

the reasonable proof supplied by the GNZ, the GNZ regulatory program that came into effect on October 1, 2020, is comparable in effectiveness to the U.S. regulatory program.

Bycatch Limits

Comment 6: The NGOs claim that the GNZ's use of the PST instead of PBR increases the level of acceptable bycatch. They also assert that PBR should be calculated using a net productivity rate of 0.018, resulting in a PBR of one dolphin every 20.6 years.

Response: The NGOs and petitioners are in error on two points. First, the GNZ PST as calculated in the final TMP (PST = 0.14) is a comparable scientific metric to PBR (PBR = 0.11). Regardless of the differences in the PBR/PST calculations, the GNZ, for the purpose of its comparability finding application, is using and has calculated a PBR for Māui dolphins of 0.11 as its biological threshold or bycatch limit. Therefore, the standard used by the GNZ is PBR and is comparable to U.S. standards, and NMFS finds the underlying data inputs appropriate. Second, the NGOs and petitioners' calculation does not conform to the U.S. "Guidelines for Preparing Stock Assessment Reports Pursuant to the 1994 Amendments to the MMPA," which states: Substitution of other values of the maximum net productivity rate (R_{max}) should be made with caution, and only when reliable stock-specific information is available on R_{max} (e.g., estimates published in peer-reviewed articles or accepted by review groups such as the MMPA Scientific Review Groups or the Scientific Committee of the International Whaling Commission). The NGOs' and the petitioners' calculation relies on dated estimates for R_{max} , is inconsistent with the known age at first reproduction of Māui dolphins, underestimates maximum age for this species, and is contrary to more recent estimates of R_{max} in the literature. Moreover, the Māui dolphin demographic models now estimate that the population may have stabilized or begun to increase in recent years following a decline in the past 20 to 30 years. Therefore, NMFS finds the NGO's and petitioners' PBR estimate is not comparable to U.S. standards.

Monitoring

Comment 7: The NGOs claim that the GNZ's requirement for electronic monitoring of set-net and trawl fisheries is an inadequate measure. They base this claim on supposition that too few fishing vessels have been outfitted with camera systems and that such systems will not be fully operational until 2023.

The MMC claims that the GNZ, under its new regulatory program, does not increase observer coverage in the set-net fishery and that camera monitoring is only on the South Island.

Response: Both the NGOs and the MMC are incorrect. Since November 1, 2019, on-board cameras are required on any set-net or trawl vessel (≥ 8 m and ≤ 29 m in registered length). The area where onboard cameras are required covers the coastal area of the Māui dolphin habitat zone, except for a small portion in the far north estimated to have a low density of dolphins, and extends into the northern portion of the southern transition zone. According to the GNZ, the requirement applies to 28 vessels, of which 20 have opted into the on-board camera requirement; the other eight vessels subject to the regulatory requirement are currently not operating in the defined area. Any authorized vessel without on-board cameras must carry an observer. Thus, fishing vessels currently operating in the core Māui dolphin habitat zone have 100 percent coverage of electronic monitoring. The GNZ bycatch monitoring program is comparable in effectiveness to U.S. standards. Finally, according to the GNZ, the 2023 date refers to broader implementation of on-board cameras including on the South Island and not the implementation of this program to the West Coast of the North Island.

Traceability

Comment 8: NGOs claim New Zealand's fishery traceability system is not structured to trace fishery catches and/or marine mammal bycatch incidents back to specific fisheries management areas. They assert that NMFS should not use this deficiency as an excuse to not impose the required fishery product import bans under the MMPA. The NGOs also claim that New Zealand's marine mammal bycatch traceability system is not consistent with the standards imposed on fisheries in the United States.

Response: As discussed in the response to comment 7, the GNZ's monitoring program, including its observer programs and on-board cameras, is comparable in effectiveness to U.S. standards requiring monitoring. The GNZ's monitoring program is sufficient to detect and estimate bycatch. The MMPA Import Provisions do not require, as a condition for a comparability finding, a seafood traceability system.

Dated: October 26, 2020.

Paul N. Doremus,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 201102-0286; 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: Proposed specifications; request for comments.

SUMMARY: NMFS proposes 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 would 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. However, the overall allocation limit among all territories may not exceed 3,000 t. As an accountability measure, NMFS would monitor, attribute, and restrict (if necessary) catches of longline-caught bigeye tuna, including catches made under a specified fishing agreement. The proposed catch limits and accountability measures would support the long-term sustainability of fishery resources of the U.S. Pacific Islands.

DATES: NMFS must receive comments by November 24, 2020.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2020-0010, by either of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <http://www.regulations.gov/#/docketDetail;D=NOAA-NMFS-2020-0010>, 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), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

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).

Pursuant to the National Environmental Policy Act, the Western Pacific Fishery Management Council (Council) and NMFS prepared a 2019 environmental assessment (EA), a 2020 supplemental environmental assessment (SEA), and a 2020 supplemental information report (SIR) that support this proposed action. The EA, SEA, and SIR are available at www.regulations.gov, or from 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: Lynn Rassel, NMFS PIRO Sustainable Fisheries, 808-725-5184.

SUPPLEMENTARY INFORMATION: NMFS proposes to specify a 2021 catch limit of 2,000 t of longline-caught bigeye tuna for each U.S. Pacific territory. NMFS would also authorize 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 that are permitted to fish under the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (FEP). Those vessels must be identified in a specified fishing agreement with the applicable territory. The Council recommended these specifications.

The proposed catch limits and accountability measures are identical to those that NMFS has specified for U.S. Pacific territories in each year since 2014. The proposed individual territorial allocation limit of 1,500 t is identical to what NMFS specified for 2020. The overall allocation limit among all of the territories may not exceed 3,000 t for the year, which is consistent with previous years. NMFS has determined that the existing EA and SEA adequately address the potential impacts on the human environment by

the proposed action, and that no additional analyses are required.

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 a territorial catch or allocation limit will be reached, NMFS would, 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).

NMFS will consider public comments on the proposed action and will announce the final specifications in the **Federal Register**. NMFS also invites public comments that address the impact of this proposed action on cultural fishing in American Samoa.

NMFS must receive any comments on this proposed action by the date provided in the **DATES** heading. NMFS may not consider any comments not postmarked or otherwise transmitted by that date. Regardless of the final specifications, all other existing management measures will continue to apply in the longline fishery.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the NMFS Assistant Administrator has determined that this proposed specification is consistent with the FEP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

Certification of Finding of No Significant Impact on Substantial Number of Small Entities

The Chief Counsel for Regulation for the Department of Commerce has certified to the Chief Counsel for Advocacy of the Small Business Administration that these proposed specifications, if adopted, would not have a significant economic impact on a substantial number of small entities.

The proposed action would specify a 2021 limit of 2,000 t of longline-caught bigeye tuna for each U.S. Pacific territory. NMFS would also allow each territory to allocate up to 1,500 t of its

2,000 t limit, not to exceed an overall annual allocation limit of 3,000 mt, to U.S. longline fishing vessels in a specified fishing agreement that meets established criteria set forth in 50 CFR 665.819. As an accountability measure, NMFS would monitor, attribute, and restrict (if necessary) catches of longline-caught bigeye tuna by vessels in the applicable U.S. territory (if the territorial catch limit is projected to be reached), or by vessels operating under the applicable specified fishing agreement (if the allocation limit is projected to be reached). Payments under the specified fishing agreements support fisheries development in the U.S. Pacific territories and the long-term sustainability of fishery resources of the U.S. Pacific Islands.

This proposed action would directly apply to longline vessels federally permitted under the FEP, specifically Hawaii, American Samoa, and Western Pacific longline permit holders. Preliminary data presented to the 183rd meeting of the Western Pacific Fishery Management Council on September 17, 2020, shows that from January 1, 2020, to June 20, 2020, 164 vessels had Hawaii longline permits, with 145 of these vessels actively participating in the fishery and 60 had American Samoa longline permits, with 10 of these vessels actively participating in the fishery. There are no active Western Pacific general longline permitted vessels.

Based on dealer data collected by the State of Hawaii and the Pacific Fisheries Information Network, Hawaii longline vessels landed approximately 26.7 million lb (12,111 t) of pelagic fish valued at \$94.7 million in 2019. With 146 vessels making either a deep- or shallow-set trip in 2019, the ex-vessel value of pelagic fish caught by Hawaii-based longline fisheries averaged almost \$649,000 per vessel. In 2019, American Samoa-based longline vessels landed approximately 3.0 million lb (1,361 t) of pelagic fish valued at \$3.9 million, with albacore making up the largest proportion of pelagic longline commercial landings. With 17 active longline vessels in 2019, the ex-vessel value of pelagic fish caught by the American Samoa fishery averaged almost \$230,000 per vessel.

Dealer data are not yet available for 2020. However, preliminary information for 2020 indicates that the longline fisheries are experiencing some drop in prices, landings, revenue and other fishery performance measures, due to the effects of travel restrictions and reduced tourism on market demand for locally caught seafood. In Hawaii, drastic declines in tourism have led to

a significant reduction in demand for associated goods and services including locally caught seafood. These, in turn, affected fishery landings, fish prices, and revenues. Average revenues, landings and prices from March through July dropped 45 percent, 34 percent, and 15 percent respectively compared to averages for 2015–2019 (NMFS Pacific Islands Fisheries Science Center, unpublished data). In American Samoa, 2020 longline fishing activity is also likely to have been similarly adversely affected, compounded by the imposition of incoming travel restrictions, which has affected the recruitment of fishing crew. However, travel and other restrictions are likely to ease, which would help boost market demand for locally caught seafood, market prices, and fishing effort.

NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of \$11 million for all its affiliated operations worldwide. Based on available information, NMFS has determined that all vessels permitted federally under the FEP are small entities, *i.e.*, they are engaged in the business of fish harvesting (NAICS 11411), are independently owned or operated, are not dominant in their field of operation, and have annual gross receipts not in excess of \$11 million. Even though this proposed action would apply to a substantial number of vessels, the implementation of this action would not result in significant adverse economic impact to individual vessels. The proposed action would potentially benefit the Hawaii longline fishermen by allowing them to fish under specified fishing agreements with a territory, which could extend fishing effort for bigeye tuna in the western Pacific and provide more bigeye tuna for markets in Hawaii and elsewhere.

In accordance with Federal regulations at 50 CFR part 300, subpart O, vessels that possess both an American Samoa and Hawaii longline permit are not subject to the U.S bigeye

tuna limit. Therefore, these vessels may retain bigeye tuna and land fish in Hawaii after the date NMFS projects the fishery would reach that limit. Further, catches of bigeye tuna made by such vessels are attributed to American Samoa, provided the fish was not caught in the U.S. exclusive economic zone around Hawaii.

The 2021 U.S. bigeye tuna catch limit is 3,554 t, which is the same limit in place for 2020. With regard to the 2020 fishing year, NMFS received a specified fishing agreement between American Samoa and the Hawaii Longline Association (HLA), which included a specification of 1,000 t of bigeye tuna. NMFS began allocating catches to American Samoa on September 6, 2020, prior to the U.S. fishery reaching the bigeye tuna catch limit. Based on logbooks submitted by longline vessels, the American Samoa allocation would likely be reached sometime in November 2020, at which time HLA would likely enter into an agreement with the CNMI. These combined measures, including the remaining available U.S. limit and one or more specified fishing agreements, should enable the U.S fishery to fish through the end of 2020.

As with 2020 and prior years, this proposed action would allow Hawaii-based longline vessels to enter into one or more fishing agreements with participating U.S. Pacific territories. This would enhance the ability of these vessels to extend fishing effort in the western and central Pacific Ocean after reaching the 2021 U.S. limit and provide more bigeye tuna for markets in Hawaii. Providing opportunity to land bigeye tuna in Hawaii in the last quarter of the year when market demand is generally high will result in positive economic benefits for fishery participants and net benefits to the nation. Allowing participating territories to enter into specified fishing agreements under this action is consistent with Western and Central Pacific Fishery Commission (WCPFC) conservation and management objectives for bigeye tuna in Conservation and Management Measure 2018–01, and benefits the territories by providing funds for territorial fisheries development projects. Establishing a 2,000 t longline limit for bigeye tuna, where territories are not subject to

WCPFC longline limits, is not expected to adversely affect vessels based in the territories.

Historical catches of bigeye tuna by the American Samoa longline fleet have been less than 2,000 t, including the catch of vessels based in American Samoa, catch by dual permitted vessels that land their catch in Hawaii, and catch attributed to American Samoa from U.S. vessels under specified fishing agreements. No longline fishing has occurred since 2011 in Guam or the CNMI.

Under the proposed action, longline fisheries managed under the FEP are not expected to expand substantially or change the manner in which they are currently conducted (*i.e.*, area fished, number of vessels and trips, number and depth of hooks, or deployment techniques) due to existing operational constraints in the fleet, the limited entry permit programs, and protected species mitigation requirements. The proposed action does not duplicate, overlap, or conflict with other Federal rules and is not expected to have significant impact on small organizations or government jurisdictions. Furthermore, there would be little, if any, disproportionate adverse economic impacts from the proposed action based on gear type, or relative vessel size. The proposed action also will not place a substantial number of small entities, or any segment of small entities, at a significant competitive disadvantage to large entities.

For the reasons above, NMFS does not expect the proposed action to have a significant economic impact on a substantial number of small entities. As such, an initial regulatory flexibility analysis is not required and none has been prepared.

This action is exempt from review under Executive Order 12866.

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

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

Dated: November 3, 2020.

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

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