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**DRAFT**

**Regulatory Amendment under the Fishery Ecosystem Plan  
for the Pelagic Fisheries of the Western Pacific Region**

**Crew Training Requirement for the  
Hawaii and American Samoa Longline Fisheries**

December 9, 2024

Prepared by:

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**Regulatory Identification Number (RIN) XXXX-XXXX**

**Responsible Federal Agency:** Pacific Islands Regional Office (PIRO)  
National Marine Fisheries Service (NMFS)  
National Oceanic & Atmospheric Administration (NOAA)

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**Abstract**

The Council at its 201st meeting will review the preliminary draft regulatory amendment and will consider taking initial action for implementing crew training for the longline fisheries operating under the Pelagic FEP. Based on the Council’s recommendations in response to its review of the options paper at the 200th meeting in September 2024, this document presents a draft set of alternatives for implementing a crew training requirement consistent with the BiOp RPM T&C, and considering updates to the existing owner/operator protected species workshop requirement to allow overlap with the crew training requirement, if appropriate. As part of the initial action, the Council will also consider refining the regulatory specifications associated with the action. These decision points pertain to the frequency and flexibilities of the certification requirements (see summary table on next page).

**Alternative 1: Revise the Longline Fishery Protected Species Workshop (PSW)**

**Requirement to Implement Crew Training** - Amend regulations to revise the PSW requirement for vessels registered for use under any longline permit to:

**Sub-Alternative 1A: Implement crew training with on-deck requirement as specified in the T&C** - NMFS to provide crew training and require a minimum of one trained person on deck who directs and oversees activities of the vessel when retrieving fishing gear

**Sub-Alternative 1B: Implement crew training with an on-board certificate requirement for complying with the T&C** - Require one or more crew to maintain a valid crew training certificate on board the vessel while engaged in fishing

**Decision Points for Defining Regulatory Specifications (Applies to Sub-Alternatives 1A and 1B):**

1. Frequency of crew training certification
2. Frequency of owner/operator certification requirement
3. Flexibilities in certification options between crew and owner/operator

**Alternative 2: No Action/Status Quo**

**Summary of the Draft Alternatives:**

<b>Alternative 1: Revise the Longline Fishery Protected Species Workshop Requirement to Implement Crew Training</b>	<b>Alternative 2: No Action/Status Quo</b>
<p>Amend regulations to revise the PSW requirement for vessels registered for use under any longline permit to:</p> <p><b>Sub-Alternative 1A:</b> Implement crew training with on-deck requirement as specified in the T&amp;C</p> <p><b>Sub-Alternative 1B:</b> Implement crew training with an on-board certificate requirement for complying with the T&amp;C</p> <p><i>Common features under Alternative 1</i></p> <ul style="list-style-type: none"> <li>● Crew training to focus on protected species handling and release</li> <li>● NMFS would continue to offer crew training program at no cost to participating vessels or crew members</li> <li>● <b>Additional regulatory specifications</b> to be refined through Council’s initial action</li> </ul>	<p>No changes to regulations to implement a crew training requirement or to update the owner/operator PSW requirement</p> <p>Alternative</p> <p><i>Not consistent with the BiOp T&amp;C</i></p>

**Comparison of Regulatory Implementation Approaches under Sub-Alternatives 1A and 1B:**

	<b>Sub-Alternative 1A:</b> Implement crew training with on-deck requirement as specified in the T&C	<b>Sub-Alternative 1B:</b> Implement crew training with an on-board certificate requirement for complying with the T&C
<i>Common features under Alternative 1</i>	<ul style="list-style-type: none"> <li>● Amend regulations to revise the PSW requirement for vessels registered for use under any longline permit</li> <li>● Crew training to focus on protected species handling and release</li> <li>● NMFS would continue to offer crew training program at no cost to participating vessels or crew members</li> </ul>	
<i>Approach for implementing T&amp;C provision re: “NMFS SFD shall require species handling training for crew members”</i>	No specific regulatory requirement, as the T&C obligation is for NMFS to provide the crew training. NMFS may fulfill this by providing records of the crew training schedules and trained crew.	Regulations would specify that crew attend and be certified for completion of protected species handling training

<p><i>Approach for implementing T&amp;C provision re: “At a minimum have one trained person on deck who directs and oversees activities of the vessel when retrieving fishing gear”</i></p>	<p>Require in regulations that at least one trained person on deck who directs and oversees activities of the vessel when retrieving fishing gear (which may be the operator or a trained crew)</p>	<p>Certification and compliance monitoring requirements for crew would follow a similar approach as the existing owner/operator PSW requirement, specifically:</p> <ul style="list-style-type: none"> <li>● Certificate to be issued by NMFS upon completion of workshop</li> <li>● Require certification for one or more* crew members to be on board vessel</li> </ul> <p>*Council decision point (# of crew certificates)</p>
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**Summary of Council Decision Points under Alternative 1:**

<p><b>Council Decision Points for Defining Regulatory Specifications Associated with the Crew Training Requirement (applies to both Sub-Alternatives 1A and 1B)</b></p>		
<p><b>1. Frequency of CREW training certification</b></p>	<p>a. Require certification <u>annually</u>; <u>OR</u></p>	<p>b. Require certification <u>every 2-3 years</u> (select within range)</p>
<p><b>2. Frequency of OWNER/OPERATOR PSW certification</b></p>	<p>a. Maintain <u>annual requirement</u>; <u>OR</u></p>	<p>b. <u>Revise to 2-3 years</u> (select within range) if crew training duration is also 2-3 years</p>
<p><b>3. Flexibilities in certification options between CREW and OWNER/OPERATOR</b></p>	<p>a. Allow CREW certification to be satisfied by owner/operator workshop; <u>AND/OR</u></p>	<p>b. Allow OWNER/OPERATOR to substitute full PSW certification with crew certification at certain intervals</p>

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# 1 INTRODUCTION

The Western Pacific Fishery Management Council (Council) and the National Marine Fisheries Service (NMFS) manage fishing for pelagic management unit species (PMUS) in the Exclusive Economic Zone (EEZ or federal waters, generally 3-200 nautical miles or nm from shore) around American Samoa, Guam, the Commonwealth of the Northern Mariana Islands (CNMI) and Hawaii, and on the high seas through the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific Region (Pelagic FEP) as authorized by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. § 1801 et seq.).

Owners and operators of all longline vessels operating under the Hawaii longline limited entry permit, American Samoa longline limited entry permit, and the Western Pacific general longline permit have been required to annually attend the Protected Species Workshop (PSW) conducted by NMFS since the early 2000s. The PSW requirement for owners and operators were implemented as an approach to mitigate effects of protected species interactions with fishing gear. The owners and operators receive training on gear requirements, protected species identification, and handling and release techniques. Mitigation measures for seabirds and sea turtles implemented in the early- to mid-2000s were successful in reducing interaction rates with these species, and there is now greater focus on reducing post-release mortality of protected species that are released alive.

Proper handling and release techniques can have significant impacts on post-release survival rates (Zollett & Swimmer, 2019). In the longline fisheries operating under the Pelagic FEP, vessel operators may not be on deck where hauling operations are taking place to provide guidance to crew members on handling and release techniques taught through the existing owner/operator PSW. The Council has recognized this training gap with crew members, and has made recommendations to NMFS over the years to develop and implement a crew training program to improve handling of seabirds, sharks, and marine mammals.<sup>1</sup> Additionally, the False Killer Whale Take Reduction Team (FKWTRT), convened pursuant to the Marine Mammal Protection Act (MMPA), has also made recommendations to NMFS regarding the implementation of a crew training program focusing on marine mammal handling and release.

Recent 2023-2024 Biological Opinions (BiOps) for the Hawaii deep-set longline (DSL), Hawaii shallow-set longline (SSL), and the American Samoa longline (ASLL) fisheries included a Reasonable and Prudent Measure (RPM) Terms and Conditions (T&C) specifying NMFS Pacific Islands Regional Office (PIRO) Sustainable Fisheries Division (SFD) to require protected species handling training for crew members and to require a minimum of one trained person on deck who directs and oversees activities of the vessel when retrieving fishing gear within two years of the BiOp's publication (by May 2025).

PIRO SFD, in coordination with the Hawaii Longline Association (HLA), PIRO Protected

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<sup>1</sup> At the 174th meeting in October 2018, Council recommended NMFS expand training and outreach to longline vessel crew members in their native languages as one of the strategies for further reducing seabird bycatch. At the 176th meeting in March 2019, the Council recommended NMFS develop and implement a captain and crew training program to reduce the risk of false killer whale mortality and serious injury while also promoting crew safety. At the 185th meeting in March 2021, the Council recommended NMFS to provide support to industry efforts for captain and crew training on proper shark handling and gear removal.

Resources Division (PRD), and the Council developed a pilot crew training program to implement the BiOp RPM requirement. The first pilot program training session was conducted in April 2024 and is expected to run through May 2025, with the target of training all current crew members in the Hawaii and American Samoa longline fisheries within that timeframe.

The Council is now considering a regulatory amendment under the Pelagic FEP to implement the crew training program as a regulatory requirement in the Hawaii and American Samoa longline fisheries. The Council will consider taking initial action at the 201st meeting in December 2024, and is scheduled to take final action at the June 2025 meeting.

### **1.1 Draft Purpose and Need of the Council Action**

The purpose of this regulatory amendment is to reduce post-release mortality of protected species by addressing a protected species handling and release training gap with crew members, consistent with the recent BiOp RPM T&C, while also allowing flexibility and enhanced operational efficiency for fishermen. The existing PSW training requirement that has been in place since 2001 only applies to longline vessel owners and operators, who are typically not on deck during hauling operations to assist with protected species release in a timely manner.

The action is needed to meet the requirements of T&C 1.b. of the 2023 BiOps, which specifies that, within two years, NMFS SFD shall require species handling training for crew members and at a minimum have one trained person on deck who directs and oversees activities of the vessel when retrieving fishing gear. Complying with this T&C is needed to ensure continued permitting of incidental take of listed species under ESA Section 10 in both the Hawaii deep-set and American Samoa longline fisheries.

### **1.2 BiOp Reasonable and Prudent Measure Terms and Conditions**

The 2023 Hawaii DSLL and ASLL BiOps (NMFS 2023a, 2023b), issued in May 2023, included a RPM T&C requiring crew training on best practices for handling and release of incidentally captured protected species. In addition, a Supplemental BiOp for the Hawaii SSLL fishery (NMFS 2024) focused on loggerhead sea turtles issued in March 2024 included RPM and T&C regarding crew training. The T&C is the same in both 2023 BiOps and the 2024 Supplemental shallow-set BiOp, and requires the NMFS SFD to:

(T&C 1.b. in the 2023 BiOps and T&C 1.c. in the 2024 Supplemental BiOp) “To reduce post-release mortality, within two years NMFS SFD shall require species handling training for crew members and at a minimum have one trained person on deck who directs and oversees activities of the vessel when retrieving fishing gear. Training shall include best practices identified in 1.a above.”

This requirement references T&C 1.a. or 1.b., the full text of which is:

(T&C 1.a. in the 2023 BiOps & T&C 1.b. in the 2024 Supplemental BiOp) “NMFS SFD shall implement measures to minimize the amount of trailing gear left on ESA-listed species to the maximum extent practicable to reduce the amount of injury and harm, the likelihood of further gear entanglement or entrapment, and improve the post-release mortality of ESA-listed species. This may include using new technologies once proven,

such as fighting lines (i.e., additional gear that reduces tension on the branchline), line cutting devices, and other gear modifications.”

### **1.3 Initial Council Actions**

The Council at the 197th meeting in December 2023, directed staff to convene an interdisciplinary BiOp RPM Implementation Working Group (BiOp RPM WG) with appropriate participants from NMFS Pacific Islands Fisheries Science Center (PIFSC), NMFS PIRO, Council staff, industry representatives, and other collaborative partners as necessary to facilitate coordination for implementing this requirement.

The Council at the 199th meeting endorsed the BiOp RPM WG report on the progress of developing a crew training program for the Hawaii and American Samoa longline fisheries and the proposed timeline for developing a regulatory requirement with final action anticipated at the June 2025 meeting. The Council directed the formation of an Action Team to initiate development of a regulatory requirement for Hawaii and American Samoa longline crew training consistent with the BiOp RPM term and condition (T&C), and develop an options paper for the Council’s consideration at the September 2024 meeting.

Based on the information provided in the options paper, the Council at its 200th Meeting in September 2024, recommended a scope of actions for further consideration. Specifically they recommended that staff work with the Action Team to prepare a draft regulatory amendment under the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific Region (Pelagics FEP) which analyzes the following range of options for initial action at the December 2024 meeting.

- a. Implement a crew training consistent with BiOp RPM T&C; and
- b. Update the owner/operator PSW requirement to allow overlap with crew training requirement

The Council at the 201st meeting in December 2024 will consider initial action on this regulatory amendment.

### **1.4 Background**

#### **1.4.1 Overview of current protected species workshop requirements**

Vessel owners and operators have been trained on fisheries regulatory requirements for mitigating protected species interactions since 2001 (50 CFR 665.8140). The protected species workshop (PSW) includes training on gear requirements, protected species identification, and handling and release techniques; an approach aimed to mitigate effects of protected species interactions with fishing gear. The Council initially recommended an annual PSW requirement for Hawaii longline vessel owners and operators of a vessel registered for use under a Hawaii longline limited access permit in October 1999 as part of the Council action on seabird mitigation measures. The intent of the requirement was to reduce the likelihood that interactions between protected species and longline vessels will occur by making fishermen more aware of the impact of interactions on protected species populations and measures to mitigate those



interactions (WPRFMC 1999). The requirement was initially implemented in regulations as part of a 2001 emergency interim rule in response to a U.S. Fish and Wildlife Service BiOp which focused on short-tailed albatross. The initial regulations only applied the PSW requirement to vessel operators, but were later revised and implemented permanently in June 2002 through Framework Action 2 under the Pelagic Fishery Management Plan (FMP; WPRFMC 2002a) to expand to vessel owners for consistency with the Council's original 1999 recommendation. The PSW requirement was also expanded to include all longline vessels operating under the Western Pacific general longline permit, which included American Samoa longline vessels,<sup>2</sup> through Regulatory Amendment 1 of the Pelagic FMP in June 2002 (WPRFMC 2002b).

Current regulations for the Pelagic FEP require owners and operators of a vessel registered for use under any longline permit (including Hawaii and American Samoa longline fisheries) to annually attend and obtain certification for completion of a workshop conducted by NMFS on regulations and interaction-mitigation techniques for sea turtles, seabirds, and other protected species (50 CFR 665.814). Additionally, regulations implemented in 2012 for the False Killer Whale Take Reduction Plan (FKWTRP) pursuant to the Marine Mammal Protection Act (MMPA) also require that the annual workshop for owners and operators include interaction mitigation techniques for marine mammals (50 CFR 229.37(f)(1)).

The detailed curriculum and format of the PSW is determined by NMFS and not specified in the regulations. The owner/operator course currently covers protected species interaction mitigation measures and handling regulations implemented under the Pelagic FEP (50 CFR 665), other applicable laws (e.g. MMPA; 50 CFR 229), and conservation and management measures required under applicable international regional fisheries management organizations (50 CFR 300). The course also includes species identification and non-regulatory best practices for mitigation techniques as well as handling and release, with information periodically updated to reflect new requirements and guidance.

The owner/operator PSW training sessions are provided as often as weekly at the National Oceanic and Atmospheric Administration (NOAA) office at Pier 38 in Honolulu. The PIRO Sustainable Fisheries Division (SFD) also provides PSW training via in-person classroom workshops and hybrid webinars. Individuals who have completed an in-person workshop or webinar may be recertified for the following two years via an online learning management system (LMS). Vessel owners who do not operate a vessel may recertify with the online LMS annually after attending at least one in-person workshop or hybrid webinar. PSW certificates indicate an expiry date which is supported by a digitally accessible list of currently certified individuals used by NOAA's permitting program and Office of Law Enforcement (OLE)/ U.S. Coast Guard enforcement. SFD does not collect information on whether workshop participants intend to participate in the shallow-set and/or deep-set longline fishery. Since nearly all of the Hawaii shallow-set longline vessels also participate in deep-set longline fishery, all forms of the workshop, including in-person and hybrid webinars and the online LMS, covers all protected species related regulations and handling guidelines for both deep and shallow set fisheries.

A few vessels in the Hawaii longline fishery also operate out of California. These vessel owners and captains similarly attend the virtual options for the PSW. The American Samoa longline

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<sup>2</sup> The American Samoa limited access permit was established in 2005.

vessels currently have multiple options for PSW training which include virtually attending the hybrid workshops hosted in Honolulu either from a personal device or from their local NOAA office conference room, or attending an in-person training option hosted onboard their vessel run by SFD staff in American Samoa. These trainings are frequently attended by the captain and crew together.

SFD and the Council have translated the PSW handling and release guide in languages commonly spoken by operators (Vietnamese) and crew (Tagalog, Indonesian). These guidebooks are distributed during the workshop as well as emailed with each PSW certificate to successful workshop participants. The guidebooks are also available to download directly from the PSW website<sup>3</sup> and the NMFS Digital Resource Library.<sup>4</sup> The PSW staff have also incorporated use of an animated handling and release training video as part of the workshop. This video reflects proactive identification of an education and outreach need, further substantiated by feedback from vessel owners, captains, OLE, and the Hawaii Longline Association (HLA). The animated video is the result of achieving agreement on handling and release protocols, and final product approval, among 16 NMFS scientists and managers from the observer program, PIRO Protected Resources Division (PRD), and PIFSC. The PSW video has been available on NOAA's YouTube training channel since April 2022.<sup>5</sup>

A concern with the current PSW regulations is that although there is a training requirement there is no requirement for a trained person to be present on deck during fishing activities. With the exception of owner-operators, the vessel owner is typically not on board the vessel while fishing, and the operator is often occupied with operation of the vessel and thus may not be available to provide direction on protected species handling during fishing operations. Requiring a trained person to be on deck during retrieval of the gear would help ensure that knowledge of best handling and release practices is applied when responding to protected species interactions.

#### **1.4.2 Status of the Pilot Crew Training Program**

PIRO SFD, in coordination with HLA, PIRO PRD, and the Council initiated a pilot crew training program in April 2024, which is expected to run through May 2025. The pilot training sessions are currently held monthly.

The goals of the pilot training program include:

- Maximizing training opportunities for all crewmembers
- Refining the training program with stakeholder and participant input
- Based on outcomes, developing a regular training program
- Evaluating if the goal of training all crew is possible by the 2025 deadline (2 years from when the BiOps were issued)

A final objective of the pilot program is to provide training to all crew of longline vessels in the Hawaii and ASLL fisheries to ensure the greatest reduction of harm to protected species as possible. Having all crew trained during the voluntary pilot program would facilitate transition to a regulatory requirement.

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<sup>3</sup> <https://www.fisheries.noaa.gov/pacific-islands/resources-fishing/pacific-islands-protected-species-workshops>

<sup>4</sup> <https://www.fisheries.noaa.gov/resources>

<sup>5</sup> <https://www.youtube.com/watch?v=ydcG1y7oNhg&t=141s>

The first crew training event was held in April 2024, and monthly training sessions have been held since then, with the exception of October 2024 due to scheduling conflicts. Pilot training sessions have been supported and attended by HLA, PIRO PRD and SFD staff, and Council staff, and have been led by PIRO SFD protected species workshop coordinator Jason Mehlinger.

In total, the monthly training sessions between April and November 2024 have resulted in a total of 516 crew members from 102 vessels trained, or more than 50% of the fleet (Table 1). These training days included two sessions each with either translation into Tagalog, Indonesian and/or Vietnamese. The current monthly schedule is projected to ensure all crew members have had the chance to participate by March 2025.

A few vessels in the Hawaii longline fishery also operate out of California and crew for these vessels would currently have to be trained in Hawaii. PIRO is planning to hold training sessions in California in early 2025 to provide greater access to these crew members.

The American Samoa longline crew regularly attend the in-person owner and operator training sessions conducted onboard their vessel by SFD staff in American Samoa. Many of the crew are American Samoa residents who can easily access the local NOAA offices, and crew may be trained through those offices.

**Table 1. Summary of 2024 Pilot Crew Training Session Participation to Date.**

<b>Training date</b>	<b>Apr 19</b>	<b>May 10</b>	<b>Jun 21</b>	<b>Jul 12</b>	<b>Aug 28</b>	<b>Sep 27</b>	<b>Nov 8</b>
<b>Sessions</b>	3	2	2	2	2	2	2
<b>Vessels participating</b>	8	19	23	20	19	22	17
<b>Number of participants</b>	26	81	96	78	85	91	69

### **1.4.3 Anticipated Reduction in Post-Release Mortality from Crew Training**

When a protected species is caught by longline gear and alive at haul, proper handling and release techniques can have significant impacts on post-release survival rates (Zollett & Swimmer, 2019). The proportion of animals alive at haul varies by species and fishery, with most of the variability thought to be related to the depth the gear is fished (Table 2). The goal of crew training is to reduce the subsequent post-release mortality of animals brought to the vessel alive through improvements in handling and release techniques. Protected species interactions in the Hawaii SSL fishery as well as marine mammals and ESA-listed elasmobranchs across all longline fisheries are mostly brought to the vessel alive, and thus have the greatest potential for reducing post-release mortality with crew training (Table 2).

Beyond simply better handling techniques, the average length of trailing gear remaining on released animals is also known to influence post-release survival rates. Reducing the length of trailing gear on all protected species is a focus in current crew training efforts. Tagging data from the Hawaii and American Samoa longline fisheries indicate that reducing the amount of trailing gear left on sharks from 10m to 1m or less will reduce post-release mortality by 3 to 4% (Hutchinson and Bigelow 2019; Hutchinson et al. 2021). Similarly, removing all gear from

leatherback turtles in the Hawaii DSLL fishery is expected to reduce the post-release mortality rate by approximately 5%, based on past observer data and post-release mortality estimates derived from Ryder et al (2006).

**Table 2. Average number of participating vessels, protected taxa interactions by vessel, and average number of interactions where protected species were brought to the vessel alive across fisheries in the most recent five years of the fishery.**

	<i>Annual average interactions per vessel</i>	<i>Annual average interactions with live animal per vessel (% alive at vessel)</i>
<b>Hawaii SSLL Fishery</b> (average 18.4 vessels participating per year, 2019-2023)		
Sea turtles	1.7	1.7 (100%)
Seabirds	2.9	2.4 (81%)
Marine Mammals	0.3	0.2 (88%)
ESA-listed Elasmobranchs	1.4	1.2 (89%)
<b>Hawaii DSLL Fishery</b> (average 147.8 vessels participating per year, 2019-2023)		
Sea turtles	0.8	0.3 (34%)
Seabirds	5	0.3 (5%)
Marine Mammals	0.6	0.4 (67%)*
ESA-listed Elasmobranchs	16.4	12.3 (75%)
<b>ASLL Fishery</b> (average 12.2 vessels participating per year, 2019-2023)		
Sea turtles	2.3	0 (0%)
Seabirds	0.2	0 (0%)
Marine Mammals	0.6	0.4 (71%)*
ESA-listed Elasmobranchs	46.5	31.1 (67%)

\*2016-2020 data, 2019-2023 estimates not yet available

## 1.5 List of Preparers

This draft regulatory amendment was prepared by the following Action Team members:

- Asuka Ishizaki, Protected Species Coordinator, WPFMC
- Lynn Rassel, Fisheries Management Specialist, NMFS PIRO SFD
- Jason Mehlinger, Fisheries Management Specialist, NMFS PIRO SFD
- David O’Brien, Fisheries Management Specialist, NMFS PIRO SFD
- Melissa Snover, Endangered Species Biologist, NMFS PIRO PRD
- Emily Crigler, Fisheries Management Specialist, NMFS PIFSC, FRMD

## 2 MANAGEMENT ALTERNATIVES

This section describes the alternatives that the Council will consider at the 201<sup>st</sup> Meeting.

The Council at its 201<sup>st</sup> meeting will review the preliminary draft regulatory amendment and will consider taking initial action for implementing crew training for the longline fisheries operating under the Pelagic FEP. Based on the Council’s recommendations in response to its review of the options paper at the 200<sup>th</sup> meeting in September 2024, this document presents a

draft set of alternatives for implementing requirements consistent with the BiOp RPM T&C, and considering updates to the existing owner/operator protected species workshop requirement to allow overlap with the crew training requirement, if appropriate. As part of the initial action, the Council will also consider refining the regulatory specifications associated with the action. These decision points pertain to the frequency of crew training, frequency of the PSW training, and flexibilities in certification options between crew and the owner/operator.. The alternatives are summarized in Table 2, sub-alternatives under the action alternative are described in Table 3, and the Council decision points for refining the regulatory specifications are summarized in Table 4.

**Table 2. Comparison of the Alternatives.**

<b>Alternative 1: Revise the Longline Fishery Protected Species Workshop Requirement to Implement Crew Training</b>	<b>Alternative 2: No Action/Status Quo</b>
<p>Amend regulations to revise the PSW requirement for vessels registered for use under any longline permit to:</p> <p><b>Sub-Alternative 1A:</b> Implement crew training with on-deck requirement as specified in the T&amp;C</p> <p><b>Sub-Alternative 1B:</b> Implement crew training with an on-board certificate requirement for complying with the T&amp;C</p> <p><i>Common features under Alternative 1</i></p> <ul style="list-style-type: none"> <li>● Crew training to focus on protected species handling and release</li> <li>● NMFS would continue to offer crew training program at no cost to participating vessels or crew members</li> <li>● <b>Additional regulatory specifications</b> to be refined through Council’s initial action (see Table 4)</li> </ul>	<p>No changes to regulations to implement a crew training requirement or to update the owner/operator PSW requirement</p> <p>Alternative</p> <p><i>not consistent with the BiOp T&amp;C</i></p>

**2.1 Alternative 1: Revise the Longline Fishery Protected Species Workshop Requirement to Implement Crew Training**

Under Alternative 1, the Council would recommend amending the regulations implementing the Pelagic FEP to revise the PSW requirement for vessels registered for use under any longline permit to implement crew training consistent with the BiOp T&C. Crew training would focus on protected species handling and release, in contrast to the existing PSW training for longline vessel owners and operators that includes review of regulations on protected species interaction mitigation measures and mitigation techniques in addition to handling and release techniques. NMFS will continue to offer the crew training program at no cost to the participating vessels or crew members.

The Council may recommend the specific approach for implementing crew training for consistency with the BiOp T&C. Two approaches are presented here under Sub-Alternatives 1A and 1B, which represents the range of alternatives considered by the Action Team. The Council may select a preliminarily preferred sub-alternative at the 201st meeting, or may direct the Action Team to further refine the action alternative by combining components of the two sub-alternatives presented here.

**Table 3. Comparison of Regulatory Implementation Approaches under Sub-Alternatives 1A and 1B.**

	<b>Sub-Alternative 1A:</b> Implement crew training with on-deck requirement as specified in the T&C	<b>Sub-Alternative 1B:</b> Implement crew training with an on-board certificate requirement for complying with the T&C
<i>Common features under Alternative 1</i>	<ul style="list-style-type: none"> <li>Amend regulations to revise the PSW requirement for vessels registered for use under any longline permit</li> <li>Crew training to focus on protected species handling and release</li> <li>NMFS would continue to offer crew training program at no cost to participating vessels or crew members</li> </ul>	
<i>Approach for implementing T&amp;C provision re: “NMFS SFD shall require species handling training for crew members”</i>	No specific regulatory requirement, as the T&C obligation is for NMFS to provide the crew training. NMFS may fulfill this by providing records of the crew training schedules and trained crew.	Regulations would specify that crew attend and be certified for completion of protected species handling training
<i>Approach for implementing T&amp;C provision re: “At a minimum have one trained person on deck who directs and oversees activities of the vessel when retrieving fishing gear”</i>	Require in regulations that at least one trained person on deck who directs and oversees activities of the vessel when retrieving fishing gear (which may be the operator or a trained crew)	Certification and compliance monitoring requirements for crew would follow a similar approach as the existing owner/operator PSW requirement, specifically: <ul style="list-style-type: none"> <li>Certificate to be issued by NMFS upon completion of workshop</li> <li>Require certification for one or more* crew members to be on board vessel</li> </ul> <i>*Council decision point (# of crew certificates)</i>

**2.1.1 Sub-Alternative 1A: Implement crew training with on-deck requirement as specified in the T&C**

Under Sub-Alternative 1A, the Council would recommend implementing the crew training with an on-deck requirement as specified in the plain language of the T&C. Specifically, the regulations would require a minimum of one trained person on the deck of the vessel who oversees and directs activities when retrieving fishing gear (“person-on-deck” requirement), consistent with the BiOp T&C. Due to the T&C specification that one trained “person” be on deck, this requirement may be satisfied by having the operator fulfill the requirement if a trained crew is not available during hauling operations; i.e. a person successfully completing and having a certificate from the operator or crew PSW training program would fit the definition of a trained person. The vessel operator would ultimately be responsible for complying with the requirements, and has the discretion to assign a crew member who has completed crew training

to oversee and direct activities during hauling operations. The vessel operator can alternatively choose to be the trained person on deck overseeing and directing hauling activities.

The T&C also specifies that NMFS require protected species handling and release training for crew members, which puts the obligation for providing training on NMFS (in this case, PIRO SFD). As such, NMFS may fulfill this portion of the T&C by providing records of the crew training schedules and trained crew. Under Sub-Alternative 1A, this portion of the T&C would be implemented through crew training program administration, and NMFS would continue to offer protected species handling and release training to crew members at no cost to the vessels, would issue certificates to crew upon completion of the workshop, and maintain a database of trained crew for official use. However, the regulations would not specify that crew is required to attend and be certified for protected species handling and release training.

### Expected Fishery Outcomes

Requiring that a person with protected species handling training is on deck who oversees and directs activities when retrieving fishing gear (person-on-deck requirement) is anticipated to reduce post-release mortality of protected species. As described previously, this reduction in mortality is anticipated because the proportion of interactions in which best practices for handling and release are followed will be increased, including releasing animals with minimal or no trailing gear remaining. The extent of post-release mortality reduction is expected to vary by fishery, species, and the ability for crew to put into practice the best handling and release training in real-life situations on deck. As described in section 1.4.3, above the anticipated benefit for protected elasmobranchs and leatherback turtles based on our preliminary analysis is a 3-5% decrease in post-release mortality.

Implementing a person-on-deck requirement under Sub-Alternative 1A is not expected to affect fishing effort, operations, areas fished, species targeted, or other fishery resources managed under the Pelagic FEP. This Sub-Alternative is not expected to increase socioeconomic impacts to fishery participants, as the training will be provided at no cost to vessels that choose to participate.

A concern with Sub-Alternative 1A is that participation in the crew training program may decline over time without a regulatory requirement specifying that crew must attend and be certified for protected species handling, and because the person-on-deck requirement could be fulfilled by the vessel operator. Having trained crew would make complying with the trained person on deck requirement of Sub-Alternative 1A easy, but a requirement may be necessary to incentivize training. PIRO SFD intends to maintain a monthly schedule of in-person crew training sessions at Pier 38 in Honolulu and to train owners/operators and crew concurrently on vessels in American Samoa, so crew training opportunities will be common. Additional analysis on the frequency of vessels being in port over the year is planned to address if a monthly schedule will meet the training needs of a majority of vessels.

Essentially, the onus for complying with regulations associated with Sub-Alternative 1A would fall to the vessel operator. Without a regulatory requirement for crew training, Sub-Alternative 1A would mean the operator would be responsible for determining how the person-on-deck requirement was met; whether by the operator with their PSW training, trained crew, or a

combination of the two. If the operator decides not to train crew, or is unable to get crew trained before a trip, a greater burden would be placed on the operator to remain on deck for the duration of the hauling operations to remain in compliance.

The BiOp RPM T&C does not require crew to be trained and thus ensuring that the person-on-deck requirement of Sub-Alternative 1A is met would be challenging. Currently the only way to verify if the requirement was being met is through observer reports. Observers are on deck monitoring the hauling operations, however asking observers to track who is trained and document the trained person(s) behavior on deck as specified in the T&C however may create a hostile environment for the observer, captain, and crew. Therefore, it would be critical that observers do not have a direct role in enforcing this requirement. Observers would likely not be used to directly verify the trained person on deck requirement during regular operations but would collect information used to determine the outcome of protected species interactions.. If there appears to be a violation in protected species handling as reported by the observer, follow up questions on who was directing and overseeing the interaction would likely be asked of the observer. More information is needed from the NOAA OLE and the Pacific Islands Regional Observer Program to determine whether and how observers could be used for the enforcement of this requirement.

Enforcement of the person-on-deck requirement may change in the future. With the move to electronic monitoring (EM) on individual vessels, future enforcement could involve requests to the vessel operator for identification of the training person on deck during protected species interactions which were recorded. This enforcement approach is not available now, as EM is currently not required in any Western Pacific longline fisheries.

While a clear mechanism for enforcing the person-on-deck requirement has yet to be identified, Sub-Alternative 1A would comply with the requirements of the BiOp RPM T&C. However, as described below under Sub-Alternative 1B, including a requirement to have a valid trained crew certificate on-board may be a way to increase the likelihood that a trained person is on deck overseeing hauling operations, as the vessel would have at least two trained people on board (operator and at least one crew).

### **2.1.2 Sub-Alternative 1B: Implement crew training with an on-board certificate requirement for complying with the T&C**

Under Sub-Alternative 1B, the crew training requirement would be implemented through a certification requirement similar to the existing vessel owner/operator PSW specifications (50 CFR 665.814; see Section 4 of this document). Specifically, regulations would specify that crew attend and be certified for completion of protected species handling training, NMFS would issue a certificate to each crew member upon completion of the workshop, and the vessel owner and operator would be required to have on board the vessel a valid certificate (or a legible copy) for one or more crew members while engaging in longline fishing for western Pacific pelagic MUS under the Hawaii, American Samoa, or Western Pacific general longline permit.

The Action Team originally developed this approach in lieu of specifying a person-on-deck requirement in regulations. This was based on the understanding that Hawaii and American Samoa longline vessels typically have all of their crew on board (usually 5-6 crew members,



with a range of 4-8) involved during hauling operations, indicating that the trained crew would likely be on deck during hauling operations to assist in protected species handling and release. The Action Team also considered that vessel captains and crew perform a variety of tasks throughout their fishing trip to meet their operational and safety functions, and it may not be practical or safe to require that person to be on deck throughout the duration of hauling operations. Longline vessels typically have a “deck boss” or lead crew who may be the crew member who would “direct and oversee activities of the vessel when retrieving fishing gear”. If that individual is identified, they may step away to take breaks, tend to tasks away from the deck, or tend to a vessel issue, injury or illness. For these reasons, the Action Team considered that any trained person, having been certified for completion of either an owner/operator training or crew training, could be on deck to assist with handling and release when protected species interactions occur during the haul. The more crew that have been trained the more flexibility the vessel would have to ensure there is at least one trained person on deck during hauling, for consistency with the T&C specification.

However, NOAA General Counsel has since advised the Action Team that the on-board certificate approach under Sub-Alternative 1B would not comply with the BiOp RPM T&C, unless the person-on-deck requirement is explicitly in regulations. Failure to meet the T&C requirements would be contrary to the purpose and need for the action.

Enforcement of the requirement to have on board the vessel a valid certificate (or a legible copy) for one or more crew members while engaging in longline fishing would be performed similarly to the required PSW certificate to be onboard. This is typically limited to vessel inspections, post protected species interaction investigations, and USCG boarding operations. Future enforcement could involve requests to the vessel operator for identification of the trained individuals onboard during protected species interactions.

The Council may wish to consider combining components of Sub-Alternatives 1A and 1B for consistency with the T&C, or may provide additional considerations for the Action Team to explore further in refining the alternatives.

As part of Sub-Alternative 1B, the Council may additionally specify the minimum number of required crew certificates on board.

**Council Decision Point: Required number of trained crew certificates to be on board each vessel**

A requirement to have one or more crew member’s training certificate on board the vessel would allow enforcement of the requirement to train crew. The Council may recommend the required number of trained crew certificates from the following range of options:

- i. Require that ONE crew training certificate to be on board the vessel, OR
- ii. Require TWO OR MORE crew training certificates on board.

Hawaii and American Samoa longline vessels typically have all of their crew on board (usually 5-6 crew members, with a range of 4-8) involved during hauling operations, whereas the setting operations are done with a smaller number of crew to allow crew to rest on rotation. The Council may consider what number of trained crew members must maintain their crew training

certification on board the vessel to demonstrate compliance with this regulation. The T&C is not specific on recertification frequency (see section 2.1.3), how to address crew turnover, or other issues that could result in a mix of trained and untrained crew members on a given fishing trip.

Requiring at least one crew member's certificate on board the vessel would help ensure that there are at least two trained persons on board each vessel on a given fishing trip (i.e., the operator and one crew). Requiring the captain and at least one crew member to be trained was thought to be the minimum number of people trained in protected species handling and release to ensure it was possible to always have a trained person on deck during gear haul. One option is to require that at least the certificate of one crew member be on board the vessel at all times when fishing. Alternatively, Council may consider a higher number, up to and including all crew members.

Initial discussions with NOAA Office of Law Enforcement staff suggests that having all crew trained with certificates on board the vessel could provide a mechanism to ensure the person-on-deck requirement of the T&C is satisfied. However, there are situations where having all crew training certificates on board may be challenging, such as on crew pick up trips or when crew is being turned over. Requiring a number less than the total crew complement to have crew training certificates may have a lower operational impact on the vessel while still demonstrating a high level of compliance with the crew training and trained person on deck requirement.

Although crew training during the pilot program has been only via in-person training, there is potential for remote training options in the future. Remote training would be one way to address concerns about availability of training, particularly when picking up crew at foreign ports. NOAA General Counsel has indicated that there should not need to be exceptions to the requirement for all crew to be trained, as enforcement will be on a case-by-case basis and the availability of crew training would be considered in any enforcement decision. It would be possible for vessels to ensure that at least one person trained on protected species handling was on deck during gear haul regardless of crew training availability due to the current PSW requirement.

### Expected Fishery Outcomes

Similar to Sub-Alternative 1A, requiring one or more trained crew certificates on board the vessel is anticipated to reduce post-release mortality of protected species under Alternative 1B. As described previously, this reduction in mortality is anticipated because the proportion of interactions in which best practices for handling and release are followed will be increased, including releasing animals with minimal or no trailing gear remaining. The extent of post-release mortality reduction is expected to vary by fishery, species, and the ability for crew to put into practice the best handling and release training in real-life situations on deck. A reduction in mortality may be achieved if more crew are trained. As described in section 1.4.3, above the anticipated benefit for protected elasmobranchs and leatherback turtles based on our preliminary analysis is a 3-5% decrease in post-release mortality. Unlike Sub-Alternative 1A, this Sub-Alternative alone does not require a trained person on deck who directs and oversees activities of the vessel when retrieving fishing gear. It does however improve the likelihood that a trained person would be on deck by ensuring at least two people are trained in protected

species handling on each vessel. For situations where a trained person is not on deck, the expected reduction in post-release mortality may be lower.

Implementing a requirement for one or more trained crew certificates on board the vessel is not expected to affect fishing effort, operations, areas fished, species targeted, or other fishery resources managed under the Pelagic FEP. Having crew trained is not expected to increase socioeconomic impacts to fishery participants, as the training will be provided at no cost to vessels that choose to participate.

A regulatory requirement for crew training and a valid certificate on-board may help maintain a higher demand for crew training than Sub-Alternative 1A and ensure it will become a permanent program for the region's longline fisheries. Requiring that crew along with operators are trained may improve the outcomes for protected species handling by ensuring more people participating in fishing operations are trained in protected species handling. Additionally, requiring a certification requirement on board may provide a less onerous enforcement mechanism to ensure compliance that could alleviate a need for monitoring if a trained person is on deck at haulback. More trained people onboard would reduce burden for the captain if the person-on-deck requirement is explicitly in regulations, as a trained crew member who can direct and oversee operations could be on deck if the captain is not on deck and likely improve overall compliance. A requirement to have a trained crew certificate on-board however has the potential to hold up a fishing trip if a vessel has to wait for a training class or if flexibilities for training certifications are not available.

### **2.1.3 Additional Regulatory Specifications Associated with Crew Training Requirement**

As part of the initial action at the 201<sup>st</sup> Meeting, the Council is asked to consider recommendations to define additional regulatory specifications associated with implementing the crew training requirement, as well as any associated updates to the owner/operator PSW requirement, if appropriate. These decision points pertain to the frequency and flexibilities of the certification requirements (Table 4), and are described in further detail below. The Action Team plans to provide a full analysis of impacts for Alternative 1 based on the selected refinements to the crew training regulatory requirements, for Council's review and consideration at the final action scheduled for June 2025.

**Table 4. Summary of Council Decision Points under Alternative 1 at the 201st Meeting to Define Regulatory Specifications Associated with the Crew Training Requirement**

<b>Council Decision Points for Defining Regulatory Specifications Associated with the Crew Training Requirement (applies to both Sub-Alternatives 1A and 1B)</b>		
<b>1. Frequency of CREW training certification</b>	a. Require certification <u>annually</u> ; <u>OR</u>	b. Require certification <u>every 2-3 years</u> (select within range)
<b>2. Frequency of OWNER/OPERATOR PSW certification</b>	a. Maintain <u>annual</u> requirement; <u>OR</u>	b. <u>Revise to 2-3 years</u> (select within range) if crew training duration is also 2-3 years
<b>3. Flexibilities in certification options between CREW and OWNER/OPERATOR</b>	a. Allow CREW certification to be satisfied by owner/operator workshop; <u>AND/OR</u>	b. Allow OWNER/OPERATOR to substitute full PSW certification with crew certification at certain intervals

**2.1.3.1 Decision Point 1: Frequency of crew training certification**

The Council may recommend the frequency of crew training recertification from the following options:

- a. Require certification annually, OR
- b. Require certification every 2-3 years (select within range)

The BiOp RPM T&C did not specify the recertification frequency. The existing PSW certification for vessel owners and operators is required annually. The Council may specify the frequency for crew training recertification by taking into account crew turn-over rate, potential effects on the handling and release outcomes, training burden for fishery participants, and administrative burden.

Interactions with most protected species are rare events in the Hawaii and American Samoa longline fisheries. Based on the observer data for the 2019-2023 period, the average annual number of sea turtle interactions ranges between 0.8-2.3 interactions per vessel, and marine mammals between 0.3-0.6 interactions per vessel (Table 2). Interactions with ESA-listed elasmobranchs (sharks and rays) are more frequent in the DSLL and ASLL fishery, at average annual interactions of 16.4 and 46.5, respectively. For the more rare species groups such as sea turtles and marine mammals, crew members may or may not encounter an interaction in any given year. Considering these low encounter rates, annual certification is likely to help crew retain information on handling and release best practices compared to certification 2-3 years.

Crew contract lengths vary between 1-3 years, with 2 years being most common. Some crew choose to extend their contract to continue to work in the fishery, and this extension typically requires the crew member to return to their country of origin for a period of time before returning to the fishery. Vessel owners and captains have been supportive of sending crew to the pilot training program initiated in April 2024, to improve their crews knowledge, preparedness, safety,

and awareness while dealing with large animals and protected species interactions. Over the first six months, 447 individuals across 97 vessels have been trained, indicating that vessels are sending most or all of their crew to the training sessions even though the program is voluntary at this time. Over the six pilot crew training days (13 individual sessions) from April to September 2024, 14 of 91 vessels have had crew more than once due to new crew, change of crew, or split in attendance between monthly training sessions. In that period, 3 of the vessels have had entire crew changes.

Certification frequency of 2-3 years instead of annual may reduce the number of crew trained per vessel since most crew members are likely to attend the training only once during their contracts. Vessel owners and operators may also have reduced incentive to send crew members who may have contract periods shorter than the recertification frequency.

NMFS will offer the crew training program at no cost to the vessel owner, operator, or crew, and thus retraining frequency would not affect the training burden for the fleet.

Requiring annual certification would increase the administrative costs for NMFS to run the program compared to certification frequency of 2-3 years, if the longer certification period results in fewer number of crew being trained per vessel. Annual purchases (e.g., interpreter fees, translation, recording) and coordinator staff time will be similar between the two options as NMFS expects to offer monthly crew training sessions regardless of recertification frequency. The program also requires a team of at least 2-4 to cover all associated duties reasonably. Other program-associated work loads and administrative duties (e.g., database management, program updates, correspondence, expiration notifications) are likely to increase with annual recertifications. NMFS may develop a self-guided recertification option, similar to the current owner/operator workshop, to reduce administrative burden, ensure ease of access for crew members, and remove barriers to fishing for owners and operators. This would also ensure the program's ability to run independently of the program administrator, including ports outside of Honolulu in California and American Samoa.

#### **2.1.3.2 Decision Point 2: Frequency of owner/operator PSW certification requirement**

The Council at the 200th meeting in September 2024 recommended including updates to the vessel owner/operator PSW requirements within the scope of the action to allow overlap with the crew training requirement, if necessary. If the Council recommends a crew training certification frequency of 2-3 years, the Council may also consider changes to the frequency of the owner/operator PSW certification requirement as follows:

- a. Maintain annual requirement, OR
- b. Revise to every 2-3 years (select within range)

While considered here, extending the certification period from annual to every 2-3 years would make the requirement under the Pelagic FEP regulations inconsistent with FKWTRT regulations, which are implemented through the MMPA and cannot be modified through the Council process or under the Magnuson-Stevens Act. A recommendation to modify the certification period of the PSW would have to be addressed by the FKWTRT at a later date.

Also, revising the owner/operator PSW consistent with the crew training certification frequency may reduce training burden on owners and operators, as well as administrative burden to NMFS as it would reduce the number of participants that would need to be trained annually. However, current training burden on owners and operators are limited, as the training sessions are offered multiple times per month as in-person workshops or as hybrid webinars that can be attended either in-person or virtually (each session lasts about 2 hours and 15 minutes). Additionally, an online self-guided course option is available for owners who have taken the in-person or hybrid training once before. The online training option may also be taken by operators (captains) for up to two consecutive years after attending an in-person or hybrid workshop before an in-person or hybrid workshop attendance is required again.

The vessel owner/operator PSW was originally developed to reduce the likelihood of protected species interactions by making fishermen more aware of the impact of interactions on protected species populations and measures to mitigate those interactions. As such, the owner/operator PSW curriculum covers information on regulatory requirements for operation in the fleet, gear requirements, mitigation measures, species identification, in addition to the complete set of best practices guidance for protected species handling and release. The existing annual certification for owners/operators helps ensure they are aware of new requirements implemented in the past year in addition to providing regular refreshers on existing requirements. Reducing the frequency of certification may therefore have a negative impact on protected species by reducing compliance with mitigation measures.

### **2.1.3.3 Decision Point 3: Consider flexibilities in certification options**

The Council may consider building in flexibilities in the requirements to allow the two PSW training courses to be substituted for one or the other. Specifically:

- a. Allow CREW certification to be satisfied by OWNER/OPERATOR workshop;  
AND/OR
- b. Allow OWNER/OPERATOR to substitute full PSW certification with CREW certification at certain intervals

Allowing crew to take the owner/operator workshop to satisfy the training requirement would be a practical substitute for the ASLL fishery. Crew members in the ASLL fishery commonly attend the existing PSW training with the vessel owner and operator, as the in-person training option can be hosted on their vessel by NMFS staff based in American Samoa. In recent years, there have been between 9 and 11 longline vessels operating exclusively from American Samoa, with crew size of 3 to 5 individuals per vessel. Overall, the ASLL fishery has about 40 to 50 crew members, most of whom are English-speaking. It is likely that the existing PSW training for owners and operators will provide the platform for meeting the crew training requirement in the ASLL fishery.

Allowing crew to take the owner/operator workshop may also provide flexibility for Hawaii-based vessels as needed to ensure timely access to training sessions to prevent delays in fishing trips. Once fully implemented, crew training is expected to occur on a monthly basis, whereas the owner/operator workshop currently takes place as often as weekly with the option of taking the online course in some years. These options and frequency of in-person/online courses

are determined by NMFS' discretion, and not determined through the FEP or implementing regulations. NMFS may adjust frequency and format of crew and owner/operator training sessions as needed (e.g., crew training may also become available as an online refresher in the future). However, in the foreseeable future, the owner/operator workshop is expected to be offered more frequently than crew training, and the online course is currently only available for the owner/operator workshops. Additional language interpretation support would be needed to accommodate crew participation in owner/operator workshops, as the course is currently only offered in English. Logistical accommodation would also be needed to allow foreign crew to participate in the in-person owner/operator workshops as the sessions are currently offered at the NOAA facility at Pier 38 in Honolulu, which requires advanced arrangements for foreign national access. Nevertheless, explicitly allowing the option for crew to take the owner/operator workshop to satisfy the crew training requirement would provide greater flexibility for NMFS in providing timely training to crew members when necessary.

Allowing the vessel owners and operators to substitute their certification with the crew training certification at certain intervals may reduce some training burden for industry, as the owners and operators would have the opportunity to take the shorter course focused on handling and release in certain years. However, this would result in the owners and operators no longer receiving annual refreshers on gear requirements, mitigation measures, species identification, which may have a negative impact on protected species by reducing compliance with mitigation measures. Further, with the exception of owner-operators, vessel owners do not go on fishing trips, and vessel operators are often not on deck during hauling operations. As such, vessel owners and operators may not benefit as much from the crew training focusing on techniques for reducing post release mortality.

#### **2.1.4 Additional flexibilities considered by the action team**

In addition to providing flexibilities for certification options considered in the previous section (2.1.3), the Action Team considered other flexibilities to address situations that could lead to lack of trained crew, which may in turn delay fishing trips, decrease revenues, or create operational inefficiencies.

In most situations where a vessel has new crew in need of training before a fishing trip, NMFS may make special arrangements to train a few crew members as staff and resources allow, or provide flexibilities through the option considered under section 2.1.3 above (if recommended by the Council). Currently, NMFS has discretion for administering the PSW training sessions in terms of frequency (e.g., training sessions offered monthly or weekly) and format (e.g., in person, self-guided online program), and these details will continue to be determined by NMFS based on the availability of staff resources and funding. The pilot crew training program was developed as an in-person format, but NMFS may expand the program in the future to offer a self-guided online option. These flexibilities are built into the program itself, and do not necessitate regulatory specifications.

One situation that the Action Team identified that may warrant further consideration is when a vessel operating under the Hawaii longline permit transits to a port outside of Hawaii to pick up

new crew.<sup>6</sup> These vessels may fish on the return trip to cover the cost of the trip, but the new crew will not have had the opportunity to take the protected species training. Prohibiting fishing on the return trip due to the lack of trained crew would make these trips costly, and requiring that these trips take a trained crew in addition to the operator may impact the number of new crew a vessel can pick up in one trip. These crew pick up trips constitute a small portion of the fleet's total effort, the potential impact of providing flexibilities for these trips on protected species would be minimal, but the lack of flexibility may have substantial impact on the cost of crew pickup trips. The Action Team initially considered a potential regulatory exception for crew pickup trips, and/or providing the authority to NMFS to exempt trips on a case-by-case basis.

However, NOAA General Counsel has since advised the Action Team that there is no allowance for excepting the BiOp T&C requirement to have at least one trained person on deck who directs and oversees activities of the vessel when retrieving fishing gear. NOAA General Counsel further advised that enforcement action would be on a case-by-case basis, and would consider any extenuating circumstance. Therefore, vessels making crew pickup trips, if planning to fish on the return trip, would be expected to take at least one trained crew in addition to the operator, or the operator would be expected to serve as the trained person on deck during hauling operations.

## **2.2 Alternative 2: No Action/Status Quo**

Under Alternative 2, the Council would not recommend changes to the regulations implementing the Pelagic FEP to implement a crew training requirement or any other associated regulatory changes. Under this alternative, NMFS may continue to provide a non-regulatory crew training program consistent with the current best practices for handling and release of protected species, but no regulatory requirement would be implemented to require that crew members from the Hawaii and American Samoa longline fisheries participate in such a program or that a trained person be on deck during fishing activities.

### Expected Fishery Outcomes

The pilot crew training program has been successful in terms of the number of crew attending each training session. PIRO is now transitioning the pilot into an ongoing training program, and expects to continue offering the program regardless of a regulatory requirement. Although the pilot training partners and vessel owners/operators are all contributing to the success to date, we anticipate that participation by all vessels in the fishery would not be sustained in the long-term unless it was required. Securing funding to support ongoing crew training without a regulatory requirement may also be challenging. Therefore, any reduction in post-release mortality that may result from the pilot program may be temporary, and may not provide for a long-term reduction in impacts.

The No Action/Status Quo alternative would also be inconsistent with the BiOp RPM T&C, which specifies that PIRO SFD shall require species handling training for crew members and at a minimum have one trained person on deck who directs and oversees activities of the vessel when retrieving fishing gear.

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<sup>6</sup> Due to visa restrictions, most foreign crew who are allowed to work on Hawaii longline vessels cannot fly into Honolulu for the purposes of employment in the fishery, and thus vessels in the fishery arrange for trips to pick up crew from non-U.S. ports. Foreign crew on American Samoa longline vessels can fly into Pago Pago.



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#### **4 CURRENT PROTECTED SPECIES WORKSHOP REGULATIONS FOR VESSEL OWNERS/OPERATORS**

*The existing protected species workshop regulations are included here for reference.*

##### **§ 665.802 Prohibitions.**

In addition to the prohibitions specified in § 600.725 of this chapter, it is unlawful for any person to do any of the following:

\* \* \*

(cc) Own or operate a vessel registered for use under any longline permit issued under [§ 665.801](#) while engaged in longline fishing for western Pacific pelagic MUS and fail to be certified for completion of a NMFS protected species workshop, in violation of [§ 665.814\(a\)](#).

(dd) Own or operate a vessel registered for use under any longline permit issued under [§ 665.801](#) while engaged in longline fishing for western Pacific pelagic MUS without having on board a valid protected species workshop certificate issued by NMFS or a legible copy thereof, in violation of [§ 665.814\(d\)](#).

##### **§ 665.814 Protected species workshop.**

(a) Each year, both the owner and the operator of a vessel registered for use under any longline permit issued under [§ 665.801](#) must attend and be certified for completion of a workshop conducted by NMFS on interaction mitigation techniques for sea turtles, seabirds and other protected species.

(b) A protected species workshop certificate will be issued by NMFS annually to any person who has completed the workshop.

(c) An owner of a vessel registered for use under any longline permit issued under [§ 665.801](#) must have a valid protected species workshop certificate issued by NMFS to the owner of the vessel, in order to maintain or renew their vessel registration.

(d) An owner and an operator of a vessel registered for use under any longline permit issued under [§ 665.801](#) must have on board the vessel a valid protected species workshop certificate issued by NMFS to the operator of the vessel, or a legible copy thereof.