period will be reached by October 17, 2017. Accordingly, the commercial sector for South Atlantic vermilion snapper is closed effective at 12:01 a.m., local time, October 17, 2017, until 12:01 a.m., local time, January 1, 2018.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper with vermilion snapper on board must have landed and bartered, traded, or sold such vermilion snapper prior to 12:01 a.m., local time, October 17, 2017. During the commercial closure, the recreational bag limit specified in 50 CFR 622.187(b)(5) and the possession limits specified in 50 CFR 622.187(c)(1) apply to all harvest or possession of vermilion snapper in or from the South Atlantic EEZ. Also during the commercial closure, the sale or purchase of vermilion snapper taken from the EEZ is prohibited. As specified in 50 CFR 622.190(c)(1)(i), the prohibition on sale or purchase does not apply to the sale or purchase of vermilion snapper that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, October 17, 2017, and were held in cold storage by a dealer or processor. For a person on board a vessel issued a Federal commercial or charter vessel/headboat permit for the South Atlantic snapper-grouper fishery, the recreational bag and possession limits and the sale and purchase provisions of the commercial closure for vermilion snapper apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.190(c)(1)(ii).

Classification

The Regional Administrator for the NMFS Southeast Region has determined this temporary rule is necessary for the conservation and management of South Atlantic vermilion snapper and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.193(f)(1) and is exempt from review under Executive Order 12866.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds that the need to immediately implement this action to close the commercial sector for vermilion snapper constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures are unnecessary because the final rule implementing the AM has been subject to public notice and comment, and all that remains is to notify the public of the closure. Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect vermilion snapper, since the capacity of the fishing fleet allows for rapid harvest of the commercial quota. Prior notice and opportunity for public comment would require time and could result in a harvest well in excess of the established commercial quota.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: October 10, 2017.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 170109046–7933–02]

RIN 0648–XF156

Pacific Island Pelagic Fisheries; 2017 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: In this final rule, NMFS specifies a 2017 limit of 2,000 mt of longline-caught bigeye tuna for each U.S. participating territory (American Samoa, Guam, and the Northern Mariana Islands). NMFS will allow each territory to allocate up to 1,000 mt each year to U.S. longline fishing vessels in a valid specified fishing agreement. 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 and fisheries development in the U.S. territories.

DATES: The final specifications are effective October 10, 2017, through December 31, 2017. The deadline to submit a specified fishing agreement pursuant to 50 CFR 665.819(b)(3) for review is December 11, 2017.

ADDRESSES: Copies of the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (Pelagic FEP) are available from the Western Pacific Fishery Management Council (Council), 1164 Bishop St., Suite 1400, Honolulu, HI 96813, tel 808–522–8220, fax 808–522–8226, or *www.wpcouncil.org.*

NMFS prepared environmental analyses that describe the potential impacts on the human environment that would result from the action. Copies of those analyses, identified by NOAA–NMFS–2017–0004, are available from *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0004,* or from Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

FOR FURTHER INFORMATION CONTACT: Jarad Makaiau, NMFS PIRO Sustainable Fisheries, 808–725–5176.

SUPPLEMENTARY INFORMATION: NMFS is specifying a catch limit of 2,000 mt of longline-caught bigeye tuna for each U.S. participating territory in 2017. NMFS is also authorizing each territory to allocate up to 1,000 mt of its 2,000-mt bigeye tuna limit to U.S. longline fishing vessels permitted to fish under the Pelagic FEP. NMFS will monitor catches of longline-caught bigeye tuna by the longline fisheries of each 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—Territorial catch and fishing effort limits. When NMFS projects that a territorial catch or allocation limit will be reached, NMFS will, as an accountability measure, prohibit the catch and retention of longline-caught bigeye tuna by vessels in the applicable territory (territorial catch limit), and/or vessels in a specified fishing agreement (allocation limit).

You may find additional background information on this action in the preamble to the proposed specifications published on August 31, 2017 (82 FR 41388).

Comments and Responses

On August 31, 2017, NMFS published the proposed specifications and request for public comments (82 FR 41388); the comment period closed on September 15, 2017.

In addition to the proposed catch limit specification, NMFS specifically invited public comments that would address the impact of the proposed action on cultural fishing rights in American Samoa. On March 20, 2017, in *Territory of American Samoa* v. *NMFS, et al. (16–cv–95, D. Haw),* a Federal judge vacated and set aside a NMFS rule that amended the American Samoa Large Vessel Prohibited Area (LVPA) for eligible longliners. The Court held that the action was inconsistent with the ''other applicable law'' provision of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by not considering the protection and preservation of cultural fishing rights in American Samoa under the Instruments of Cession. The Instruments of Cession do not specifically mention cultural fishing rights, and the Court's decision, although recognizing the need to protect those rights, does not define them. The Council is currently reevaluating the LVPA rule, including options to define cultural fishing rights in American Samoa that are subject to preservation and protection.

NMFS received five comment submissions on the proposed specifications, from individuals and the fishing industry. NMFS considered the public comments in making its decision on this action, and responds below to comments.

Comments on the Proposed Specifications

NMFS responds to comments on the proposed specifications, as follows:

Comment 1: Several commenters expressed support for the proposed 2017 longline bigeye tuna catch limit of 2,000 mt and said the limit is sustainable and balances the needs of the communities that rely on bigeye tuna, and the ability of the stock to repopulate.

Response: NMFS agrees and is satisfied that this action, which is identical to the catch and allocation limits we implemented in 2016 (81 FR 63145, September 14, 2016), addresses the conservation and management needs of the bigeye tuna in the Western and Central Pacific Ocean (WCPO) while taking into account the needs of fishing communities of the U.S. Pacific Islands.

Comment 2: One commenter said NOAA should allow for a maximum catch limit of 500 mt to account for unreported catches by poachers. The commenter also expressed concern that NOAA does not have sufficient enforcement resources to catch poachers, and that the proposed 2,000 mt catch limit will result in the species extinction.

Response: NMFS disagrees that it should reduce the limit to account for poaching by U.S. longline fishing vessels. NMFS has no evidence that poaching is an issue of management concern, and therefore has no basis to reduce the allocation limit. Regulations implementing the Pelagic FEP include numerous measures that minimize the potential for illegal and unreported catch in U.S. longline fisheries. Specifically, NMFS requires all U.S. longline vessels owners to install and maintain operational vessel monitoring systems. This allows NMFS to track the location of fishing vessels at all times and ensure vessels do not fish within any restricted fishing area or during a fishery closure.

NMFS also places a scientific observer on board longline vessels to document and record all catches made during observed fishing trips. Longline vessel operators must also maintain an accurate daily log of all catches, which NMFS can cross validate with observer records and market sales reports. Together, these measures provide NMFS with a reliable means to track the amount of fish caught by U.S. longline vessels from sea to market, and minimize the potential for illegal and unreported catch in the fishery.

NMFS also disagrees that the proposed action would result in the extinction of bigeye tuna. Bigeye tuna is not a species listed as, or proposed to be listed as, threatened or endangered under the Endangered Species Act (ESA), nor is it a candidate species for ESA listing. Moreover, NMFS has determined that the proposed action is consistent with the Western and Central Pacific Fisheries Commission's (WCPFC) objectives to conserve bigeye tuna at sustainable levels.

Comment 3: One commenter said the NMFS should state where exactly the authority to create catch limits comes from instead of just supplying the statute number.

Response: Bigeye tuna is managed by the WCPFC, of which the United States is a member. In Conservation and Management Measure (CMM) 2016–01, the WCPFC established bigeye longline catch limits for the United States and other members, while exempting small island developing states and Participating Territories to the WCPFC, including American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands, from catch limits. CMM 2016–01 also provides that qualifying longline catches of vessels operated under contracts and leases with Participating Territories are to be attributed to those Territories. This action establishes bigeye longline limits for the three U.S. participating territories, a limited portion of which may be allocated to eligible vessels under specified fishing agreements, consistent with the WCPFC's conservation objectives for bigeye tuna. NMFS clarifies here that the authority to promulgate these fishing regulations arises from the Magnuson-Stevens Act (16 U.S.C. 1801, *et seq.*) and implementing regulations at 50 CFR 665.819.

Comment 4: One commenter said that vessels in the U.S. pelagic longline fishery have existing specified fishing agreements with U.S. territories but are unable to fish for bigeye tuna under those agreements until NMFS finalizes the proposed action.

Response: Specified fishing agreements may not be given effect until NMFS determines that the proposed catch and allocation limits are consistent with the Pelagic FEP, WCPFC decisions, other provisions of the Magnuson-Stevens Act, and other applicable laws. While the 2017 proposed catch and allocation limits are identical to the limits NMFS implemented in 2016, NMFS received new information relevant to the environmental analyses in the 2015 EA and 2016 Supplemental EA. NMFS was required to complete its analysis of this information and other relevant impacts prior to taking final action on the proposed catch and allocation limit specifications.

Comment 5: One commenter questions whether there is a factual basis to limit each territory to a 1,000 mt allocation limit, particularly in light of the 2017 Stock Assessment.

Response: The Council recommended the 1,000 mt allocation limit for each U.S. territory prior to the availability of the 2017 stock assessment for bigeye tuna, which was completed in August 2017. Utilizing the best scientific information available, NMFS has determined that this allocation limit is consistent with WCPFC objectives to conserve the bigeye stock. Although the new 2017 stock assessment may describe a somewhat more optimistic conservation status for bigeye tuna, NMFS considers its use for this management action to be premature. NMFS expects stock assessment authors to present the assessment results to the Western and Central Pacific Fisheries Commission (WCPFC) at its December 2017 meeting. We also expect the Council will consider the 2017 stock assessment and WCPFC decisions when recommending the future catch and

allocation limits for territorial longline fisheries.

Comment 6: One commenter said that cultural fishing rights are an important topic that needs recognition and that the proposed action can achieve the financial and cultural goals of the American Samoa vessels and protect populations of tuna.

Response: NMFS agrees and recognizes the importance of fishing to U.S. Pacific Island cultures. The action limits the amount of bigeye tuna that the U.S. territories may allocate to eligible vessels through specified fishing agreements to ensure that a sufficient amount of bigeye tuna is available to territorial fisheries. NMFS is satisfied that the catch and allocation limits addresses the conservation and management needs of the bigeye tuna in the WCPO while taking into account the needs of fishing communities.

Classification

The Regional Administrator, NMFS PIR, determined that this action is necessary for the conservation and management of Pacific Island fishery resources, and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during 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 on this certification; as a result, a regulatory flexibility analysis is not required, and none has been prepared.

On December 29, 2015, NMFS issued a final rule establishing a small business size standard of $11 million in annual gross receipts for all businesses primarily engaged in the commercial fishing industry (NAICS 11411) for Regulatory Flexibility Act (RFA) compliance purposes only (80 FR 81194, December 29, 2015). The $11 million standard became effective on July 1, 2016, and is to be used in place of the U.S. Small Business Administration's (SBA) current standards of $20.5 million, $5.5 million, and $7.5 million for the finfish (NAICS 114111), shellfish (NAICS 114112), and other marine fishing (NAICS 114119) sectors of the U.S. commercial fishing industry in all NMFS rules subject to the RFA after July 1, 2016.

Pursuant to the RFA and prior to July 1, 2016, NMFS developed a certification for this regulatory action using SBA size standards. NMFS has reviewed the analyses prepared for this regulatory action in light of the new size standard. All of the entities directly regulated by this regulatory action are commercial fishing businesses and were considered small under the SBA size standards and, thus, they all would continue to be considered small under the new standard. Accordingly, NMFS has determined that the new size standard does not affect analyses prepared for this regulatory action.

This rule it is not subject to the 30-day delayed effectiveness provision of the Administrative Procedure Act pursuant to 5 U.S.C. 553(d)(1) because it is a substantive rule that relieves a restriction. This rule allows all U.S. vessels identified in a valid specified fishing agreement to resume fishing in the western and central Pacific Ocean (WCPO) after NMFS closed the longline fishery for bigeye tuna both there and in the eastern Pacific Ocean (EPO).

NMFS closed the U.S. pelagic longline fishery for bigeye tuna in the WCPO on September 1, 2017, because the fishery reached the 2017 catch limit (82 FR 37824, August 14, 2017). In addition, on September 8, 2017, NMFS closed the U.S. pelagic longline fishery for bigeye tuna for vessels greater than 24 m in the EPO because the fishery reached the 2017 catch limit (82 FR 41562, September 1, 2017). This final rule would relieve the restriction of the fishery closure in the WCPO by allowing all U.S. vessels to fish for bigeye tuna in the WCPO under a valid specified fishing agreement with one or more U.S territory. This would alleviate some of the impacts to the U.S. pelagic longline fishery resulting from the two fishery closures, and may provide positive economic benefits for the fishery and associated businesses, and net benefits to the public and the Nation.

This action is exempt from review under E.O. 12866 because it contains no implementing regulations.

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

Dated: October 6, 2017.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

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