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FINDING OF NO SIGNIFICANT IMPACT

Proposed Annual Catch Limit Specifications and Accountability Measures for Pacific Islands Bottomfish Fisheries in 2012 and 2013

(RIN 0648-XA674)

December 2011

Introduction

NMFS prepared this Finding of No Significant Impact (FONSI) according to the guidelines established in National Marine Fisheries Service (NMFS) Instruction 30-124-1 (July 22, 2005) and the requirements set forth in National Oceanic and Atmospheric Administration (NOAA) Administrative Order 216-6 (NAO 216-6, May 20, 1999), concerning compliance with the National Environmental Policy Act (NEPA). The environmental impact analysis prepared in accordance with the requirements of NEPA and documented in the attached environmental assessment (EA) supports this FONSI.

Background

Federal requirements direct NMFS to specify an annual catch limit (ACL) and accountability measure (AM) for each bottomfish stock and stock complex[1], as recommended by the Western Pacific Fishery Management Council (Council) and in consideration of the best available scientific, commercial, and other information about the fishery for that stock or stock complex. The process and mechanism that is to be used in developing ACLs and AMs for western Pacific regional fisheries was implemented in 2011 (76 FR 37285; June 27, 2011), and was followed by the Council in developing the proposed ACL specifications and AMs. In American Samoa, the Commonwealth of the Mariana Islands (CNMI), and Guam, Bottomfish Management Unit Species (BMUS) are managed as single multi-species stock complexes; ACLs and AMs for BMUS in those areas will be specified on that basis.

In Hawaii, BMUS are managed as two separate stock complexes: the main Hawaiian Islands (MHI) Deep 7 stock complex[2] and the MHI non-Deep 7 stock complex[3]. Consistent with the

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[1] The Magnuson-Stevens Act defines the term "stock of fish" to mean a species, subspecies, geographic grouping, or other category of fish capable of management as a unit. Federal regulations at 50 CFR §660.310(c) define "stock complex" to mean a group of stocks that are sufficiently similar in geographic distribution, life history, and vulnerabilities to the fishery such that the impact of management actions on the stocks is similar.

[2] MHI Deep 7 bottomfish include onaga (*Etelis coruscans*), ehu (*Etelis carbunculus*), gindai (*Pristipomoides zonatus*), kalekale (*Pristipomoides sieboldii*), opakapaka (*Pristipomoides filamentosus*), lehi (*Aphareus rutilans*), and hapuupuu (*Epinephelus quernus*).

[3] MHI non-deep 7 bottomfish include uku *(Aprion virescens)*, white ulua *(Caranx ignoblis)*, black ulua *(Caranx lugubris)*, taape *(Lutjanus kasmira)*, yellowtail kalekale *(Pristipomoides auricilla)*, butaguchi (*Pseudocaranx dentex)* and kahala (*Seriola dumerili)*.

FEPs, ACLs are proposed to be specified at the stock complex level. On September 2, 2011, NMFS published a final rule specifying a quota (annual catch target) of 325,000 lb of Deep 7 bottomfish in the MHI for the 2011-12 fishing year, based on an annual catch limit (ACL) of 346,000 lb (76 FR 54715). The present action includes specification of an ACL for the non-Deep 7 bottomfish in the MHI.

NMFS is not specifying ACLs for any BMUS in the Pacific Remote Island Areas (PRIA) at this time because commercial fishing is prohibited out to 50 nautical miles by Presidential Proclamation 8336 which established the Pacific Remote Island Marine National Monument (74 FR 1565; January 12, 2009), and there is no bottomfish habitat beyond the monument boundaries. NMFS is also not specifying ACLs for the three Hawaii seamount groundfish MUS, found exclusively at the Hancock Seamounts located at the northwestern edge of the U.S. EEZ around the northwestern Hawaiian Islands (NWHI), because NMFS implemented a permanent fishing prohibition for these MUS in 2010 following four consecutive, six-year fishing moratoria and will remain prohibited until NMFS determines the armorhead stock to be rebuilt.

Because these existing fishing prohibitions are the functional equivalent of an ACL of zero, ACLs are not specified in this EA.

Proposed Action
NMFS will implement Alternative 2 in the EA and specify the following ACLs for BMUS in American Samoa, the CNMI, Guam, and for the non-Deep 7 BMUS in the MHI. The ACL for each stock complex is for the 2012 and the 2013 fishing years which begin on January 1.

Summary of ACL specifications for bottomfish fisheries in 2012 and 2013 and other features considered by the Council and NMFS under the selected alternative (Alternative 2).				
	American Samoa	**CNMI**	**Guam**	**Hawaii (non-Deep 7 BF)**
Bottomfish ACL (2012 and 2013):	**99,200 lb**	**182,500 lb**	**48,200 lb**	**135,000 lb**
Average recent catch (2006-2009)	19,326 lb	17,419 lb	35,081 lb	104,984 lb (MHI 2006-2010)
Estimated Overfishing Limit (MSY as proxy)	Estimated MSY = 109,000 lb +/- 29,700 lb	Estimated MSY = 200,500 +/-40,500 lb	Estimated MSY = 53,000 lb +/-9,500 lb	Estimated MSY = 192,000
Estimated probability of catch exceeding MSY in 2012	<30%	<20%	<20%	20-25%

An accountability measure (AM) will be implemented that requires the Council to conduct a post-season accounting of the annual catch for each stock complex relative to its ACL immediately after the end of the fishing year. If the landings of any stock complex exceed the specified ACL in a fishing year and affects the sustainability of that stock or stock complex, the Council will take action to correct the operational issue that caused the ACL overage. This could include a downward adjustment to the ACL for that stock complex in the subsequent fishing

year, or other measures, as appropriate. Additionally, as a performance measure specified in each FEP, if any ACL is exceeded more than once in a four-year period, the Council is required to re-evaluate the ACL process, and adjust the system, as necessary, to improve its performance and effectiveness.

Coordination and Public Involvement

The Council considered and discussed the ACL and AM specifications and alternatives at public meetings held in October 2011. The attached EA describes the development of specifications and public involvement in sections 1.5 and 4.1. NMFS will publish the proposed 2012-13 ACL and AM specifications for public review and comment in December 2011 and expects to publish final ACL specifications for the bottomfish fisheries in early 2012.

Significance Analysis

NAO 216-6 contains criteria for determining the significance of the environmental impacts of a proposed action. In addition, the Council on Environmental Quality's (CEQ) regulations at 40 CFR 1508.27 state that the significance of an action should be analyzed both in terms of "context" and "intensity." Each criterion listed below is relevant in making a finding of no significant impact and has been considered individually, as well as in combination with the others. The significance of this action is analyzed based on the NAO 216-6 criteria and CEQ's context and intensity criteria. These include:

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 ACL specifications were developed in accordance with the approved fishery mechanism and process that is specified in the fishery ecosystem plans, and are based on the best available data and fishery information. The results of the Scientific and Statistical Committee's (SSC) and Council's thorough reviews show that none of the BMUS stock complexes are experiencing overfishing and exploitation rates of all BMUS species considered on an archipelagic basis are low. As there is no in-season accountability measure (such as a fishery closure), the ACLs and AMs will not result in a change to the conduct of the fisheries. There will be a new post-season review and re-evaluation of any fisheries that are determined to have exceeded an ACL. For all these reasons, it is not reasonable to expect the specifications will jeopardize the sustainability of any target species (see section 3 of the EA).

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

No. The proposed action is not expected to jeopardize the sustainability of any non-target species. The proposed ACL specifications and AMs will not affect the conduct of the bottomfish fisheries in any of the three archipelagic areas. As a result, there will not be an increase in fishing for, catch, or disposal of non-target species. Fish catch monitoring and reporting will continue as currently is occurring and those fish that are retained, within the limits of monitoring and reporting, will also be subject to the catch limits established for each species. The ACL specifications are not expected to increase the amount of non-target or bycatch that occurs in the

fishery. Also, post-season fishery review will expose any non-target or bycatch issues which could then be addressed in future management actions, as needed. (EA, section 3)

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 Fishery Management Plans?

No. The proposed bottomfish ACL specifications and AM will not affect any EFH or HAPC in the three archipelagic areas because the proposed action will not result in changes to the way the bottomfish fisheries in American Samoa, Guam, the CNMI and Hawaii are conducted, and these bottomfish and seamount groundfish fisheries are not currently known to have large adverse effects on EFH or other habitats for any MUS. (EA, section 3.5)

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

No. The specification of ACLs and AMs for bottomfish stocks is not expected to adversely impact public health or safety because none of the affected fisheries are expected to change as a result of the specifications. The ACLs are set at levels higher than historic landings in all areas, there are no in-season closures, and monitoring and reporting are not required to change so there is no likelihood the ACLs will result in a race for the fish, or cause fishermen to change the way they fish or the areas they fish in, or to otherwise change the manner in which bottomfish fisheries are conducted in the western Pacific region. (EA, section 3)

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

No. The proposed action will not have an adverse effect on the protected marine resources because the proposed ACLs and AMs will not result in substantial changes to the way the bottomfish fisheries are conducted. Managing bottomfish fisheries using ACLs and AMs will be in addition to the current fishery management regime and it is expected to promote long-term sustainability of the bottomfish fishery resources. Because these fisheries are currently sustainably managed and subject to conservation measures in accordance with various resource conservation and management laws, the ACLs and AMs would not result in a change to distribution, abundance, reproduction, or survival of ESA-listed species or increase interactions with protected resources.

The bottomfish fisheries of the western Pacific region have been evaluated for impacts on protected resources and are managed in compliance with the requirements of the MSA, the Marine Mammal Protection Act (MMPA), the Endangered Species Act (ESA), the Migratory Bird Treaty Act, and other relevant laws and policies. Pursuant to Section 7 of the ESA, NMFS has evaluated the bottomfish fisheries managed under the western Pacific Fishery Ecosystem Plans and determined that these fisheries are not likely to jeopardize the continued existence of any listed species or adversely affect any of their critical habitats. The proposed action is not expected to modify vessel operations or any other aspects of any these fisheries, and therefore, the existing consultation results remain valid.

Recently, NMFS changed the status of the loggerhead sea turtle and listed the North Pacific Ocean stock and the South Pacific Ocean stock as endangered distinct population segments (DPS). These status changes require NMFS to reinitiate a review of the western Pacific fisheries to evaluate the effects of the fishery on loggerhead sea turtles given their new population status. The EA considered whether the ACL specifications and AMs would have an adverse effect on loggerhead sea turtles. Because the ACL specifications and AMs are not associated with in-season closures and changes to fishery operations, the specifications will not affect the conclusions of the consultations or have the potential to result in jeopardizing the survival and recovery of these listed species. The current bottomfish fisheries have no documented interactions with loggerhead sea turtles, and this is not likely to change.

If at any time the fishery, environment, or status of a listed species or marine mammal species were to change substantially, or if a fishery were found to be occurring in or near new critical habitat, NMFS would undertake additional consultation, as required, to comply with requirements of the ESA and the MMPA. (EA, Sections 3.1,2, 3.2,3, 3.3.2, and 3.4.2; 4.2 and 4.3)

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 Council's fishery management plans and fishery resource reviews, including the development of the ACL specifications and AMs, have not revealed any large adverse impacts on biodiversity and/or ecosystem function occurring as a result of the bottomfish fisheries in the subject areas. The proposed action is not expected to change the conduct of any of these fisheries or the level of fishing effort. The ACLs and AMs were developed with the intention of preventing overfishing and promoting the long-term sustainability of the bottomfish fishery resources. Because there are no changes expected to occur and the bottomfish fisheries are managed sustainably and monitored by fishery resource managers, there are no expected large or adverse effects of the proposed action on biodiversity and/or ecosystem function.

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

No. The proposed action will not have a large adverse environmental impact that is interrelated with significant social or economic impacts. The ACL specifications were developed with the intention of promoting long-term sustainability of the bottomfish. No change to any fishery is anticipated because there is no in-season management measure, such as a closure, being implemented. In the short term, there is no large adverse environmental impact that could affect fishery communities, members of Environmental Justice populations (i.e., minorities or members of low-income populations, or sustenance fishing). Future refinements to fishery management are expected to promote sustainability of the bottomfish fisheries of the western Pacific while allowing optimal utilization of the resources. (EA, section 3)

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

No. The Council developed the recommended ACLs and AMs in a public process in accordance with the required methodology and in coordination with fishery scientists, managers, other resource managers, and other interested parties. None of the effects on the quality of the human environment were found to be highly controversial as neither the conduct of the fisheries nor the levels of effort in any of the fisheries are expected to change as a result of the proposed action. By providing for additional post-season fishery performance review, the specifications will help ensure long-term sustainability of the coral reef resources, while allowing for optimal yield.

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

No. The bottomfish fisheries do not currently have large adverse impacts to such unique resources or areas and the proposed action will not result in large changes to the fisheries. The fisheries are expected to continue in the same manner they currently are being conducted. For this reason, the proposed action is not expected to have any effect on sensitive areas, including marine national monuments, national parks, marine sanctuaries and other marine protected areas, or on areas being considered for critical habitat for the endangered Hawaiian monk seal.

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

No. The effects on the human environment are not highly uncertain or unknown because the ACLs and AMs will establish catch limits that are intended to, over time, and complemented by other fishery management measures, provide for long-term sustainability of target fish stocks. The affected fisheries currently have no significant adverse environmental effects and are expected to continue as they have been without any changes due to the proposed action. The proposed ACLs and AMs would not result in a fishery closure if an ACL is reached, so the manner in which the fishery is conducted is not expected to change. Therefore, the potential environmental effects of the proposed action are not uncertain and do not involve unique or unknown risks.

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

No. The limited environmental effects of the ACL specifications and AMs were also considered in the context of other past, present, and reasonably foreseeable fishery or other actions in the same general area as the bottomfish fisheries. The analysis showed that the conduct of the bottomfish fisheries in accordance with ACLs would not, when considered together with other activities affecting the bottomfish resources or the environment, result in cumulatively significant impacts.

For all four island areas (three archipelagic areas), the Council is developing ACL and AM recommendations for coral reef, precious coral, and crustacean fisheries' MUS. NMFS recently

specified ACLs for the main Hawaiian Islands Deep 7 bottomfish fishery. In the agency's review of these actions, none of the ongoing proposals to specify ACLs and implement AMs for fisheries of the western Pacific, including this action, is likely to result in large adverse effects to the environment because there are no in-season management measure being considered and because the limits and post-season fishery review are expected to promote long-term sustainability in the fisheries. The potential for interaction among these initiatives found that none of the ACLs or AMs would conflict with or reduce the efficacy of existing bottomfish or other fishery resource management (including monitoring, data review, or law enforcement) by local resource management agencies, NMFS, or the Council. The MUS in the bottomfish and other fisheries are fishery specific, and no ACL needed to be allocated between fishery sectors (i.e., there was no overlap between two different fisheries). Finally, the ACLs and AMs are not anticipated to result in a large change to bottomfish fisheries or the other fisheries in any of the areas.

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. Such areas do not exist where these fisheries operate, so there would be no such adverse effects. Additionally, the bottomfish fisheries do not have a destructive impact on the environment and the fisheries are not expected to change under the ACL specifications and AMs.

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

No. The bottomfish fisheries are currently not known to spread or introduce nonindigenous species. The ACL specifications and AMs will not result in a change to the manner in which or locations in which the fisheries are conducted, so the action is not expected to result in the spread of any nonindigenous 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 ACL specifications and AMs comply with the regulations in the individual archipelagic FEPs and national requirements for all MUS to be managed under ACLs. The ACLs were developed in accordance with an approved method and process found in each FEP. Because the FEPs contain a specific method and process to be used, NMFS' specification of ACLs and AMs for the 2012-13 fishing years will not result in automatic approval for future actions or affect future decisions about appropriate ACLs or AMs. Catch data will continue to be collected by local resource management agencies through their respective fishery monitoring programs and by NMFS through federal logbook reporting. If an ACL for any stock or stock complex is exceeded and results in biological consequences to that stock or stock complex, NMFS will take action to correct the operational issue that caused the ACL overage, as recommended by the Council, which could include a downward adjustment to the ACL for that stock or stock complex. If there were to be an environmental impact resulting from future management actions by NMFS or the Council that has not been considered here, additional environmental impact

review would be done at the time that new management requirements were proposed. Other fishery management actions could be initiated, in the future, if necessary based on the conditions of bottomfish stocks or stock complexes, as such data become available. Future proposed management actions would be subject to environmental impact evaluation, as necessary.

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 proposed action complies with requirements of Federal law. The proposed specifications and a preliminary environmental analysis were coordinated with a variety of other agencies through the Council process, and no violation of Federal, State, or local law or requirements for environmental protection was found. (EA, section 4)

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

No. The proposed ACLs are expected to provide for an acceptable level of catch and were developed with the intent of preventing overfishing and providing for long-term sustainability of the target and non-target stocks. The specifications were developed using the best available scientific information, in a manner that accords with the fishery regulations, and after considering catches, participation trends, and estimates of the status of the fishery resources. The AMs are also not likely to cause large adverse impacts to resources, and the affected stocks are expected to benefit from the post-season data review. The long-term conservation of fishery resources and the lack of change in the fisheries allow NMFS to conclude that the ACL specifications and AMs will not result in cumulative adverse impacts to target or non-target stocks. (EA, section 3.9.2)

Other Findings

NMFS considered the effect of the proposed ACL specifications and AMs on Environmental Justice communities. The ACLs would apply to everyone who catches bottomfish. The proposed specifications of ACLs and provisions for post-season harvest reviews as the AMs are not expected to result in a change to the way the fisheries are conducted, but are intended to provide for sustainability of BMUS. This, in turn, is expected to benefit these resources and the human communities that rely on their harvest. The proposed specifications are not likely to result in disproportionately large or adverse impacts to members of Environmental Justice communities in American Samoa, Guam, the CNMI, or Hawaii. (EA, section 3.7)

NMFS also considered the effects of the project on climate change and climate change impacts on the feasibility of the project. The proposed ACL and AM specifications would not have adverse effects on sustainable levels of fishing when considered with potential impacts from climate change. Recent catch and biological status of the species informed the development of the ACLs and AMs. Monitoring of both the fishery and fish stocks will continue, and if climate change were to affect stocks, ACLs could be adjusted in the future. The proposed specifications are not expected to result in a change to the manner in which the fisheries are conducted, so no change in greenhouse gas emissions is expected. (EA, section 3.8)

Determination

In view of the information presented in this document and the analysis contained in the supporting Environmental Assessment prepared for the Proposed Annual Catch Limit Specifications for Pacific Islands Bottomfish Fisheries in 2012 and 2013, and dated December 13, 2011, I have determined that the proposed action will not significantly impact the quality of the human environment as described above and in the supporting EA. In addition, all beneficial and adverse impacts of the proposed action have been addressed to reach the conclusion of no significant impacts. Accordingly, preparation of an Environmental Impact Statement for this action is not necessary.

DEC 1 3 2011

Michael D. Tosatto
Regional Administrator

Date