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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 150615523-5973-03]

RIN 0648-XD998

**Pacific Island Pelagic Fisheries; 2015 U.S. Territorial
Longline Bigeye Tuna Catch Limits for Guam**

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

ACTION: Final specifications.

SUMMARY: In this final rule, NMFS specifies a 2015 limit of 2,000 metric tons (mt) of longline-caught bigeye tuna for Guam. NMFS will allow the territory to allocate up to 1,000 mt each year to U.S. longline fishing vessels in a specified fishing agreement that meets established criteria. As an accountability measure, NMFS will monitor, attribute, and restrict (if necessary) catches of longline-caught bigeye tuna, including catches made under a specified fishing agreement. These catch limits and accountability measures support the long-term sustainability of fishery resources of the U.S. Pacific Islands.

DATES: The final specifications are effective [*insert date of publication in the FEDERAL REGISTER*], through December 31, 2015. The deadline to submit a specified fishing agreement pursuant to 50 CFR 665.819(b)(3) for review is [*insert date 30 days after the date of publication in the FEDERAL REGISTER*].

ADDRESSES: Copies of the fishery ecosystem plans are available from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808-522-8220, fax 808-522-8226, or www.wpcouncil.org.

Copies of the environmental assessment (EA) and finding of no significant impact for this action, identified by NOAA-NMFS-2015-0077, are available from www.regulations.gov, or from Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

FOR FURTHER INFORMATION CONTACT: Jarad Makaiiau, NMFS PIRO Sustainable Fisheries, 808-725-5176.

SUPPLEMENTARY INFORMATION: NMFS is specifying a catch limit of 2,000 mt of longline-caught bigeye tuna for Guam in 2015. NMFS is also authorizing the territory to allocate up to 1,000 mt of its 2,000 mt bigeye tuna limit to U.S. longline fishing vessels permitted to fish under the

Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (FEP). The Western Pacific Fishery Management Council recommended these specifications.

NMFS will monitor catches of longline-caught bigeye tuna by the Guam longline fisheries, including catches made by U.S. longline vessels operating under specified fishing agreements. A specified fishing agreement must meet specific criteria set forth in 50 CFR 665.819 (Territorial catch and fishing effort limits), which also governs the procedures for attributing longline-caught bigeye tuna. When NMFS projects a territorial catch or allocation limit will be reached, NMFS will, as an accountability measure, prohibit the catch and retention of longline-caught bigeye tuna by vessels in the applicable territory (if the territorial catch limit is projected to be reached), and/or vessels in a specified fishing agreement (if the allocation limit is projected to be reached). These catch and allocation limits and accountability measures are identical to those that NMFS specified in 2014 (79 FR 64097, October 28, 2014). NMFS notes that there is a pending case in litigation—*Conservation Council for Hawai'i, et al., v. NMFS* (D. Haw.), case no. 14-cv-528—that challenges the framework process allowing the U.S. Pacific Island

territories to allocate a portion of their bigeye tuna catch limit to U.S. longline fishing vessels.

You may find additional background information on this action in the preamble to the proposed specifications published on August 24, 2015 (80 FR 51193).

Comments and Responses

On August 24, 2015, NMFS published the proposed specifications for the three U.S. Pacific territories (Commonwealth of Northern Mariana Islands (CNMI), Guam, and American Samoa) and request for public comments (80 FR 51193); the comment period closed on September 8, 2015. NMFS received comments from individuals, businesses, and non-governmental organizations on the proposed specifications and the draft EA. NMFS responded to comments on the proposed specifications for all three territories when it published the final 2015 bigeye tuna specifications for the CNMI (80 FR 61767, October 14, 2015), and does not repeat the comments and responses here.

Changes from the Proposed Specifications

In the proposed specifications published on August 24, 2015 (80 FR 51193), NMFS proposed to specify a catch limit of 2,000 mt of longline-caught bigeye tuna for each of the three U.S. Pacific territories. NMFS also proposed to authorize each territory to allocate up to 1,000 mt of its

2,000 mt bigeye tuna limit to U.S. longline fishing vessels permitted to fish under the FEP.

NMFS determined that the proposed catch and allocation limits were consistent to the maximum extent practicable with the enforceable policies of the approved coastal zone management programs of each of the three territories. At that time, the coastal management program of the CNMI concurred with this determination. The American Samoa coastal management program, however, requested an extension of time to review the proposed action. Under regulations at 15 CFR 930.41(b), NMFS approved the requested extension. Additionally, at that time, the Guam coastal management program also indicated that it was still reviewing the proposed specifications. For these reasons, NMFS implemented the 2015 limits only for the CNMI, effective October 9, 2015 (80 FR 61767, October 14, 2015).

On October 12, 2015, the Coastal Management Program of Guam concurred with the NMFS consistency determination. Therefore, in this action, NMFS will implement the 2015 limits for Guam. We will consider the American Samoa review of the CZMA federal consistency determination before implementing a 2015 limit for American Samoa.

Classification

The Regional Administrator, NMFS PIR, determined that this action is necessary for the conservation and management of Pacific Island fishery resources, and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. NMFS published the factual basis for the certification in the proposed rule and does not repeat it here. NMFS received no comments on this certification. As a result, a regulatory flexibility analysis is not required, and none has been prepared.

There is good cause to waive the 30-day delay requirement of the Administrative Procedure Act, 5 U.S.C. 553(d)(3), and make this rule effective immediately upon publication in the **Federal Register**. NMFS closed the U.S. pelagic longline fishery for bigeye tuna in the WCPO on August 5, 2015, because the fishery reached the 2015 U.S. WCPO catch limit (80 FR 44883, July 28, 2015). However, after NMFS implemented the 2015 limits for the CNMI,

effective October 9, 2015 (80 FR 61767, October 14, 2015), the Governor of the CNMI immediately transmitted a specified fishing agreement that NMFS determined met the criteria set forth in 50 CFR 665.819 (Territorial catch and fishing effort limits). As a result, U.S. vessels identified in the CNMI specified fishing agreement may retain and land bigeye tuna up to the amount 1,000 mt allocated.

Should the fishery harvest the 1,000 mt allocation limit provided by the CNMI agreement before this rule becomes effective, NMFS would prohibit vessels from entering into specified fishing agreements with Guam during that period. Such delay could disrupt fishing operations and have negative financial effects on the fishing community, including vessels, restaurants, and other seafood-related businesses. This action is intended to ameliorate the potential for such impacts. Furthermore, NMFS has determined that this action is consistent with the conservation needs of target and non-target stocks, and would not result in significant impacts to the human environment. Finally, these specifications are only in effect through the end of 2015; delaying the effective date by thirty days would effectively reduce the available time to engage in fishing operations by half. Accordingly, NMFS

finds it impracticable and contrary to the public interest to provide a 30-day delay in effectiveness for this rule.

This action is exempt from review under E.O. 12866 because it contains no implementing regulations.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 2, 2015

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory
Programs,

National Marine Fisheries Service.

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