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FINDING OF NO SIGNIFICANT IMPACT

Specification of Bigeye Tuna Catch and Allocation Limits for Pelagic Longline Fisheries in U.S. Pacific Island Territories in 2015 and 2016

(RIN 0648- XD998)

September 29, 2015

The National Marine Fisheries Service (NMFS) prepared this Finding of No Significant Impact (FONSI) according to the guidelines for a FONSI for fisheries management actions established in NMFS Instruction 30-124-1 (July 22, 2005) and the requirements of National Oceanic and Atmospheric Administration Administrative Order (NAO) 216-6 (May 20, 1999) regarding compliance with the National Environmental Policy Act (NEPA). NMFS prepared the attached Environmental Assessment (EA) in accordance with the requirements of NEPA and agency guidelines. The environmental effects analysis in the attached EA supports this FONSI.

Background and Federal Action

NMFS proposes to specify a catch limit of 2,000 mt of longline-caught bigeye tuna for each U.S. territory (i.e., American Samoa, Guam and the Northern Mariana Islands) in 2015. NMFS would also authorize each territory to allocate and transfer up to 1,000 mt of its 2,000 mt bigeye tuna limit to U.S. longline fishing vessels identified in a valid specified fishing agreement, following the procedures in 50 CFR 665.819. NMFS would take this action under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the framework established under Amendment 7 to the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (Pelagic FEP). NMFS would monitor catches of longline-caught bigeye tuna. When NMFS projects that a fishery will reach a territorial catch or allocation limit, NMFS would, as an accountability measure (AM), prohibit the retention of bigeye tuna by longline vessels in the applicable territory (if the territorial catch limit is projected to be reached), and/or by vessels operating under the applicable specified fishing agreement (if the allocation limit is projected to be reached). The proposed catch and allocation limits and accountability measures are identical to those that NMFS specified in 2014 (79 FR 64097, October 28, 2014). Although the proposed action is for 2015 only, the EA anticipates and analyzes the effects of the federal action for 2015 and again in 2016. Any recommended specifications for 2016 would be subject to separate review and approval by NMFS.

Outline of the EA

Chapter 1 provides an overview of domestic and international authorities governing fisheries for bigeye tuna in the western Pacific Ocean, including the catch and allocation limit specification process established through Amendment 7 to the Pelagic FEP. Chapter 1 also describes the proposed action, the purpose and need for the action, decision-making, and the public review process. Chapter 2 describes alternatives considered. Alternative 2 - Specify for each U.S.

participating territory a 2,000-mt catch limit and 1,000-mt allocation limit in 2015 and 2016 – is the selected alternative. Chapter 3 describes the environmental baseline. Chapter 4 contains the environmental impact analysis, including consideration of climate change, cumulative impacts, and a review of Environmental Justice considerations. Chapter 5 provides a summary of compliance with applicable laws. Chapter 6 lists literature cited.

On August 24, 2014, NMFS published the proposed specifications and request for public comments on the action and the EA (80 FR 51193); the comment period ended September 8, 2015. NMFS received comments on the proposed specifications and on the draft EA from individuals, businesses, and non-governmental organizations. NMFS considered public comments in finalizing the EA and making its decision on the action, and responds to comments in the final specification.

Significance Analysis

NAO 216-6 contains criteria for determining the significance of the impacts of a proposed action. In addition, the Council on Environmental Quality (CEQ) regulations at 40 CFR, section 1508.27 suggest that an agency analyze an action in terms of both "context" and "intensity." Each criterion listed below is relevant in making a finding of no significant impact and NMFS considered these criteria individually and combined. We analyzed the significance of this action based on the NAO 216-6 criteria and CEQ context and intensity criteria. NAO 216-6, Section 6.01b, 1-11 provides eleven criteria, the same ten as in the CEQ regulations and one additional criterion, for determining whether the impacts of a proposed action are significant. The following questions and answers apply to the analysis in the attached EA for the selected alternative (Alternative 2). The questions are consistent with NAO 216-6, CEQ criteria, and guidelines for a FONSI for fishery management actions (NMFS Instruction 30-124-1), and form the basis for the finding of no significant impact.

1) Can the proposed action reasonably be expected to jeopardize the sustainability of any target species that may be affected by the action?

No. The U.S. longline fishing vessels primarily target bigeye tuna. The EA analyzes potential impacts to the sustainability of bigeye tuna stocks by evaluating the effect of the alternatives, under multiple potential outcomes. As described in the EA, overfishing occurs when the fishing mortality rate (F/F_{MSY} ratio) is greater than 1.0 for one year or more. NMFS considers a stock overfished when the total stock biomass (B/B_{MSY} ratio) falls below the minimum size stock threshold (MSST). For bigeye tuna, MSST is breached if the B/B_{MSY} ratio falls below 0.6.

The analysis of the potential outcomes under Alternative 2 (selected alternative) considered varying numbers of fishing agreements, and corresponding allocations, as well as partial or full utilization of the bigeye limit set for the U.S. territories.

In the EA, Outcome D represents the full potential impact of the action. Outcome D assumes all three U.S. territories would enter into a fishing agreement and each allocate 1,000 mt of their 2,000-mt bigeye tuna catch limit to U.S. fishing vessels through the agreements. . Outcome D assumes that each of the three U.S. territories would catch 1,000 mt of bigeye tuna (3,000 mt) in

2015 and 2016, and that U.S. pelagic fisheries would harvest each of the territory's allocation limit of 1,000 mt of bigeye tuna under three specified fishing agreements (another 3,000 mt). Under Outcome D, the projected median mortality would be F_{2032}/F_{MSY} = 1.007. However, this mortality rate is associated with a 55 percent probability of overfishing and is virtually indistinguishable from the overfishing threshold of F/F_{MSY} >1.0. Under Outcome D, median total biomass would be B_{2032}/B_{MSY} = 1.510 and is associated with a zero percent probability of overfishing. NMFS does not expect Outcome D will occur in 2015. This is because Guam and CNMI currently do not have an active longline fishery and vessels operating in the longline fisheries of American Samoa harvest an annual average of 521 mt of bigeye tuna. Therefore, it is unlikely longline fisheries of these territories will each catch 1,000 mt of bigeye tuna in 2015 or 2016.

Instead, NMFS expects Outcome C is the most likely outcome to occur in 2015 and 2016. Outcome C assumes each territory would not fully utilize the remaining 1,000 mt of its catch limit, which is consistent with the current state of the territorial longline fisheries (currently neither Guam nor the Commonwealth of the Mariana Islands has longline fisheries capable of targeting bigeye and the American Samoa longline fishery primarily targets albacore). Under Alternative 2-Outcome C, bigeye tuna would not be subject to overfishing or overfished because the projected median fishing mortality would be F_{2032}/F_{MSY} = 0.993 and the median total biomass would be B_{2032}/B_{MSY} = 1.535. These projections are associated with a 45 percent risk of overfishing and a zero risk of becoming overfished. Based on these analyses, NMFS does not expect the proposed action to jeopardize the sustainability of the target species.

2) Can the proposed action reasonably be expected to jeopardize the sustainability of any non-target species?

No. Under this action, U.S. longline fisheries in Hawaii and the U.S. territories will continue to comply with all federal regulations implementing international conservation and management measures adopted by WCPFC, and domestic conservation and existing management under the Pelagic FEP to ensure that fishing is sustainable. Catches of non-target species in the Hawaii longline fishery are driven by the fishing effort for bigeye tuna. If fishing effort for bigeye tuna increases, the catches of other target and non-target stocks would be expected to increase commensurate with the increases in fishing effort. The predicted level of fishing effort by the U.S. participating territories and the Hawaii longline fishery under Alternatives 1 and 2 are expected to result in catches of non-target species within historical baseline levels, although there could be slightly less effort by Hawaii-based fisheries under Alternative 1 compared to Alterative 2.

NMFS will continue to monitor all longline fisheries for information on catch, bycatch, and discards, and interactions with protected species. Fishery monitoring allows NMFS and the Council to respond to potential needs to reduce bycatch and mortality of bycatch. Longline vessels that fish under specified fishing agreements under the action will still be required to submit logbooks, carry observers when requested by NMFS, and carry and operate a vessel

monitoring system (VMS) unit. In addition, all longline vessels are required to follow strict protected species mitigation measures that reduce interactions with these species.

3) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat as defined under the Magnuson-Stevens Act and identified in FMPs?

No. Section 4.4 of the EA describes the impacts on marine habitats and Essential Fish Habitat (EFH). Neither Alternative 1 nor Alternative 2 would adversely impact the marine habitat, particularly critical habitat, EFH, HAPC, marine protected areas (MPAs), marine sanctuaries, or marine monuments. NMFS knows of no western Pacific pelagic fishery that has large adverse impacts to habitats, and so none of the Alternatives is likely to lead to substantial physical, chemical, or biological alterations to the habitat. Longline fishing activities do not occur in identified critical habitat, so NMFS does not expect the proposed action to impact critical habitat. Longline fishing does not occur in MPAs, marine sanctuaries, or marine monuments, so the proposed action would not impact marine protected areas.

Longline fishing involves suspending baited hooks in the upper surface layers of the water column, which does not materially impact benthic marine habitat under typical operations. Derelict longline gear may impact marine benthic habitats, especially substrate such as corals if carried by currents to shallow depths; however, the loss of longline gear during normal fishing operations is not believed to be at levels that result in significant or adverse impacts to EFH, HAPC, or the marine habitat.

4) Can the proposed action be reasonably expected to have a substantial adverse impact on public health or safety?

No. NMFS expects this action to improve safety-at-sea for the Hawaii longline fishery by allowing fishery participants to enter into territory agreements to fish in the WCPO. On August 5, 2015, NMFS closed the U.S. longline fishery for bigeye tuna because of the fishery reaching the 2015 bigeye tuna limit. The opportunity for longline vessels to enter into fishing agreements with the U.S. territories and fishing in the WCPO under territorial bigeye tuna allocation limits is important for small vessels in the Hawaii longline fishery because when the U.S. WCPO catch limit for bigeye tuna is reached, all vessels must either stop fishing or fish for bigeye tuna in the Eastern Pacific Ocean (EPO), which is further from Hawaii than some fishing grounds in the WCPO. In November and December, which are months in which a closure of the bigeye tuna has in the WCPO has occurred in the past, typically have strong storm activity occurring in the North Pacific (EA, Section 4.2).

5) Can the proposed action reasonably be expected to adversely affect endangered or threatened species, marine mammals, or critical habitat of these species?

No. Section 4.3 of the EA describes the impacts to endangered or threatened species, marine mammals, or critical habitat of these species. Section 3.5 of the EA describes the current levels of interactions for the American Samoa and Hawaii longline fisheries. These fisheries operate under separate NMFS Biological Opinions and associated Incidental Take Statements, are

subject to observer coverage and reporting, and must be conducted using a suite of mitigation measures to reduce the number and severity of protected species interactions (see 50 CFR 665 Subpart F and 50 CFR 229.37). Under the Alternatives considered, NMFS and the Council would continue to manage longline fisheries in all U.S. participating territories and Hawaii under the Pelagic FEP and regulations. Under the proposed action, NMFS expects fishing effort to remain within historical levels. Thus, NMFS expects the effects to protected species, marine mammals, and critical habitat to be consistent with the level of interaction analyzed in the existing no-jeopardy biological opinions.

6) Can the proposed action be expected to have a substantial impact on biodiversity and/or ecosystem function within the affected area (e.g., benthic productivity, predator-prey relationships, etc.)?

No. The western Pacific pelagic fisheries are not known to impact marine habitats, and the selected Alternative 2 will not change any fishery in any way so there will be no adverse impact to the marine habitats including areas designated as essential fish habitat (EFH), habitat areas of particular concern (HAPC), or marine sanctuaries or monuments. NMFS is not aware of Pacific pelagic fisheries having large adverse impacts to habitats (EA, Section 4.4).
There are no known studies that show impacts to species fecundity or negative predator/prey relationships that result in significant adverse changes to food web dynamics. Without management to ensure fishing is sustainable, the removal of top predator pelagic species such as bigeye tuna, yellowfin tuna, and billfish above natural mortality rates, that is, when fishing is occurring, has the potential to cause major imbalances or wide ranging change to ecosystem functions and habitats. However, as described in the EA, both international and domestic fishery managers are controlling catches throughout the Pacific. NMFS expects such control to improve stock status and prevent imbalances or wide-ranging changes to ecosystem function.

7) Are significant social or economic impacts interrelated with natural or physical environmental effects?

No. Section 4.2 of the EA describes the economic and social impacts to fishery participants and fishing communities. As occurred from 2011-2013, under the authority of Section 113, and in 2014, under Amendment 7 specifications, this action will allow territories to enter into fishing agreements in exchange for deposits into the WP SFF for fishery development projects listed in a territories Marine Conservation Plan approved by the Secretary of Commerce. Thus, NMFS expects fishing communities to benefit from fishery development projects funded by WP SFF in the future. NMFS expects benefits to vary from minor to moderate, and will analyze each project under NEPA for impacts, once identified.

Territories should benefit economically and socially from the attribution of bigeye tuna under agreements. For example, Guam and the CNMI do not currently have the domestic fishing capacity to participate in the bigeye tuna fishery, and American Samoa has domestic longline capacity with only a history of albacore fishing. The authorization of territory agreements allows NMFS to attribute catch to these territories and demonstrates the aspirations of the U.S. territories to participate in the larger, internationally managed fisheries in the WCPO.

Under this action, Hawaii longline fishery participants will realize minor to moderately positive benefits from being able to continue to enter into fishing agreements with territories. This action will also allow the Hawaii longline fleet to optimize their fishing schedule by choosing to fish in certain areas. Fishing in the EPO for bigeye tuna during a closure of the WCPO requires more fuel, longer transit times, and results in fewer sets, and potentially reduced quality of fish. Profits can also be variable due to the seasonal variation in the availability of bigeye tuna in the EPO. The action is not expect to have a significant adverse effect on any fish stock that would result in depletion that could have a significant secondary impact on members of fishing communities that rely on seafood for sustenance.

8) Are the effects on the quality of the human environment likely to be highly controversial?

This action is controversial with certain environmental organizations. Amendment 7, its implementing regulations, and the 2014 catch limits and allocation specifications, are the subject of ongoing litigation (*Conservation Council for Hawai'i, et al., v. NMFS (D. Hawaii)*). Plaintiffs challenge the framework process for allocations from the territories to U.S. longline fishing vessels.

However, the effects of the action, as analyzed in the EA, are not likely to be highly controversial. The analysis of the potential outcomes under Alternative 2 (selected alternative) considered a varying numbers of fishing agreements, and corresponding allocations, as well as partial or full utilization of the bigeye limit set for the U.S. territories. In the EA, Outcome D represents the full impact of the action.

As described in response to Question 1, NMFS does not expect the potential impacts of Outcome D to be controversial because it would not result in overfishing or an overfished status of the bigeye tuna stock. Similarly, the analysis in the EA indicates in catches of non-target species, including protected marine species would remain within historical baseline levels, although there could be slightly less effort by Hawaii-based fisheries under Alternative 1 compared to Alterative 2.

Additionally, the Hawaii longline fishery will continue to operate in accordance with regulations intended to prevent and reduce adverse impacts to the environment. NMFS will base future catch, effort, and transfer limits on the best available scientific and commercial information about stock status, and will develop the limits considering applicable international conservation and management measures for highly migratory species. Future catch and effort limit and transfer limit specifications will be subject to additional environmental review under NEPA, ESA, Magnuson-Stevens Act, and other applicable law, to ensure the sustainability of target and non-target stocks, the conservation of protected species and the human environment, and consistency with all applicable international obligations.

9) Can the proposed action reasonably be expected to result in substantial impacts to unique areas, such as historic or cultural resources, parkland, prime farmlands, wetlands, wild and scenic rivers or ecologically critical areas?

No. NMFS does not expect substantial physical, chemical, or biological alterations to habitat. Longline fishing does not occur in marine protected areas, marine sanctuaries, or marine monuments and existing longline fishing practices will not change under the proposed action so no impacts are anticipated (EA, Section 4.4).

10) Are the effects on the human environment likely to be highly uncertain or involve unique or unknown risks?

The EA did not identify impacts to the human environment that are likely to be highly uncertain or involve unique or unknown risks. Under the preferred alternative, the Hawaii fishery should continue to fish within historical effort levels. U.S. fisheries will continue to comply with all applicable international conservation and management measures and will continue to fish in accordance with provisions of applicable laws intended for the conservation of fish stocks and protection of the environment. Under the preferred alternative, the Hawaii longline fishery will continue to comply with existing observer and reporting requirements; NMFS will be able to identify and address any unanticipated impacts to fish stocks or protected species. We will include new information regarding stock status and impacts to the environment in annual reviews of fishing effort and transfer specifications, as appropriate.

11) Is the proposed action related to other actions with individually insignificant, but cumulatively significant impacts?

No. The impacts of the Hawaii longline fishery fishing under the 2015 specification will not have cumulatively significant impacts when considered together with past, present and reasonably foreseeable actions by NMFS, Hawaii-managed fisheries, or by others. NMFS evaluated the potential for cumulative effects of the action on target and non-target stocks, ocean productivity related to climate change, protected species, catch rates of target and non-target species, and fishing communities. NMFS does not expect the proposed action to result in cumulative impacts that could have substantial effects. (EA, section 4.6)

12) Is the proposed action likely to adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural or historical resources?

No. We have not identified such resources in the areas affected by commercial longline fishing.

13) Can the proposed action reasonably be expected to result in the introduction or spread of a non-indigenous species?

No. This action would not change the conduct of longline fisheries, and these fisheries likely do not spread or introduce non-indigenous species.

14) Is the proposed action likely to establish a precedent for future actions with significant effects or represent a decision in principle about a future consideration?

No. The proposed action would specify a catch limit of 2,000 mt of longline-caught bigeye tuna for each U.S. territory (i.e., American Samoa, Guam and the Northern Mariana Islands) in 2015. NMFS would also authorize each territory to allocate and transfer up to 1,000 mt of its 2,000-mt bigeye tuna limit to U.S. longline fishing vessels identified in a valid specified fishing agreement. The Hawaii longline fishery will continue to operate in accordance with regulations intended to prevent and reduce adverse impacts to the environment. NMFS will base future catch, effort, and transfer limits on the best available scientific and commercial information on stock status, and will develop these limits considering applicable international conservation and management measures for highly migratory species. Future catch and effort limit and transfer limit specifications will be subject to additional environmental review under NEPA, ESA, Magnuson-Stevens Act, and other applicable law, to ensure the sustainability of target and non-target stocks, the conservation of protected species and the human environment, and consistency with all applicable international obligations. This activity would not automatically lead to future actions that could have significant impacts.

15) Can the proposed action reasonably be expected to threaten a violation of Federal, State, or local law or requirements imposed for the protection of the environment?

No. The Council, which includes representatives from American Samoa, Guam, the CNMI, and Hawaii, developed this action, in accordance with the Magnuson-Stevens Act, and other applicable laws. The Council deliberations took place in public forums and the Council provided opportunities for public comments during the development of its recommendations. The draft specification and EA document was developed by NMFS in coordination with the Council staff and coordinated with territory and state government natural resource agencies and the public, and was not found to be inconsistent with applicable laws (EA, Section 1.6 and 5).

16) Can the proposed action reasonably be expected to result in cumulative adverse effects that could have a substantial effect on the target species or non-target species?

NMFS has not identified any new information suggesting that implementation of the final rule establishing 2015 bigeye tuna territory catch and transfer limit specifications would have a substantial cumulative effect on a bigeye tuna or any non-target species. The proposed action would allow the limited transfer of available bigeye tuna from U.S territories to eligible U.S. fisheries, consistent with the conservation and management needs of the stock, as determined by the WCPFC and NMFS. The Hawaii longline fishery will continue to operate in accordance with regulations intended to prevent and reduce adverse impacts to the environment. NMFS evaluated the potential for cumulative effects of the proposed action on target and non-target stocks, ocean productivity related to climate change, protected species, catch rates of albacore, and fishing communities. NMFS does not expect the proposed action to result in cumulative impacts that could have substantial effects (EA, section 4.6.1).

Summary and Other Findings

NMFS also considered the effects of the proposed action on climate change and climate change impacts on the feasibility of the proposed action (EA, Section 4.6.6). Monitoring of stock status

would continue, and allow detection of impacts to stocks that might be occurring because of climate change. NMFS and the Council could modify fishery management provisions to ensure that all fisheries remain sustainably managed. NMFS does not expect the action to result in a change in the fishery's conduct, so there would be no change in greenhouse gas emissions.

NMFS does not expect the conduct of U.S. longline fisheries in the Pacific Islands under the proposed action to have significant adverse impacts to the physical marine environment, target or non-target fish species, protected resources, fishery participants and communities, or state and federal enforcement or fisheries administration. The Hawaii longline fishery will continue to operate in accordance with provisions of the FEP, other applicable regulations, and with authorizations undertaken in accordance with the ESA and MMPA. These regulations and authorizations will help ensure the sustainable management of the affected stock, consistent with conservation and management objectives under applicable law and WCPFC decisions.

Determination

Based on the information in this document and the analysis contained in the EA, I have determined that the impact of implementing the proposed action will not have significant effects on the quality of the human environment. We have addressed all relevant potential beneficial and adverse impacts of the action to reach the conclusion of no significant impacts. Accordingly, preparation of an Environmental Impact Statement for this action is not necessary.

Michael D. Tosatto
Regional Administrator

SEP 29 2015
Date

Attachment