cohesion of Pacific island communities including American Samoa, where skipjack tuna, known locally as atu, is an important species both nutritionally and culturally. The methods and equipment for catching skipjack have changed, but the fish brought to shore continue to be distributed within Samoan villages according to age-old ceremonial traditions. These

sociocultural attributes of fishing are at least as important as the contributions made to the nutritional or economic wellbeing of island residents (WPRFMC 1999).

7.1.1 American Samoa's Pelagic Fishery

The excellent harbor at Pago Pago and certain special provisions of U.S. law form the basis of American Samoa's largest private industry, fish processing, which is now more than 50 years old. The Territory is exempt from the Nicholson Act, which prohibits foreign ships from landing their catches in U.S. ports. American Samoan products with less than 50 percent market value from foreign sources enter the United States duty free (Headnote 3(a) of the U.S. Tariff Schedule). In the past, the ASG estimated that the tuna processing industry when in full operation directly and indirectly generated about 15 percent of current money wages, 10 to 12 percent of aggregate household income and 7 percent of government receipts in the Territory (BOH 1997). However, with the closure of one of the canneries, these amounts have likely been reduced. Up to 90 percent of cannery jobs are filled by foreign nationals from Western Samoa and Tonga. The result is that much of the payroll of the canneries "leaks" out of the Territory in the form of overseas remittances.

The pelagic fishery in American Samoa has historically been an important component of the traditional domestic fisheries. Prior to 1995 the pelagic fishery was largely a troll-based fishery. Horizontal of longlining was introduced to the Territory by Western Samoan fishermen in 1995. Local fishers have found longlining a worthwhile venture as they land more pounds with less effort and use less gasoline for trips. Historically most of the vessels used were "alia", locally built, twin-hulled about 30 feet long, powered by 40HP gasoline outboard engines (Bartram and Kaneko 2009). Albacore is the primary species caught, and is generally stored in personal freezers until a sufficient amount accumulates for the canneries. Some of the catch is sold to stores, restaurants and local residents. Catch is also donated for family functions and exchanged for services through customary exchange practices.

In mid-1995 five alias began longlining. The number of alias grew to 12 boats involved in longline fishing in 1996; by 2002 no alia were longlining. In 1997 the first longline vessel of 60 plus feet in length (the 60 + ft longliners are capable of making multi-day trips) began operating in American Samoa. In 1998, 50 local vessels received federal permits to longline but only 25 participated. By 2001, the number of vessels participating in the longline fishery increased dramatically whereas the number of vessels participating in the troll fishery slightly decreased.

Pago Pago Commercial Fishing, Inc. was chartered in 2004 as a non-profit cooperative of approximately 120 members to create value-added products from the miscellaneous catch of the large longline vessels delivering albacore to the canneries (TEC Inc. 2007). Anticipated activities included training and employing Samoans in fishing and support businesses, engaging in cooperative research with fisheries scientists, supplying fish for community, cultural and senior citizen needs, and providing services and assistance in

selling catches, including non-target fish species (TEC Inc. 2007). In 2005, American Samoa's Comprehensive Economic Development Strategy included rehabilitation of the Farmer's Market in Pago Pago, including redesign of access and grounds, construction of a new two-story building, and addition of a fish market and seafood section for local fishermen's catches. Although the old market was torn down, the new market has yet to be completed in late 2008.

By 2006, the fishery had transitioned to a limited access program with 60 permits in the program. Under this program vessel operators must submit federal longline logbooks and must carry VMS systems and observers if requested by NMFS. In 2006, only 30 vessels were active in American Samoa, most of which were large conventional monohull longline vessels. A record number of hooks, over 17,500,000, were set by American Samoa-based longline vessels during 2007 which exceeded 2006's record at 14,250,000. Participation by alia (Class A) in the longline fishery continues to decrease while participation by the largest vessels increases gradually.

More than 14,500,000 pounds of pelagic species were landed by American Samoa vessels during 2007 and over 14,400,000 pounds were sold commercially (Table 4). Longline vessels longer than 50 feet dominate the American Samoa total landings and commercial landings. Tunas account for over 13,900,000 pounds of landings (96%) by American Samoan vessels. Albacore is the major species landed (over 11,700,000 pounds; 81% of landings). Yellowfin, skipjack, and bigeye tunas plus wahoo contribute the bulk of the non-albacore landings (18%). Longline landings of albacore, wahoo, skipjack, and bigeye increased between 2006 and 2007; albacore landings increased 21 percent. Estimated tuna landings peaked over 15 million pounds during 2002 and decreased through 2005. The estimated 2007 American Samoa tuna landings are the second highest recorded in the 26-year data record. Estimated non-tuna PMUS landings have generally been increasing overtime; 2007 is the fourth highest estimates for non-tuna PMUS in the 26 year record (WPRFMC 2008).

7.1.2 American Samoa's Bottomfish Fishery

Bottomfishing utilizing traditional canoes by the indigenous residents of American Samoa has been a subsistence practice since the Samoans settled into the Tutuila, Man'ua and Aunu'u islands. It was not until the early 1970's that the bottomfish fishery developed into a commercial scheme utilizing motorized boats. A government subsidized program, called the Dory Project, was initiated in 1972 to develop the offshore fisheries into a commercial venture, and resulted in an abrupt increase in the fishing fleet and total landings. In 1982, a fisheries development project aimed at exporting high-priced deep-water snappers to Hawaii caused another notable increase in bottomfish landings and revenues. Between 1982 and 1988, the botttomfish fishery comprised as much as 50% (by weight) of the total commercial landings. Beginning in 1988, the nature of American Samoa's fisheries changed dramatically with a shift in importance from bottomfish fishing towards pelagic trolling.

Bottomfish fishing technology used in American Samoa is relatively unsophisticated. The fishermen typically jig on day or overnight trips using fresh or frozen bait such as skipjack tuna. Most vessels are aluminum alia catamarans less than 32 feet in length, outfitted with outboard engines and wooden hand reels that are used for both trolling and bottomfish fishing. Because few boats carry ice, they typically fish within 20 miles of shore. In recent years, a growing number of fishermen have been acquiring larger (> 35 ft) vessels with capacity for chilling or freezing fish and a much greater fishing range. Major constraints to this fishery have been devastating impacts from hurricanes, such as Heta in January 2004, and more recently the tsunami of September 2009.

In 2009, a total of 21 local boats landed an estimated 66,235 pounds of both commercial and recreational bottomfish in the territory. Revenue from the commercial fishery for 2009 was estimated around $167,135 with all catch being sold locally. The CPUE for 2009 (9.3 lb/hr) was almost similar to 1980's when the export fishery was still in existence. Effort (hours and trips) had been increasing from the lowest record in 2006 as some of the alias that normally troll and/or longline perform bottomfishing when trolling and longline prices and catches decline. The 2009 tsunami destroyed the majority of the alia vessels and landings declined post-tsunami due to greatly reduced effort. There are disaster relief and fishery development projects under development which would replace the alia fleet with other safer vessels of comparable size and may revive this fishery in the near future.

7.1.3 American Samoa's Crustacean Fishery

Spiny lobster (*Panulirus penicillatus*) is the main species speared by night near the outer slope by free divers while diving for finfish. Lobsters remain one of the more expensive reef species taken and are often present in important meals such as wedding, funerals, Christmas and New Year's Day. Traditionally, lobsters when caught were shared with the village or family. Nowadays, they are mainly bought at the market, caught by professional fishermen.

7.1.4 American Samoa's Coral Reef Fishery

The reef fish catch composition in American Samoa is dominated by six fish families: Acanthuridae or surgeonfishes (28 percent), Serranidae or wrasses (12 percent), Holocentridae or squirrelfishes (12 percent), Lutjanidae or snappers (7 percent), Mugilidae or mullets (7 percent), and Scaridae or parrotfishes (6 percent). Atule or bigeye scad (*Selar crumenophthalmus*), a coastal pelagic species, seasonally accounts for significant portion of the coral reef catch.

Low catch years associated with hurricanes may be the result of fleet damage or fishermen being occupied with other work. A decline in commercial reef fish catches after 1997 may have resulted from increased enforcement of commercial license requirements between 1997 and 2000. In 2001, the American Samoa Department of Marine and Water Resources prohibited the use of scuba gear while fishing to help reduce fishing pressure on the reefs.

7.2 Commonwealth of the Northern Mariana Islands

The CNMI consists of 14 islands, five of which are inhabited, with a total land area of 176.5 square miles spread over about 264,000 square miles of ocean. The Northern Mariana Islands became part of the Pacific Trust Territory administered by the U.S. under a mandate granted in 1947. The covenant that created the commonwealth and attached it to the U.S. was fully implemented in 1986, pursuant to a Presidential Proclamation that terminated the Trust Territory of the Pacific Islands as it applied to the Northern Mariana Islands.

Fishery resources have played a central role in shaping the social, cultural and economic fabric of the CNMI. The aboriginal peoples indigenous to these islands relied on seafood as their principal source of protein and developed exceptional fishing skills. Later immigrants to the islands from East and Southeast Asia also possessed a strong fishing tradition. Under the Magnuson Stevens Act, the CNMI is defined as a fishing community.

The population (July 2006 estimate) of the CNMI is 82,459 individual and is comprised of 56 percent Asians, 36 percent Pacific Islanders, 2 percent Caucasians and the remaining 6 percent reported mixed ethnicities (2000 Census data). Per capita income in the CNMI in 1999 was $9,151. The median household income for the CNMI as whole was $22,898. For Saipan, the median household income was $19,698 in the first quarter of 1999, as compared with $21,457 in 1990. The Commonwealth had an unemployment rate in 1999 of 5.5 percent. Forty-six percent of the CNMI population was at or below poverty in 1999 (Census 2000).

Garment production had been an important industry, with shipments of $1 billion to the U.S. under duty and quota exemptions during 1999 (BOH 1999). However, due to the recent collapse of the garment industry, the CNMI is currently facing serious economic issues. Nearly half of the economy was previously reliant on thousands of alien (guest) workers. After 2005, when the quota exemption ended and industry pulled out of CNMI, the local government was burdened with the costs of supporting a largely unemployed alien workforce, and faced huge infrastructure costs previously supported by the garment industry. These challenges continue today and are the subject of much debate and concern (2009 Marianas Variety[3]).

Participants in CNMI's fisheries are not concentrated in specific locales but rather reside in towns throughout the islands and therefore all the islands of CNMI are considered as a single fishing community (64 FR 19067, April 19, 1999). CNMI's history, culture, geography and relationship with the U.S. are vastly different from those of the typical fishing community in the continental U.S. The majority of fishermen in the offshore fisheries around CNMI are either Chamorro or Carolinian (Hamnett et al. 1998). Orbach (1980) noted that the fisheries in CNMI are inextricably involved with the lifestyles and plural-occupational patterns of fishery participants. Part-time fishing performed in conjunction with other activities has a prominent place in the socioeconomic adaptations

[3] Found at: http://pidp.eastewestcenter.org/pireport/2009/June /06-22-05.htm

of local residents. People fish for bottomfish and other species to supplement their family subsistence, which is gained by a combination of small scale gardening and wage work (Amesbury et al. 1989). Fishing in the CNMI continues to be important not only in terms of contributing to the subsistence needs of the Chamorro people but also in terms of preserving their history and identity. Fishing has assisted in perpetuating the traditional knowledge of marine resources and maritime traditions of the Chamorro (and Carolinian) cultures and has helped them maintain their connection to the sea and its resources.

7.2.1 CNMI's Pelagic Fishery

In the early 1980s, U.S. purse seine vessels established a transshipment operation at Tinian Harbor. The CNMI is exempt from the Jones Act, which requires the use of U.S.-flag and U.S built vessels to carry cargo between U.S. ports. The U.S. purse seiners took advantage of this exemption by offloading their catch at Tinian onto foreign vessels for shipment to tuna canneries in American Samoa. In 1991, a second type of tuna transshipment operation was established on Saipan (Hamnett and Pintz 1996).This operation transships fresh tuna caught in the Federated States of Micronesia from air freighters to wide-body jets bound for Japan. The volume of fish flown into and out of Saipan is substantial, but the contribution of this operation to the local economy is minimal (Hamnett and Pintz 1996).

With the exception of the former purse seine support base on Tinian (now defunct), the CNMI has never had a large infrastructure dedicated to commercial fishing. The majority of boats in the local fishing fleet are small, outboard engine-powered vessels. Trolling is the primary fishing method utilized in the pelagic fishery. The pelagic fishing fleet, other than charter boats, consists primarily of vessels less than 24 ft in length which usually has a limited 20-mile travel radius from Saipan. These vessels have a limited travel and fishing range and fishery participants necessarily rely on catches from waters within their reach.

In 2007, a new longline company attempted to begin fishing in CNMI with two longline vessels that delivered to port every two days. This operation which includes a processing plant in Rota where frozen products were blast frozen and vacuum packed has been sold to another longline fishing venture with four permitted vessels. Increased interest in longline fishing in CNMI had been shown during 2007 through the issuance of at least eight Western Pacific General Longline permits.

The primary target and most marketable species for the pelagic fleet are skipjack tuna. In 2006 skipjack tuna comprised around 77 percent of the entire pelagic landings. Schools of skipjack tuna have historically been common in near shore waters, providing an opportunity to catch numerous fish with a minimum of travel time and fuel costs. Skipjack is readily consumed by the local populace and several Korean restaurants, primarily as sashimi. Yellowfin tuna and mahimahi are also easily marketable species but are seasonal. During their seasonal runs, these fish are usually found close to shore and provide easy targets for the local fishermen. In addition to the economic advantages of

being near shore and their relative ease of capture, these species are widely accepted by all ethnic groups. Since 2000, the number of vessels making commercial pelagic landings ranged from 60 to 115. During 2006, total pelagic landings were just under 350,000 lb with revenue of approximately $554,000.

7.2.2 CNMI's Bottomfish Fishery

CNMI's bottomfish fishery consists primarily of small-scale (less than 25 ft) local boats engaged in local commercial and subsistence fishing within a 50 mile radius of Saipan, with only a few (generally less than five) larger vessels (30 to 60 ft) sporadically participating in the deepwater bottomfish fishery. Regulations banned vessels 40 feet in length or larger, are banned from fishing 0 to 50 nautical miles offshore CNMI's southern islands and 0 to 10 nautical miles offshore the northern island of Alamagan.
The bottomfish fishery can be broken down into two sectors: deepwater greater than 500 ft) and shallow-water (100 to 500 ft) fisheries. The deepwater fishery is primarily commercial, targeting snappers and groupers. In 2005, the total commercial catch of bottomfish was just over 70,000 lb with revenues of $189,478 and included catches from approximately 62 fishermen.

In CNMI, fishermen target red-gilled emperor. About 150 skiffs fish the islands and banks from Rota to Zealandia Bank north of Sariguan. About 8 to 43 larger vessels ranging 29 to 70 feet make multiday trips to the Northern Islands, focusing effort from Esmeralda Bank to Zealandia.

7.2.3 CNMI's Crustacean Fishery

Spiny lobster is hand harvested by subsistence and recreational divers in near-shore waters of the inhabited southern islands of CNMI and territorial waters of Guam. Bottomfish fishermen occasionally night dive for lobster within 3 miles of shore at Farallon de Medinilla, in CNMI's northern islands, mainly for personal consumption. Four vessels hold federal lobster permits for the US EEZ of the Mariana Archipelago.

The reported annual commercial harvest is <500 lbs in CNMI. Unreported commercial and non-commercial catch could double this figure.

Deep-water shrimp are sporadically trapped throughout the Pacific. This fishery operated in CNMI near steep banks at depths of >350 meters, mostly around Saipan and Tinian, in the 1990s.

7.2.4 CNMI's Coral Reef Ecosystem Fishery

Recent information on noncommercial catches of coral reef resources is not available. In CNMI, most fishing for coral reef management unit species (CRMUS) occurs in near-shore areas with finfish and invertebrates the primary targets. Small quantities of seaweed are also harvested locally. Currently moratoriums exist for harvest of sea cucumber and topshell.

Commercial landings include parrotfish, surgeonfish and goatfish. Six of the Northern Islands have been fished commercially, however, the recent Monument designation will prevent any future fishing in the waters around the three northernmost islands of Farallon de Pajaros, Maug, and Asuncion (74 FR 1557; January 12, 2009).

7.3 Guam

The island of Guam was ceded to the U.S. following the Spanish–American War of 1898 and has been an unincorporated territory since 1949. The land mass of Guam's two islands is approximately 541 sq km (209 sq mi). Guam's population (July 2006 estimate) is 171,019 individuals and is comprised of 37 percent Chamorros, 26 percent Filipinos, 11 percent other Pacific Islanders, 11 percent Caucasians, 6 percent other Asian ethnicities and the remaining 33 percent reported mixed ethnicities. The main income sources on Guam include tourism, national defense, and trade and services.

The major economic factor in Guam for most of the latter part of the twentieth century was the large-scale presence of the U.S. military (BOH 1999b). In the 1990s, however, the military's contribution to Guam's economy had waned and been largely replaced by Asian tourism. However, recent military activities in Guam include the movement of all military personnel from Okinawa to Guam over the next five years. The addition of about 8,000 Marines and 4,510 active duty personnel in other military services when the build-up is completed, results in the number of active duty personnel increasing from 6,520 today to 19,330 in 2014. The number of dependents could rise from 7,690 today to 19,140 in 2014. The number of both active duty personnel and dependents in Guam could rise from 14,210 today to 38,470 in 2014. Based on today's total population estimate of 171,000 for Guam, the build-up will increase the island's population some 22.3 percent to 218,000 (Pula 2008)[4]. These population numbers do not include new businesses that will remain on-island after 2014 which will add owners, employees, and their families to the population. This military buildup is a significant event that will impact Guam communities. This major population increase may lead to increased nearshore fishing pressure and an upswing in the charter fishing industry. In addition, increased military training activities will result in some temporal loss of current and historic fishing areas during operations and the potential impacts to habitat are unknown.

Guam's macroeconomic situation exhibited considerable growth between 1988 and 1993 as a result of rapid expansion of the tourist industry. In fact, Guam's economy has become so dependent on tourists from Asia, particularly Japan, that any significant economic, financial and foreign exchange development in the region has had an immediate impact on the Territory (BOH 1999b). During the mid- to late-1990s, as Japan experienced a period of economic stagnation and cautious consumer spending, the impact was felt just as much in Guam as in Japan. Visitor arrivals in Guam dropped 17.7 percent in 1998. Despite recent efforts to expand the tourist market, Guam's economy remains dependent on Japanese tourists.

[4] From the U.S. Senate Committee on Energy and Natural Resources website at: http://energy.senate.gov/public/index.cfm?FuseAction=Hearings.Hearing&Hearing_ID=3913462b-cb59-39ef-2ecd-1675b2f44d01

Over the centuries of acculturation beginning with the Spanish conquest in the late seventeenth century, many elements of traditional Chamorro culture in Guam were lost. But certain traditional values, attitudes and customs were retained to become a part of contemporary life. Amesbury and Hunter-Anderson et al. (1989) noted that the practice of sharing one's fish catch with relatives and friends during Christian holidays is rooted in traditional Chamorro culture:

> *A strongly enduring cultural dimension related to offshore fishing is the high value placed on sharing of the catch, and the importance of gifts of fish to relatives and friends.*

Based on creel surveys of fishermen, only about one quarter to one third of the inshore catch is sold. The remainder enters noncommercial channels (Knudson 1987). Reef and bottomfish continue to be important for social obligations, such as fiestas and food exchange with friends and families. One study found a preference for inshore fish species in noncommercial exchanges of food (Amesbury and Hunter-Anderson 1989). The social obligation to share one's fish catch extends to part-time and full-time commercial fishermen. Such gifts are often reef fish or shallow-water bottomfish (Amesbury and Hunter-Anderson 1989). Even when fish are purchased informally by friends, neighbors or relatives of the fisherman, the very personal marketing tends to restrain the price asked (WPRFMC 2003a).

Domestic fishing on Guam supplements family subsistence, which is gained by a combination of small scale gardening, ranching and wage work (Amesbury and Hunter-Anderson 1989). The availability of economic activities such as part-time fishing is among the major reasons that Guam has not experienced more social problems during times of economic hardship and increasing unemployment. The subsistence component of the local economy has gained significance in recent years with the downturn in Guam's major industries and increasing unemployment. Fishing in Guam continues to be important not only in terms of contributing to the subsistence needs of the Chamorro people but also in terms of preserving their history, culture and identity. Fishing has assisted Chamorros and immigrant cultures in maintaining what remains of the maritime attributes of their traditional culture, perpetuating their connection to the sea and its resources. High value is placed on sharing one's fish catch with relatives and friends. The social obligation to share one's fish catch extends to part-time and full-time commercial fishermen (Amesbury and Hunter-Anderson, 1989).

The importance of commercial fishing in Guam lies mainly in the Territory's status as a major regional fish transshipment center and resupply base for domestic and foreign tuna fishing fleets. Among Guam's advantages as a home port are well-developed and highly efficient port facilities in Apra Harbor, an availability of relatively low-cost vessel fuel, a well-established marine supply/repair industry, and recreational amenities for crew shore leave (Hamnett and Pintz 1996). In addition, the Territory is exempt from the Nicholson Act, which prohibits foreign ships from landing their catches in U.S. ports. Initially, the majority of vessels calling in Apra Harbor to discharge frozen tuna

for transshipment were Japanese purse seine boats and carrier vessels. Later, a fleet of U.S. purse seine vessels relocated to Guam, and since the late 1980s, Guam has become an important port for Japanese and Taiwanese longline fleets. The presence of the longline and purse seine vessels has created a demand for a range of provisioning, vessel maintenance and gear repair services.

7.3.1 Guam's Pelagic Fishery

By the early 1990s, an air transshipment operation was established on Guam. Fresh tuna is flown into Guam from the FSM and elsewhere on air cargo planes and out of Guam to the Japanese market on wide-body passenger planes (Hamnett and Pintz 1996). A second air transshipment operation that began in the mid-1990s is transporting to Europe fish that do not meet Japanese sashimi market standards. Guam is an important resupply and transshipment center for the international tuna longline fleet in the Pacific. However, the future of home port and transshipment operations in Guam depends on the island's ability to compete with neighboring countries that are seeking to attract the highly mobile longline fleet to their own ports. Trends in the number of port calls made in Guam by various fishing fleets reflect the volatility of the industry.

Estimated annual pelagic landings by the primarily local, Guam-based, small-boat pelagic fishery vary widely, ranging between 322,000 and 937,000 pounds in the past 25-years. The 2006 total pelagic landings were approximately 510,608 pounds and consisted primarily of five major species: mahimahi, wahoo, bonita or skipjack tuna, yellowfin tuna, and Pacific blue marlin. Sailfish and sharks were also caught during 2006.

The number of boats involved in Guam's pelagic or open ocean fishery gradually increased from 193 in 1983 to 469 in 1998. This number decreased until 2001, but has generally been increasing since that year. There were 386 boats involved in Guam's pelagic fishery in 2006. A majority of the fishing boats are less than 10 meters (33 feet) in length and are usually owner-operated by fishermen who earn a living outside of fishing. A small, but significant, segment of the pelagic group is made up of marina-berthed charter boats that are operated primarily by full-time captains and crews. In 2006, total commercial pelagic landings were approximately 510,000 lb with revenues of $443,506.

7.3.2 Guam's Bottomfish Fishery

Bottomfishing on Guam is a combination of recreational, subsistence, and small-scale commercial fishing. Amendment 9 to the Bottomfish FMP prohibited large vessels (50 ft or longer) from fishing for bottomfish in Federal waters within 50 nm around Guam and it established Federal permitting and reporting requirements for these large vessels. The fishery can be separated into two distinct target segments separated by depth and species composition. The shallow water complex (<500 feet) makes up a larger portion of the total bottomfish effort and harvest, comprised primarily of reef-dwelling snappers, groupers, and jacks of the genera *Lutjanus*, *Lethrinus*, *Aprion*, *Epinephelus*, *Variola*,

Cephalopholis and *Caranx*. The deepwater complex (>500 feet) consists primarily of groupers and snappers of the genera *Pristipomoides*, *Etelis*, *Aphareus*, *Epinephelus*, and *Cephalopholis*.

The majority of participants in this fishery are either subsistence or part-time commercial, operate boats less than 25 feet in length, target primarily the shallow water bottomfish complex, and combine some trolling to supplement their overall fish catch. The demand for reef fish and bottomfish has increased in recent years, making it profitable to sell locally-caught bottomfish. On Guam, bottomfish management unit species (BMUS) are harvested in significant numbers by other methods such as gillnets, castnets, and spearing. Jacks are harvested from their juvenile stage in pulse fisheries several times a year, while spearing has had a significant impact on large groupers that no longer caught by the bottomfishing method. In 2005, total commercial bottomfish landings were 61,600 lb with revenues of over $69,000. Less than 20 percent of the harvest is outside three miles, and charter fishing accounts for about 15 to 20 percent of all bottomfishing trips. Three commercial bottomfish vessels are believed to be active.

7.3.3 Guam's Lobster and Coral Reef Fisheries

Spiny lobster is hand harvested by subsistence and recreational divers in territorial waters of Guam. In Guam, primarily shore-based fishermen harvest more than 100 species of fish. Less than 20 percent of the coral reef resources harvested is taken in the EEZ. Most offshore banks are deep, remote, shark infested, subject to strong currents and accessible only from May to September. There is a ban on anchoring on Guam's Southern Banks except for a documented emergency or vessel malfunction by any vessel >50 feet in length.

7.4 Hawaii

Natural resource production remains important in Hawaii, although nothing compared to the period of the sugar and pineapple plantations from throughout the first 60 or 70 years of the 20th century. Aquaculture production was $28.1 million in 2004 (DBEDT 2006), although much of aquaculture's value to Hawaii comes from development of technology. Commercial fishing ex-vessel value was $57.5 million, not including value added by the seafood processing sector (WPacFIN 2007), lower than some earlier years due to the closure of the longline fishery for swordfish from 2000-2004.

Fishing and related services and industries are important to all of Hawaii's inhabited islands that the social and economic cohesion of fishery participants is particularly strong at the island level, and that fishing communities are best not distinguished according to fishery or gear type. The most logical unit of analysis for describing the community setting and assessing community-level impacts is the island. Each of the islands of Kauai, Niihau, Oahu, Maui, Molokai, Lanai, and Hawaii is identified as a fishing community under the Magnuson Stevens Act.

Initially, commercial fishing in Hawaii was monopolized by Native Hawaiians, who supplied the local market with fish using canoes, nets, traps, spears, and other traditional fishing devices (Cobb 1902; Jordan and Evermann 1902; Konishi 1930). However, the role that Native Hawaiians played in Hawaii's fishing industry gradually diminished through the latter half of the nineteenth century. During this period, successive waves of immigrants of various races and nationalities arrived in Hawaii, thus increasing the non-indigenous population from 5,366 in 1872 to 114,345 in 1900 (Office of Hawaiian Affairs 1998). The new arrivals included Americans, Chinese, Portuguese, and Filipinos, but particularly significant in terms of having a long-term impact on the fishing industry was the arrival of a large number of Japanese. Later, experienced fishermen came from Japan to Hawaii for the specific purpose of engaging in commercial fishing. The bottomfish fishing gear and techniques employed by the Japanese immigrants were slight modifications of those traditionally used by Native Hawaiians.

During much of the twentieth century, Japanese immigrants to Hawaii and their descendants were preeminent in Hawaii's commercial fishing industry. The tightly knit communities that the first Japanese immigrants formed both helped ease the transition to American society and retarded the process of acculturation (Tamura 1994). The Japanese were able to maintain their separate communities in Hawaii more effectively than any other immigrant group. Among those Japanese communities of particular significance were the settlements of commercial fishermen and their families in the Palama, River Street, and Kakaako areas of Honolulu adjacent to the harbor (Lind 1980).

As late as the 1970s, the full-time professional fishermen in Hawaii were predominately of Japanese descent (Garrod and Chong 1978). However, by that period hundreds of local residents of various ethnicities were also participating in Hawaii's offshore fisheries as part-time commercial and non-commercial fishermen. In addition, a growing number of fishermen from the continental United States began relocating to Hawaii. Many of the new arrivals came to the islands because declining catch rates in some mainland fisheries had led to increasingly restrictive management regimes.

Today, the people who participate in Hawaii's fisheries make up an ethnically mixed and spatially dispersed group numbering several hundred individuals, although actual numbers are difficult to ascertain. Most are year-round residents of Hawaii, but some choose to maintain principal residences elsewhere. Participants in the bottomfish fishery do not reside in a specific location and do not constitute a recognizable fishing community in any geographical sense of the term. There are a few rural villages in the State where most residents are at least partially economically dependent on fishing for pelagic species (Glazier 1999). In general, however, those who are dependent on or engaged in the harvest of fishery resources to meet social and economic needs do not include entire cities and towns, but subpopulations of metropolitan areas and towns. These subpopulations make up fishing communities in the sense of social groups whose members share similar lifestyles associated with fishing.

Fulfillment of social obligations may at times be an important reason for fishing. Fish are an important food item among many of the ethnic groups represented in Hawaii,

especially during various social events. Fishermen are expected to provide fish during these occasions and may make a fishing trip especially for that purpose (Glazier 1999). Finally, some Hawaii fishermen feel a sense of continuity with previous generations of fishermen and want to perpetuate the fishing lifestyle. Most Hawaii fishermen consider knowledge and experience to be more important factors in determining fishing success than high-tech gear. An example of the value placed on information passed down from previous generations of fishermen is the monument that Waimanalo, a windward Oahu town, proposed to commemorate the kupuna (elders) of that area who are recognized for their fishing skills and knowledge (Ramirez 2000).

Glazier (1999) observed that membership in a Hawaii fishing hui (or social group) can instill a strong feeling of camaraderie and solidarity among fishermen. The cohesion within these organizations constitutes available social capital for both their members and the broader community. For example, fishing clubs often organize or participate in community service projects (Glazier 1999). Examples of more ad hoc forms of cooperation among fishermen are also common. For instance, fishermen may take turns trucking each other's fish from distant landing sites to the central fish auction in Honolulu, thereby reducing transportation costs (Glazier 1999). Close social relationships also continue to be maintained between some fishermen and fish buyers.

People of Native Hawaiian ancestry make up about 21 percent of Hawaii's population (DBEDT 1999) and by most statistical measures, they have the lowest incomes and poorest health of any ethnic group in the State. Native Hawaiians have long been among the most economically disadvantaged ethnic or racial group in Hawaii in terms of standard of living, degree of unemployment, dependence on transfer payments, and limited alternative employment opportunities. In recent years, Native Hawaiians have had the highest proportion of individuals living below the poverty line.

There is abundant historical and archaeological evidence of the social importance of fishing in traditional Hawaiian culture. For centuries, Native Hawaiians relied on seafood as their principal source of protein. However, the availability of many traditional seafoods has been significantly diminished. Over-exploitation and ecological degradation of inshore areas by pollution have had a pronounced negative impact on Native Hawaiian marine sustenance practices. Shomura (1987), for instance, notes that between 1900 and 1986, the harvest of coastal fish species in Hawaii declined by 80 percent, and catches of neritic-pelagic species declined by 40 percent. Perhaps the changes in diet that resulted from loss of access to sea resources have contributed to the poor health of Native Hawaiians. Of all racial groups living in Hawaii, Native Hawaiians are the group with the highest proportion of multiple risk factors leading to illness, disability, and premature death (Look and Braun 1995).

In general current federal efforts to define traditional native fishing rights in the EEZ beyond the territorial seas have not recognized or addressed traditional Native Hawaiian access to open sea fishing rights (Murakami 1991). *Konohiki* fishing rights are traditional nearshore fishing rights. Prior to annexation, the Kingdom of Hawaii codified these rights, identifying the interests of the King (Government), *konohiki* (landlords, resource

managers) and *ahupua`a* tenants (common people). Tenants of the *ahupua`a* had a right to take fish and sea life from the reefs and fishing grounds adjacent to and appurtenant to an ahupua`a, subject to the right and responsibility of the *konohiki* to manage and conserve the fishery resources. Shortly after annexation, in 1898, Congress sought to extinguish "exclusive" fishing rights and open fisheries to all, subject to "vested" rights of those who registered and established their fishing rights within a two year period (Murakami 1991). Federal and local courts have diverged regarding applicable law for these fishing rights. The status of these fishing rights is clouded and it is not clear what effect these rights have on modern activities involving the nearshore fisheries. These traditional fishing rights entitled all people access to fisheries which provided the bulk of the protein nutrition necessary for the community's survival, and thus the appurtenant rights to fish the nearshore area are subsistence rights.

7.4.1 Hawaii's Pelagic Fishery

Of all fisheries managed under the PFMP, the Hawaii-based longline fishery is the largest accounting for the majority of Hawaii's commercial pelagic landings (9,762 t in 2006). The fleet includes a few wood and fiberglass vessels, and many newer steel longliners that were previously engaged in fisheries off the U.S. mainland. Vessels are limited to 101 ft in length and the total number is limited to 164 vessels by a limited entry program. The longline fleet has historically operated in two distinct modes based on gear deployment: deep-set longline by vessels that target primarily tuna and shallow-set longlines by those that target swordfish or have mixed target trips including albacore and yellowfin tuna. During the 1980s, tuna longline effort began to expand to supply developing domestic and export markets for high quality fresh and sashimi grade tuna. In the late 1980s and early 1990s, the nature of the fishery changed completely with the arrival of swordfish and tuna targeting fishermen from longline fisheries of the Atlantic and Gulf States. Longline effort increased rapidly from 37 vessels in 1987 to 138 vessels in 1990 (Ito and Machado 2001). In 1985, the longline fishery surpassed landings of the skipjack pole-and-line fleet and has remained the largest Hawaii-based fishery to date. The influx of large, modern longline vessels promoted a revitalization of the fishery, and the fleet quickly adopted new technology to better target bigeye tuna at depth. The adoption of monofilament mainline longline reels further modernized the fleet and improved profitability.

The limited access program allows for 164 vessels in the fishery, but active vessel participation has long been less than that; e.g. in 2006, 127 vessels actively participated in the fishery. Vessel sizes range up to nearly the maximum 100 foot limit, but the average size is closer to 65 – 70 ft. In 2006, total commercial pelagic landings were 9,762 mt with revenues of $49.2 million.

7.4.2 Hawaii's Bottomfish Fishery

Bottomfish fishing was a part of the economy and culture of the indigenous people of Hawaii long before European explorers first visited the islands. Descriptions of traditional fishing practices indicate that Native Hawaiians harvested the same deep-sea

bottomfish species as the modern fishery and used some of the same specialized gear and techniques employed today.

Hawaii's bottomfish fishery is the second largest fishery in the archipelago. The deep-slope bottomfish fishery in Hawaii targets snappers, jacks and a single species of grouper concentrated at depths of 30-150 fm. The fishery can be separated into two geographical areas: the inhabited main Hawaiian Islands (MHI), with their surrounding reefs and offshore banks, and the mostly uninhabited northwestern Hawaiian Islands (NWHI).

In the MHI about half of the bottomfish habitat lies in State waters. Bottomfish fishing grounds within federal waters include Middle Bank, most of Penguin Bank and approximately 45 nm of 100-fathom bottomfish habitat in the Maui-Lanai-Molokai complex. Total bottomfish demand and price have generally been consistent; however, declines in local landings since the mid-1980s have been supplemented by increased foreign imports. Bottomfish fishing in the MHI is regulated through permit and reporting for commercial and non-commercial participants and through annual total allowable catch limits for key deepwater species. More information on this fishery can be found in the Council's Supplemental Environmental Impact Statement on Measures to End Bottomfish Overfishing in the MHI[5].

The NWHI bottomfish fishery is no longer operational. Proclamation 8031 established the Papahanaumokuakea Marine National Monument in 2006 (71 FR 36443, June 26, 2006) which required the fishery to cease operations in June, 2011. However, in 2008, Congress authorized funding for compensation to fishers who voluntarily relinquished their federal fishing permits and directed the Secretary of Commerce to initiate rulemaking for a voluntary capacity reduction program (74 FR 47119). As of 2010, all NWHI bottomfish federal permit holders accepted compensation which required immediate surrendering of their permits to NMFS.

7.4.3 Hawaii's Crustacean Fishery

The typical species targeted by this fishery are the spiny lobster, *Panulirus marginatus*, and the common slipper lobster, *Scyllarides squammosus*. Other important species include *Panulirus penicillatus*, another spiny lobster species; other slipper lobster species in the family Scyllaridae; and Kona crab, *Ranina ranina*.

The largest crustacean fishery was the NWHI commercial lobster fishery, which began in the late 1970s and ran through the mid 1990s. The fishery operated under a limited entry program, bank specific quotas, observers, gear restrictions and other regulations. In 2000, NMFS closed the fishery due to uncertainties in their population assessment model and the fishery remained closed as a result President Clinton's subsequent Executive Order establishing the NWHI Coral Reef Reserve, which then became a national marine monument under President Bush's Executive Order (71 FR 51134; August 29, 2006).

[5] Found on the Council's website at: http://hawaiibottomfish.info/library/HawaiiArchipelago.html

Crabs are also an important species for commercial, recreational and subsistence fishermen in Hawaii, with a mean annual commercial value of $182,182 (Friedlander 1996). The dominant species in the catch is Kona crab (*Ranina ranina*) with more than 28,000 lbs. caught annually. By weight, more than 50 percent of Kona crab is caught on Penguin Bank, which has long been an important location for Kona crab net harvests of (Onizuka 1972).

The Council has recently added deep water shrimps to the list of species managed under their plan.

7.4.4 Hawaii's Coral Reef Fisheries

Coral reef species are targeted using numerous fishing gears including nets, traps, hook and line, spear, hand and other methods. Akule (coastal pelagic scads) dominate near-shore commercial landings and are typically harvested using surround or fence nets, gillnets or hook and line. Other top species by weight and value include soldierfishes (*Myripristis* spp.), parrotfish (*Scarid* spp.), surgeonfishes (including *Acanthurus dussumieri*, *A. triostegus* and *Naso* spp.) and goatfishes (including *Mulloidichthys* spp.). Inshore fishermen target some of these species (especially the goatfishes *Parupeneus porphyreus* and *P. cyclostomus*), since they can fetch a high price in some seasons. Recreational and subsistence catches are not reported in Hawaii, but creel surveys suggest that the total inshore catch from reef areas could be as high as the reported commercial catch.

7.4.5 Hawaii's Precious Corals Fishery

Two species of commercially valuable black coral, *Antipathes dichotoma* and *A. grandis*, were discovered in 1958 off Lahaina, Maui, by Jack Ackerman and Larry Windley. Subsequent development of the resource by these two pioneer divers led to the formation of a small black coral cottage industry based on the manufacture of black coral jewelry. The black coral fishery in Hawaii continued to operate on a sustainable basis for over 40 years. Unfortunately, two recent changes in harvesting pressure and the introduction of an alien pest species, *Carijoa riisei*, appear to threaten the future stability of the fishery. Although harvesting rates have remained below estimates of maximum sustainable yield, they have increased somewhat in the last 10 years.

Since 1980, virtually all of the black coral harvested around the Hawaiian Islands has been taken from a bed located in the Auau Channel, and nearly all of the harvest has come from State of Hawaii waters. There is a biannual quota of 5,000 kg for the Auau black coral bed.

The Hawaiian fishery for Corallium has been primarily limited to a single bed of pink coral (*Corallium secundum*) at 400 m off Makapuu, Oahu. A total of 8,227 kg of pink coral was removed between 1973 and 1978. During the most recent episode (1999-2000) the permitted quota was not filled at either of the two beds where corals were collected. The Hawaiian deep precious coral fishery remains dormant today.

7.5 Essential Fish Habitat

Essential Fish Habitat (EFH) is defined in the Magnuson Stevens Act as those waters and substrates necessary to fish for spawning, breeding, feeding, or growth to maturity. For the purpose of interpreting the definition of EFH, "waters" includes aquatic areas and their associated physical, chemical, and biological properties that are used by fish, and may include historical areas of use where appropriate. Substrate includes sediment, hard bottom, underlying structures, and associated biological communities.

Amendment (8) to all the FMPs, effective February 3, 1999, (64 FR 19067), was developed to satisfy the EFH requirements pursuant to the Magnuson Stevens Act. It describes EFH in text and with tables that provide information on the biological requirements for each life history stage of each managed species. Available information on environmental and habitat variables that control or limit distribution, abundance, reproduction, growth, survival, and productivity of the managed species are provided in these amendments. Table 1 contains all the EFH designated for the Western Pacific FMPs, to date.

Table 1: EFH and HAPC for Management Unit Species of the Western Pacific Region

MUS	EFH (Juveniles and Adults)	EFH (Eggs and Larvae)	HAPC
Pelagic	Water column down to 1,000 m	Water column down to 200 m	Water column down to 1,000 m that lies above seamounts and banks
Bottomfish	Water column and bottom habitat out to a depth of 400 m	Water column down to 400 m	All escarpments and slopes between 40–280 m and three known areas of juvenile opakapaka habitat
Seamount Groundfish	Water column and bottom from 80 to 600 m, bounded by 29°-35°N and 171°E-179°W (adults only)	Epipelagic zone (0–200 nm) bounded by 29°-35°N and 171°E-179°W (includes juveniles)	Not identified
Precious Corals	Keahole, Makapuu, Kaena, Westpac, Brooks, and 180 Fathom gold/red coral beds, and Milolii, S. Kauai, and Auau Channel black coral beds	Not applicable	Makapuu, Westpac, and Brooks Bank beds, and the Auau Channel
Crustaceans	Bottom habitat from shoreline to a depth of 100 m	Water column down to 150 m	All banks within the Northwestern Hawaiian Islands with summits less than 30 m

MUS	EFH (Juveniles and Adults)	EFH (Eggs and Larvae)	HAPC
Coral reef ecosystem	Water column and benthic substrate to a depth of 100 m	Water column and benthic substrate to a depth of 100 m	All MPAs identified in the FMP, all PRIA, many specific areas of coral reef habitat
Heterocarpus spp.	Outer reef slopes between 300 and 700 meters surrounding every island and submerged banks in the Western Pacific Region	Outer reef slopes between 300 and 700 meters surrounding every island and submerged banks in the Western Pacific Region	Not identified

All areas are bounded by the shoreline, and the seaward boundary of the EEZ, unless otherwise indicated.

8.0 Impacts of the Alternatives

Under all of the alternatives, each CDP proposal and accompanying community development plans would be individually assessed for compliance with NEPA, ESA and other applicable law in order to ensure that if approved, their implementation would not adversely impact target and non-target stocks, protected species, and the marine habitat and ecosystem. This amendment is not intended to review or approve any specific CDP proposal.

8.1 Topic 1: Trigger

Alternative 1A: Community Trigger (Preferred)

Under this alternative, the Council would conduct community outreach workshops describing the CDP process to communities. Communities could initiate the process, at any time, by sending a letter of interest with a description of their proposal and request guidance on the process.

Alternative 1B: Council/NMFS Trigger

Under this alternative the Council and NMFS would initiate the process by publishing a call for proposals and they would only be accepted after they have done so.

Alternative 1C: Council/NMFS or Community Trigger

Under this alternative the Council and NMFS would periodically initiate the process by publishing a call for proposals. In addition, communities could, at any time, initiate the process by sending a letter of interest with a description of the proposed plan and request guidance on the process.

8.1.1 Impacts on Target Stocks, Non-target Stocks, Protected Species, Habitat, and the Marine Ecosystem

Each of the alternatives considered under Topic 1 would involve convening meetings with interested western Pacific communities and disseminating information about the CDP process including eligibility criteria; and the community development plan development, review and approval process. None of the alternatives considered in Topic 1 would directly affect stocks, protected species, habitat or ecosystems.

8.1.2 Impacts on Communities

Alternative 1A would provide positive benefits to eligible western Pacific communities. Community outreach workshops would be held to provide communities information about the CDP and the community development plan development, review and approval process. Under this alterative, communities would be able to initiate the process by sending a letter of interest and a description of their proposed plan to the Council at any time.

Alternative 1B would also provide positive benefits to eligible western Pacific communities; however, in the absence of community outreach workshops there would be less opportunity for communities to learn about the CDP and no opportunity to receive face to face guidance about the required community development plan, and the review and approval process. Furthermore, communities would be required to submit community development plan proposals to the Council and NMFS within a specified time period and only after a notice calling for proposals is published. Calls for proposals typically require applicants to submit proposals within a specified time period which may discourage eligible communities from applying to the CDP, particularly those in areas far from population centers outside of Hawaii.

Under Alternative 1C, NMFS and the Council could periodically solicit proposals and community development plans through publication of a call for proposals. Like Alternative 1B, in the absence of outreach workshops there would be less opportunity for the community to learn about the program and no opportunity to receive face to face guidance about the community development plan development, review and approval process. Furthermore, proposals would only be accepted after NMFS or the Council publishes a notice calling for proposals.

Alternative 1A provides superior benefits over Alternatives 1B and 1C as it provides for community outreach workshops to be held which increases opportunities for the community to learn about the program and allows communities to receive face to face guidance about the community development plan development, review and approval process. Additionally, under Alternative 1A, a community could initiate the process *without* NMFS or the Council first publishing a call for proposals. This allows communities more flexibility in when and how they develop and submit a community development plan for consideration whereas, Alternative 1B and 1C provide greater flexibility to NMFS or the Council as the agencies control when community development plan proposals may be submitted.

8.1.3 Impacts on Enforcement and Administration

There are not expected to be any impacts on enforcement from any of the alternatives. Alternative 1A would place the burden and responsibility of community outreach on the Council. Alternative 1B would place the burden of publishing a call for proposals in the Federal Register and other outlets on NMFS and the Council. Alternative 1C would also place the burden of publishing a call for proposals in the Federal Register and other outlets on NMFS and the Council. All alternatives would increase administrative costs to some degree.

8.2 Topic 2: Process

Alternative 2A: Council-guided Process (Preferred)

Under this alternative the Council, through its Island Coordinators, would take the lead for providing guidance to communities by providing information on the program and assisting communities in developing community development plan proposals. Eligible communities wanting to participate in the CDP would provide to the Council, a community development plan detailing its proposal that includes, but is not limited to, the following information:

(1) A statement of the purposes and goals of the plan for which access to the fishery is needed.

(2) A description and justification for any specific fishery access (relief from certain regulations) requested to harvest management unit species.

(3) A statement describing the degree of involvement by the indigenous community members and including the names of anyone proposed to be included in authorization to access a fishery.

(4) If a vessel is to be used by the community as part of the Plan, for each vessel: vessel name; the name, address, and telephone number of owner and operator; USCG documentation, state or territory registration number; vessel length and net tonnage.

Review of community development plans would be conducted by the Council, through its advisory bodies, including the Community Development Program Advisory Panel who may make recommendations regarding the structure or content of the community development plan proposal. Recommendations [to approve or not] would go through the full Council process and then to NMFS Pacific Islands Regional Administrator (RA). NMFS would ascertain whether the proposal complies with all applicable law (including NEPA and the ESA). If the community development plan contained all of the required information, NMFS would publish a notice of receipt of the plan in the Federal Register with a brief description of the proposal allowing the opportunity for public comment. The Federal Register notice would include the following information:

(i) The current utilization of domestic annual harvesting and processing capacity (including existing experimental harvesting, if any) of any directed and incidental species for which access is being requested by a community,
(ii) A citation of any regulation or regulations that, without the authorized community development access, would prohibit access.
(iii) Environmental impact information relevant to the proposal.

After review of a community development plan proposal, the RA would notify the community applicant of the decision to approve or disapprove the proposal and would provide the specific arrangement, including any limitations. The RA may attach limiting terms and conditions to the proposal consistent with the purposes and goals of the community development plan, including, but not limited to:

(i) The maximum amount of each species that can be harvested and landed, including trip limits, where appropriate.
(ii) The number, sizes, names, and identification numbers of the vessels, as well as type, size, and amount of gear used by such vessels authorized to conduct fishing activities under community development access.
(iii) The times and places where community development access fishing may not be conducted.

Following implementation of approved plans, periodic review and evaluation of plans would be conducted by the Council's Island Coordinators and NMFS at least every five years.

Alternative 2B: NMFS-guided Process

Under this alternative, NMFS would take the lead for providing community support (i.e. providing information on the program and assisting communities in developing a community development plan proposal), and completed plans would be transmitted to NMFS. Review of project proposals would use NMFS and the Council's advisory bodies, including the Community Development Program Advisory Panel. NMFS would ascertain whether the proposal complies with all applicable law (including NEPA and the ESA). Recommendations for approval or disapproval would come through the full Council process and NMFS would approve or disapprove them. Periodic review and evaluation of community plans would be conducted by the Council's Island Coordinators at least every five years.

Alternative 2C: Council and NMFS-guided Process

Under this alternative NMFS would take the lead for providing community support (i.e. providing information on the program and assisting communities in developing a community development plan proposal). Completed plans would be transmitted to NMFS and the Council. Review of proposals would use a NMFS-led Review Committee of affected agencies. NMFS would ascertain whether the proposal complies with all applicable law (including NEPA and the ESA). Recommendations for approval or disapproval would come through the full Council process and NMFS would approve or

disapprove them. Periodic review and evaluation of community plans would be conducted by a Committee of affected agencies at least every five years.

8.2.1 Impacts on Target Stocks, Non-target Stocks, Protected Species, Habitat, and the Marine Ecosystem

Each of the alternatives considered under Topic 2 would involve establishing a process to solicit, receive, review, approve and implement community development plan proposals. Under all of the alternatives, any community development plan proposals submitted to the Council and NMFS as a result of this process will be individually assessed for compliance with NEPA, ESA and other applicable laws in order to ensure that if approved, its implementation would not adversely impact target and non-target stocks, protected species, and the marine habitat and ecosystem. Therefore, none of the alternatives considered in Topic 2 would directly affect stocks, protected species, habitat or ecosystems.

8.2.2 Impacts on Communities

Under Alternative 2A indigenous communities would benefit by the Council having the major role in the CDP process. The Council has three Island Coordinators, one in Guam, American Samoa and CNMI, who are from these areas and are responsible for working with the indigenous communities. Their presence and involvement would greatly facilitate the CDP proposal and plan development process for members of these island communities through on-site education and assistance. They would also help communities to identify their needs which could be fulfilled through the CDP bringing benefit to community members through increased participation in Western Pacific fisheries.

Alternative 2B would also allow the community to benefit from developing a community development plan, however, in the absence of active participation by the on-site Island Coordinators and community-based outreach workshops there would be less opportunity to learn about, understand, and complete proposals successfully. The Council would be involved in proposal review and approval and post-implementation monitoring, however, the Council would not be involved in community outreach and support. This would likely lead to less understanding and awareness of the CDP and fewer successful plans which would reduce the intended benefits of the CDP as described in the Magnuson Stevens Act.

Alternative 2C would still allow the community to benefit from developing a community development plan, however, in the absence of active participation by the on-site Island Coordinators and community-based outreach workshops there would be less opportunity to learn about, understand, and complete proposals for the program. The Council would only have minor involvement in the entire process which would deny the indigenous communities the benefits of the Council's Island Coordinators and the Council's extensive experience with indigenous cultures and knowledge of fishing practices. The Council would not be involved in community support which would likely lead to less understanding and awareness of the CDP and fewer successful proposals which would reduce the intended benefits of the CDP as described in the Magnuson Stevens Act.

8.2.3 Impacts on Enforcement and Administration

Under all alternatives for Topic 2 (Process) increased administrative responsibilities would be placed on NMFS to ensure each community development plan proposal complies with all applicable law (including NEPA and the ESA). In some instances, where an environmental analysis document is necessary, as the action agency, NMFS would have the burden of ensuring such analyses are completed.

There are not expected to be any impacts on enforcement from any of the alternatives. Alternative 2A would place the burden and responsibility of community outreach and the community development plan development, review and approval process mainly on the Council with the involvement of NMFS at certain stages in the process. Alternative 2B would place most of the burden for the entire process on NMFS with very limited involvement by the Council. And Alternative 2C would place the burden of the process on NMFS and the Council.

8.3 Topic 3: Access

Alternative 3A: Omnibus Approach (Preferred)

Under this alternative access to fisheries would be provided to eligible community participants, as defined in Section 305 of the Magnuson Stevens Act, through the CDP process. The community development plan would provide information supporting the need for access. NMFS would ensure the access would comply with all applicable environmental laws (including NEPA and the ESA) and then the RA would approve it and the community would be granted a Letter of Authorization (LOA) for Community Access. This authorization would include specific terms of access and include a specified duration. NMFS would publish a Federal Register notice announcing the decision to grant the applicants an LOA granting access.

Alternative 3B: FMP Amendment Approach

Under this alternative access would be considered on a case-by case approach and if requested as part of a community development plan. Consideration of providing access would require an FMP amendment to implement.

8.3.1 Impacts on Target Stocks, Non-target Stocks, Protected Species, Habitat, and the Marine Ecosystem

Under Alternative 3A, providing access to a fishery would include relieving restrictions to community members through approval of a community development plan's inclusion of request for access to a fishery and issuance of a LOA. Restrictions which could be relieved may include seasonal or area closures; limitations on vessel sizes, or allowable gear types; fishery quotas; or other management restrictions. Allowing relief from a restriction may result in impacts to target and non-target stocks and the ecosystem from increased harvest, however, requests for access to fisheries would be evaluated by NMFS on a case-by-case basis to ensure compliance with applicable law including NEPA, ESA and MMPA, and therefore only proposals which would not result in adverse impacts would be expected to be approved and have access granted.

Under Alternative 3B individual community development plan proposals would be reviewed through amending the applicable FMP or FEP. Therefore, as with any FMP or FEP amendment, any potential impacts would be analyzed by the FMP amendment process which would require compliance with all applicable law (NEPA, ESA, MMPA, etc.).

8.3.2 Impacts on Communities

Under Alternative 3A, approved community development plan proposals requesting access to fisheries could be implemented through NMFS' issuance of a LOA. Access to a fishery through the CDP and by issuance of an LOA would allow for indigenous communities to fulfill identified community needs by increasing their participation in Western Pacific fisheries and this would be expected to benefit the community. Under Alternative 3A, community members would be expected to experience positive impacts which could potentially persist through time and be continued on through the younger generation.

Under Alternative 3A approved community development plan proposals requesting access to fisheries or otherwise restricted activities could be quickly implemented through issuance of a LOA whereas, under Alternative 3B, community access to fisheries would have to be processed through the FMP amendment process. The full amendment process under the Magnuson-Stevens Act takes a substantial amount of time to complete. In some cases, a full amendment process could take up to two years to implement which could result in some community needs not being met on a timely basis or not at all. Intended benefits of the CDP may be delayed or foregone completely which is not the intent of the Magnuson Stevens Act. This would be expected to be a lost opportunity for the community as the identified need would not be fully met through the CDP and the opportunity it could provide would be unfulfilled.

8.3.3 Impacts on Enforcement and Administration

There are not expected to be any immediate impacts on enforcement from any of the alternatives. Alternative 3A would allow access to fisheries to be granted. Communities granted authorized access would be given a LOA for Community Access and law enforcement would be notified. Enforcement would have the additional burden of being aware of this authorized lifting of restrictions.

Alternative 3A would result in some increased burdens on administration, however this is expected to be minimal initially as this alternative requires the applicant to provide all the information to assess potential impacts in the submitted community development plan proposals. However, upon submission of a request for access within a plan proposal, NMFS would be responsible for ensuring that each proposal is individually assessed for compliance with NEPA, ESA and other applicable laws to ensure that if approved, its implementation would not adversely impact target and non-target stocks, protected species, and the marine habitat and ecosystem. This could result in some increased burdens to review proposals and conduct environmental analysis of the requested access.

NMFS would also have the responsibility for publishing a notice in the Federal Register describing the community development plan proposal and provide opportunity for public comment. NMFS would also be tasked with informing applicants whether the proposal has been approved or disapproved. If NMFS determines the proposal complies with all applicable environmental laws (including NEPA and the ESA) the NMFS RA would approve the community development plan and the community would be granted a Letter of Authorization for Community Access. This authorization would include specific terms of access including but not limited to limits on catch, effort and the duration of fishing activities or any other measures that may be necessary to ensure proper management and monitoring of the fishery.

Alternatives 3B would cause more administrative burden compared to Alternative 3A as any proposed community development plan proposals which includes requests for access would require a complete analysis through the full fishery management plan amendment process which involves multiple reviews and typically takes several years to complete.

8.4 Reasons for Selecting the Preferred Alternatives

8.4.1 Topic 1: Trigger

Alternative 1A is preferred because it allows the CDP process to be initiated by the community itself rather than by NMFS or the Council. Allowing the community initiate the process through its request; i.e., a bottom-up approach, is preferred because it best meets the intent of the Council, Congress and the Magnuson Stevens Act to encourage and promote participation in Western Pacific fisheries by indigenous communities through the CDP. Alternative 1A allows proposals to be received at any time which best serves the communities as well.

8.4.2 Topic 2: Process

Alternative 2A is preferred because the Council's ability at outreach in the Pacific Island areas including Guam, CNMI, and American Samoa would best serve indigenous communities. The Council has in place three indigenous Island Coordinators based in American Samoa, Guam, and Saipan in the CNMI who are best suited to serve as the nexus between the community, the Council and NMFS with regards to the CDP. By utilizing the Council's outreach the intent of the CDP as intended in the Magnuson Stevens Act would be best achieved.

8.4.3 Topic 3: Access

Alternative 3A is preferred because it would best promote the goals and intent of the CDP by providing access to Western Pacific fisheries to indigenous communities with an approved community development plan through issuance of a LOA in a timely manner as opposed to going through the long and lengthy FMP amendment process.

9.0 Consistency with the Magnuson Stevens Act and Other Laws

9.1 Consistency with National Standards

Section 301 of the Magnuson-Stevens Act requires that regulations implementing any FMP or amendment be consistent with the ten national standards listed below.

National Standard 1 states that conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.

The proposed actions considered in this amendment would establish a process to solicit, receive, review, approve and implement community development plan proposals and include a mechanism during the approval stage of this process to grant western Pacific communities with an approved Community Development Plan, access to one or more fisheries under the authority of the Council and NMFS. In the future, Community Development Plans submitted the Council and the Secretary as a result of the establishment of this process would be reviewed individually and if access is granted, provisions for access would be subject to specific terms and conditions that prevent overfishing while achieving, on a continuing basis, the optimum yield from the fishery.

National Standard 2 states that conservation and management measures shall be based upon the best scientific information available.

The proposed actions considered in this amendment are based on the best currently available information on the Community Development Program and past projects. Individual community development plan proposals would each be reviewed to ensure that the best available information is used in the evaluation and development processes.

National Standard 3 states that, to the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

The proposed action is not expected to affect the management of fish stocks or interrelated fish stocks as a unit. The alternatives are intended to establish a process to efficiently process Community Development Plan proposals and to create a mechanism to grant eligible western Pacific communities with an approved plan, access to fisheries. Similarly, future Community Development Plans submitted the Council and the Secretary as a result of the establishment of this process is also not expected to affect the management of fish stocks or interrelated fish stocks as a unit.

National Standard 4 states that conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote

conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

The proposed action considered in this amendment is consistent with Section 305(i)(2)(E) of the MSA and is intended to provide access to fisheries for western Pacific communities. The action is intended to establish a procedure to efficiently process community development plan proposals and to create a mechanism to grant eligible indigenous western Pacific communities (as defined by Section 305(i)(2)(B) of the Magnuson-Stevens Act) with access to fisheries under the authority of the Council.

National Standard 5 states that conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.

The proposed actions are intended to establish a process to efficiently process community development plan proposals and to create a mechanism to grant eligible western Pacific communities (as defined by Section 305(i)(2)(B) of the Magnuson-Stevens Act) with an approved plan access to fisheries under the authority of the Council, and are, therefore, not inconsistent with National Standard 5.

Prior to approval community development plans submitted the Council and the Secretary under the preferred alternatives would be reviewed individually to ensure that they include consideration of efficiency in the utilization of resources; except that no such measure shall have economic allocation as its sole purpose to the maximum extent practicable.

National Standard 6 states that conservation and management action shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources and catches.

The proposed actions provide a mechanism for the development, review and approval of individual CDP proposals. This will provide the Council and NMFS the ability and opportunity to ensure that each proposal is tailored to the specific fisheries and fishery condition in its area.

National Standard 7 states that conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

The proposed actions are not expected to substantially increase costs or duplicate conservation and management actions. They are intended to establish a process to efficiently process community development plan proposals and to create a mechanism to grant eligible western Pacific communities with an approved plan, access to fisheries.

National Standard 8 states that conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery

resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.

Guam, CNMI, American Samoa, and Hawaii's islands are each defined as fishing communities under the Magnuson Stevens Act. The proposed actions would be expected to beneficially impact these fishing communities by providing an opportunity for community-based projects to come to fruition and ultimately benefits would be delivered to indigenous communities through increasing and sustaining their participation in Western Pacific fisheries.

National Standard 9 states that conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided minimize the mortality of such bycatch.

The preferred alternatives are intended to establish a process to efficiently process community development plan proposals and to create a mechanism to grant eligible Western Pacific communities with an approved plan, access to fisheries. Each individual plan would be individually assessed to ensure its implementation would not result in an increase of bycatch.

National Standard 10 states that conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

The preferred alternatives are intended to establish a process to efficiently process community development plan proposals and to create a mechanism to grant eligible western Pacific communities with an approved plan, access to fisheries. Individual proposals and community development plans submitted the Council and the Secretary will be reviewed individually to ensure that they take into account promoting human safety at sea.

9.2 Consistency with Required Provisions of Fishery Management Plans

Section 303(a) of the Magnuson-Stevens Act requires that any fishery management plan which is prepared by any Council or by the Secretary with respect to any fishery, include the following 15 elements listed below.

1. Description of Conservation and Management Measures

The proposed action would not establish any new conservation and management measures for any western Pacific fisheries. The action purpose in this amendment would establish a standard administrative process to receive, review, approve and implement future community initiatives under the Community Development Program. A description of conservation and management measures for western Pacific fisheries can be found in Chapter 5 of each western Pacific FEP.

2. Description of the Fishery

A description of pelagic, bottomfish, crustacean, precious coral and coral reef fisheries of the western Pacific can be found in Section 7.0 of this amendment. Additional information on these fisheries can be found in Chapter 4 of each western Pacific FEP.

3. Specification of MSY/OY

The proposed action would not establish any new specification of MSY or OY for any western Pacific fishery. A description of MSY and OY for federally managed stocks can be found in Chapter 4 of each western Pacific FEP.

4. Specification of the Capacity to Harvest OY

The proposed action would not establish any new specification of the extent to which fishing vessels will harvest OY for any western Pacific fisheries. A description of the capacity for U.S. vessels to harvest OY can be found in Chapter 4 of each western Pacific FEP. In addition, under the proposed action, prior to authorizing access to fisheries under the Community Development Program, NMFS would publish in the Federal Register, the current utilization of domestic annual harvesting and processing capacity (including existing experimental harvesting, if any) of any directed and incidental species for which access is being requested.

5. Specification of fishery performance information (Annual/SAFE Report Content)

Chapter 4 of each FEP describes pertinent data collected and submitted to the Secretary with respect to the commercial, recreational and charter sectors of western Pacific Fisheries. Chapter 5 of each FEP describes the Federal reporting requirement for western Pacific Fisheries. The proposed action would authorize the RA to require catch reporting as a term and condition under each Community Development Program Fishery Access and such information may be included into any fisheries annual report, as appropriate.

6. Temporary Adjustments to Fishery Access Due to Inclement Weather Conditions

The proposed action would not establish any new temporary adjustments regarding access to fisheries as a result of weather or ocean conditions. Weather-related adjustments in fishery access are not currently established for any western Pacific fishery management program.

7. Designation of Essential Fish Habitat

The proposed action would not establish any new EFH designations for any western Pacific fishery. A description of EFH for western Pacific fishery resources can be found in Chapter 6 of each FEP.

8. Specification of Scientific Data Necessary for Effective Implementation of the FMP

Section 6.2 of this amendment describes the scientific information needed for effective implementation of the western Pacific Community Development Program Process and monitoring of fishery access provided under the Community Development Program.

9. Fishery Impact Statement

Section 8 of this amendment describes the potential effects of the proposed action on communities and participants of western Pacific fisheries.

10. Specification of Status Determination Criteria

The proposed action would not establish any new criteria for identifying when a fishery is overfished or approaching an overfished condition. Status determination criteria, including MSY control rules and rebuilding plans can be found in Chapter 4 and 5 of each western Pacific FEP.

11. Bycatch Reporting

The proposed action would not require any new requirements to assess bycatch. A description of bycatch reporting and bycatch issues for western Pacific fisheries can be found in Chapter 4 of each western Pacific FEP. Chapter 5 of each FEP describes the Federal reporting requirement for western Pacific Fisheries. The proposed action would authorize the RA to require catch reporting as a term and condition under each Community Development Program Fishery Access and such information may be included into any fisheries annual report, as appropriate.

12. Conservation Measures for Catch and Release Fishery Management Program

There are no catch and release fishery management programs authorized under any western Pacific FEP.

13. Description of the Fishery Sectors

A description of commercial, recreational, and charter fishing sectors in western Pacific pelagic, bottomfish, crustacean, precious coral and coral reef fisheries can be found in Chapter 4 of each western Pacific FEP.

14. Fair and Equitable Harvest Allocation

The proposed action would not reduce or allocate the overall harvest in any western Pacific fishery. Allocation of harvest among commercial, recreation or charter sectors is not currently utilized in any western Pacific fishery management program.

15. ACLs and AMs

The proposed action would not establish any new mechanisms to establish annual catch limits or measures to ensure accountability.

9.3 National Environmental Policy Act

National Oceanic and Atmospheric Administration (NOAA) Administrative Order Series 216-6 6.03a.3(a) states "[m]anagement plan amendments not requiring an [environmental impact statement] must be accompanied by an [environmental assessment] unless they meet the criteria of a [categorical exclusion]." Categorical exclusions are intended to exempt qualifying actions from environmental review procedures required by National Environmental Policy Act (NEPA). A categorical exclusion is appropriate where a proposed action falls into a category of actions that do not individually or cumulatively have a significant impact on the quality of the human environment as determined through an environmental review.

The purpose of this amendment is to establish a standardized process for the solicitation, receipt, review, approval, and implementation of community initiatives under the CDP. The proposed action is procedural in nature, and as defined in Sections 5.05 and 6.03c.3(i) of NOAA Administrative Order 216-6, can be considered within “other categories of actions not having significant environmental impacts”, and for which any cumulative effects are negligible. As such, this action may be categorically excluded from the need to prepare an Environmental Assessment for the following reasons:

1. This action would not result in any changes to the human environment;

2. This action does not review or approve any specific CDP proposal. This action simply creates the process by which CDP proposals will by solicited and processed. Therefore, each CDP proposal and accompanying community development plan would be individually assessed for compliance with NEPA, ESA, and other applicable laws in order to ensure that if approved, their implementation would not adversely impact target and non-target stocks, protected species, and the marine habitat and ecosystem;

3. This action is purely administrative in nature and will not cause any adverse effects on the human environment; and

4. This action is not controversial.

In consideration of NOAA Administrative Order Series 216-6, the proposed action appears to fall within the category of actions that neither individually nor cumulatively has the potential to pose significant impacts on the quality of the human environment and therefore, meets the criteria for a categorical exclusion.

9.4 Regulatory Impact Review

To meet the requirements of Executive Order 12866 (E.O. 12866), the National Marine Fisheries Service (NMFS) requires that a Regulatory Impact Review (RIR) be prepared

for all regulatory actions that are of public interest. This review provides an overview of the problem, policy objectives, and anticipated impacts of regulatory actions, and ensures that management alternatives are systematically and comprehensively evaluated such that the public welfare can be enhanced in the most efficient and cost effective way.

There exists the potential for a wide variety of community initiatives to come forward for consideration under the CDP. In light of this, the main management objective of this amendment is to establish a standard administrative process to receive, review, approve and implement future CDP initiatives. The purpose and need of this action can be found in Section 4 of this amendment. A description of the affected fisheries can be found in Section 7. Section 6 describes the management alternatives that address mechanisms to identify a trigger, establish a process and grant access for communities submitting a proposal under the CDP. Due to the administrative nature of this action, there are no economic impacts associated with standardizing the process to receive, review, approve and implement CDP proposals. Furthermore, it is expected that each CDP would inherently provide a net socioeconomic benefit to the proposing community, be consistent with conservation measures of the MSA, and take into account the importance of fishery resources to fishing communities while providing for the sustained participation of such communities.

In accordance with E.O. 12866, the following is set forth: (1) This action is not expected to have an annual effect on the economy of more than $100 million or to adversely affect in a material way the economy, a sector of the economy, productivity, jobs, the environment, public health or safety; or state, local or tribal governments or communities; (2) This action is not likely to create any serious inconsistencies or otherwise interfere with any actions taken or planned by another agency; (3) This action is not likely to materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of recipients thereof; (4) This action is not likely to raise novel or policy issues arising out of legal mandates, or the principles set forth in the Executive Order. Based on these findings, this action is determined to not be significant under E.O. 12866.

9.5 Administrative Procedure Act

All federal rulemaking is governed under the provisions of the Administrative Procedure Act (APA) (5 U.S.C. Subchapter II) which establishes a “notice and comment” procedure to enable public participation in the rulemaking process. Under the APA, NMFS is required to publish notification of proposed rules in the Federal Register and to solicit, consider and respond to public comment on those rules before they are finalized. The APA also generally establishes a 30-day wait period from the time a final rule is published until it becomes effective. This amendment complies with the provisions of the APA through the Council’s extensive use of public meetings, requests for comments, and consideration of comments. The proposed rule associated with this amendment will also have a public comment period as required under the APA.

9.6 Coastal Zone Management Act

The Coastal Zone Management Act requires a determination that a recommended management measure has no effect on the land, water uses, or natural resources of the coastal zone or is consistent to the maximum extent practicable with an affected state's enforceable coastal zone management program. A copy of this document will be submitted to the appropriate state government agencies in the Marianas Archipelago, American Samoa Archipelago, and the State of Hawaii for review and concurrence with a determination that the preferred alternatives are consistent, to the maximum extent practicable, with the their coastal zone management programs.

9.7 Information Quality Act

The information in this amendment complies with the Information Quality Act and NOAA standards (NOAA Information Quality Guidelines, September 30, 2002) which require federal agencies to ensure and maximize the quality, objectivity, utility, and integrity of information disseminated by federal agencies.

This document is useful in informing constituents and the public about western Pacific community development plan process and incorporates the best information available to date, including the most recent information about western Pacific fisheries, fishing communities, including their dependence on western Pacific fisheries, and up-to-date economic information (landings, revenues, etc.). The document does not contain census, business, financial or confidential information. The document makes broad presentation of this information in clear, accurate, complete, and unbiased manner. The process of public review of this document provides an opportunity for comments and challenges to this information, as well as for the provisions of additional information.

9.8 Paperwork Reduction Act

The purpose of the Paperwork Reduction Act is to minimize the paperwork burden on the public resulting from the collection of information by or for the Federal government. It is intended to ensure the information collected under the proposed action is needed and is collected in an efficient manner (44 U.S.C. 3501(1)).

The proposed action contains a new collection of information requirement that is subject to review and approval by the Office of Budget and Management (OMB) under the Paperwork Reduction Act. The proposed action would require potential applicants to submit a community development plan which must include a description and justification of their proposal and other information. This collection of information is needed to determine whether communities that submit a community development plan meet the requirements for participation in the community development program, and whether the activities proposed under the plan are consistent with the intent of the program, the Magnuson-Stevens Act and other applicable laws. In addition, the RA may require as a term or condition for access, reporting of catch and effort information through collections

previously approved by OMB. This requirement has been submitted to OMB for approval.

9.9 Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) requires government agencies to assess and present the impact of their regulatory actions on small entities including small businesses, small organizations, and small governmental jurisdictions. The assessment is done by preparing a Regulatory Flexibility Analysis when impacts are expected, however, the proposed alternatives, described in section 6.0, would not have any impacts on small entities as it is primarily administrative in nature and would only establish a procedure for the solicitation, receipt, review, approval, and implementation of community initiatives under the Western Pacific Community Development Program. The purpose and need for this amendment is described in Section 4.0. This amendment is not intended to review or approve any specific CDP proposal. As a result, an initial regulatory flexibility analysis is not required and none has been prepared. Notwithstanding, individual proposals processed under the CDP program will be reviewed by the NMFS on a case by case basis to ascertain whether the proposal complies with all applicable laws, including any relevant economic impacts associated with the project.

9.10 Endangered Species Act

The Endangered Species Act of 1973, as amended, (Public Law 93-205; 87 Stat. 884) prohibits the taking of any endangered species except under limited circumstances. Pursuant to Section 7 of the Endangered Species Act, the fisheries managed by the Council have been analyzed and found to not jeopardize or adversely affect any populations or habitats of species listed as endangered or threatened under the ESA.

The alternatives considered are intended to establish a process to efficiently process CDP proposals. Prior to their approval, individual CDP projects would be reviewed to ensure they would not jeopardize or adversely affect any listed species or their habitat pursuant to the goals and intent of the ESA.

9.11 Marine Mammal Protection Act

Under section 118 of the Marine Mammal Protection Act (MMPA), NOAA Fisheries must publish, at least annually, a List of Fisheries (LOF) that classifies U.S. commercial fisheries into one of three categories. These categories are based on the level of serious injury and mortality of marine mammals that occurs incidental to each fishery, reported in the annual Stock Assessment Reports for each stock. Specifically, the MMPA mandates that each fishery be classified according to whether it has frequent, occasional, or a remote likelihood of or no known incidental mortality or serious injury of marine mammals.

The 2010 LOF published on November 16, 2009 (74 FR 58859) describes all the authorized fisheries in the Western Pacific and categorizes each commercial fishery on the LOF into one of three categories under the MMPA based upon the level of serious injury and mortality of marine mammals that occurs incidental to each fishery. The categorization of a fishery in the LOF determines whether participants in that fishery are subject to certain provisions of the MMPA. Prior to their approval, individual CDP projects would be reviewed to ensure they would not adversely affect any marine mammal species and are in compliance with all requirements of the MMPA.

10.0 References

Amesbury, J., R. Hunter-Anderson, and E. Wells. 1989. Native Fishing Rights and Limited Entry in the CNMI. Western Pacific Regional Fishery Management Council, Honolulu, Hawaii.

Amesbury, J. and R. Hunter-Anderson. 1989. *Native fishing rights and limited entry in Guam.* Western Pacific Regional Fishery Management Council, Honolulu.

BOH (Bank of Hawaii). 1997. American Samoa economic report. Honolulu, HI: Bank of Hawaii.

BOH. 1999. Commonwealth of the Northern Mariana Islands economic report: October 1999. Honolulu, HI: Bank of Hawaii.

BOH. 1999b. Guam economic report: October 1999. Honolulu, HI: Bank of Hawaii.

BOH. 2004. Commonwealth of the Northern Mariana Islands economic report: October 2004. Honolulu, HI: Bank of Hawaii.

Cobb, J. 1902. *Commercial fisheries of the Hawaiian Islands* (Extracted from the U.S. Fish Commission Report for 1901). Washington, DC: U.S. Government Printing Office.

Department of Business, Economic Development and Tourism (DBEDT). 1999. *The State of Hawaii data book 1998*. Honolulu, HI: State of Hawaii, Department of Business, Economic Development and Tourism.

Department of Business, Economic Development, and Tourism (DBEDT) 2006. Hawaii Facts. http://www.hawaii.gov/dbedt/info/economic/library/facts/state

Garrod, P., and K. Chong. 1978. *The fresh fish market in Hawaii.* Honolulu, Hawaii: Agricultural Experiment Station, College of Tropical Agriculture, University of Hawaii, Departmental Paper 23.

Glazier, E. 1999. *Social aspects of Hawaii's small vessel troll fishery*. Seattle, WA: School of Marine Affairs, University of Washington.

Hamnett, M., R. Franco, C. Anderson and C. Severance. 1998. Coordinated investigation of pelagic fishermen: Commonwealth of the Northern Mariana Islands. Draft report.

Hamnett, M. and W. Pintz. 1996. "The contribution of tuna fishing and transshipment to the economies of American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam." Pelagic Fisheries Research Program, Joint Institute for Marine and Atmospheric Research, University of Hawaii.

Jordan, D., and B. Evermann. 1902. *An investigation of the fishes and fisheries of the Hawaiian Islands: A preliminary report* (Extracted from the U.S. Fish Commission Report for 1901). Washington, DC: U.S. Government Printing Office.

Knudson, K.E. 1987. Non-commercial production and distribution in the Guam fishery. Contract WPC-0983, Completion Report, Western Pacific Regional Fishery Management Council. Honolulu, HI.

Konishi, O. 1930. *Fishing industry of Hawaii with special reference to labor*. Unpublished manuscript, Hamilton Library Pacific Collection, University of Hawaii.

Lind, A. 1980. *Hawaii's people*. Honolulu, HI: University of Hawaii Press.

Look, M., and K. Braun. 1995. *A mortality study of the Hawaiian People 1910–1990.* Honolulu, HI: The Queens's Health Systems.

Office of Hawaiian Affairs. 1998. *The native Hawaiian data book.* Honolulu, HI: State of Hawaii Office of Hawaiian Affairs.

Okahata, J. (ed.). 1971. *A history of Japanese in Hawaii*. Honolulu, HI: The United Japanese Society of Hawaii, Honolulu.

Orbach, M. 1980. Report on the social, cultural, and economic aspects of fishery development in the Commonwealth of the Northern Mariana Islands. Center for Coastal Marine Studies, University of California, Santa Cruz.

Pula, N. 2008. Statement of Nikolao I. Pula, Acting deputy Assistant Secretary of the Interior for Insular Affairs, Before the Senate Committee on Energy and Natural Resources Regarding the Military build-up in Guam Impact on the Civilian community, planning, and response. Washington, D.C. May 1, 2008

Ramirez, T. 2000. Waimanalo anglers remember their elders. *The Honolulu Advertiser*, 27 February, p. A23.

Schug, D. and A. Galea'i, 1987. American Samoa: the tuna industry and the economy. In Tuna Issues and Perspectives in the Pacific Islands Region, East-West Center, Honolulu.

Severance, C., and R. Franco. 1989. Justification and design of limited entry alternatives for the offshore fisheries of American Samoa, and an examination of preferential fishing rights for native people of American Samoa within a limited entry context. Western Pacific Fishery Management Council, Honolulu.

Severance C., R. Franco, M. Hamnett, F. Anderson, Aitaoto. 1999. Effort comes from the Cultural Sice: Profiles of Pelagic Fisherman and Catch Distribution in American Samoa. Draft Report

Shomura, R. 1987. Hawaii's marine fishery: Yesterday and today (NMFS Southwest Fisheries Center Honolulu Laboratory Administrative Report H-87-21). Honolulu, HI: NMFS Southwest Fisheries Center.

TEC Inc. 2007. Review of fishery and seafood marketing development potentials for American Samoa. Prepared for the WPRFMC, Honolulu, HI.

Tamura, E. 1994. *Americanization, acculturation and ethnic identity: The Nisei generation in Hawaii.* Chicago: University of Illinois Press.

TPC (Territorial Planning Commission) and Department of Commerce. 2000. American Samoa's comprehensive economic development strategy year 2000. American Samoa Government. 49 p.

Western Pacific Fisheries Information Network (WPacFin). Hawaii's Longline Fisheries. NMFS Honolulu Laboratory. Available at: wpacfin.nmfs.hawaii.edu/hi/dar/hi_long_text.htm.

Western Pacific Regional Fishery Management Council. 1999. *Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region 1998 Annual Report.* Honolulu, HI: Western Pacific Regional Fishery Management Council.

Western Pacific Regional Fishery Management Council. 2003. *Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Annual Report, 2001.* Honolulu, HI: Western Pacific Regional Fishery Management Council.

WPRFMC. 2007. Pelagic Fisheries of the Western Pacific Region 2006 Annual Report. Western Pacific Regional Fishery Management Council. Honolulu, Hawaii.

WPRFMC. 2008. Pelagic Fisheries of the Western Pacific Region 2007 Annual Report. Western Pacific Regional Fishery Management Council. Honolulu, Hawaii.

WPFMC. 2009a. Fishery Ecosystem Plan for Hawaiian Archipelago. Western Pacific Regional Fishery Management Council. Honolulu, Hawaii.

WPFMC. 2009b. Fishery Ecosystem Plan for American Samoa Archipelago. Western Pacific Regional Fishery Management Council. Honolulu, Hawaii.

WPFMC. 2009c. Fishery Ecosystem Plan for the Mariana Archipelago. Western Pacific Regional Fishery Management Council. Honolulu, Hawaii.

WPFMC. 2009d. Fishery Ecosystem Plan for Pacific Remote Island Areas. Western Pacific Regional Fishery Management Council. Honolulu, Hawaii.

WPFMC. 2009e. Fishery Ecosystem Plan for Pacific Pelagic Fisheries. Western Pacific Regional Fishery Management Council. Honolulu, Hawaii.

11.0 Draft Proposed Regulations

In Part 665, add a new section 665.20 to read as follows:

§ 665.20 Western Pacific Community Development Program.

(a) *General.* The Regional Administrator may authorize the direct or incidental harvest of management unit species that would otherwise be prohibited by this part, in accordance with the criteria and procedures specified in this section.

(b) *Eligibility*. To be eligible to participate in the Western Pacific Community Development Program, a community must meet the following criteria:

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

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

3. Consist of individuals who reside in their ancestral homeland;

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

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

6. Experience economic or other barriers that have prevented full participation in the western Pacific fisheries and, in recent years, have not had harvesting, processing or marketing capability sufficient to support substantial participation in fisheries in the area; and

7. Develop and submit a community development plan to the Council and the NMFS that meets the requirements in paragraph (c) of this section.

(c) *Community Development Plan.* An eligible community seeking access to a federal fishery under the authority of the Council and NMFS must submit to the Council, a community development plan that includes, but is not limited to, the following information:

(1) A statement of the purposes and goals of the plan;

(2) A description and justification for the specific fishing activity being proposed, including:

(i) Location of the fishing activity;

(ii) Management unit species to be harvested, and any potential bycatch;

(iii) Gear type(s) to be used; and

(iv) Frequency and duration of the fishing activity.

(3) A statement describing the degree of involvement by the indigenous community members including the name, address, telephone and other contact information of each individual who would conduct the requested fishing activity.

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

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

(i) Vessel name and official number (USCG documentation, state, territory, or other registration number);

(ii) Vessel LOA, displacement and fish holding capacity;

(iii) Name, address, and telephone number of the owner(s) and operator(s); and

(v) Net tonnage.

(d) *Council Review*. The Council will review each submitted community development plan to ensure the plan meets the intent of Section 305(i)(2) of the Magnuson-Stevens Act, and contains all of the required information. If complete, the Council will transmit the plan to the Regional Administrator for review and approval.

(e) *Agency Review and Approval*.

(1) Upon receipt of a community development plan from the Council, the Regional Administrator will review each plan for completeness. The Regional Administrator may request from the applicant, additional information necessary to make the determinations pursuant to this section and other applicable laws before proceeding with the review pursuant to paragraph (e)(2) of this section.

(2) If the Regional Administrator determines that a community development plan contains all of the required information, NMFS will publish a notice in the Federal Register and solicit public comment on the community development plan and any associated environmental review document. The notice will include the following:

(i) A description of the fishing activity to be conducted under the community development plan;

(ii) The current utilization of domestic annual harvesting and processing capacity (including existing experimental harvesting, if any) of the target, incidental and bycatch species;

(iii) A summary of the regulations that would otherwise prohibit the proposed fishing activity; and

(iv) Biological information relevant to the proposal, including appropriate statements of environmental impacts on target and non-target stocks, marine mammals and threatened or endangered species.

(3) Within 90 days from the end of the comment period on the community development plan, the Regional Administrator will notify the community applicant in writing of the decision to approve or disapprove the community development plan.

(4) If disapproved, the Regional Administrator will provide the reasons for the plan's disapproval and provide the community with the opportunity to modify the plan and resubmit the plan for review. Reasons for disapproval may include but are not limited to the following:

(i) The applicant failed to disclose material information or made false statements related to the proposed plan;

(ii) The proposed harvest would contribute to overfishing or would hinder the recovery of an overfished stock, according to the best scientific information available;

(iii) The proposed activity would be inconsistent with other applicable law; or

(iv) The proposed activity would create a significant unfunded enforcement, monitoring or administrative problem.

(5) If approved, the Regional Administrator will publish a notice in the Federal Register describing the activities authorized under the community development plan. The Regional Administrator may attach limiting terms and conditions to the authorization including, but not limited to the following:

(i) The maximum amount of each management unit species and potential bycatch species that may be harvested and landed during the term of the authorization, including trip limits;

(ii) The number, sizes, names, and identification numbers of the vessels authorized to conduct fishing activities, as well as type, size, and amount of gear used by each vessel;

(iii) The times and places where fishing may or may not be conducted; and.

(iv) Notification, observer, and reporting requirements.

(6) *Duration.* Unless otherwise specified, and unless revoked, suspended, or modified, a community development plan may be effective for no longer than five years.

(7) *Transfer.* Community development plans authorized under this section are not transferable or assignable.

(8) *Sanctions.* The Regional Administrator may revoke, suspend or modify a community development plan in the case of failure by the community to comply with the terms and conditions of the community development plan, any other applicable provision of this part, the Magnuson-Stevens Act, or other applicable laws.

(9) *Program Review.* NMFS and the Council will periodically review and assess each community development plan. If fishery, environmental, or other conditions have changed such that the plan's goals or requirements are not being met, or the fishery has become in an overfished state or overfishing is occurring, the Regional Administrator may revoke, suspend, or modify the community development plan.

Appendix A: Definitions of Terms (see 73 FR 18514; April 16, 2002)

Definitions of terms used for the Community Development Program are as follows:

1. Community – Means a population of non-transient people descended from the aboriginal people indigenous to the area who share a common history based on social, cultural and economic interactions and a functional relationship sustained by participation in fishing and fishing related activities. Historical geographical boundaries that identified traditional communities are recognized in each island area.
2. Economic barriers – Means barriers which add to the difficulty and cost of participation in a fishery by descendants of the aboriginal people of each area. They include, but are not limited to, the degradation of marine habitat, localized overfishing of targeted stocks, and loss of access to long-fished grounds because of closure and lack of capital and expertise to compete for marine resources.
3. Subsistence fishing – Means harvesting of marine resources for personal, family or community use or for gifts of food to extended family members and friends that perpetuate community relationships and identities.
4. Traditional fishing practices and traditional indigenous fishing practices – Means methods of fishing and fishery utilization developed from aboriginal customary and traditional uses and practices that can be conducted within existing regulations.
5. The cultural and social framework relevant to the fishery – Means the cultural and social framework for each community that is the accumulation and perpetuation of ancestral knowledge and behavioral characteristics that have resulted from historical dependence on marine resources as a principal source of food for the aboriginal people indigenous to the area.

Goals

1. To promote the involvement of indigenous communities in Western Pacific fisheries by using the application and/or adaptation of methods and concepts derived from traditional indigenous practices to modern fisheries.
2. To promote the development of social, cultural and commercial initiatives that enhance opportunities for indigenous Western Pacific communities to participate in fisheries, fish processing or marketing, and fishery management or conservation.
3. To benefit the indigenous communities who have not had capability for substantial participation in the fisheries or marine resource management in their native lands.