12.0 FINDING OF NO SIGNIFICANT IMPACT (FONSI)

The Council on Environmental Quality (CEQ) Regulations state that the determination of significance using an analysis of effects requires examination of both context and intensity, and lists ten criteria for intensity (40 CFR 1508.27). In addition, the Companion Manual for National Oceanic and Atmospheric Administration Administrative Order 216-6A provides sixteen criteria, the same ten as the CEQ Regulations and six additional, for determining whether the impacts of a proposed action are significant. Each criterion is discussed below with respect to the proposed action and considered individually as well as in combination with the others.

This EA was prepared using the 1978 CEQ NEPA Regulations. NEPA reviews initiated prior to the effective date of the 2020 CEQ regulations may be conducted using the 1978 version of the regulations. The effective date of the 2020 CEQ NEPA Regulations was September 14, 2020. This review began on March 7, 2016 and the agency has decided to proceed under the 1978 version.

1. Can the proposed action reasonably be expected to cause both beneficial and adverse impacts that overall may result in a significant effect, even if the effect will be beneficial?

> No, the action would not reasonably be expected to result in an overall significant effect. For the Cape Hatteras Special Research Area's (CHSRA) special observer and call in requirement removal, no change in biological effects are expected. However, socioeconomic effects are expected to be beneficial as the call-in burden is relieved and fishermen have the freedom to fish in that area when it works best for them.
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> The mainline length management measures are expected to have a beneficial impact on the biological environment due to decreased mortality and serious injury of short-finned pilot whales as a result of decreased soak times. Socioeconomic effects are expected to be minimally negative as the active gear that was previously deployed on a second mainline could be deployed on the longer mainline, so long as it does not exceed 30 nm of active gear.
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> Terminal gear management measures are broken down into two parts, hooks and leaders. Hook requirements are expected to have positive biological effects, for short-finned pilot whales because the hooks will straighten causing minimal injury to the whales. Leader line requirements (at least 300lb breaking strength) are also to have some positive effect, given the line will not break before the hooks straighten. Socioeconomic effects are expected to be slightly negative, with some initial increased trip-associated costs for vessels that do not currently use the required hooks, and little to no impacts from the leaders as they are already used in the fishery.

2. Can the proposed action reasonably be expected to significantly affect public health or safety?

No, the action would not reasonably be expected to significantly affect public health or safety. NMFS always considers safety factors when implementing management measures in the pelagic longline fishery as pelagic longline fishing is an inherently dangerous activity. This action will not substantially change the way pelagic longlining is conducted. Furthermore, the removal of the CHRSA special observer and research participation requirements would allow fishermen the flexibility to fish in the CHSRA when it may be best for them.

3. Can the proposed action reasonably be expected to result in significant impacts to unique characteristics of the geographic area, such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas?

The management measures would not affect park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas, as these areas are not in proximity to the action area. Compliance with these management measures is not likely to result in the permanent loss or destruction of, or impact to, any historic or cultural resources or ecologically critical areas.

4. Are the proposed action's effects on the quality of the human environment likely to be highly controversial?

The effects of the management measures on the human environment are not likely to be highly controversial. The management measures in this rule are based on consensus recommendations by the multi-stakeholder Pelagic Longline Take Reduction Team which includes fishermen, academics, and NGOs. Current fishing practices will not be significantly impacted by the terminal gear requirements because affected fishermen already use hooks and leaders similar to, or the same as, those being required. Additionally, this rule increases the allowable mainline length to 30nm of active gear along a single set in the Mid-Atlantic Bight. The prohibition of multiple sets may cause some controversy for those fishermen who are currently setting multiple sets; however, the original Pelagic Longline Take Reduction Plan (with a 20 nm mainline limit) did not anticipate compensation in the form of multiple sets, thus this amendment addresses the compensation by increasing the mainline length but eliminating multiple simultaneous sets. Furthermore, the removal of the CHSRA special observer and research participation requirements removes the regulatory 48-hour call in requirement, eliminating an administrative burden on the fishermen.

Conversely, the potential effects of a failure to act include additional injury or mortality of short-finned pilot whales, which would be highly controversial among the environmental community and the public.

5. Are the proposed action's effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

Effects on the human environment from the action are not expected to be highly uncertain or involve unique or unknown risk. The management measures are clearly detailed in the EA

and they were derived through discussion with the fishing community and other stakeholders through the Take Reduction Team process.

6. Can the proposed action reasonably be expected to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?

These measures do not set a precedent for future actions with significant effects and are not a decision in principal about future considerations. The limiting of mainline length (and therefore gear in the water and soak times) and weakening hooks/strengthening leaders as management tools are important to meet objectives under the MMPA. These restrictions address the unique issue of short-finned pilot whale interactions with Atlantic pelagic longline fishing gear. Thus, it would be implemented to achieve a specific objective and is, therefore, not expected to establish a precedent for future actions.

7. Is the proposed action related to other actions that when considered together will have individually insignificant but cumulatively significant impacts?

The EA examines the cumulative effects of the action and existing restrictions on the pelagic longline fishery. Based on the information examined it is highly unlikely the action would have cumulative significant impacts on the human environment.

8. Can the proposed action reasonably be expected to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources?

The management measures would not affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places as these areas are not in proximity to the action area. Compliance with these management measures is not likely to cause loss or destruction of significant scientific, cultural, or historical resources.

9. Can the proposed action reasonably be expected to have a significant impact on endangered or threatened species, or their critical habitat as defined under the Endangered Species Act of 1973?

No, as determined during the consultation process, this action is not likely to affect any threatened or endangered species or any critical habitat areas.

10. Can the proposed action reasonably be expected to threaten a violation of Federal, state, or local law or requirements imposed for environmental protection?

Implementation of the management measures will not result in a violation of Federal, state or local law for environmental protection. In fact, these measures would be expected to support Federal, state, and local laws for environmental protection because it is expected that their goals and objectives would be similar to those of the MMPA.

11. Can the proposed action reasonably be expected to adversely affect stocks of marine mammals as defined in the Marine Mammal Protection Act?

No, it is not reasonable to expect the action will adversely affect stocks of marine mammals. In fact, these regulations are being developed under Section 118(f) of the Marine Mammal Protection Act and are expected to reduce the mortality and serious injury of short-finned pilot whales incidental to the Atlantic pelagic longline fishery. It is expected that other protected marine mammals, to the extent their distribution and abundance coincides with the geographic scope of the action, will also benefit from the management measures.

12. Can the proposed action reasonably be expected to adversely affect managed fish species?

No, current fishing practices, and therefore target catch, will not be significantly impacted by the management actions in the rule.

13. Can the proposed action reasonably be expected to adversely affect essential fish habitat as defined under the Magnuson-Stevens Fishery Conservation and Management Act?

No, as determined during the consultation process, this action will not affect essential fish habitat.

14. Can the proposed action reasonably be expected to adversely affect vulnerable marine or coastal ecosystems, including but not limited to, deep coral ecosystems?

No, the action is not expected to adversely affect vulnerable marine or coastal ecosystems, including deep coral ecosystems, as current fishing practices will not be significantly impacted by the management actions in the rule.

15. Can the proposed action reasonably be expected to adversely affect biodiversity or ecosystem functioning (e.g., benthic productivity, predator-prey relationships, etc.)?

The action is not expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.). The mainline length restriction is limited in scope to just the Mid-Atlantic bight, and the terminal gear requirements are not expected to have an effect on baseline catches of target species. However, the action is expected to be beneficial for short-finned pilot whales that are currently being adversely affected by the Atlantic pelagic longline fishery.

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

No, this action relates to the implementation of regulations in the pelagic longline fishery and, therefore, will not result in the introduction or spread of non-indigenous species.

DETERMINATION

In view of the information presented in this document and the analysis contained in the supporting Environmental Assessment prepared for the Pelagic Longline Take Reduction Plan Amendment it is hereby determined that the Pelagic Longline Take Reduction Plan Amendment will not significantly impact the quality of the human environment as described above and in the supporting Environmental Assessment. In addition, all beneficial and adverse impacts of the proposed action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an environmental impact statement for this action is not necessary.

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03/28/2023

Andrew J. Strelcheck
Regional Administrator
Southeast Regional Office
National Marine Fisheries Service

Date