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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 665**

**[Docket No. 130708597-4380-01]**

**RIN 0648-XE329**

**Pacific Island Pelagic Fisheries; 2015 CNMI Longline Bigeye Tuna Fishery; Closure**

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is closing the U.S. pelagic longline fishery for bigeye tuna in the western and central Pacific Ocean as a result of the fishery reaching the 2015 allocation limit for the Commonwealth of the Northern Mariana Islands (CNMI). This action is necessary to comply with regulations managing this fish stock.

**DATES:** Effective November 30, 2015, through December 31, 2015.

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

**SUPPLEMENTARY INFORMATION:** On August 5, 2015, NMFS restricted the retention, transshipment and landing of bigeye tuna captured by longline gear in the western and

central Pacific Ocean (WCPO) as a result of the U.S. longline fishery reaching the 2015 U.S. bigeye tuna limit of 3,502 mt (80 FR 44883, July 28, 2015). Regulations at 50 CFR 300.224(d) provide an exception to this closure for bigeye tuna caught by U.S. longline vessels identified in a valid specified fishing agreement under 50 CFR 665.819(c). Further, 50 CFR 665.819(c)(9) authorized NMFS to attribute catches of bigeye tuna made by U.S. longline vessels identified in a valid specified fishing agreement to the U.S. territory to which the agreement applies.

Effective on October 9, 2015, NMFS specified a 2015 catch limit of 2,000 mt of longline-caught bigeye tuna for the CNMI (80 FR 61767, October 14, 2015). NMFS also authorized the CNMI 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).

On October 9, 2015, the Western Pacific Fishery Management Council, through its Executive Director, transmitted to NMFS a specified fishing agreement between the CNMI and Quota Management, Inc. (QMI), dated September 16, 2015, and amended on October 15, 2015, by adding one vessel. NMFS reviewed the agreement, as amended, and determined that it was consistent with the requirements at

50 CFR 665.819, the FEP, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable laws. The criteria that a specified fishing agreement must meet, and the process for attributing longline-caught bigeye tuna, followed the procedures in 50 CFR 665.819—Territorial catch and fishing effort limits.

In accordance with 50 CFR 300.224(d) and 50 CFR 665.819(c)(9), NMFS began attributing bigeye tuna caught in the WCPO by vessels identified in the CNMI/QMI agreement to the CNMI, beginning on October 9, 2015. NMFS monitored catches of longline-caught bigeye tuna by the CNMI longline fisheries, including catches made by U.S. longline vessels operating under the CNMI/QMI agreement. Based on this monitoring, NMFS forecasted that the CNMI territorial allocation limit of 1,000 mt will be reached by the end of November 2015, and is, as an accountability measure, prohibiting the catch and retention of longline-caught bigeye tuna by vessels in the CNMI/QMI agreement.

**Notice of Closure and Temporary Rule**

On November 30, 2015, through December 31, 2015, NMFS closes the U.S. pelagic longline fishery for bigeye tuna in the western and central Pacific Ocean as a result of the fishery reaching the 2015 allocation limit of 1,000 mt for the CNMI.

During the closure, a U.S. fishing vessel operating under the CNMI/QMI agreement may not retain on board, transship, or land bigeye tuna captured by longline gear in the WCPO, except that any bigeye tuna already on board a fishing vessel upon the effective date of the restrictions may be retained on board, transshipped, and landed, provided that they are landed within 14 days of the start of the closure, that is, by December 14, 2015. Additionally, U.S. fishing vessels operating under the CNMI/QMI agreement are also prohibited from transshipping bigeye tuna caught in the WCPO by longline gear to any vessel other than a U.S. fishing vessel with a valid permit issued under 50 CFR 660.707 or 665.801.

During the closure, all other restrictions and requirements NMFS established on August 5, 2015, as a result of the U.S. longline fishery reaching the 2015 U.S. bigeye tuna limit of 3,502 mt (80 FR 44883, July 28, 2015) shall remain valid and effective.

NMFS notes that there is a pending case in litigation—*Conservation Council for Hawai'i, et al., v. NMFS* (D. Hawaii); case no. 14-cv-528—that challenges the framework process for allocations from the territories to U.S. longline fishing vessels.

**Classification**

There is good cause to waive the prior notice and public comment requirement of the Administrative Procedure Act, and make this rule effective immediately upon publication in the **Federal Register**. This rule closes the U.S. longline fishery for bigeye tuna in the WCPO as a result of reaching the bigeye tuna allocation limit established by the 2015 specification for catch and allocation limits of bigeye tuna for the CNMI, and the specified fishing agreement between the Government of the CNMI and QMI dated September 16, 2015, amended on October 15, 2015.

NMFS forecasts that the fishery will reach the 2015 limit by the end of November 2015. Fishermen have been subject to longline bigeye tuna limits in the western and central Pacific since 2009. They have received ongoing, updated information about the 2015 catch and progress of the fishery in reaching the Convention Area limit via the NMFS web site, social media, and other means. The publication timing of this rule, moreover, provides longline fishermen with seven days' advance notice of the closure date, and allows two weeks to return to port and land their catch of bigeye tuna. This action is intended to comply with regulations managing this stock, and,

accordingly NMFS finds it impracticable and contrary to the public interest to have prior notice and public comment.

For the reasons stated above, there is also good cause to waive the 30-day delay requirement of the Administrative Procedure Act for this notice and temporary rule. NMFS must close the fishery as soon as possible to ensure that fishery does not exceed the allocation limit. NMFS implemented the catch and allocation limits for the CNMI consistent with management objectives to sustainably manage the bigeye tuna stock and restore the stock to levels capable of producing maximum sustainable yield on a continuing basis. Failure to close the fishery immediately would be inconsistent with bigeye tuna management objections and in violation of Federal law.

This action is required by 50 CFR 665.819(d), and is exempt from review under Executive Order 12866.

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

Dated: November 23, 2015

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