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## **FINDING OF NO SIGNIFICANT IMPACT**

### **Amendment 5 to the Fishery Ecosystem Plan for the American Samoa Archipelago Rebuilding Plan for American Samoa Bottomfish (RIN 0648-BK79)**

April 15, 2022

The National Marine Fisheries Service (NMFS) will implement a rebuilding plan for the bottomfish multi-species stock complex in American Samoa that includes an annual catch limit (ACL), an in-season accountability measure (AM), and a higher performance standard. The Western Pacific Fishery Management Council (Council) initiated development of the rebuilding plan due to new information about the stock complex from the 2019 benchmark stock assessment that found the bottomfish stock complex is overfished, and experiencing overfishing. This is the first assessment that has indicated the American Samoa bottomfish stock complex is overfished.

The bottomfish fishery in American Samoa primarily harvests bottomfish management unit species (BMUS), an assemblage or complex of 11 species that include emperors, snappers, groupers, and jacks. The BMUS complex occurs in waters subject to either territorial or Federal jurisdiction. The Council and NMFS manage the BMUS fishery in Federal waters (i.e., the U.S. Exclusive Economic Zone, or EEZ, 3-200 nautical miles (nm) from shore) around American Samoa in accordance with the Fishery Ecosystem Plan for the American Samoa Archipelago (FEP), the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and implementing regulations at 50 CFR 665. The Territory of American Samoa manages the BMUS fishery in territorial waters (i.e., generally 0 to 3 nm from shore) and has discretion to implement management in its waters, including measures that complement fishery management in Federal waters.

The American Samoa bottomfish fishery consists of approximately 20 participants who fish for bottomfish primarily using aluminum *alia* catamarans that are less than 32 feet in length and outfitted with outboard engines and wooden hand reels for both trolling and bottomfish fishing. Bottomfish fishermen typically fish less than 20 miles from shore because few vessels carry ice (WPFMC 2009). The fishery is primarily non-commercial and catch is mainly used for subsistence and cultural practices.

In 2020, the most recent year for which catch data are available, the total estimated annual catch of American Samoa bottomfish was 9,592 lb while the estimated commercial catch from the American Samoa Department of Marine and Wildlife Resources (DMWR) commercial receipt book system was just 307 lb. Existing data reporting systems do not differentiate catch from territorial versus Federal waters. The best information available shows that the majority of bottomfish habitat is in territorial waters (85 percent), and the rest is in Federal waters located



on and around offshore (15 percent). NMFS uses the amount of habitat as a proxy for estimating the amount of catch harvested in Federal and territorial waters.

Since 2012, the Council and NMFS have managed the American Samoa bottomfish fishery in Federal waters with ACLs and AMs for the bottomfish stock complex. There is no Federal permit or reporting required to fish for bottomfish in Federal waters around American Samoa. There is no territorial catch limit set by the American Samoa Government, but a license and reporting are required for commercial fishing. The American Samoa bottomfish fishery is monitored using data from this mandatory commercial receipt book program, and data voluntarily provided by fishermen to the American Samoa Department of Agriculture, Division of Aquatic and Wildlife Resources (DAWR) through boat-based and shore-based intercept creel survey programs (EA, section 3.4).

### **I. Purpose of Finding of No Significant Impact (FONSI):**

The National Environmental Policy Act (NEPA) requires the preparation of an Environmental Impact Statement (EIS) for any proposal for a major federal action significantly affecting the quality of the human environment. 42 U.S.C. § 4332(C). The 2020 Council on Environmental Quality (CEQ) Regulations direct agencies to prepare a Finding of No Significant Impact (FONSI) when an action not otherwise excluded will not have a significant impact on the human environment (40 CFR §§ 1500.4(b), 1500.5(b)). To evaluate whether a significant impact on the human environment is likely, the CEQ regulations direct agencies to analyze the potentially affected environment and the degree of the effects of the proposed action (40 CFR § 1501.3(b)). In doing so, agencies should consider the geographic extent of the affected area (i.e., national, regional or local), the resources located in the affected area (40 CFR § 1501.3(b)(1)), and whether the project is considered minor or small-scale (NAO 216-6A CM, Appendix A-2). In considering the degree of effect on these resources, agencies should examine both short- and long-term effects (40 CFR 1501.3(b)(2)(i)-(iv); NAO 216-6A CM Appendix A-2 - A-3), and the magnitude of the effect (e.g., negligible, minor, moderate, major). CEQ identifies specific criteria for consideration (40 CFR 1501.3(b)(2)(i)-(iv)). Each criterion is discussed below with respect to the proposed action and considered individually as well as in combination with the others.

In preparing this FONSI, we reviewed the Environmental Assessment (EA) for Amendment 5 to the Fishery Ecosystem Plan for the American Samoa Archipelago: Rebuilding Plan for American Samoa Bottomfish that evaluates the affected area, the scale and geographic extent of the proposed action, and the degree of effects on those resources (including the duration of impact, and whether the impacts were adverse and/or beneficial and their magnitude). The EA, which was prepared using the 2020 CEQ NEPA regulations, is hereby incorporated by reference per 40 CFR 1501.6(b).

The EA describes the purpose and need for action, and the effects of four management alternatives:

- **Alternative 1:** Status Quo / NMFS would not implement a Rebuilding Plan – Implement an ACL of 13,000 lb with an in-season
- **Alternative 2:** Implement a Rebuilding Plan with an ACL of 1,500 lb, an In-Season AM, and a Higher Performance Standard
- **Alternative 3:** Implement a Rebuilding Plan with an ACL of 5,000 lb, an In-Season AM, and a Higher Performance Standard (Council preferred alternative)

- **Alternative 4:** Implement a Temporary Moratorium on Bottomfish Fishing in Federal Waters around American Samoa

The Council developed the alternatives for rebuilding the American Samoa bottomfish stock, pursuant to Magnuson-Stevens Act requirements in response to the notification by NMFS that the American Samoa bottomfish fishery is overfished and experiencing overfishing (EA, section 2).

## **II. Approach to Analysis:**

The proposed action is the implementation of Alternative 3, which is a rebuilding plan with a 5,000 lb ACL, an in-season AM, and a higher performance standard. For the in-season AM, NMFS would close Federal waters around American Samoa to bottomfish fishing for the remainder of the year when the agency estimates the fishery would attain the ACL or immediately if the agency determines that the fishery has attained or exceeded the ACL. As a higher performance standard, if the ACL is exceeded, NMFS would close the fishery in Federal waters until a coordinated management approach is developed that ensures catch in both Federal and territorial waters can be maintained at levels that allow the stock to rebuild. While NMFS would monitor catch in both territorial and Federal waters and use that when assessing catch against the ACL, the Federal catch limit would not limit catch in territorial waters. The EA analyzes the effects of the action alternatives (Alts. 2-4) in comparison to the effects of the status quo (Alt. 1). The EA consider effects on American Samoa bottomfish, protected species, marine habitats, other marine resources affected by the fishery, fishery participants, and affected fishing communities.

The proposed action is expected to prevent overfishing and rebuild the American Samoa bottomfish stock in ten years if catch is maintained at the specified level (EA, sections 2.5.1 and 3.5.1). However, because most fishing effort occurs in territorial waters that are not subject to Federal management, compatible management measures by the Territory are essential to achieving rebuilding plan effectiveness. Because the Territory has not yet proposed or implemented complementary management measures that would close its waters once the ACL is reached, rebuilding could take up to 19 years, which is beyond the mandatory ten-year rebuilding period. Accordingly, NMFS would apply a higher performance standard that, if triggered, would close Federal waters until NMFS and the Territory of American Samoa implement a coordinated plan to ensure rebuilding. The analyses in the EA evaluate the scenario in which the Territory does not implement complementary management.

The proposed action would set the Federal ACL at 38.5 percent of the interim catch limit (ICL) implemented in 2020 and 2021 (85 FR 73003, November 16, 2020 and 86 FR 32361, June 21, 2021), and at 39.4 percent of the average annual catch in 2018-2020. The proposed action would allow Federal bottomfish resources to be available to the American Samoa fishing community, provided the in-season AM or higher performance standard is not implemented (EA, sections 2.5.1, 2.5.3, and 3.5.1). If catches remain similar to the recent three-year average throughout the rebuilding plan, NMFS expects that the ACL would be reached and the in-season AM could be applied before the end of May, and the higher performance standard would be applied for subsequent years (EA, sections 2.5.1 and 3.5.1). If fishermen compensate for a closure of Federal waters by displacing their effort into territorial waters, catch, revenue and fish availability will be closer to recent averages.

Overall the action is not expected to substantially change the way the fishery operates with respect to fishing gear, effort, participation, or intensity in the absence of territorial parallel management, but the fishery may change slightly with respect to total catch and areas fished. Therefore, the proposed action is not considered to meaningfully contribute to a significant impact based on the scale of impact, as this is a small scale fishery and economic and environmental impacts are minor to moderate. The proposed action will not meaningfully contribute to significant impacts to specific resources, including bottomfish, non-target or bycatch species, protected species, marine habitats, physical resources, fishing communities, and other marine or cultural resources found within the Action Area (EA, sections 3.5, 3.7, 3.8, 3.9, 3.10, and 3.11). The proposed action is not connected to other actions that have caused, are causing, or may cause large effects to the resources in the affected area, and there is therefore no potential for the effects of the proposed action to add to the effects of other projects, such that the effects taken together could be significant (EA, section 3).

### **III. Geographic Extent and Scale of the Proposed Action:**

The action is regional in its geographic extent as the fishery management area for the bottomfish fishery in American Samoa includes the exclusive economic zone (EEZ) around American Samoa as well as those areas in which fishing for bottomfish occurs in territorial waters of American Samoa. Bottomfish fishing primarily occurs in waters from the surface to 230 m depth around the islands and offshore banks of American Samoa, including Tutuila, Aunu'u, and the Manu'a Islands (i.e., Ta'u and Ofu-Olosega, approximately 54 nm east of Tutuila). As of June 3, 2013, commercial fishing is prohibited in Rose Atoll Marine National Monument (78 FR 32996), which is approximately 80 nm east of Ta'u. The fishery does not fish in areas closed to fishing around the Islands of Tutuila and Aunu'u, which include several community and territorial marine protected areas (MPAs), including at Fagamalo and several National Marine Sanctuary Management Areas. Section 1.1 of the EA shows that the majority of bottomfish habitat is in territorial waters (85 percent), and the rest is in the Federal waters located on and around offshore banks (15 percent). The environmental effects analyzed in the EA occur at a relatively small scale.

### **IV. Degree of effect**

#### *A. The potential for the proposed action to threaten a violation of Federal, state, or local law, or requirements imposed for environmental protection*

This proposed action will not threaten a violation of any Federal, State, or local law, or requirement imposed for the protection of the environment. The purpose of this action is to comply with the requirements of the Magnuson-Stevens Act and the provisions of the FEP and implementing regulations, which require NMFS to implement management measures to rebuild the American Samoa bottomfish stock complex from its overfished designation, as recommended by the Council and based on the best scientific, commercial, and other information available about the fishery (EA, section 1.3). The need for this action is to provide management oversight, prevent overfishing, and provide for long-term sustainability of fishery resources while allowing fishery participants to continue to benefit from their use (EA, section 1.3).

The proposed action will be consistent with other applicable laws. Council deliberations took place in public forums with opportunities for public comments during development of its recommendations. NMFS and Council staff developed the EA and coordinated the proposed

action and environmental documents with several territorial agencies, including the American Samoa DMWR and the American Samoa Coastal Management Program, with other offices responsible for reviewing action effects, and the public. NMFS provided opportunities for the public to review and comment on the draft EA and on the proposed rule and did not receive any comments indicating that the proposed action has the potential to violate a Federal, State, or local law imposed for environmental protection.

Pursuant to Coastal Zone Management Act section 307 (16 U.S.C. § 1456(c)(1)(C)) and in a letter dated November 24, 2021, NMFS requested that the American Samoa Government concur with our determination that the proposed action is consistent to the maximum extent practicable with the enforceable policies of the approved coastal zone management programs of American Samoa. The American Samoa Coastal Zone Management Program has not responded, so we infer consistency under the CZM provision 15 CFR 930.41.

*B. The degree to which the proposed action is expected to affect public health or safety*

Considering the past and current operation of the American Samoa bottomfish fishery, there have been no noted adverse effects on public health and no significant concerns with safety at sea (EA, section 3.7.2).

Annual catch for the fishery has surpassed the proposed ACL in all years from 2001 to 2020, and the estimated catch in 2020 is almost double the proposed ACL (EA, Table 5). Based on monthly catch expansions for the fishery, NMFS estimates that the ACL could be reached by May 24 if catches remain similar to the past (EA, section 3.6.1). In the absence of complementary management, fishing is expected to continue in territorial waters where the majority of bottomfish habitat occurs (about 85 percent), so a race to fish is not expected.

Therefore, the proposed action is not expected to change fishery operations or effort in a way that would result in significant impacts to public health or issues associated with safety at sea.

*C. The degree to which the proposed actions is expected to affect a sensitive biological resource, including:*

*a. The degree to which the proposed action is expected to affect a sensitive biological resource including Federal threatened or endangered species and critical habitat;*

NMFS has evaluated the American Samoa bottomfish fishery for effects on protected resources and manages the fishery under the Magnuson-Stevens Act, the Marine Mammal Protection Act, the Endangered Species Act (ESA), the Migratory Bird Treaty Act, and other applicable statutes (EA, section 3.8). Section 3.8 of the EA describes the endangered and threatened species found in the Action Area. Section 3.8.1 of the EA describes the applicable ESA coordination for American Samoa and the potential interactions with endangered species and critical habitat, including previous biological opinions, biological evaluations, and informal consultations under which the fishery operates. Section 3.8.1 of the EA also describes reinitiation of ESA section 7 consultations for the fishery (summarized below).

NMFS does not expect the proposed action to substantially change the way the fishery operates with respect to fishing gear, fishing effort, participation, or intensity, but the fishery may change slightly with respect to total catch and areas fished. Based on the analysis in the EA, the

proposed action would not significantly affect any endangered or threatened species or its critical habitat in any way that has not already been considered in prior ESA consultations (EA, section 3.8.1). No records exist of interactions between the fishery with ESA listed sea turtles, marine mammals, sea birds, corals, sharks, giant manta rays, or chambered nautilus (EA, sections 3.8.3, 3.8.4, 3.8.5, and 3.8.8).

On June 5, 2019, NMFS reinitiated informal consultation in response to listing of the oceanic whitetip shark, giant manta ray, and chambered nautilus, as required by 50 CFR 402.16 and to seek concurrence with the conclusion that the American Samoa bottomfish fishery may affect but is not likely to affect listed sea turtles, marine mammals, sharks, giant manta ray, chambered nautilus, and corals found within the Action Area. On June 6, 2019, August 11, 2020, and December 15, 2020, NMFS determined that, pending the completed consultation, the continued authorization of the bottomfish fishery in American Samoa during the period of consultation would not violate ESA Section 7(a)(2), or result in an irreversible or irretrievable commitment of resources precluding implementation of any reasonable and prudent alternatives, and would not violate ESA Section 7(d) (EA, section 3.8.1). The best available information to estimate interactions with oceanic white tip sharks, giant manta rays, and chambered nautilus in American Samoa are boat-based creel surveys, and review of 33 years of creel survey data did not find evidence of interactions with these species and the American Samoa bottomfish fishery. Given the limited number of bottomfish fishing vessels in American Samoa and how the fishery operates (i.e., bottomfish fishing occurs while either at anchor or slowly drifting over fishing grounds), interactions or vessel collisions between bottomfish vessels and these species are not expected. Since fishing activity under the proposed action is expected to be slightly less than the recent average, NMFS does not expect to change or increase interactions with these species.

On November 27, 2020, NMFS published a proposed rule in the Federal Register (85 FR 76262) to designate critical habitat for the seven threatened corals in U.S. waters in the Indo-Pacific pursuant to Section 4 of the ESA. Six of these corals occur around American Samoa: *Acropora globiceps*, *A. jacquelineae*, *A. retusa*, *A. speciosa*, *Euphyllia paradivisa*, and *Isopora crateriformis*. Specific occupied areas containing physical features essential to the conservation of these coral species are being proposed for designation as critical habitat. Exposure of precious corals to damage from bottomfish fishing activities is limited due to existing Federal regulations (e.g., use of trawls, poisons, explosives) that are not subject to change due to the proposed action. At this point in time there is insufficient information to determine the proposed designation's potential impacts on the American Samoa bottomfish fishery. If the proposal is finalized, NMFS would re-initiate consultation under Section 7 of the ESA to determine the impact of fishing activities on critical habitat and any necessary management measures.

- b. The degree to which the proposed action is expected to affect a sensitive biological resource including stocks of marine mammals as defined in the Marine Mammal Protection Act;*

NMFS classifies the American Samoa bottomfish fishery as a Category III fishery under Section 118 of the Marine Mammal Protection Act (86 FR 3028, January 14, 2021). A Category III fishery is one with a low likelihood or no known incidental takings of marine mammals. The proposed action would not change the conduct of the fishery in a manner that would alter the type or frequency of marine mammal interactions with the fishery (EA, section 3.8.3). If the ACL is attained and fishing is closed in Federal waters, some fishing activity may move into territorial waters, but since this fishery has no reported interactions with any species of marine

mammal in territorial or Federal waters, this change is not expected to affect the number of interactions. In summary, this action is not expected to change the conduct of the fishery in any way that would affect marine mammals, so interactions with marine mammals and a change to the number, severity, or type of interactions with marine mammals is not expected (EA, section 3.8.3).

*c. The degree to which the proposed action is expected to affect a sensitive biological resource including essential fish habitat identified under the Magnuson-Stevens Act*

Bottomfish gear is not known to adversely affect coastal or ocean habitats (i.e., no trawling, nets, traps, etc., and only a few weighted hooks and lines deployed at a time). In addition, to prevent and minimize adverse bottomfish fishing impacts to essential fish habitat (EFH), each western Pacific FEP prohibits the use of explosives, poisons, bottom trawl, and other non-selective and destructive fishing gear. The proposed action would not result in substantial changes to the way fishermen conduct the bottomfish fishery in American Samoa that would impact EFH or habitat areas of particular concern (HAPC). Therefore, the proposed action is not expected to result in adverse effects on bottomfish EFH or HAPC (EA, section 3.8.10).

*d. The degree to which the proposed action is expected to affect a sensitive biological resource including bird species protected under the Migratory Bird Treaty Act*

The proposed action would not significantly affect bird species protected under the Migratory Bird Treaty Act. The American Samoa bottomfish fishery is not known to affect migratory birds, notably seabirds, through gear interactions or through disruptions in or adverse effects on seabird prey since seabirds are not known to prey on bottomfish (EA, section 3.8.4.1). There would be no changes to the bottomfish fishery compared to baseline conditions, so the effects of the fishery under all alternatives are expected to be insignificant.

*e. The degree to which the proposed action is expected to affect a sensitive biological resource including national marine sanctuaries or monuments*

Bottomfish fishing is prohibited through Federal management in the Rose Atoll Marine National Monument, the National Marine Sanctuary of American Samoa in the Fagatele Bay unit, and the research zone of the Aunu'u Island units. It is also prohibited in the territorial MPAs where and/or when fishing is prohibited, such as the no-take Fagamalo Village Marine Protected Area. These MPAs would not be affected by the action, and the action would not change the way bottomfish fishing is conducted with respect to these MPAs. Continued operation of the fishery under the status quo or action alternatives would not result in adverse impacts to these areas as described in EA section 3.8.10.

*f. The degree to which the proposed action is expected to affect a sensitive biological resource including vulnerable marine or coastal ecosystems, including, but not limited to, shallow or deep coral ecosystems*

The proposed action is not expected to adversely affect vulnerable marine, coastal, or coral ecosystems. The American Samoa bottomfish fishery is not known to adversely affect benthic habitats (EA, sections 3.8.5 and 3.8.10). Fishing activity is not expected to change substantially relative to the status quo, and the proposed action would not change the way the fishery is conducted with respect to potential impacts on vulnerable marine ecosystems (EA, section

3.8.10). Although precious coral species occur in American Samoa, there are no known precious coral beds in waters around American Samoa (WPFMC 2009). Exposure of precious corals to damage from bottomfish fishing activities is limited due to existing Federal regulations (e.g., use of trawls, poisons, explosives) that are not subject to change due to the proposed action (EA, section 3.8.10.3).

*g. The degree to which the proposed action is expected to affect a sensitive biological resource including biodiversity or ecosystem functioning (e.g., benthic productivity, predator-prey relationships, etc.)*

To date, there have been no identified effects to marine biodiversity and/or ecosystem function from the American Samoa bottomfish fishery. Bottomfish species are not known to have critical ecosystem roles, such as other tropical species like parrotfishes or reef-building corals, and the fishery is not known to have large effects on biodiversity or ecosystem function. This action would not result in substantial changes to the fishery with respect to gear, effort, or participation, but may cause slight changes in areas fished if Federal waters are closed in the absence of complementary territorial management (EA, section 3.6.1). Therefore, implementation of the proposed rebuilding plan would not affect marine biodiversity and/or ecosystem function (EA, section 3.12.1).

*D. The degree to which the proposed action is reasonably expected to affect a cultural resource: properties listed or eligible for listing on the National Register of Historic Places; archeological resources (including underwater resources); and resources important to traditional cultural and religious tribal practice.*

Historical and archaeological resources may be found in Federal waters of American Samoa in the future, but there are no known districts, sites, highways, structures, or objects that are listed in or eligible for listing in the National Register of Historic Places in the areas that the Federal bottomfish fishery operates (EA, section 3.9). Shipwrecks may exist in areas where the fishery operates, but the fishery is not known to adversely affect shipwrecks. Bottomfish fishermen tend to avoid fishing in, anchoring on, and anchoring near known shipwrecks to avoid losing gear. Therefore, the proposed action would not affect cultural, historic, or archeological resources

*E. The degree to which the proposed action has the potential to have a disproportionately high and adverse effect on the health or the environment of minority or low-income communities, compared to the impacts on other communities (EO 12898).*

In EA section 3.12.3, NMFS considered the effect of the alternatives on environmental justice communities that include members of minority and low-income groups. Overall, the fishery is not having a large adverse effect on subsistence harvests of marine resources or on the environment or human health in a way that disproportionately affects members of environmental justice communities. The fishery does not pollute marine waters and, thus, does not have adverse effects to human health or on marine life. The proposed management would apply to everyone that catches bottomfish. Fishermen who fish mainly in Federal waters may be affected more by the in-season AM or higher performance standard, if implemented. The ACL, AM, and higher performance standard are intended to end overfishing, rebuild the fishery, and mitigate impacts to fishing communities, including minority and low-income groups, such that communities that rely on their harvest can continue to benefit from the fishery in the future. If American Samoa were to implement complementary management in the future, there could be disproportionately



high or adverse effects on members of environmental justice communities. While the EA evaluates complementary management, American Samoa has not developed a territorial management plans to implement complementary management at this time, and it is not reasonably certain to occur (EA, sections 2 and 3). Therefore, we do not expect disproportionate effects on the health or the environment of minority or low-income communities, compared to the impacts on other communities.

*F. The degree to which the proposed action is likely to result in effects that contribute to the introduction, continued existence, or spread of noxious weeds or nonnative invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of the species.*

Bottomfish fishing is not known to be a potential vector for spreading alien species as none of the bottomfish vessels fish outside of their archipelagic waters. This proposed action would not result in substantial changes to the fishery. (EA, sections 2.3 through 2.6), As a result, the proposed action is unlikely to increase the introduction or spread of non-native invasive species into or within the waters of American Samoa (EA, section 3.12.1).

*G. The potential for the proposed action to cause an effect to any other physical or biological resources where the impact is considered substantial in magnitude (e.g., irreversible loss of coastal resource such as marshland or seagrass) or over which there is substantial uncertainty or scientific disagreement.*

Since 2012, the Council and NMFS have managed the American Samoa bottomfish fishery under ACLs and AMs as required under the Magnuson-Stevens Act, so this plan does not introduce substantial uncertainty. The proposed action is not expected to cause an effect to any other biological or physical resource where the impact is considered substantial in magnitude or over which there is substantial uncertainty or scientific disagreement. Some Council members and members of the public expressed concern over the stock assessment upon which the overfished determination was based, but they have not identified any superior information that NMFS failed to consider, and the Council's SSC and NMFS determined the stock assessment is the best scientific information available. The action is not expected to change the way this fishery is conducted regarding the magnitude of impacts on habitats or cause loss or destruction to any resources (See section 3 above; and EA, sections 3.9, 3.10, and 3.12).

## **V. Other Actions Including Connected Actions**

The proposed action would implement an ACL of 5,000 lb and AMs to rebuild and ensure the sustainability of the American Samoa bottomfish fishery. The proposed ACL, AMs, and higher performance standards would not result in an automatic specification of management beyond the scope of the rebuilding plan. The proposed rebuilding plan will be implemented until the American Samoa bottomfish stock complex rebuilds to its biomass that produces maximum sustainable yield ( $B_{MSY}$ ), and the proposed alternatives would not constrain management options available to the Council and NMFS in the future (EA, section 3.11).

We considered CEQ's NEPA regulations at 40 CFR 1501.9(e)(1) that provide guidance to agencies as to how to evaluate whether a project is connected to other projects.

We considered whether the proposed action would automatically trigger other actions that may require an environmental impact statement. 40 CFR 1501.9 (e)(1)(i). The proposed action is limited to a harvest limit and fishery management of a single fishery and would not automatically trigger other actions that would require an EIS.

We reviewed whether the proposed action could not proceed unless another action(s) is taken previously or simultaneously. 40 CFR 1501.9 (e)(1)(ii). The proposed measure is independent of other actions.

We reviewed whether the proposed action is an interdependent part of a larger action and whether it depends on the larger action for its justification. 40 CFR 1501.9 (e)(1)(iii). The proposed action has independent utility and is not connected to other projects.

The EA also considered effects on physical resources (sections 3.6.1 and 3.10), the socio-economic setting (section 3.7), the management setting (section 3.11), and other considerations including climate change (section 3.12). The analysis in the EA found no effects to biodiversity and ecosystem function (section 3.12.1), unique or unknown risks (section 3.12.2), or environmental justice (section 3.12.3). The EA evaluates complementary management, but American Samoa does not have such regulations in place at this time, and it is not reasonably certain that they will implement complementary management measures in the future. Therefore, based on the analysis and BSIA, we conclude that the proposed action would have no potential for additive or synergistic effects.

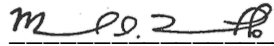
## **VI. Mitigation and Monitoring:**

Mitigation and monitoring are an integral part of the proposed action as AMs intended to prevent adverse effects of the American Samoa bottomfish stocks. As described in the EA section 1.2, NMFS would monitor catch in both territorial and Federal waters and use that when assessing catch against the ACL. NMFS would review in-season progress of the catches relative to the implemented ACL based on data reports from DMWR, which monitors the bottomfish fishery through its creel survey program. (EA, section 2.2.1). When DMWR has conducted sufficient creel survey interviews to allow for appropriate expansion of the available data based on scientific uncertainty, NMFS would estimate the total catch for the fishing year to that point. NMFS expects the first expansion to take place roughly halfway through the year. After the initial expansion, NMFS would then perform additional expansions for the entire year on a month-to-month basis, or as DMWR is able to transmit creel survey data, whichever is more frequent.

## **DETERMINATION**

The CEQ NEPA regulations, 40 CFR 1501.6, direct an agency to prepare a FONSI when the agency, based on the EA for the proposed action, determines not to prepare an EIS because the action will not have significant effects. In view of the information presented in this document and the analysis contained in the supporting EA prepared for Amendment 5 to the Fishery Ecosystem Plan for the American Samoa Archipelago: Rebuilding Plan for American Samoa Bottomfish, it is hereby determined that the action will not significantly impact the quality of the human environment. The Amendment 5 to the Fishery Ecosystem Plan for the American Samoa Archipelago: Rebuilding Plan for American Samoa Bottomfish EA is incorporated by reference.

In addition, all beneficial and adverse impacts of the proposed action as well as mitigation measures have been evaluated to reach the conclusion of no significant impacts. Accordingly, preparation of an EIS for this action is not necessary.



Michael D. Tosatto  
Regional Administrator, Pacific Islands Regional Office

April 15, 2022

Date