



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 210106-0003]

RTID 0648-XP014

**Pacific Island Pelagic Fisheries; 2021 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 2021 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), the territories). NMFS will allow each territory to allocate up to 1,500 t in 2021 to U.S. longline fishing vessels through specified fishing agreements that meet established criteria. The overall allocation limit among all territories, however, 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 publication in the FEDERAL REGISTER*], through December 31, 2021. The deadline to submit a specified fishing agreement pursuant to 50 CFR 665.819(b) (3) for review is [*insert date 180 days after the date of publication in the FEDERAL REGISTER*].

ADDRESSES: Copies of the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (FEP) are available from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808-522-8220, or www.wpcouncil.org.

Pursuant to the National Environmental Policy Act, the Council and NMFS prepared environmental analyses that support this action, available from <http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2020-0010>.

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

SUPPLEMENTARY INFORMATION: NMFS is specifying a 2021 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 permitted to fish under the FEP. A

specified fishing agreement with the applicable territory must identify those vessels.

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 the fishery will reach a territorial catch or allocation limit, 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 November 9, 2020 (85 FR 71300). Regardless of the final specifications, all other existing management measures will continue to apply in the longline fishery.

Comments and Responses

On November 9, 2020, NMFS published the proposed specifications and request for public comments (85 FR 71300); the comment period closed on November 24, 2020. NMFS received comments on the proposed specifications from

one person. NMFS considered these comments in making its decision on this action, and responds below. We made no changes to the final specifications.

NMFS specifically invited public comments on the effect of the proposed action on cultural fishing in American Samoa; we received no relevant comments on this issue.

Comment 1: Catch limits should be reduced because the styrofoam and plastic, with chemicals in them, used in longline fishing gear pose controversial implications for ecosystems, fish, and the food chain. Mitigation efforts should be made to protect consumers from harmful chemicals.

Response: NMFS has no information that longline fishing, including the gear used, results in significant adverse impacts to the marine habitat or food chain. Federal laws and regulations strictly regulate the disposal of waste in ocean waters. NMFS also notes that fisheries observers collect information on the frequency, location and composition of marine debris. During 2008–2016, NMFS observers on Hawaii vessels reported 1,326 marine debris items intercepted by longlines. While derelict fishing gear made up most of the debris, most (52 percent) was netting, and ropes and other types of lines (27 percent). Floats and monofilament fishing line used in longline fishing made up less than 9 percent of the debris. When longline fishermen snag marine debris in their gear, they typically bring it

on board and disposed of in port. This prevents future entanglement with sea life and entry into the food chain.

Comment 2: Longline gear poses a threat to seabirds, most notably endangered albatross, that dive for baited lines and are hooked or entangled and drowned.

Responses: The short-tailed albatross (*Phoebastria albatrus*) is the only endangered albatross in the fishing area. None has ever been observed or reported interacting with Hawaii longline fisheries. The current biological opinion prepared under Section 7 of the Endangered Species Act concluded that Hawaii longline fisheries are not likely to jeopardize the continued existence of short-tailed albatross.

NMFS acknowledges that seabirds are sometimes hooked and entangled in longline gear, and we have implemented measures that significantly reduce seabird bycatch. Current mitigation methods include, but are not limited to, bird-scaring curtains, weights to quickly sink hooks below birds' reach, dyeing bait blue so it is less visible to birds, safe seabird handling techniques, and strategically discharging spent bait and fish offal to distract birds from lines and hooks. These mitigation methods are 70-90 percent effective at reducing seabird bycatch. Nonetheless, NMFS has noticed an increasing trend in seabird interaction rates and is currently developing and testing new

mitigation methods, including the potential use of tori lines, to further protect seabirds.

Comment 3: While NMFS considered economic impacts on smaller fisheries, the effects of catch limits on "small entities" such as minority, ethnic, and/or native populations and the biodiversity of affected fishing territories were not explicitly considered.

Responses: Although these populations were not specifically addressed in the Regulatory Flexibility Act analysis of the effect of this rule on small entities, they were considered in the environmental assessment (EA) and supplemental environmental assessment (SEA) under Executive Order 12898 (E.O. 12898), "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations." As described in the EA and SEA, NMFS does not expect the proposed action to have large effects to the environment that would result in a disproportionately large and adverse effect on minority or low-income populations including with respect to the availability of fish, other environmental effects, or health effects.

Comment 4: Longline bigeye tuna catch limits should be increased from previous years to address observed impacts of overfishing such as fewer fish and smaller fish, shorter fishing seasons, bizarre developments in their seasonal appearance and dispersal, and fewer overall species seen.

Response: In August 2020, the Western and Central Pacific Fisheries Commission (WCPFC) completed the most recent assessment of the western and central Pacific Ocean (WCPO) bigeye tuna stock. The assessment showed that the stock remains healthy, is not subject to overfishing and is not overfished. NMFS is satisfied that the catch limits are consistent with the conservation and management needs of bigeye tuna in the WCPO, and that this action would not result in a change in stock status.

Comment 5: Mitigation efforts should be made to ensure the sustainability of fishing practices and to protect marine species.

Response: See responses to comments 1, 2, and 4 regarding efforts to reduce marine debris, protect seabirds, and the scientific information NMFS considers when establishing catch limits. In accordance with the Endangered Species Act and Marine Mammal Protection Act, fisheries are managed under a suite of requirements designed to reduce the likelihood and severity of effects of unintentional and incidental interactions with protected species, and that allow monitoring of interactions. NMFS continually evaluates monitoring and scientific information to determine whether they change our understanding of the potential effects of our management decisions and prepares supplemental environmental analyses, as appropriate.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator (AA) has determined that this final rule is consistent with the FEP, other provisions of the Magnuson-Stevens Act, and other applicable laws.

The AA has also determined that because this rule relieves a restriction, it is exempt from the otherwise-applicable requirement of a 30-day delayed effectiveness provision, pursuant to 5 U.S.C. 553(d)(1). This rule allows U.S. vessels identified in a valid specified fishing agreement to continue fishing in the 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 for U.S. longline fisheries in the western and central Pacific in 2021 is 3,554 t. When NMFS projects 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 seven days before the date NMFS projects the fishery will reach the WCPO limit, or upon the effective date of the agreement, whichever is later.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the

Small Business Administration at the proposed rule stage that this action 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 relevant to this certification; as a result, a final regulatory flexibility analysis is not required, and none has been prepared.

This action is exempt from review under Executive Order 12866.

This final rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

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

Dated: January 6, 2021.

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory
Programs,
National Marine Fisheries Service.