

requirements specifically set forth in law).

Section 202 of the Act (2 U.S.C. 1532) further requires that before promulgating any general notice of proposed rulemaking that is likely to result in the promulgation of any rule that includes any Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100,000,000 or more (adjusted annually for inflation) in any 1 year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement.

This written statement must detail the effect on State, local, and tribal governments and the private sector. For the year 2017, this monetary amount of \$100,000,000 has been adjusted to \$156,000,000 to account for inflation. This final rule would not result in such an expenditure, and thus preparation of such a statement is not required.

#### *Energy Impact*

Executive Order 13211 requires Federal agencies to prepare a Statement of Energy Effects for any “significant energy action.” 66 FR 28355, May 22, 2001. Under the Executive Order, a “significant energy action” is defined as any action by an agency (normally published in the **Federal Register**) that promulgates, or is expected to lead to the promulgation of, a final rule or regulation (including a notice of inquiry, advance notice of proposed rulemaking, and notice of proposed rulemaking) that (1)(i) is a significant regulatory action under Executive Order 12866 or any successor order and (ii) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (2) is designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. FRA has evaluated this rule in accordance with Executive Order 13211. FRA has determined that this rule will not have a significant adverse effect on the supply, distribution, or use of energy. Consequently, FRA has determined that this regulatory action is not a “significant energy action” within the meaning of Executive Order 13211.

#### *Privacy Act*

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL-

14 FDMS), which can be reviewed at [www.dot.gov/privacy](http://www.dot.gov/privacy).

#### **List of Subjects in 49 CFR Part 270**

Penalties, Railroad safety, Reporting and recordkeeping requirements, System safety.

#### **The Rule**

■ In consideration of the foregoing, FRA extends the stay of the SSP final rule published August 12, 2016 (81 FR 53850) until December 4, 2018.

**Authority:** 49 U.S.C. 20103, 20106–20107, 20118–20119, 20156, 21301, 21304, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.89.

Issued in Washington, DC, on November 27, 2017.

**Juan D. Reyes III,**  
*Chief Counsel.*

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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 Commonwealth of the Northern Mariana Islands Bigeye Tuna Fishery; Closure**

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

**ACTION:** Temporary rule; closure.

**SUMMARY:** NMFS is closing the U.S. pelagic longline fishery for bigeye tuna in the western and central Pacific Ocean because the fishery will reach the 2017 allocation limit for the Commonwealth of the Northern Mariana Islands (CNMI). This action is necessary to comply with regulations managing this fish stock.

**DATES:** Effective 12:01 a.m. local time December 6, 2017, through December 31, 2017.

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

**SUPPLEMENTARY INFORMATION:** On September 1, 2017, NMFS restricted the retention, transshipment and landing of bigeye tuna captured by longline gear in the western and central Pacific Ocean (WCPO) because the U.S. longline fishery reached 2017 U.S. bigeye tuna limit of 3,554 mt (82 FR 47642, October 13, 2017). Regulations at 50 CFR

300.224(d) provide an exception to this closure for bigeye tuna caught by U.S. longline vessels identified in a valid specified fishing agreement under 50 CFR 665.819(c). Further, 50 CFR 665.819(c)(9) authorized NMFS to attribute catches of bigeye tuna made by U.S. longline vessels identified in a valid specified fishing agreement to the U.S. territory to which the agreement applies.

Effective on October 10, 2017, NMFS specified a 2017 catch limit of 2,000 mt of longline-caught bigeye tuna for the U.S. territories of American Samoa, Guam and the Commonwealth of the Northern Mariana Islands or CNMI (82 FR 49143, October 24, 2017). NMFS also authorized 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 Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (FEP).

On October 6, 2017, the Western Pacific Fishery Management Council, through its Executive Director, transmitted to NMFS a specified fishing agreement between the CNMI and Quota Management, Inc. (QMI) dated April 14, 2016. NMFS reviewed the agreement and determined that it was consistent with the requirements at 50 CFR 665.819, the FEP, the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable laws (82 FR 49143, October 24, 2017). The criteria that a specified fishing agreement must meet, and the process for attributing longline-caught bigeye tuna, followed the procedures in 50 CFR 665.819—Territorial catch and fishing effort limits.

In accordance with 50 CFR 300.224(d) and 50 CFR 665.819(c)(9), NMFS began attributing bigeye tuna caught in the WCPO by vessels identified in the CNMI/QMI agreement to the CNMI, beginning on October 10, 2017. NMFS monitored catches of longline-caught bigeye tuna by the CNMI longline fisheries, including catches made by U.S. longline vessels operating under the CNMI/QMI agreement. Based on this monitoring, NMFS forecasted that the CNMI territorial allocation limit of 1,000 mt will be reached by December 6, 2017, and is, as an accountability measure, prohibiting the catch and retention of longline-caught bigeye tuna by vessels in the CNMI/QMI agreement.

#### **Notice of Closure and Temporary Rule**

Effective 12:01 a.m. local time December 6, 2017, through December 31, 2017, NMFS closes the U.S. pelagic longline fishery for bigeye tuna in the western and central Pacific Ocean as a result of the fishery reaching the 2017

allocation limit of 1,000 mt for the CNMI.

During the closure, a U.S. fishing vessel operating under the CNMI/QMI agreement may not retain on board, transship, or land bigeye tuna captured by longline gear in the WCPO, except that any bigeye tuna already on board a fishing vessel upon the effective date of the restrictions may be retained on board, transshipped, and landed, provided that they are landed within 14 days of the start of the closure; that is, by December 20, 2017.

Additionally, U.S. fishing vessels operating under the CNMI/QMI agreement are also prohibited from transshipping bigeye tuna caught in the WCPO by longline gear to any vessel other than a U.S. fishing vessel with a valid permit issued under 50 CFR 660.707 or 665.801.

During the closure, all other restrictions and requirements NMFS established on September 1, 2017, as a result of the U.S. longline fishery reaching the 2017 U.S. bigeye tuna limit of 3,108 mt (82 FR 37824, August 14, 2017) shall remain valid and effective.

However, any vessel included in the CNMI/QMI agreement that is also included in a valid specified fishing agreement in effect on December 6, 2017, may continue to transship, retain, and land bigeye tuna caught by longline gear in the WCPO. Additionally, if any such vessel is engaged in a longline

fishing trip in the WCPO on December 6, 2017, that vessel would not need to return to port before December 20, 2017. NMFS would announce any subsequent valid specified fishing agreement in the **Federal Register**.

#### **Classification**

There is good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment on this action, because it would be impracticable and contrary to public interest, as discussed below. This rule closes the U.S. longline fishery for bigeye tuna in the WCPO as a result of reaching the bigeye tuna allocation limit established by the 2017 specification for catch and allocation limits of bigeye tuna for the CNMI, and the specified fishing agreement between the Government of the CNMI and QMI dated April 14, 2016.

NMFS forecasted that the fishery would reach the 2017 CNMI allocation limit by December 6, 2017. Fishermen have been subject to longline bigeye tuna limits in the western and central Pacific since 2009. They have received ongoing, updated information about the 2017 catch and progress of the fishery in reaching the U.S. bigeye tuna limit via the NMFS Web site, social media, and other means. The publication timing of this rule, moreover, provides longline fishermen with seven days' advance notice of the closure date, and

allows two weeks to return to port and land their catch of bigeye tuna. This action is intended to comply with regulations managing this stock, and, accordingly NMFS finds it impracticable and contrary to the public interest to have prior notice and public comment.

For the reasons stated above, there is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for this temporary rule. NMFS must close the fishery to ensure that fishery does not exceed the allocation limit. NMFS implemented the catch and allocation limits for the CNMI consistent with management objectives to sustainably manage the bigeye tuna stock and restore the stock to levels capable of producing maximum sustainable yield on a continuing basis. Failure to close the fishery before the limit is reached would be inconsistent with bigeye tuna management objections and in violation of Federal law.

This action is required by 50 CFR 665.819(d), and is exempt from review under Executive Order 12866.

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

Dated: November 27, 2017.

**Emily H. Menashes,**

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

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