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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 200805-0205; RTID 0648-XP010]

Pacific Island Fisheries; 2020 U.S. Territorial Longline

Bigeye Tuna Catch Limits

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

ACTION: Final specifications.

SUMMARY: NMFS specifies a 2020 limit of 2,000 metric tons (t) of longline-caught bigeye tuna for each U.S. Pacific territory (American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (CNMI)). NMFS will allow each territory to allocate up to 1,500 t each year to U.S. longline fishing vessels in a specified fishing agreement that meets established criteria, but the overall allocation limit among all territories may not exceed 3,000 t. 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 filing for public inspection in the FEDERAL REGISTER*], through December 31, 2020. The deadline to submit a specified fishing agreement pursuant to 50 CFR 665.819(b) (3) for review is [*insert date 120 days after the date of publication in the FEDERAL REGISTER*].

ADDRESSES: Copies of the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (Pelagic FEP) 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.

NMFS prepared environmental analyses that describe the potential impacts on the human environment that would result from the action. Copies of those analyses, which include a supplemental environmental assessment (SEA) and a finding of no significant impact (FONSI), are available from <http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2020-0078>, or from Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

FOR FURTHER INFORMATION CONTACT: Lynn Rassel, NMFS PIRO Sustainable Fisheries, 808-725-5184.

SUPPLEMENTARY INFORMATION: NMFS is specifying a 2020 catch limit of 2,000 t of longline-caught bigeye tuna for each U.S. Pacific territory. NMFS is also authorizing each U.S. Pacific territory to allocate up to 1,500 t of its 2,000 t bigeye tuna limit, not to exceed a 3,000 t total annual allocation limit among all the territories, to U.S. longline fishing vessels that are permitted to fish under the Pelagic FEP. Those vessels must be identified in a specified fishing agreement with the applicable territory. NMFS will monitor catches of longline-caught bigeye tuna by the longline fisheries of each U.S Pacific territory, including catches made by U.S. longline vessels operating under specified fishing agreements. The criteria that a specified fishing agreement must meet, and the process for attributing longline-caught bigeye tuna, will follow the procedures in 50 CFR 665.819. When NMFS projects that 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).

You may find additional background information on this action in the preamble to the proposed specifications published on July 9, 2020 (85 FR 41223).

Comments and Responses

On July 9, 2020, NMFS published the proposed specifications and request for public comments (85 FR 41223); the comment period closed on July 24, 2020. NMFS received comments from three submitters, and responds below. We made no changes to the final specifications in response to comments on the proposed specifications.

NMFS also received comments suggesting minor housekeeping corrections and clarifications when finalizing the SEA, which we made in the final SEA.

In addition, in light of the decision in *Territory of American Samoa v. NMFS, et al.* (16-cv-95, D. Haw), NMFS specifically invited public comments on the effect of the proposed action on cultural fishing in American Samoa. NMFS received no comments addressing American Samoa cultural fishing.

Comment 1: Commercial fishing should be banned and only subsistence fishing should be allowed.

Response: Seafood is an important source of protein for many people, and commercial fishing provides fish for people who do not have the ability to fish for themselves.

The proposed action allows for the sustainable harvest of bigeye tuna, consistent with the Pelagic FEP, the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and other applicable laws. The commercial Hawaii longline fishery is an important supplier of high-quality seafood that supports local seafood demand. Local commercial fisheries also provide jobs and revenue for fishermen, seafood markets, and supporting industries. This action also reduces the dependence on foreign fishing, which may be less stringently monitored or regulated than U.S. fisheries.

Comment 2: The Hawaii Longline Association (HLA) generally supports this action, noting the importance of annual bigeye tuna specifications in providing additional bigeye tuna for the Hawaii longline fishery, and the support for fisheries development in the territories. While the HLA does not think a total annual allocation cap of 3,000 t is necessary because the bigeye tuna stock is healthy and in consideration of various international actions and agreements among Western and Central Pacific Fisheries Commission (WCPFC) members, the HLA supports the action.

Response: NMFS is satisfied that the annual bigeye catch and allocation specifications are important for the

management of sustainable fisheries and that the specified fishing agreements provide important fisheries development project funding. NMFS notes that the increased allocation considers the needs of fishing communities by adding flexibility while continuing to support the long-term sustainability of fishery resources of the U.S. Pacific Islands. Utilizing the best scientific information available, NMFS has determined that these catch and allocation limits are consistent with WCPFC objectives. NMFS acknowledges that the WCPFC has not adopted bigeye limits for the U.S. territories and that the Council has recommended amending the Pelagic FEP and Federal regulations to remove the requirement to specify catch limits for the territories before specifying allocation limits. However, a plan amendment and proposed regulations to implement this Council recommendation have yet to be developed.

Classification

Pursuant to section 304(b) (3) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the Pelagic FEP, other provisions of the Magnuson-Stevens Act, and other

applicable law, subject to further consideration after public comment.

Because this rule relieves a possible restriction, the exception in 5 U.S.C. 553(d)(1) applies so that it is not subject to the 30-day delayed effectiveness provision of the Administrative Procedure Act. This rule allows U.S. vessels identified in a valid specified fishing agreement to continue fishing in the Western and Central Pacific Ocean (WCPO) even if NMFS closes the longline fishery for bigeye tuna. Consistent with Conservation and Management Measure 2018-01 adopted by the WCPFC at its December 2018 meeting, the bigeye tuna catch limit applicable to U.S. longline fisheries in the WCPO in 2019-2020 is 3,554 t. When NMFS projects that the limit will be reached, NMFS must close the fishery for bigeye tuna in the WCPO. Regulations at 50 CFR 665.819 require NMFS to begin attributing longline caught bigeye tuna to the U.S. territory to which a fishing agreement applies either seven days before the date NMFS projects that the fishery will reach the WCPO U.S bigeye tuna limit, or upon the effective date of the agreement, whichever is later. Based on longline catch records to date, NMFS projects the current 3,554 t limit of WCPO bigeye tuna will be reached in September 2020. This projected date is subject to change,

and the projected date throughout 2020 has often been earlier in the year as the fishing year has progressed. If the effectiveness of this final rule is delayed past the date that the WCPO bigeye tuna limit is reached, NMFS would be required to publish a temporary rule that restricts the retention of WCPO bigeye tuna in the Hawaii-based longline fishery until this final rule is effective. After the effective date, NMFS would remove the restrictions for U.S. vessels identified in a valid specified fishing agreement with a U.S. territory. Implementing this rule immediately allows the fishery to continue fishing without the uncertainty or disruption of a potential closure.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule 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 we do not repeat it here. NMFS received no comments on this certification; as a result, a final regulatory flexibility analysis is not required, and none has been prepared.

This final rule is exempt from review under Executive Order 12866.

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

Dated: August 5, 2020.

Donna S. Wieting,

Acting Deputy Assistant Administrator for Regulatory
Programs,

National Marine Fisheries Service.

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