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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

RIN 0648-XE001

International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Fishing Effort Limits in Purse Seine Fisheries for 2015

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of petition for rulemaking; request for comments.

SUMMARY: NMFS announces the receipt of, and requests public comment on, a petition for rulemaking from Tri Marine Management Company, LLC (“Tri Marine”).

The petitioner requests that NOAA undertake an emergency rulemaking to implement the 2015 limit on fishing effort by U.S. purse seine vessels on the high seas and in the U.S. exclusive economic zone in the area of application of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention), and to issue a rule exempting from the limit any U.S. purse seine vessel that, pursuant to contract or declaration of intent, delivers or will deliver at least half its catch to tuna processing facilities in American Samoa.

DATES: Comments on the petition must be submitted in writing by *[Insert date 30 days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: You may submit comments on the petition, identified by NOAA-NMFS-2015-0088, by either of the following methods:

- *Electronic submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal.

1. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0088,
2. Click the “Comment Now!” icon, complete the required fields, and
3. Enter or attach your comments.

- OR -

- *Mail:* Submit written comments to Michael D. Tosatto, Regional Administrator, NMFS, Pacific Islands Regional Office (PIRO), 1845 Wasp Blvd., Building 176, Honolulu, HI 96818.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, might not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name and address), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Copies of the petition are available at www.regulations.gov or may be obtained from Michael D. Tosatto, Regional Administrator, NMFS PIRO (see address above).

FOR FURTHER INFORMATION CONTACT: Tom Graham, NMFS PIRO, 808-725-5032.

SUPPLEMENTARY INFORMATION:

Background on Purse Seine Fishing Effort Limits in the Convention Area

Since 2009, NMFS regulations have established limits on fishing effort by U.S. purse seine fishing vessels in the area of application of the Convention (Convention Area), including in the area known as the Effort Limit Area for Purse Seine, or ELAPS, which is comprised of all areas of high seas and the U.S. exclusive economic zone (EEZ) between the latitudes of 20° N. and 20° S. in the Convention Area. These regulations are promulgated under authority of the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6901 *et seq.*), and have been codified at 50 CFR 300.223(a).

NMFS has established the purse seine fishing effort limits in the ELAPS to satisfy the obligations of the United States under the Convention, to which it is a party. Among those obligations is the need to implement the decisions of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Commission), which was established by the Convention. NMFS has established the purse seine fishing effort limits in the ELAPS to implement a series of Commission decisions for tropical tuna stocks in the Convention Area.

Recently, NMFS established a purse seine fishing effort limit in the ELAPS for 2015 in an interim rule published May 21, 2015 (80 FR 29220). The limit is 1,828 fishing days.

On June 8, 2015, NMFS issued a notice announcing that the purse seine fishery in the ELAPS would close as a result of reaching the limit of 1,828 fishing days (80 FR

32313). The closure took effect June 15, 2015, and will remain in effect through December 31, 2015. The closure applies to all U.S. purse seine fishing vessels.

Petition for Rulemaking

Under the Administrative Procedure Act, interested persons may petition Federal agencies for the issuance, amendment, or repeal of a rule.

In a petition to NMFS dated May 12, 2015, Tri Marine requested that NMFS take two actions. First, Tri Marine requested that “NOAA undertake an emergency rulemaking with respect to the 2015 ELAPS limits for fishing days on the high seas.” Second, Tri Marine requested that “NOAA issue a rule exempting from that high seas limit any US flag purse seine vessel which, pursuant to contract or declaration of intent, delivers or will deliver at least 50 percent of its catch to tuna processing facilities based in American Samoa.”

At the time of Tri Marine’s initial request, NMFS was preparing to issue an interim rule establishing a limit on purse seine fishing effort in the ELAPS for 2015. As described above, NMFS established a limit in the ELAPS for 2015 in an interim rule published May 21, 2015. Accordingly, the first part of Tri Marine’s request has been addressed. In the interim rule, NMFS acknowledged that it had received Tri Marine’s petition for rulemaking, and stated that it will consider and respond to the petition separately from the interim rule.

With regard to the second part of Tri Marine’s request, the petition explains that as a result of decisions by the Republic of Kiribati, U.S. purse seine vessels’ access to their traditional fishing grounds in 2015 has been dramatically reduced, and that the high seas portion of the ELAPS can be expected to be closed to fishing as early as June. The

petition further states that because of the limited fishing grounds now available to the American Samoa-based purse seine fleet and other factors, including an unusually low tuna price and the higher cost of access to fishing grounds in the region, the ability of American Samoa-based tuna vessels to operate profitably is in serious question, and the loss of a reliable supply of tuna from these vessels will jeopardize the ability of the canneries in American Samoa to compete in world markets. The petition states that under the Convention, American Samoa is afforded special treatment as a small island developing state or participating territory for purposes of applying conservation and management measures of the Commission, and therefore NMFS should develop rules that exempt from the ELAPS limit those vessels that deliver to the canneries in American Samoa.

The petition includes further information on the basis of the request, including information related to the recommendations of the Governor of American Samoa's Fisheries Task Force, and an "issue brief" with statements about the nature of the issue and how the requested rule(s) would address it.

In a second letter to NMFS dated May 26, 2015, which supplements the May 12, 2015, petition, Tri Marine acknowledged the interim rule published May 21, 2015, and amended its request. Tri Marine requested that "NOAA undertake an emergency rulemaking with respect to the 2015 ELAPS limits for fishing days (both) on the high seas and in the US EEZ," and further requested that "NOAA issue a rule exempting from the ELAPS limits any US flag purse seine vessel which, pursuant to contract or declaration of intent, delivers or will deliver at least 50 percent of its catch to tuna processing facilities based in American Samoa."

See the **ADDRESSES** section for instructions on how to obtain copies of the petition.

Request for Comments

NMFS has determined that the petition contains enough information to enable NMFS to consider its substance. NMFS is issuing this notice to solicit comments on the petitioner's request. NMFS is particularly interested in comments on the nature and severity of the problem identified by the petitioner, whether any exigencies exist, and whether the petitioner's requests would solve the alleged problem in an efficient and fair manner.

Next Steps

NMFS will consider public comments in deciding whether to proceed with the rulemaking(s) requested by Tri Marine. Once NMFS decides whether or not to proceed, or to proceed in part, it will publish a notice of its decision in the **Federal Register**.

Authority: 16 U.S.C. 6901 *et seq.*

Dated: July 13, 2015.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

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