

## APPENDIX X

Public Comments on the Draft Supplemental Impact Statement on Management Measures to  
Implement New Technologies for the Western Pacific Pelagic Longline Fisheries with  
Responses

Summary of Public Comments on the Draft Supplemental Environmental Impact Statement with Responses

Source	Cite	Comment	Response
<p>Identical Form Letters (204 exactly the same; 8 minor, non-substantive changes to wording)</p>	<p>Paragraph 1</p>	<p>Oppose renewed swordfishing east of 150°W</p>	<p>The SEIS does not require revision based on this comment. The proposed regulatory amendment does not distinguish between waters east and west of 150°W longitude as the best available scientific information does not warrant such an action. Vessels operating under Hawaii longline limited access permits would be allowed to target swordfish (make shallow longline sets) north of the equator at any longitude. This issue about making distinctions by longitude arose in development of regulations for the west coast-based longline fishery in the Pacific Fishery Management Council’s Highly Migratory Species (HMS) Fishery Management Plan (FMP) for vessels operating primarily out of California and the Biological Opinion (BiOp) for that action. The Pacific Council’s FMP reviewed the available evidence and concluded that there was insufficient evidence that turtle takes were significantly higher east 150°W. A recent study of this issue (Carretta, 2003) concluded that, while there is some evidence that shallow sets east of 150°W have higher interaction rates with loggerhead and leatherback sea turtles, the difference is not statistically significant at the 0.05 level. Conversely, the interaction rate of shallow sets with olive ridley sea turtles was significantly higher west of 150°W. Regulation of the fishery conducted under the HMS FMP is independent of this proposed action for the Western Pacific. The HMS fishery would still be prohibited from shallow-sets west of 150°W by the FMP and its implementing regulations and from shallow sets east of 150°W by rules proposed pursuant to the ESA. The HMS FMP and its BiOp assumed that any shallow set longlining would be done using the same techniques historically used in both the Hawaii-based and the West Coast-based fisheries, specifically, J hooks and squid bait. This proposed regulatory amendment requires the use of circle hooks and mackerel type bait for Hawaii-based vessels making shallow sets north of the equator, which have been shown in the Atlantic to significantly reduce interactions with loggerhead and leatherback turtles. Waters east of 150°W have historically represented a relatively minor portion of the Hawaii-based longline effort and that could be expected to continue under any new regulations.</p>

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	Paragraph 2	Keeping the area east of 150°W closed to longline fishing for swordfish is the only measure that will help prevent extinction of the leatherback	The SEIS does not require revision based on this comment because there are a number of measures that will help reduce the risk of extinction of the leatherback including elimination or reduction of direct harvesting, nesting beach management, and egg protection and the alternatives described in the DSEIS include five such measures (Conservation Projects) designed to help prevent the extinction of leatherback and loggerhead turtles. As indicated in the response to Paragraph 1 of this comment, the best available scientific information does not warrant a longitudinal separation of regulations for the Hawaii-based longline fleet. In either case, there is relatively little fishing east of 150°W by this fleet. Further, the NMFS Office of Protected Resources concluded in the 2004 Biological Opinion for this action that fishing in the manner identified by the proposed regulatory amendment i.e., without longitudinal regulations, would not jeopardize the continued existence of sea turtles.
	Paragraph 3	Since the area east of 150°W was closed to shallow sets, the number of sea turtles killed has dropped significantly.	The SEIS does not require revision based on this comment because although it is historically true that shallow-set longlines have higher turtle interaction rates than do deep set longlines, and if there were no shallow-sets these interactions would not occur, the Hawaii-based fleet only represents approximately 3% of Pacific pelagic longline effort. When U.S. vessels are restricted from fishing, foreign fleets may fill all or part of the void in market supply. As described in DSEIS section 10.11.1, these fleets may have many times the interaction and mortality rates per unit catch as the Hawaii-based fleet ever did. The proposed regulatory amendment includes a model swordfish fishery employing methods shown in the Atlantic (circle hooks and mackerel bait) to dramatically reduce turtle interactions and at the same time, increase swordfish catches. If these techniques prove as effective in the Pacific as in the Atlantic, foreign fleets may adopt these methods to increase their swordfish landings while also reducing their turtle interaction rates. The long-term effects of exporting these techniques may far outweigh any short-term gains resulting from closing areas to Hawaii-based vessels.

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	Paragraph 4	The WPRFMC should take a stronger role in advocating international agreements that would close these waters to swordfish fishers from other countries.	The SEIS does not require revision based on this comment because the WPRFMC (Council) is already on the forefront of efforts to encourage international cooperation in these efforts and to this end has sponsored a number of symposia, workshops, meetings and conferences. NMFS and the Council are cooperating with the U.S. Department of State to implement international or multinational agreements affecting fishing on the high seas. In a pragmatic sense, the most effective action the WPRFMC can take is to support the proposed regulatory amendment's model swordfish fishery, with its potential to demonstrate to foreign fleets that different fishing techniques will increase their catch rates of swordfish, while decreasing their turtle interaction rates.
The following 27 letters contain additional comments. The additions are responded to below.			
Heather Ferguson	Paragraph 2	All species of sea turtles are at an equal risk of devastation by using these poor fishing practices.	The SEIS does not require revision based on this comment because shallow-set longline fishing under the preferred alternative would provide a substantially reduced risk of interaction with sea turtles. There are differences in interaction rates of longlines with different species of sea turtles due to turtle distributions, migratory pathways, foraging habits, food preferences, fishing effort distributions, and other factors. Leatherback and loggerhead turtles are the species of greatest concern in the Hawaii-based fishery, not because they are most frequently caught, but because their stocks are in the most critical condition of the listed sea turtle species. The preferred alternative's model swordfish fishery, through its potential positive influence on international longline fishing practices, would have positive effects on leatherback and loggerhead turtle populations. In addition, as described in the DSEIS, the sea turtle conservation projects being pursued by the Council are expected to have positive effects on the same leatherback and loggerhead turtle populations by protecting them in their nesting and coastal habitats.

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Charles Fox	Paragraph 1	Several species of sea turtles are in dire threat of extinction due to massive mortality by longline fishing. Survival of these turtles will depend on curtailment of longline fishing.	The SEIS does not require revision based on this comment because there have been historically and are now many factors contributing to the declines of sea turtle populations and it is an oversimplification to attribute the current plight of sea turtles exclusively to longline fishing. Curtailment of longline fishing by U.S. vessels will have little positive effect on sea turtle populations, and cumulatively may have a negative effect to the extent U.S. effort is replaced by foreign effort with higher interaction rates per unit catch (see section 10.11.1 of the SEIS). The proposed model swordfish fishery and its potential influence on international longline fishing practices, and the conservation projects, are expected to have positive effects on leatherback and loggerhead turtle populations
	Paragraph 6	We shouldn't just restrict American fishermen, but level the playing field and restrict foreign longline fleets from these waters as well.	The SEIS does not require revision based on this comment because the U.S. government does not control foreign fishing efforts on the high seas. The most effective way we can influence foreign fishing is to provide them a cost-effective means to improve their catch while decreasing their turtle interaction rates. The expected results of the proposed model swordfish fishery would assist in this regard.

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Melanie Gates	Paragraph 1	If you continue to kill these precious animals you will be responsible for the potential extinction of one of the most rare and beautiful creatures on this earth. The economic value of swordfish can never replace a species.	The SEIS does not require revision based on this comment because the Hawaii-based longline fleet under the preferred alternative has been evaluated by the NMFS Office of Protected Species not to jeopardize the recovery of these species. The Hawaii longline fishery represents only 3% of Pacific pelagic longline effort. When U.S. vessels are restricted from fishing, foreign fleets may fill all or part of the void in market supply. As described in DSEIS section 10.11.1, these fleets may have many times the interaction and mortality rates per unit catch as the Hawaii-based fleet ever did. The preferred alternative includes a model swordfish fishery employing methods shown in the Atlantic (circle hooks and mackerel bait) to dramatically reduce turtle interactions and at the same time, increase swordfish catches. If these techniques prove as effective in the Pacific as in the Atlantic, foreign fleets may adopt these methods to increase their swordfish landings while also reducing their turtle interaction rates. The long-term cumulative effects of exporting these techniques may far outweigh any short-term gains resulting from closing areas to U.S. vessels. Additionally, one of the objectives of the FMP is to achieve optimum yield. The preferred alternative was selected to provide the greatest economic benefits at the least cost, including the non-market costs associated with sea turtle interactions.

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Ann Hallowell	Paragraph 2	Keeping the area east of 150°W closed to longlining for swordfishing is essential to protect leatherbacks, whose slow maturity means that even a small decrease in their numbers would seriously impact the species' survival.	The SEIS does not require revision based on this comment because the Hawaii-based longline fleet has been evaluated by the NMFS Office of Protected Species not to jeopardize the recovery of these species. The Hawaii longline fishery only represents 3% of Pacific pelagic longline effort. When U.S. vessels are restricted from fishing, fleets may fill all or part of the void in market supply. As described in DSEIS section 10.11.1, these fleets may have many times the interaction and mortality rates per unit catch as the Hawaii-based fleet ever did. The preferred alternative includes a model swordfish fishery employing methods shown in the Atlantic(circle hooks and mackerel bait) to dramatically reduce turtle interactions and at the same time, increase swordfish catches. If these techniques prove as effective in the Pacific as in the Atlantic, foreign fleets may adopt these methods to increase their swordfish landings while also reducing their turtle interaction rates. The long-term cumulative effects of exporting these techniques may far outweigh any short-term gains resulting from simply closing areas to Hawaii-based vessels.
Janet Hitt	Paragraph 5	The proposed action is unnecessary and irresponsible.	The SEIS does not require revision based on this comment because one of the objectives of the FMP is to achieve optimum yield in the utilization of U.S. fishery resources as required by the Magnuson-Stevens Fishery Conservation and Management Act of 1996. The preferred alternative was selected to provide the greatest economic benefits at the least cost, including the cost to sea turtle populations associated with interactions. The model swordfish fishery should reduce turtle takes in both U.S. and ultimately foreign longline fleets. The conservation projects being undertaken by the Council and NMFS are intended to address other factors contributing to the decline of loggerhead and leatherback populations. Complete elimination of longline fishing in the Pacific would not necessarily save these species from extinction. Action on a number of fronts is needed and the proposed actions constitute a responsible initiative to conserve turtle populations.

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David Katzman	Paragraph 2	You must arrest the extinction of the leatherback by closing the area to swordfishing.	The SEIS does not require revision based on this comment because there have been historically and are now many factors contributing to the declines of sea turtle populations and it is an oversimplification to attribute the current plight of sea turtles exclusively to swordfish fishing east of 150°W. Curtailment of longline fishing by U.S. vessels will have little positive effect on sea turtle populations, and cumulatively may have a negative effect to the extent U.S. effort is replaced by foreign effort with higher interaction rates per unit of catch (see section 10.11.1 of the DSEIS). The proposed model swordfish fishery and its potential influence on international longline fishing practices and the conservation projects are expected to have positive effects on leatherback and loggerhead turtle populations.
	Paragraph 3	Please help save this amazing, million-year-old species.	The SEIS does not require revision based on this comment because the proposed model swordfish fishery and its potential influence on international longline fishing practices, and the conservation projects, are expected to have positive effects on leatherback and loggerhead turtle populations.
Ellis and Cheryl Levinson	Paragraph 1	Renewed swordfishing east of 150°W could mean the end of the species.	The SEIS does not require revision based on this comment because there have been historically and are now many factors contributing to the declines of sea turtle populations and it is an oversimplification to attribute the current plight of sea turtles exclusively to swordfish fishing east of 150°W. Curtailment of longline fishing by U.S. vessels will have little positive effect on sea turtle populations, and cumulatively may have a negative effect to the extent U.S. effort is replaced by foreign effort with higher interaction rates per unit of catch (see section 10.11.1 of the DSEIS). The proposed model swordfish fishery and its potential influence on international longline fishing practices and the conservation projects are expected to have positive effects on leatherback and loggerhead turtle populations.



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Mark Nicholas	Paragraph 3	Longline fishing kills turtles. Until swordfishing can be done without killing turtles, do what is right and not allow this to occur.	The SEIS does not require revision based on this comment because there have been historically and are now many factors contributing to the declines of sea turtle populations and it is an oversimplification to attribute the current plight of sea turtles exclusively to swordfish fishing. We cannot prohibit foreign fishing efforts on the high seas and prohibition of longline fishing by U.S. vessels will have little positive effect on sea turtle populations, and cumulatively may have a negative effect to the extent U.S. effort is replaced by foreign effort with higher interaction rates per unit catch (see section 10.11.1 of the DSEIS). The proposed model swordfish fishery and its potential influence on international longline fishing practices and the conservation projects are expected to have positive effects on leatherback and loggerhead turtle populations. This is a more proactive approach to resolution of the problem than simply stopping U.S. longlining which would do nothing substantive for the long-term recovery of the turtle populations.
Jaclyn Rolph	Paragraph 5	I urge you to make the right choices in keeping turtles around. They are an essential part of the diversity of our planet. They have a right to life. We have the power to ensure they enjoy that right.	The SEIS does not require revision based on this comment because the proposed model swordfish fishery and its potential influence on international longline fishing practices and the conservation projects are expected to have positive effects on leatherback and loggerhead turtle populations.
Elizabeth Szabo	Paragraph 5	You should be doing all you can to protect what little there is left of our precious natural heritage.	The SEIS does not require revision based on this comment because the proposed model swordfish fishery and its potential influence on international longline fishing practices and the conservation projects are expected to have positive effects on leatherback and loggerhead turtle populations.

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Read Vanderbilt	Paragraph 2	Leatherbacks can withstand no additional human captures or kills and are likely to be killed at an increased rate if shallow sets are allowed.	The SEIS does not require revision based on this comment because the NMFS Office of Protected Resources 2004 Biological Opinion prepared for the proposed action concluded that the action is not likely to jeopardize the continued existence of any turtle species. The proposed model swordfish fishery and its potential influence on international longline fishing practices and the conservation projects are expected to have positive effects on leatherback and loggerhead turtle populations. Those alternatives that would eliminate or sharply curtail the model swordfish fishery would provide little incentive for foreign fishing vessels to change their fishing patterns.
		Of captured and released turtles, it is unknown if they were able to survive the injury and trauma.	The SEIS does not require revision based on this comment. Post-release mortality is an area of active research and quite a bit is known. In 2001, NMFS established a policy and criteria for estimating survival and mortalities following interactions with longline gear. In 2004 (since publication of the DSEIS and described in new section 14.0 of the Final SEIS), these criteria were reviewed and modified on the basis of new information. Six categories of interaction and three categories of release were defined to give a matrix of post release mortality estimates for both leatherback and hard shell turtles. These percentages currently are used in estimating post-release mortalities. It is likely that these criteria will continue to be refined as new data become available.

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	Paragraph 3	Indiscriminate use of long soak times, shallow depths and light sticks poses a terrible threat to our oceans. It simply is too wasteful a fishing technique.	The SEIS does not require revision based on this comment because the preferred alternative includes a variety a measures to regulate and monitor the Hawaii-based domestic longline fishery. This includes a model swordfish fishery employing methods shown in the Atlantic (circle hooks and mackerel bait) to dramatically reduce turtle interactions and at the same time, increase swordfish catches. Discarding of light sticks is prohibited under U.S. law and international convention. If these new gear technologies prove as effective in the Pacific as in the Atlantic, foreign fleets may adopt these methods to increase their swordfish landings while also reducing their turtle interaction rates. The long-term cumulative effects of exporting these techniques to foreign fisheries are expected to far outweigh any short-term gains resulting from unilaterally closing the U.S. fisheries. The U.S. longline fisheries in the Pacific only represent approximately 3% of Pacific pelagic longline effort. What is needed is further development and international implementation of fishing methods that catch fewer turtles.
	Paragraph 4	Harpooning would be preferable to longline fishing in terms of economics, jobs, product quality and ecosystem impact.	The SEIS does not require revision based on this comment because there are only certain places where the oceanographic conditions favor concentration of swordfish at the sea surface where they can be harpooned. These conditions do not exist in the area fished by the Hawaii-based fleet, and this method is impractical for them to use.

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Joseph Vincent	Paragraph 5	Let common sense prevail, and the sense of Bush be crushed.	The SEIS does not require revision based on this comment because the proposed action and the analyses that underpin it are based on the best available information. The preferred alternative includes a model swordfish fishery employing methods shown in the Atlantic (circle hooks and mackerel bait) to dramatically reduce turtle interactions and at the same time, increase swordfish catches. If these techniques prove as effective in the Pacific as in the Atlantic, foreign fleets may adopt these methods to increase their swordfish landings while also reducing their turtle interaction rates. The long-term cumulative effects of exporting these techniques may far outweigh any short-term gains resulting from unilaterally closing U.S. fisheries.
Lori-Anne Williams	Paragraph 1	Sea turtles are essential to the lure and lore of the Western Pacific cultures and communities.	The SEIS does not require revision based on this comment. It is true that Pacific cultures used turtles and their shells for a variety of consumptive and ceremonial purposes. Several of these cultures desire to resume a cultural take of these animals. If programs such as that proposed in the regulatory amendment are ultimately successful in restoring these populations to sizes allowing their removal from the list of threatened and endangered species, then perhaps limited cultural takes will be possible.

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Anon.	Paragraph 3	Clearly, the “incidental take” associated with the swordfish fishery will lead to the ultimate demise of the leatherback.	The SEIS does not require revision based on this comment because there have been historically and are now many factors contributing to the declines of sea turtle populations and it is an oversimplification to attribute the current plight of sea turtles exclusively to longline fishing. Curtailment of longline fishing by U.S. vessels will have little positive effect on sea turtle populations, and cumulatively may have a negative effect to the extent U.S. effort is replaced by foreign effort with higher interaction rates (see Section 10.11.1 of the DSEIS). The proposed model swordfish fishery and its potential influence on international longline fishing practices and the conservation projects are expected to have positive effects on leatherback and loggerhead turtle populations. The NMFS Office of Protected Resources 2004 Biological Opinion prepared for the proposed action concluded that the action is not likely to jeopardize the continued existence of any turtle species.
	Paragraph 4	If the general public knew of the sea turtle mortality associated with harvesting seafood they would demand turtle-safe products.	The SEIS does not require revision based on this comment. NMFS and the Council are committed to public education and outreach, both domestically and internationally and have been engaged such activities for many years. Better education of the general public is indeed necessary, but this is not an issue that can be addressed by unilateral U.S. action. International education, adoption of fishing practices that catch fewer turtles, and conservation programs to improve conditions at nesting beaches are all necessary.

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		Disheartened and outraged because by catch accounts for far more of the take than the actual desired species do.	The SEIS does not require revision based on this comment. By catch does not account for more of the catch than target species and the by catch of protected species such as turtles is a minute percentage of the total catch of fish species. The largest component of by catch is shark, most of which are released alive. However, by catch reduction is mandated by the Sustainable Fisheries Act, and NMFS and the Council are actively researching how this can be accomplished in all domestic fisheries. In addition, a possible result of implementing the modified fishing techniques described in the preferred alternative would be to reduce the catch of turtles by not only U.S. longline fisheries, but also some foreign longline fisheries affecting turtle stocks throughout the Pacific Ocean.
	Paragraph 8	We must protect those species that cannot advocate for themselves.	The SEIS does not require revision based on this comment. Because the proposed model swordfish fishery and its potential influence on international longline fishing practices and the conservation projects are expected to have positive effects on leatherback and loggerhead turtle populations.
Barbara Sachau	Page 1, Paragraph 1	Stop giving commercial fishermen optimum yields, which means no fish left in our oceans for our children's world.	The SEIS does not require revision based on this comment. Optimum yield (OY) is the yield from a fishery which provides the greatest overall benefit to the nation with particular reference to food production and recreational opportunities; it is based on maximum sustainable yield (MSY) as modified by economic, social or ecological factors. MSY is a conservative, sustainable, biological management benchmark and OY further reduces that benchmark to account for other relevant factors including interactions with protected species.

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	Page 1, Paragraph 2	Eliminate all longlining. Swordfish are endangered.	The SEIS does not require revision based on this comment because swordfish are not overfished, endangered, or listed as endangered under the Endangered Species Act, and the stock historically fished by the Hawaii-based fishery appears to be in good condition.. As reviewed in section 9.1.4.6 of the DSEIS, “The stock assessment for North Pacific swordfish by Kleiber and Yokawa (2002) suggests that the population in recent years is well above 50% of the unexploited biomass, implying that swordfish are not over-exploited and relatively stable at current levels of longline fishing effort in the North Pacific.”
	Page 1, Paragraph 3	I oppose eliminating the requirement that operators of general longline vessels take an annual protected species course.	The SEIS does not require revision based on this comment. The removal of this requirement will occur as a result of a court order vacating the June 12, 2002 regulations. The Council is expected to consider whether this requirement should be reimplemented at their March 2004 meeting.
	Page 1, Paragraph 4	Does the fact that the regional council is so heavily infested with commercial fishing profiteers influence the biological opinions we get? Do the council biologists have to produce biological opinions to suit commercial fishers?	The SEIS does not require revision based on this comment. The Western Pacific Council has 13 voting and 3 non-voting members. Half of the members are appointed by the U.S. Secretary of Commerce to represent fishing and related community interests in the region. The other Council members are designated state, territorial and federal officials with fishery management responsibilities. Only one of the four Hawaii members of the Council represents commercial fishing interests. Biological Opinions are produced by staff of NMFS’ Office of Protected Resources, not the Council or its staff.
	Page 1, Paragraph 5	There is a federal law called FACA which calls for all Federal councils to be balanced. I question whether this council is balanced.	The SEIS does not require revision based on this comment as FACA does not apply to Fishery Management Councils established under Magnuson-Stevens Act.

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	Page 2, Paragraph 1	Results from the Atlantic may not work in the Pacific. There is too little food and too few turtles in the Atlantic.	The SEIS does not require revision based on this comment. The reduction of turtle takes in the Atlantic were highly significant for loggerheads and leatherbacks and it is hoped that they will be similarly successful in the Pacific. However the 100% observer coverage for the shallow-setting required by the 2004 Biological Opinion prepared by NMFS' Office of Protected Resources for this action, and the hard limits for leatherback and loggerhead interactions, will ensure that turtle interactions and mortalities are strictly limited regardless of the success of the hook and bait requirements.
	Page 2, Paragraph 2	Suggest all quotas be cut by 50% this year and 10% each subsequent year.	The SEIS does not require revision based on this comment. Because swordfish stocks in the North Pacific are not over-exploited and the population is relatively stable, there are no quotas on swordfish landings. The proposed action would limit the number of shallow sets targeting swordfish to about one half their historical average and strictly limit the number of leatherback and loggerhead turtles incidentally caught to avoid jeopardizing turtle species. The limit on shallow sets would also serve as a de facto quota on other species.
	Page 2, Paragraph 3	Suggest any fishing violator lose his vessel.	The SEIS does not require revision based on this comment. The appropriate vehicles for establishing penalties are the enabling statute and penalty schedules issued by the NOAA Office of Law Enforcement and NOAA General Counsel.



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	Page 2, Paragraph 4	Would like marine sanctuaries established where nobody can fish.	The SEIS does not require revision based on this comment. Marine sanctuaries, including “no take” areas are being established throughout the Western Pacific by local and federal agencies. The Council has implemented such areas through its Coral Reef Ecosystems Fishery Management Plan, and is considering implementing more such areas in draft EISs for its bottomfish, crustaceans and precious corals FMPs. Establishing no-take marine sanctuaries in international waters is not feasible as we cannot prohibit foreign fishing on the high seas, however the DSEIS does examine alternatives which would prohibit longlining in certain areas by vessels managed by the Council.
	Page 2, Paragraph 5	Does the Council want to fish out the area and decimate the stocks?	The SEIS does not require revision based on this comment. The main task of the Council is to protect fishery resources while maintaining opportunities for domestic fishing at sustainable levels of effort and yield consistent with conservation of protected species. Towards this end, there is a limited entry program in place for the Hawaii-based longline fleet, and the preferred alternative would implement effort limits for the shallow-set sector of this fishery. The effect of both is to restrict the catch of fish, of which no stocks targeted by the Hawaii longline fleet are over-fished.
	Page 2, Paragraph 6	If there is a “possibility” that greater effort per set could increase relative to the no action scenario then any such plan allowing such increase is wrong.	The SEIS does not require revision based on this comment. There are physical constraints to how many hooks can be set in a day by a shallow-setting longline vessel. However the effort limits, incidental take statement, hard limits on interactions with leatherback and loggerhead turtles, and the 100% observer coverage mandated by the 2004 Biological Opinion prepared by NMFS’ Office of Protected Resources for this action combine to ensure that fishery managers will be fully informed and able to take appropriate action to further limit effort and avoid jeopardizing sea turtles even if fishing effort per set does increase.

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	Page 2, Paragraph 7	Assessing for multi years is worrisome as a plan could be set in stone and meanwhile every fish in the ocean could have disappeared.	The SEIS does not require revision based on this comment. The FMP and implementing regulations for this fishery are reviewed annually. Due to the considerable inter-annual variability in climatic and oceanographic conditions across the Western Pacific, results obtained in a single year may not represent typical conditions. Valid, representative results are necessary to formulate appropriate long-term management measures, and this typically requires data from more than a single year. The status of each stock is regularly assessed and adjustments to the respective management regime are required if a stock is found to be overfished.
	Page 2, Paragraph 8	Hooking is a guaranteed killer of fish. You cannot unhook successfully and mortality is said to be about 70% or more. So dehooking is wasted effort. The fish is killed by the initial hooking.	The SEIS does not require revision based on this comment. Post-release mortality percentage depends upon a number of variables, but is not 100%. Tag and release programs have recovered many hooked and tagged fish from both commercial trolling and longline and sports fishing vessels.
	Page 2, Paragraph 9	We don't need an abbreviated comment period, but instead more time.	The SEIS does not require revision based on this comment. The abbreviated comment period was necessitated by the Court order that will remove important protective measures for sea turtles on April 1, 2004, and was approved by the EPA.
	Page 2, Paragraph 10	A business should not hold more than one permit.	The SEIS does not require revision based on this comment. At the present time there is not an excessive concentration of permits by any one entity. There does not seem to be any reason at this time to restrict the number of permits that can be held by one entity.
	Page 3, Paragraph 1	All the catch of all vessels should be posted on the internet so the public can see what is being done to a resource that belongs to all Americans.	The SEIS does not require revision based on this comment. NMFS and the Council provide this information in the form of annual reports which are available on their websites. ( <a href="http://www.nmfs.hawaii.edu">www.nmfs.hawaii.edu</a> and <a href="http://www.wpcouncil.org">www.wpcouncil.org</a> ).

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	Page 3, Paragraph 2	I do not think any swordfish should be allowed to be caught.	The SEIS does not require revision based on this comment because swordfish are not overfished, endangered, or listed as endangered under the Endangered Species Act, and the stock historically fished by the Hawaii-based fishery appears to be in good condition.. As reviewed in section 9.1.4.6 of the DSEIS, “The stock assessment for North Pacific swordfish by Kleiber and Yokawa (2002) suggests that the population in recent years is well above 50% of the unexploited biomass, implying that swordfish are not over-exploited and relatively stable at current levels of longline fishing effort in the North Pacific.” One of the objectives of the FMP is to achieve optimum yield. The preferred alternative was selected to provide the greatest economic benefits at the least cost, including the non-market costs associated with sea turtle interactions.
	Page 3, Paragraph 3	The limit on shallow setting certificates should be 500, not 2120.	The SEIS does not require revision based on this comment. The DSEIS considered a range of numbers of shallow sets from 0 to 3,179. Several considerations factored into the choice of the number of sets for the preferred alternative, including potential effects on turtle populations, adequacy of resultant data to document the effects of the model swordfish fishery, the costs of outfitting a vessel for this type of fishing and the potential annual returns for participants. One of the objectives of the FMP is to achieve optimum yield. The preferred alternative was selected to provide the greatest economic benefits at the least cost, including the non-market costs associated with sea turtle interactions.

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Jill Cresko	Paragraph 1	Strongly oppose re-opening to shallow longlining high seas west of 150°W.	<p>The SEIS does not require revision based on this comment. The proposed regulatory amendment does not distinguish between waters east and west of 150°W longitude as the best available scientific information does not warrant such an action. Vessels operating under Hawaii longline limited access permits would be allowed to target swordfish (make shallow longline sets) north of the equator at any longitude. This issue about making distinctions by longitude arose in development of regulations for the west coast-based longline fishery in the Pacific Fishery Management Council's Highly Migratory Species (HMS) Fishery Management Plan (FMP) for vessels operating primarily out of California and the Biological Opinion (BiOp) for that action. The Pacific Council's FMP reviewed the available evidence and concluded that there was insufficient evidence that turtle takes were significantly higher east 150°W. A recent study of this issue (Carretta, 2003) concluded that, while there is some evidence that shallow sets east of 150°W have higher interaction rates with loggerhead and leatherback sea turtles, the difference is not statistically significant at the 0.05 level. Conversely, the interaction rate of shallow sets with olive ridley sea turtles was significantly higher west of 150°W. Regulation of the fishery conducted under the HMS FMP is independent of this proposed action for the Western Pacific. The HMS fishery would still be prohibited from shallow-sets west of 150°W by the FMP and its implementing regulations and from shallow sets east of 150°W by rules proposed pursuant to the ESA. The HMS FMP and its BiOp assumed that any shallow set longlining would be done using the same techniques historically used in both the Hawaii-based and the West Coast-based fisheries, specifically, J hooks and squid bait. The preferred alternative requires the use of circle hooks and mackerel type bait for Hawaii-based vessels making shallow sets north of the equator, which have been shown in the Atlantic to significantly reduce interactions with loggerhead and leatherback turtles.</p>

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Source	Cite	Comment	Response
	Paragraph 2	If these waters are re-opened, 52 leatherbacks and 174 loggerheads would be taken every year.	The SEIS does not require revision based on this comment. The results of modeling of the outcomes of the preferred alternative as analyzed in (Table 6.3 of the 2004 Biological Opinion prepared by NMFS' Office of Protected Resources for this action) indicate that the level of permitted shallow setting would result in 34 leatherback and 21 loggerhead interactions per year with 9 and 4 mortalities, respectively. While some turtles would be injured or killed, the preferred alternative is expected to benefit turtle populations in the long-term through its potential influence on international longline fishing practices, and the conservation projects.
	Paragraph 3	The viability of the leatherback cannot withstand the killing of even a small number of its members.	The SEIS does not require revision based on this comment. The 2004 Biological Opinion prepared by NMFS' Office of Protected Resources for this action concluded that it is not likely to jeopardize the continued existence of any turtle species. If we simply do nothing, the global circumstances driving the species to extinction will continue. The proposed model swordfish fishery and its potential influence on international longline fishing practices, and the conservation projects, are expected to have positive effects on leatherback and loggerhead turtle populations.
Richard Y. Shiroma	Page 1, Paragraph 2	Disagree strongly with the piecemeal approach of splitting the issues into two EISs. Remaining issues of seabird interactions, billfish, FADs and squid fishing are all related to opening the swordfish fishery and should be addressed together.	The SEIS does not require revision based on this comment. Separation of the issues was necessitated by the Court order that will vacate important measures to conserve sea turtles on April 1, 2004. All available resources were dedicated to this effort and two emergency Council meetings were held to discuss potential alternatives and select a preferred alternative. NMFS and the Council have not yet begun the process of evaluating potential alternatives for the other, less pressing, issues. The results of the joint scoping process for both EISs will be reviewed by the Council at its March 2004 meeting, and development of alternatives for other issues will proceed thereafter. Interrelationships among the issues will be explored fully in subsequent NEPA documents. To the extent that the proposed action has an effect on seabirds and fish stocks the DSEIS provides information on likely impacts and cumulative effects.

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Source	Cite	Comment	Response
	Page 1, Paragraph 3	The DSEIS was developed to back into a pre-determined alternative. There is not enough discussion of the impacts of each alternative.	The SEIS does not require revision based on this comment. The alternatives were developed by NMFS and Council staff based on public comments, and consultation with scientists, fishermen and environmentalists. The alternatives and their impacts were discussed in open Council meetings and a vote was conducted to select a preferred alternative. The most contentious issue is sea turtle interactions and the primary focus of the DSEIS is that issue. PIFSC staff completed modeling efforts to assess impacts of the alternatives on sea turtle populations, and those results are presented in the DSEIS. Also included in the DSEIS are discussions of indirect and cumulative impacts of the alternatives.
	Page 1, Paragraph 3	Lack of specifics on how the fishery will be monitored to provide notification on a real time basis when hard limits are reached.	The SEIS does not require revision based on this comment. Several options for the monitoring and control of model swordfishing effort and turtle interactions are discussed in the DSEIS (see section 8.0). With the 100% observer coverage required by the 2004 Biological Opinion prepared by NMFS' Office of Protected Resources for this action, collecting real time data will not be difficult. The preferred alternative includes a provision for the closures of the shallow-set fishery if and when the leatherback and loggerhead interaction limits for this segment of the fishery are reached. The SEIS does not address how the closure would be implemented, if necessary, because this is at a level of administrative detail and discretion that is beyond the scope of NEPA review.
	Page 1, Paragraph 4	During the winter, the longline fishing closure around some parts of the MHI is less than 50-75 nm.	The closure is lessened from October 1 through January 30, when the longline closed areas decrease on the windward sides to approximately 25 nm off Hawaii, Maui, Kahoolawe, Lanai, Molokai, Kauai, Niihau, and Kaula, and approximately 50 nm off Oahu. This is to allow increased access to these waters by longline vessels when bad weather normally keeps other small boats closer to shore. The SEIS will be supplemented to clarify the closure.

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Source	Cite	Comment	Response
	Page 1, Paragraph 5	If leatherbacks are typically flipper hooked why not reduce the length of the hook leader to reduce hookings?	The SEIS does not require revision based on this comment. Encounters by leatherbacks with longline gear are not completely random, but may to some extent be related to the turtles being attracted to the gear. Experiments in the Atlantic showed that hooks nearer to floats have a higher incidence of turtle interactions, however this has not been consistently observed for Pacific turtles. It would be premature to regulate this parameter without a better understanding of why leatherbacks are hooked.
	Page 2, Paragraph 1	Participation option should not be a means to achieve personal enrichment. Trading, selling or giving shares should not be allowed. Fish it or lose it.	The SEIS does not require revision based on this comment. Depending on the number of interested permit holders, individual permit holders may receive so few shallow-set certificates that prohibiting transfers of these certificates could have the effect of making participation uneconomical due to the start-up costs. It would also result in unused effort, meaning the FMP objective of attaining optimum yield would not be furthered nor would the efficacy of the Atlantic measures be tested and demonstrated to foreign fishing fleets.
	Page 2, Paragraph 2	Hard limits should be set for interaction with all endangered species, including olive ridley and green turtles.	The SEIS does not require revision based on this comment. Authorized take levels for all species are included in the 2004 Biological Opinion prepared by NMFS' Office of Protected Resources for this action. If authorized takes of any species are exceeded, NMFS' Office of Protected Resources would determine what the appropriate management action would be. The fact that a hard limit under the model swordfish fishery is not established for these species does not mean their protection is lessened.

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Source	Cite	Comment	Response
	Page 2, Paragraph 3	Blue marlin may be nearly fully exploited. More study is required before opening up a fishery that could further diminish this stock.	The SEIS does not require revision based on this comment. The referenced paragraph goes on to state: "It appears that the stock has been in this condition for the past 30 years, while the level of longline fishing has increased in the Pacific." In 1997, the Hawaii-based longline fishery was estimated to have caught 3.7% of the Pacific-wide catch of blue marlin (Boggs et. al., 2000). That includes both deep and shallow set catches. Limitations inherent in the preferred alternative would allow Hawaii-based shallow-set effort, with its greater rate of blue marlin catch as compared to the deep-set fishery, to 50% of the average annual effort seen during the 1994-1999 period.
	Page 2, Paragraph 4	Development and maintenance of seafood markets should not overshadow doing what is right to protect endangered species and fully exploited stocks.	The SEIS does not require revision based on this comment. The proposed model swordfish fishery and its potential influence on international longline fishing practices, and the conservation projects, are expected to have positive effects on leatherback and loggerhead turtle populations. Allowing carefully regulated fishing will allow decreased domestic consumption of fish imported from less regulated foreign fleets.
James R. Spotila	Paragraphs 1 and 2	Implementation of these measures will continue to threaten the leatherback with extinction in the Pacific. Reduction of interactions will only be 67%. Mortality of the breeding population at Playa Grande Costa Rica is 25-30%. Longline mortality could be projected at 8-12%, but needs to be reduced to 5%.	The SEIS does not require revision based on this comment. The 2004 Biological Opinion prepared by NMFS' Office of Protected Resources for this action concluded that it is not likely to jeopardize the continued existence of any turtle species. The proposed model swordfish fishery and its potential influence on international longline fishing practices, and the conservation projects, are expected to have positive effects on leatherback and loggerhead turtle populations.



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Source	Cite	Comment	Response
Donald M. Schug	Page 1, Paragraph 2	Concern is lack of transparency in the process by which the alternative allocation methods were developed and evaluated. Economic and social impact analysis is sketchy and sometimes contradictory. This lack of depth and precision is inconsistent with NEPA and MSA National Standard 2.	The participation options were discussed, and a preliminarily preferred option selected, at the Council's 121 <sup>st</sup> meeting. In trying to determine the fairest alternative the preferences of those most affected (permit holders) were of primary importance in selecting the preferred alternative. The option contained in the preferred alternative has been endorsed by the Hawaii Longline Association which represents the fishermen. This statement will be added to the SEIS. Analysis will be expanded and contradictions addressed. Further, the FEIS provides a full socio-economic analysis which remains pertinent today and remains the best available information on the topic.
	Page 1 Paragraph 4	No description of the scoping process used to identify alternative ways of allocating fishing privileges.	The SEIS does not require revision based on this comment. A discussion of alternative participation options was included in documents provided on the Council's website and at the Council's 120 <sup>th</sup> and 121 <sup>st</sup> meetings. As discussed in section 4.2 of the DSEIS, public comments on all aspects of this action were solicited at a series of public meetings.
	Page 2, Paragraph 1	The DSEIS states that Participation Option 1 could result in derby-style fishing with compromised safety. Impacts analysis says Hawaii longliners fish in all weather up to hurricanes so potential impacts are minor. Unclear if compromised safety is a valid reason for rejecting Option 1.	Discussions of the impacts of the participation options have been expanded and contradictory statements in the DSEIS and the Regulatory Flexibility Analysis have been addressed.

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Source	Cite	Comment	Response
	Page 2, Paragraph 2	Contention that Option 1 would result in market gluts and shortages is not substantiated, and information provided seems to indicate otherwise.	Although Hawaii caught swordfish has been a small part of the world market, interruptions or fluctuating availability of any product make the necessary establishment of market channels difficult. This is especially for producers in relatively remote areas such as Hawaii who do not have easy access to the world market. These statements have been qualified to indicate that these results could happen, not that they necessarily would.
	Page 2, Paragraph 3	The DSEIS says Option 1 would be relatively easy to implement, but the IRFA says it would be difficult to monitor and administer.	Discussions of the impacts of the participation options have been expanded and contradictory statements in the DSEIS and the Regulatory Flexibility Analysis have been addressed.
	Page 2, Paragraph 4	The DSEIS states that a negative effect of Option 2 could be contentious, but no mention that preferred alternative (Option 5) may also be contentious. Potential for controversy and dissension should be examined in a balanced, objective and comprehensive manner. Who may receive windfall gains should be carefully considered.	Text explaining that restriction of allowable effort to those with historical experience in the swordfish fishery (Option 2) would represent the uncompensated removal of a previous right from vessels that historically targeted tuna will be added to the discussion of impacts. In trying to determine the fairest alternative the preferences of those most affected (permit holders) were of primary importance in selecting the preferred alternative. The method contained in the preferred alternative has been endorsed by the Hawaii Longline Association. This statement will be added to the SEIS.
	Page 3, Paragraph 1	One reason Option 2 was rejected is because it would exclude those who target tuna but participated in developing this measure. The fact that someone who has engaged in “rent-seeking” behavior is not rewarded does not justify rejecting the alternative.	Text explaining that restriction of allowable effort to those with historical experience in the swordfish fishery (Option 2) would represent the uncompensated removal of a previous privilege and economic option from vessels that historically targeted tuna will be added to the discussion of impacts. In trying to determine the fairest alternative the preferences of those most affected (permit holders) were of primary importance in selecting the preferred alternative. The method contained in the preferred alternative has been endorsed by the Hawaii Longline Association. This statement will be added to the SEIS.

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Source	Cite	Comment	Response
	Page 3, Paragraph 2	Administrative expediency should not justify rejection of Option 2. A time extension or an interim rule could allow a sound analysis of allocation alternatives. It is unclear why certificate transferability could not be added to Option 2.	Option 2, with our without transferable certificates, would represent the uncompensated removal of a previous privilege and important economic option from vessels that historically targeted tuna. Administrative efficiency was one consideration but the refinement of the Council’s preliminarily preferred option was also based partly on input from the interested involved parties. The method contained in the preferred alternative has been endorsed by the Hawaii Longline Association. This statement will be added to the SEIS.
	Page 4, Paragraph 3	No comprehensive analysis of consistency with National Standard 4. No estimate of the distributional differences among alternatives.	The SEIS does not require revision based on this comment as the discussion of National Standard 4 is not part of the DSEIS. However, National Standard 4 focuses on the allocation of fishing privileges based on the residency of potential participants (discrimination between residents of different states). Because the Hawaii-based longline fishery is open to residents of all states, the preferred alternative will not discriminate among them. Because the preferred alternative would allow equal access by all interested permit holders (including those residing in other states) to shallow-set certificates, it does not create distributional differences.
	Page 4, Paragraph 4	Recommend more explicit analysis of costs and benefits of annual allocation of certificates versus long-term allocation of shares.	The SEIS does not require revision based on this comment. Given the shortened time frame to implement these actions, long-term allocation options could not be analyzed or considered. However, as with any management measure, the preferred alternative’s approach to participation may be modified in future years and long-term allocation options may be considered at that time.

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Source	Cite	Comment	Response
	Page 4, Paragraph 5	No examination of environmental justice implications of the allocation alternatives.	In trying to determine the fairest alternative the preferences of those most affected (permit holders) were of primary importance in selecting the preferred alternative. Because the proposed regulatory amendment would allow equal access by all interested permit holders (including those residing in other states) to shallow-set certificates, it does not create distributional differences. This statement will be added to the SEIS. Furthermore, the preferred alternative does not dispossess any current permit holder. Those fishers who targeted swordfish prior to the closure in 2001 also received preferential compensation under the Hawaii economic assistance program.
	Page 5, Paragraph 1	Preferred participation option may or may not be the approach that maximizes net benefits. Insufficient information is disclosed to make that determination.	The SEIS does not require revision based on this comment. As discussed in section 10.1 of the DSEIS, the preferred alternative was selected because it was viewed as the most equitable. It is most likely to result in the use of all allowable effort by those most able to exercise that effort.
	Page 5, Paragraph 2	Economic and social impacts should be given as much attention as biological and physical impacts.	In trying to determine the fairest alternative the preferences of those most affected (permit holders) were of primary importance in selecting the proposed regulatory amendment. The method contained in the proposed regulatory amendment has been endorsed by the Hawaii Longline Association. This statement will be added to the SEIS.
Jeffrey W. Leppo (Stoel Rives LLP)	Page 3, A. NEPA Process	Support Acceleration of SEIS process. Appreciate consideration of transferred effects.	Comment acknowledged.
Sierra Weaver, Marydele Donnelly, The Ocean Conservancy	Page 1, I. Background and General Comments	Concerned about general tone of the DEIS and missing background information.	The SEIS does not require revision based on this comment. The comment on tone lacks sufficient specificity to respond to. The DSEIS provides over 300 pages of background and impact information and the SEIS which it supplements provides more than 400 pages of additional information and analyses.

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Source	Cite	Comment	Response
	Page 1	<p>The current action is being undertaken in response to the August 31, 2003 decision of Judge Kollar-Kotelly in <u>HLA v. NMFS</u>, and the basis for that decision was explicitly procedural.</p>	<p>The SEIS does not require revision based on this comment. The relationship between the <u>HLA v. NMFS</u> litigation and the proposed regulatory amendment is different and more complex than suggested. The litigation focused on section 7 consultation under the ESA. As discussed in the DSEIS, the Council and NMFS were engaged in activities relating to this proposed regulatory amendment before the August 31, 2003 decision in this case. The identification of new data, technologies, and information regarding modified fishing methods and gear that substantially reduce incidental sea turtle interactions, and the development of conservation projects, specifically prompted the Council and NMFS to consider their use.</p> <p>As discussed in section 7 of the DSEIS, the new technologies were the result of a two-year study collaboratively conducted in the Atlantic by NMFS and the longline fishery. As discussed in section 8.2 of the DSEIS, the conservation measures were collaboratively developed in mid-2003 under the auspices of the Council's Turtle Advisory Committee.</p> <p>Moreover, the current NEPA process is entirely independent of Judge Kollar-Kotelly's decision, which did not address the existing FEIS issued by NMFS, or the NEPA process. In any event, the DSEIS explicitly acknowledges the relevance of Judge Kollar-Kotelly's decision invalidating the then-existing biological opinion and the related fishery regulations. It is not necessary or appropriate for the DSEIS to attempt to characterize the basis for that decision. In all likelihood, the parties to that litigation are not in agreement regarding the characterization of the basis for the court's ruling.</p>

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Source	Cite	Comment	Response
	Page 2, I. Background and General Comments (continued)	Object to the process surrounding the Turtle Conservation Special Advisory Committee formation and deliberation. It excluded important stakeholders. Notices of meetings, agenda and public comment periods were inadequate. The Ocean Conservancy had insufficient notice of the first meeting and agenda changes. Unaware of notices in Federal Register or local media. That caused The Ocean Conservancy to miss first meeting where 4 of 7 alternatives were selected with only 1 conservation organization in attendance.	The SEIS does not require revision based on this comment. The tripartite membership on the Turtle Conservation Special Advisory Committee by scientists, managers, industry members, and non-governmental conservation organizations was recommended by NMFS. Both the head of The Ocean Conservancy and its Pacific Fish Conservation Manager were contacted and invited to attend to the Committee’s first and subsequent meetings. Two other conservation organizations were also invited to participate, one of which did so. Attendance at the meetings was open to the public with no one excluded from attending or giving comments as members of the public. Notices for the Committee’s first and last meetings were advertised in the Honolulu Advertiser (the second meeting was a follow-up to the first and was held in Washington D.C., it was not advertised). The Ocean Conservancy was invited to participate in this process and did so (including calling into, and commenting at, the first meeting but declining to be identified as an official participant in that meeting). In addition, their suggested alternative was included in the analyses and in the report to the Council. Every attempt was made to keep The Ocean Conservancy informed and to accommodate their schedules. Call- in numbers were provided for those unable to attend a meeting in person, and informational documents were made available via email and on the Council’s web site. No public comment periods were required or provided for the Committee’s report presented at the Council’s 121 <sup>st</sup> meeting, although public comments were accepted at that meeting. Comment periods have also been provided for both the DSEIS and the proposed rule for this action.

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		<p>The agency is under no legal obligation to take the drastic action in the Proposed Rule to undo regulations intended to prevent the longline fishery from jeopardizing the continued existence of threatened and endangered sea turtles.</p>	<p>The SEIS does not require revision based on this comment. The comment is acknowledged, however not to take action would be inconsistent with the objective of the FMP to achieve OY and to demonstrate the effectiveness of the Atlantic gear modifications to foreign fishing nations in the Pacific, thus enhancing the possibility of reducing sea turtle by catch throughout the Pacific.</p>
	<p>Page 2, II NEPA and Substantive Comments, First Paragraph</p>	<p>The DEIS fails to provide a full and fair discussion of significant impacts and inform of alternatives that would avoid or minimize adverse impacts or enhance the quality of the human environment.</p>	<p>The SEIS does not require revision based on this comment. The DSEIS is supplemental to the 2001 FEIS which provides additional background and analyses useful in further understanding the alternatives and impacts of the present proposal. The DSEIS is focused on changes to the management regime for the shallow-set component of the Hawaii-based longline fishery and consequent impacts to listed species of sea turtles. The 2004 Biological Opinion prepared by NMFS' Office of Protected Resources for this action concluded that it is not likely to jeopardize the continued existence of any turtle species. However, it would clearly lessen social and economic impacts of the prior management regime thereby improving the quality of the human environment while minimizing adverse impacts.</p>

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	Page 3, A. Purpose and Need	Statement of purpose and need is artificially circumscribed and has inappropriately limited the range of alternatives.	<p>The SEIS does not require revision based on this comment as it seems to confuse the purpose of section 7 consultation with the purpose of the underlying proposed action. The purpose of a section 7 ESA consultation is to determine whether a proposed action will jeopardize, or not jeopardize, listed ESA species. However, section 7 consultation does not define the nature of, purpose for or need of the management action. In this instance, it would not be accurate to state that the purpose of the proposed amendment – the management, or proposed, action – is to correct a procedural defect in the section 7 ESA consultation that occurred over a different proposed action. Moreover, while the NMFS and the Council did, through the FEIS and the DSEIS, investigate a wide range of alternative actions, the management action’s purpose is more focused than to merely “reevaluate the environmental baseline” and to “consider a wide range of alternatives.” As stated in the DSEIS (section 5.2), the objective of the management action is to achieve optimum yield and promote domestic marketing of MUS on a long-term basis from the region’s pelagic fishery, without jeopardizing the continued existence of any threatened or endangered species. The preferred alternative also serves to model the implementation of Atlantic gear measures for foreign fishing fleets in the Pacific. This objective is consistent with the requirements of the MSA and the FMP into to which the proposed regulatory amendment relates. This objective, and the purpose and need for this action are also consistent with the ESA as demonstrated by the 2004 Biological Opinion prepared by NMFS’ Office of Protected Resources for this action’s conclusion that it is not likely to jeopardize the continued existence of any turtle species.</p>



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	Page 3, B. Alternatives Analysis	A “reasonable range of alternatives” was not “rigorously explored.”	The SEIS does not require revision based on this comment. The process that led the Council and NMFS to its alternatives analysis is detailed in section 8 of the DSEIS. As explained there, the FEIS, which this DSEIS supplements, analyzed a range of ten alternative actions. In the Council’s proposed emergency rule package of October 9, 2003, eighteen additional alternatives were analyzed, plus a no action alternative. These alternatives consisted of a series of variations on five themes – (1) tuna fishery only, (2) tuna fishery (with time and area closure) and with various levels of a swordfish fishery, (3) tuna fishery (with time and area closures, except for EEZ water around Palmyra) and with various levels of a swordfish fishery, (4) tuna fishery (without time and area closures) and with various levels of a swordfish fishery and (5) no action. Following information scoping and information consultation with NMFS’ Office of Protected Resources, these 19 alternatives were narrowed to a set of 7 new alternatives analyzed in detail in the DSEIS. Three of these alternatives involve a tuna fishery with time and area closures and with varying levels of a swordfish fishery, one alternative involves a tuna fishery only with time and area closures, two alternatives involve a tuna fishery without time and area closures with varying levels of a swordfish fishery and one alternative is the no action option. Section 8 of the DSEIS also explains which alternatives from the FEIS were carried forward and which were not, and why. In addition, the U.S. EPA, which has the responsibility to review all EIS documents for quality and completeness, found the DSEIS to adequately address the proposed regulatory amendment and a reasonable set of alternatives.
		Alternatives analysis is wholly inadequate.	The SEIS does not require revision based on this comment. The most advanced modeling techniques available were used in the DSEIS to rigorously explore the impacts to turtle populations of the current alternatives. The results of those analyses are clearly presented in the DSEIS as a basis for choice among the alternatives. The expected numbers of turtle interactions and mortalities by species and alternative are presented in Tables 44 through 53 (pages 157-165) of the DSEIS.

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Source	Cite	Comment	Response
	Page 4, 1. More Protective Measures	An alternative more protective of turtle species should be considered.	<p>The SEIS does not require revision based on this comment. The alternatives analyzed in the DSEIS and the FEIS address a wide range of actions that are both more and less restrictive of the fishery for purposes of sea turtle conservation. Alternatives 1-3 and 6 each include more restrictive time and area closures. In fact Alternative 6 provides for both time and area closures in the tuna fishery and a complete closure of the swordfish fishery. Moreover, as addressed DSEIS (section 8), Alternative 9 of the FEIS analyzed, in detail, a regional closure of the entire Hawaii-based longline fishery. However, as also explained in section 8, this alternative was eliminated from further consideration beyond its detailed analysis in the FEIS because it conflicts with the objectives of the MSA and the FMP, and because the best available information does not demonstrate a need to close the entire fishery to avoid jeopardizing listed species. The 2004 Biological Opinion prepared by NMFS' Office of Protected Resources for this action concluded that it is not likely to jeopardize the continued existence of any turtle species. The MSA and the FMP for the Western Pacific Region provides for actions that ensure maximum yield from and that promote domestic marketing of managed species on a long-term basis. These objectives are the starting point for the proposed action. Adoption of a fishery management regime more restrictive than otherwise would meet these objectives is only authorized to the extent compelled by other laws (i.e., the ESA). Because the proposed action has been found not to jeopardize listed species, there is no requirement to close the swordfish fishery or to maintain additional restrictions that further conflict with the objectives of the MSA and the FMP. Moreover, as addressed in the FEIS and the DSEIS closure of the swordfish fishery could reasonably be expected to have adverse implications for sea turtle populations from the resulting transferred effects.</p>

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Source	Cite	Comment	Response
	Page 4, 2. Use of Circle Hooks in Tuna Fishery	A demonstration tuna fishery using the hook and bait combinations tested in the Atlantic should be implemented rather than the model swordfish fishery.	The SEIS does not require revision based on this comment. There is insufficient information available at this time on the impacts of circle hooks in a deep-set tuna longline fishery such as that around Hawaii to move forward with this measure. Although some work has been done on Atlantic tuna sets, these are shallow-sets and those results are not directly transferrable to the Hawaii deep-set tuna fishery. The conduct of a Pacific demonstration tuna fishery using new hook and bait combinations is being considered by NMFS and research into such modifications is a discretionary recommendation of the 2004 Biological Opinion. However, at this time there is no data on the effectiveness of various alternative hook and bait combinations in the Pacific deep-set fishery and, accordingly, it is unknown whether and to what degree such methods would decrease or increase sea turtle interactions, or to what degree such methods would be effective methods of harvesting target fish. However, Alternative 6 in the DSEIS did analyze not reopening the swordfish fishery. As previously explained, this level of restriction conflicts with the objectives of the MSA and FMP. Because such restrictions were not found to be necessary to avoid jeopardizing listed species, a closure of the swordfish fishery has not been found to be appropriate or necessary.
	Page 5, 3. Time and Area Closures	Time and area closures were implemented to avoid the jeopardy conclusion of the March 2001 BiOp. The same sort of analysis that led to the closure must be used to analyze consequences of potentially modifying or rescinding it.	The SEIS does not require revision based on this comment. Of the seven alternatives considered in the DSEIS, four (Alternatives 1-3 and 6) included time and area closures for the tuna fishery in the interest of sea turtle conservation. Ultimately, these types of restrictions were not demonstrated to be necessary to ensure that the action undertaken does not jeopardize listed species. Accordingly, because such restrictions conflict with the objectives of the MSA and the FMP, the proposed regulatory amendment does not impose time and area closures.

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Source	Cite	Comment	Response
		<p>Recommend additional protections for the tuna fleet including at least 20% observer coverage in that area in April and May and a trigger for closing the area if take levels are exceeded.</p>	<p>The SEIS does not require revision based on this comment. Maintenance of 20% observer coverage in the tuna fleet throughout the year and 100% observer coverage of the swordfish fleet is required by the the 2004 Biological Opinion prepared by NMFS' Office of Protected Resources for this action. That Biological Opinion (released since the distribution of the DSEIS) concluded that the proposed action is not likely to jeopardize the continued existence of any sea turtle species. It also established separate take levels for the swordfish and tuna sectors of the fishery. Should the tuna sector exceed its authorized take levels, NMFS' Office of Protected Resources would determine the appropriate course of action.</p>
	<p>Page 6, 4. Sea Turtle Measures for General Longline Permitted Vessels</p>	<p>The proposed rule [and proposed regulatory amendment] would remove all controls from General Longline permits and the Am. Samoa longline fleet. This was not discussed in meetings of the Sea Turtle Special Advisory Committee. It reverses course from the 2001 BiOp. All fleets should have 20% observer coverage. NMFS should take immediate steps to export guidelines and gear to foreign fleets.</p>	<p>The SEIS does not require revision based on this comment. The removal of the existing relevant requirements for general longline permit holders will occur as a result of a court order vacating the June 12, 2002 regulations. The Council is expected to consider their reimplementation at their March 2004 meeting. The 2004 Biological Opinion prepared by NMFS' Office of Protected Resources for this action directs NMFS to establish an observer program, where feasible, aboard longline vessels fishing under a Pelagics FMP general permit or a limited access permit for the American Samoa-based longline fishery, should such a permit program be established. In addition, the 2004 Biological Opinion includes several recommendations aimed at increasing NMFS' exportation of new technologies and information to reduce fishery impacts to sea turtle populations worldwide.</p>

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Source	Cite	Comment	Response
	Page 6, 5. Options for Closing Fisheries.	The one week advance notice of closure of the fishery upon reaching the hard cap is unnecessary and very harmful to the sea turtles. The “yellow-light concept” and observer reports should provide ample warning. Similar mechanisms should also be put into place if rate of capture or mortality per set is much higher than estimated, and that should trigger reinitiation of consultation.	The SEIS does not require revision based on this comment. The proposed regulatory amendment includes a provision for the closures of the shallow-set fishery if and when the take limit for this segment of the fishery is reached. The purpose of this is to address the uncertainty that exists in implementing hook and bait modifications that have proven very effective in the Atlantic longline fishery but are, as yet, untested in the Pacific. Should interaction rates be unexpectedly high, NMFS’ Office of Protected Resources would determine the appropriate response. The DSEIS does not address how the closure would be implemented, if necessary, because this is at a level of administrative detail and discretion that is beyond the reasonable scope of NEPA review, however given the anticipated low rates of sea turtle interactions, it is unlikely that there will be an additional interaction during this week.
		Recommend a similar analysis for closure of the tuna fishery. Support use of circle hooks and squid bait in the tuna fishery. Both measures should be considered in the alternatives analysis.	The SEIS does not require revision based on this comment. The proposed regulatory amendment does not include a hard limit for the deep-set fishery because there is a higher level of confidence in the reliability of the projected take levels. The tuna sector of the fishery has its own incidental take statement and if those limits are exceeded, NMFS’ office Of Protected Resources would determine the appropriate course of action. Experimentation with alternative gear, bait and tactics in the tuna sector of the fishery are could be undertaken within the existing management framework and are recommended under the 2004 Biological Opinion prepared by NMFS’ Office of Protected Resources for this action.

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	Page 7, C. Indirect and Cumulative Effects	Because of the precipitous decline of some leatherback populations, it is especially important to consider indirect and cumulative effects and avoid speculative analysis. Controls on general longline permitted vessels and those operating out of American Samoa should be included in the Proposed Rule and analyzed in the DSEIS.	The SEIS does not require revision based on this comment. Potential impacts of the American Samoa-based longline fleet are discussed in section 10.5 of the DSEIS. Implementation of the proposed regulatory amendment will be done through a final rule, which will incorporate measures specified in the 2004 Biological Opinion prepared by NMFS' Office of Protected Resources for this action including a requirement to establish an observer program in the American Samoa fishery. This will provide the data necessary for a more accurate assessment of the cumulative impacts of fisheries conducted under the FMP. Although the 2004 Biological Opinion concluded that this action is not likely to jeopardize the continued existence of any turtle species, the Council will consider further measures for the American Samoa-based longline fishery at its March, 2004 meeting (see new section 14.0 of the SEIS).
		It is important to avoid speculative analysis concerning transferred affects.	It is agreed that it is important to avoid speculative analysis, but the fact that our understanding of foreign fleet operations is incomplete does not invalidate the conclusions. We know, for example, that some Hawaii-based longliners relocated to California when shallow-setting was banned in Hawaii. We know that some swordfish exporters and importers turned to other sources when the supply from Hawaii stopped. We know that some fleets in other parts of the world have a much higher interaction rate with turtles than the Hawaii fleet did. The "unpublished report" on market transferred effects referred to was produced under a grant from the Pelagics Fisheries Research Program at the University of Hawaii. A powerpoint presentation of that study is available on the PFRP web site at <a href="http://www.soest.hawaii.edu/PFRP/dec03mtg/dec03mtg.html">http://www.soest.hawaii.edu/PFRP/dec03mtg/dec03mtg.html</a> and copies of the report are available through that organization. A second draft report that contains updated domestic and import swordfish data provided by NMFS has been added section 10.7 of the SEIS.

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	Page 8, III. Other Environmental Concerns, A. Continued Work Needed in Atlantic	The Atlantic results don't "minimize" turtle bycatch and more work needs to be done. The limit of 2,120 sets per year is too much. We support additional work in the Atlantic and Azores with larger hooks and urge NMFS to promote the use of promising gear by foreign fleets.	The SEIS does not require revision based on this comment. It may be that further reductions in turtle takes and mortalities can be achieved with further experimentation on gear and fishing tactics and we agree that more work needs to be done. However, according to the 2004 Biological Opinion prepared by NMFS' Office of Protected Resources for this action, the proposed number of sets are not likely to jeopardize the continued existence of any turtle species. Adaptation of the Atlantic results to the Pacific is necessary because of the different oceanographic conditions and fishing practices, and will be essential in transferring new methods to foreign fleets in the Pacific. It is likely that work in both the Atlantic and Pacific will contribute to reductions of turtle takes. The 2004 Biological Opinion includes several conservation recommendations aimed at increasing the exportation of knowledge of techniques and gear to reduce turtle interactions and mortalities.
	Page 8, B. Bycatch of Other Non-Target Species must be Dealt With.	NMFS should carefully review the bycatch of other non-target species, such as seabirds and sharks. Seabird interactions were seasonal with peaks in April-June.	The SEIS does not require revision based on this comment. The proposed regulatory amendment includes the necessary seabird mitigation measure to maintain compliance with the latest Biological Opinion issued by the US Fish and Wildlife Service on this fishery. However a new section 7 consultation on this action will be conducted if determined necessary by that agency. NMFS and the Council are currently formulating alternatives to implement new seabird deterrent methods (including underwater setting chutes and side-setting) that essentially eliminate seabird interactions. That issue will be addressed in a separate NEPA document now under preparation (see new section 14.0 of the DSEIS). It should be noted that the April-June peak observed in seabird interactions coincided with the bulk of the southern area closure which had the indirect effect of pushing longline effort closer to the major seabird breeding colonies in the NWHI.

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		<p>The DSEIS notes extremely high levels of interactions of shallow sets with pelagic sharks. Reopening the shallow set fishery will increase shark bycatch. More information is needed on post-hooking mortality. These interactions could have ecosystem wide impacts.</p>	<p>The SEIS does not require revision based on this comment. With the ban on shark finning, few sharks are retained and most are released alive. While better post-release mortality data will be valuable, as noted in the DSEIS, current modeling conservatively indicates that the stocks of blue sharks (the most frequently caught shark) are being fished at about half of MSY.</p>
	<p>Page 9, C. Post-Hooking Mortality Considerations</p>	<p>Discussion of the latest NMFS post-hooking estimates should be included in the FSEIS.</p>	<p>The SEIS does not require revision based on this comment. The 2004 Biological Opinion prepared by NMFS' Office of Protected Resources will be appended to the DEIS and section 10.4.2 will be expanded to include an explanation of NMFS' most current post-hooking mortality estimates.</p>
	<p>Page 9, D. Conservation Efforts</p>	<p>Concerned that confusion exists about "offsets." The conservation projects cannot serve to mitigate the fishery impacts or justify larger incidental take levels.</p>	<p>The SEIS does not require revision based on this comment. Although the Council regards the conservation measures as potentially offsetting fishery impacts, a contrary position is taken in the 2004 Biological Opinion prepared by NMFS' Office of Protected Resources for this action. Nevertheless, that Opinion concluded that the regulatory component of the proposed action is not likely to jeopardize the continued existence of sea turtles.</p>
<p>Linda Paul, Hawaii Audubon Society</p>	<p>Page 1, Paragraphs 1 and 2</p>	<p>The alternatives are insufficient and do not comply with NEPA. Only one alternative retains existing time and area closures.</p>	<p>The SEIS does not require revision based on this comment. Of the seven alternatives considered in the DSEIS, four (Alternatives 1-3 and 6) include a variety of time and area closures.</p>



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	Page 1, Paragraph 3	There are no limits on the length of a set.	The SEIS does not require revision based on this comment. There are physical constraints to how many hooks can be set in a day by a shallow-setting longline vessel. However the effort limits, incidental take statement, hard limits on interactions with leatherback and loggerhead turtles, and the 100% observer coverage mandated by the 2004 Biological Opinion prepared by NMFS' Office of Protected Resources for this action combine to ensure that fishery managers will be fully informed and able to take appropriate action to further limit effort and avoid jeopardizing sea turtles even if fishing effort per set does increase.
	Page 1, Paragraph 4	No alternatives mention the need for 100% observer coverage.	The SEIS does not require revision based on this comment. As discussed in section 8.1 of the DSEIS, The Sea Turtle Conservation Special Advisory Committee recommended that NMFS consider providing 100% observer coverage for the shallow-set fishery. However, the proposed regulatory amendment ultimately leaves that decision up to NMFS. One of the non-discretionary terms and conditions of the the 2004 Biological Opinion prepared by NMFS' Office of Protected Resources for this action specifies that no vessel using shallow-set gear in the Hawaii-based fisheries shall be permitted to fish without observer coverage.
	Page 1, Paragraph 5	The one week lag between the time the hard cap is reached and stop fishing is an unacceptable risk for the leatherback.	The SEIS does not require revision based on this comment. The proposed regulatory amendment includes a provision for the closures of the shallow-set fishery if and when the take limit for this segment of the fishery is reached. The purpose of this is to address the uncertainty that exists in implementing hook and bait modifications that have proven very effective in the Atlantic longline fishery but are, as yet, untested in the Pacific. Should interaction rates be unexpectedly high, NMFS' Office of Protected Resources would determine the appropriate response. The DSEIS does not address how the closure would be implemented, if necessary, because this is at a level of administrative detail and discretion that is beyond the reasonable scope of NEPA review, however given the historical and anticipated low rates of sea turtle interactions, it is unlikely that there will be a significant number of interactions during this week.

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	Page 2, Paragraph 1	There are no seabird mitigation alternatives. No prohibition of lightsticks which cause chick mortality due to ingestion.	The SEIS does not require revision based on this comment. NMFS and the Council are currently formulating alternatives to implement new seabird deterrent methods (including underwater setting chutes and side-setting) that essentially eliminate seabird interactions. That issue will be addressed in a separate NEPA document now under preparation (see new section 14.0 of the DSEIS). However, discarding of light sticks is prohibited under U.S. law and international convention.
	Page 2, Paragraphs 2 and 3	The loss of even one leatherback could push this species to extinction.	The SEIS does not require revision based on this comment. All turtle population models applied to assess the impacts of the Hawaii-based longline fishery on the population trajectories of the four species affected by the fishery arrive at the same conclusion, which is that this fishery has an insignificant effect on those trajectories. The 2004 Biological Opinion prepared by NMFS' Office of Protected Resources for this action concluded that it is not likely to jeopardize the continued existence of any turtle species.
Craig J. Severance	Paragraph 3	Major concern is with preferred allocation strategy. Do we know what those who left the Hawaii fishery favor? They have historical participation.	The SEIS does not require revision based on this comment. Interested permit holders now based in California or elsewhere will receive shares equal to those received by Hawaii-based interested permit holders.
	Paragraph 4	If amendment is only partially approved, it might be worth mining logbook data to establish preferential access to the quota on swords.	Comment acknowledged.

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Shihoko Uemura	Paragraph 1	Human actions disturb living creatures and habitats.	The SEIS does not require revision based on this comment. The proposed regulatory amendment includes a model swordfish fishery employing methods shown in the Atlantic (circle hooks and mackerel bait) to dramatically reduce turtle interactions and at the same time, increase swordfish catches. If these techniques prove as effective in the Pacific as in the Atlantic, foreign fleets may adopt these methods to increase their swordfish landings while also reducing their turtle interaction rates. The long-term cumulative effects of exporting these techniques may far outweigh any short-term gains resulting from keeping the Hawaii-based swordfish fishery closed.
Mihoko Uemura	Paragraphs 1-3	Respect for all creatures will bring a more promising future to our children.	The SEIS does not require revision based on this comment. The proposed regulatory amendment includes a model swordfish fishery employing methods shown in the Atlantic (circle hooks and mackerel bait) to dramatically reduce turtle interactions and at the same time, increase swordfish catches. If these techniques prove as effective in the Pacific as in the Atlantic, foreign fleets may adopt these methods to increase their swordfish landings while also reducing their turtle interaction rates. The long-term cumulative effects of exporting these techniques may far outweigh any short-term gains resulting from simply closing areas to Hawaii-based vessels.
The following comments were received at the February 18, 2004 Public Hearing			
Sean Martin, Hawaii Longline Association	Oral Comments	HLA believes the proposed amendment uses the best available scientific and commercial data to identify a fishery action that will avoid jeopardizing listed turtles.	Comment acknowledged.

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		<p>Capture of turtles by longlines is a rare event and the numbers are small. If a turtle is hooked externally or entangled it usually does not die. Satellite tagging data suggests that they live for at least several months after release. Recent reviews of mortality estimates indicate that previous estimates are not based on best available scientific and commercial data and overestimate impacts of the Hawaii longline fishery on listed turtle species.</p>	<p>In 2001, NMFS established a policy and criteria for estimating survival and mortalities following interactions with longline gear. In 2004 (since publication of the DSEIS), the criteria were reviewed and modified on the basis of new information. Six categories of interaction and three categories of release were defined to give a matrix of post-release mortality estimates for both leatherback and hardshell turtles. These percentages currently are used in estimating post-release mortalities, and were used in the 2004 Biological Opinion prepared by NMFS' Office of Protected Resources for this action. Text on these new criteria will be added to section 10.4.2.</p>
		<p>The proposed amendment reflects dramatic progress toward a collaborative, science-based, integrated and lawful regulatory regime for the fishery. HLA endorses the action.</p>	<p>Comment acknowledged.</p>

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		Continued efforts to develop and employ the best scientific methodologies and data must be vigorously pursued by the Council and NMFS. The challenge of exporting sea turtle-safe fishing gear and methods to the foreign fisheries, which can cause tens if not hundreds of times greater impacts on sea turtles than the Hawaii-based fishery, is a work in progress.	The SEIS does not require revision based on this comment. The 2004 Biological Opinion prepared by NMFS' Office of Protected Resources for this action includes several recommendations aimed at increasing the exportation of knowledge of techniques and gear to reduce turtle interactions and mortalities.
		The swordfish component of the fishery is severely limited to 50% of its historic levels and the take limitations imposed are stricter than the fishery feels is warranted by the best available science.	The SEIS does not require revision based on this comment. The effort levels expressed in the alternatives analyzed in the DSEIS were developed by the Council and its Sea Turtle Conservation Special Advisory Committee, of which HLA was a part. There were compromises made by all parties, with the proposed regulatory amendment believed to reflect a level of effort appropriate to a model swordfish fishery. Authorized take levels were established in the 2004 Biological Opinion prepared by NMFS' Office of Protected Resources for this action which uses NMFS' updated (2004) estimates of post-capture mortality and information on expected capture rates from Atlantic experiments.
		HLA supports the conservation measures and believes protection of habitat will provide substantial benefits for these species.	Comment acknowledged.

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		<p>ESA consultation process continues to be a concern. HLA's applicant status has not been fully recognized, but hopes that over time NMFS will recognize that it is in its interest to work closely with the regulated parties that possess the expertise and ability to devise workable environmental solutions to complex management issues.</p>	<p>Comment acknowledged although the comment is not particularly pertinent to the NEPA analysis or process.</p>
Lisa Hanf, EPA	Page 1, Paragraph 2	<p>The EPA supports the objectives of the amendment and has rated the document LO (Lack of Objections).</p>	<p>Comment acknowledged.</p>
	Page 2, Recommendation	<p>Should include a brief description of future management issues that will be addressed soon.</p>	<p>A new section 14.0 will be added to the DSEIS which will include a description of future management measures and how they are being addressed.</p>
	Page 3, Recommendation	<p>The FSEIS should discuss the status of the section 7 consultation or include a copy of the BiOp.</p>	<p>The 2004 Biological Opinion prepared by NMFS' Office of Protected Resources for this action is now available and will be discussed in a new section 14.0 to be added to the SEIS and the entire Biological Opinion will be added as an Appendix.</p>