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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

RIN 0648-BD46

Western Pacific Pelagic Fisheries; Catch and Effort Limits for the U.S. Participating Territories

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

ACTION: Notice of availability of fishery ecosystem plan amendment; request for comments.

SUMMARY: NMFS announces that the Western Pacific Fishery Management Council proposes to amend the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific Region. If approved, Amendment 7 would establish a management framework and process for specifying fishing catch and effort limits and accountability measures for pelagic fisheries in the U.S. Pacific territories (American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands). The framework would authorize the government of each territory to allocate a portion of its specified catch or effort limit to a U.S. fishing vessel or vessels through a specified fishing agreement, and establish criteria, which a specified fishing agreement must satisfy. The framework also includes measures to ensure accountability for adhering to fishing catch and effort limits.

DATES: NMFS must receive comments on the proposed amendment and the included environmental assessment by February 28, 2014.

ADDRESSES: You may send comments on the proposed amendment and environmental assessment, identified by NOAA-NMFS-2012-0178, to either of the following addresses:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!/docketDetail;D=NOAA-NMFS-2012-0178, click the "Comment Now!" icon,

complete the required fields, and enter or attach your comments.

- **Mail:** Send written comments to Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814-4700.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous), and will accept attachments to electronic comments in Microsoft Word, Excel, or Adobe PDF file formats only.

The Western Pacific Fishery Management Council (Council) prepared Amendment 7 to the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific Region (Pelagics FEP), including an environmental assessment and regulatory impact review, that provides background information on the proposed action. The amendment is available from www.regulations.gov or the Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808-522-8220, fax 808-522-8226, www.wpcouncil.org.

FOR FURTHER INFORMATION CONTACT: Adam Bailey, Sustainable Fisheries Division, NMFS PIR, 808-944-2248.

SUPPLEMENTARY INFORMATION: NMFS and the Council manage the pelagic fisheries of American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (CNMI) and Hawaii under the Pelagics FEP. Typically, the Council recommends conservation and management measures for NMFS to implement under the authority of Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act (16 U.S.C. 1801 *et seq.*)). Certain pelagic fish stocks, including tunas, are also subject to conservation and management measures cooperatively agreed to by the Western and Central Pacific Fisheries Commission (WCPFC), an international regional fisheries management organization that has jurisdiction over fisheries harvesting highly migratory species in the western and central Pacific Ocean (WCPO, generally west of 150° W. longitude). Although NMFS

often implements these decisions directly under the authority of the Western and Central Pacific Fisheries Convention Implementation Act, the Council may also recommend conservation and management measures applicable to the U.S. component of internationally-managed fisheries for implementation by NMFS under the Magnuson-Stevens Act.

In 2008, the WCPFC adopted Conservation and Management Measure (CMM) 2008-01, "Conservation and Management Measure for Bigeye and Yellowfin Tuna in the Western and Central Pacific Ocean," which established an annual bigeye tuna catch limit for longline fisheries of the United States operating in the WCPO, as well as separate longline bigeye tuna catch limits for the U.S. participating territories to the WCPFC, which are American Samoa, Guam, and the CNMI. The annual bigeye tuna catch limit for the United States (U.S. bigeye tuna limit) established through CMM 2008-01 was 3,736 mt, which NMFS implemented in fishing years 2009, 2010, and 2011 (December 7, 2009, 74 FR 63999). This limit applied only to the Hawaii-based longline fisheries or longline vessels based on the West Coast of the United States that fish in the WCPO; the limit did not apply to longline fisheries of the U.S. participating territories. CMM 2008-01 also provided that members and participating territories that caught less than 2,000 mt of bigeye tuna in 2004 would be subject to an annual limit of 2,000 mt, except that Small Island Developing States and Participating Territories of the WCPFC undertaking responsible development of their fisheries would not be subject to individual annual limits for bigeye tuna. The three U.S. participating territories fell into this category.

The WCPFC extended the U.S. bigeye tuna limit for 2012 through CMM 2011-01 (August 27, 2012, 77 FR 51709), and for fishing year 2013 through CMM 2012-01 (September 23, 2013, 78 FR 58240). In addition, under CMM 2012-01, Small Island Developing States and Participating Territories of the WCPFC, including American Samoa, Guam, and the CNMI, were not subject to individual longline limits for bigeye tuna for fishing year 2013. Subsequently, in December 2013, the WCPFC adopted a new tropical tuna conservation and management measure, which maintain the U.S. longline bigeye tuna catch limit of 3,763 mt for 2014, and reduces the limit to 3,554 mt in 2015 and 2016, and to 3,345 mt for 2017. CMM 2013-01 further provides that members that caught less than

2,000 mt of bigeye in 2004 are limited to no more than 2,000 mt in each of 2014, 2015, 2016, and 2017. However, this limit does not apply to Small Island Developing States and Participating Territories of the WCPFC. Consistent with previous WCPFC measures, the U.S. participating territories are not subject to individual longline limits for bigeye tuna under CMM 2013-01.

There are two Hawaii longline fisheries: The deep-set fishery that targets bigeye tuna, and the shallow-set fishery that targets swordfish, but also retains other pelagic management unit species (MUS), including bigeye tuna. Therefore, of the U.S. bigeye tuna limit applies to vessels operating in both fisheries. NMFS monitors the catch of all pelagic MUS by each longline fishery and on the date NMFS projects the fisheries will reach the U.S. bigeye tuna limit, NMFS prohibits the retention, transshipment, or landing of bigeye tuna by Hawaii longline vessels in the WCPO through the remainder of the year as occurred in 2009 and 2010.

In 2011, the U.S. Congress passed Public Law 112-55, 125 Stat. 552 *et seq.*, the Consolidated and Further Continuing Appropriations Act (CFCAA), 2012. Section 113 of the CFCAA allows the U.S. participating territories to use, assign, allocate, and manage catch or effort limits agreed to by the WCPFC through fishing agreements with fishing vessels of the United States to support fisheries development in the territories, and directed NMFS to attribute pelagic MUS catches made by such vessels to the U.S. participating territory to which the agreement applies. In 2011, NMFS forecasted that the U.S. bigeye catch limit of 3,763 mt would likely be reached on November 17, 2011. Under the authority provided by Section 113 of the CFCAA, American Samoa entered into a fishing agreement with certain Hawaii longline fishing vessels and,

from November 18 through December 31, 2011, NMFS attributed to American Samoa, 628 mt of bigeye tuna caught by those vessels. Because of the Section 113 agreement, the U.S. bigeye tuna limit was not reached, and Hawaii longline vessels that were not part of that agreement continued to catch bigeye tuna in the WCPO under the remaining amount of the U.S. bigeye tuna catch limit.

In 2012, NMFS forecasted that the U.S. bigeye tuna catch limit of 3,763 mt would be reached on November 27, 2012. In accordance with federal regulations at 50 CFR 300.224, from November 20, 2012, through December 31, 2012, NMFS attributed to American Samoa 771 mt of bigeye tuna caught by Hawaii longline vessels identified in the American Samoa fishing agreement. Consequently, the U.S. bigeye tuna limit was not reached, and Hawaii longline vessels that were not part of that agreement continued fishing for bigeye tuna in the WCPO under the remaining amount of the U.S. bigeye tuna catch limit. In both 2011 and 2012, the United States did not exceed its bigeye tuna limit of 3,763 mt, and the amount of bigeye caught by Hawaii-based longline vessels identified in the fishing agreements with American Samoa, and attributed to the territory was less than 1,000 mt each year.

In 2013, the U.S. Congress extended the Section 113 provisions through Public Law 113-6, 125 Stat. 603, Section 110, the Department of Commerce Appropriations Act, 2013. For fishing year 2013, the CNMI entered into a Section 113 agreement with participants in the Hawaii longline fisheries. On December 5, 2013, in accordance with NMFS regulations at 50 CFR 300.224, NMFS began attributing to the CNMI bigeye tuna catches made by vessels identified in the agreement. The attribution is expected to continue through the end of 2013. NMFS does not

expect the 2013 U.S. bigeye tuna limit of 3,763 mt to be reached.

As directed in Section 113 of the CFCAA, the Council prepared Amendment 7 to the Pelagics FEP for Secretarial Review. If approved, the proposed action in Amendment 7 would:

- Establish a process for specifying catch or fishing effort limits and accountability measures for pelagic fisheries in the U.S. participating territories.
- Authorize each U.S. participating territory to enter into specified fishing agreements with fishing vessels of the United States permitted under the Pelagic FEP and allocate to those vessels, a specified portion of a territory's catch or fishing effort limit, as determined by NMFS and the Council;
- Establish the criteria specified fishing agreements must satisfy, and procedures for reviewing specified fishing agreements; and
- Establish accountability measures for attributing and restricting catch and effort towards the specified limits, including catches and effort made by vessels identified in specified fishing agreements.

Comments on Amendment 7 must be received by February 28, 2014 to be considered by NMFS in the decision to approve, partially approve, or disapprove the amendment. NMFS soon expects to publish and request public comment on a proposed rule that would implement the measures recommended in Amendment 7.

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

Dated: December 24, 2013.

Emily H. Menashes,
Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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