



**WESTERN
PACIFIC
REGIONAL
FISHERY
MANAGEMENT
COUNCIL**

MEMORANDUM

February 20, 2018

TO: Interested Parties

FROM: Kitty M. Simonds

SUBJECT: Summary of Action Items for the 172nd Meeting of the Western Pacific Regional Fishery Management Council

- 1. Updates on the Ecosystem Components Species Classification**
- 2. Omnibus Amendment to Establish an Aquaculture Management Program**
- 3. Options for Refining Precious Corals Essential Fish Habitat**
- 4. Framework for Managing Sea Turtle Interactions in the Hawai'i Shallow-set Longline Fishery**
- 5. 2018 US Territory Longline Bigeye Catch Limit Specification**
- 6. Framework for the Specification of Catch and Effort Limits for US Pelagic Fisheries in the Western Pacific Region to Implement International Measures from the WCPFC, IATTC and Any Other RFMO Implementing Statute that Authorizes Rulemaking under the Magnuson-Stevens Fishery Conservation and Management Act**
- 7. Modification to US Participating Territory Catch and Effort Limit Amendment 7 Framework**
- 8. American Samoa Large Vessel Prohibited Area**
- 9. American Samoa Swordfish Trip Limit**
- 10. American Samoa Marine Conservation Plan**

The 172nd meeting of the Western Pacific Regional Fishery Management Council will convene March 14 to 16, 2018, at the Laniakea YWCA, Fuller Hall, 1040 Richards St., Honolulu. The Council will consider and make take action on the issues summarized below, including any public comments on these initiatives. Written public comments should be received by the Council's executive director by 5 p.m. (Hawai'i time), Friday, March 9, 2018, by postal mail, FAX or email as indicated below. After March 9, it is the submitter's responsibility to provide at least 40 copies of the written comment to Council staff at the Council meeting.

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Action Item Summaries

1. Updates on the Ecosystem Components Species Classification

The Council is developing an amendment to the Fishery Ecosystem Plans (FEPs) for the Hawai‘i, American Samoa and Mariana Archipelagos that will reclassify dozens of management unit species (MUS) that are not readily caught by fishermen. MUS that are classified as “species in need of federal management and conservation” require specifications, descriptions, stock assessments and other actions, while MUS classified as “ecosystem components” are exempt from these requirements, which include the following, among others:

- Specification of overfishing limit, acceptable biological catch, annual catch limit, accountability of measures, maximum sustainable yield, optimum yield, status determination criteria and biological reference points
- Description of the fishery, fishing communities and essential fish habitat (EFH)
- EFH consultation
- Stock assessment
- Determination of research priorities
- Collaborative management between the Council and the State/Territory

At its 171st meeting, the Council directed staff to work with the State of Hawai‘i to finalize a list of MUS that are in need of conservation and management from five different groups (Deep-7 bottomfish, non-Deep-7 bottomfish, coral reef ecosystem, crustacean and precious corals) in the Hawai‘i FEP.

At the 172nd meeting, the Council will consider taking final action to approve the list of 22 species in need of federal management and conservation in the Hawai‘i FEP and clean up the species lists for the American Samoa and Mariana FEPs. The remaining species covered by the FEPs would be reclassified as ecosystem components. The ecosystem component species would remain in the FEPs and would continue to be monitored by the Council.

2. Omnibus Amendment to Establish an Aquaculture Management Program

At its 146th meeting in October 2009, the Council recommended permitting and reporting requirements for aquaculture projects in federal waters. After years of analysis, the National Marine Fisheries Service (NMFS) Pacific Islands Regional Office has nearly completed the draft Programmatic Environmental Impact Statement (PEIS) needed to fulfill National Environmental Policy Act requirements for the permitting and reporting recommendation. The draft PEIS also addresses additional management measures that would encompass those permits into a broader aquaculture management program.

At its 172nd meeting, the Council will consider the alternatives developed through the draft PEIS process and may select a preliminary preferred alternative for a federal management program to develop a sustainable aquaculture industry in the US exclusive economic zone (EEZ) waters around American Samoa, Hawai‘i, Guam, the Commonwealth of the Northern Mariana Islands (CNMI) and the Pacific Remote Island Areas. An aquaculture management program is

needed to provide the Council and NMFS with a framework for review and authorization of the location, method and extent of aquaculture projects in federal waters of the EEZ.

3. Options for Refining Precious Corals Essential Fish Habitat

Precious corals are prioritized for essential fish habitat (EFH) review in the Council's five-year program plan. At its 170th meeting in June 2017, the Council directed staff to develop an options paper based on the review of precious corals EFH delivered with the 2016 Stock Assessment and Fisheries Evaluation reports.

At its 172nd meeting, the Council will consider taking initial action on the options to refine precious coral EFH by choosing a preliminarily preferred alternative and directing Council staff to develop an amendment, if warranted. The options for refining EFH will be presented separately for deep-water precious coral, shallow-water precious coral and supporting information as follows:

1. Deep-water precious coral (geographic extent)
 - No change
 - Designate EFH as hard substrate within the 200-600 meters depth range
 - Designate EFH as the existing conditional and established beds with boundaries
 - Designate EFH as the existing conditional and established beds and recently discovered beds with boundaries
2. EFH designations for the shallow-water precious coral
 - No change, designate EFH as the exiting beds without boundaries
 - Designate EFH as the existing beds with boundaries
3. Supporting information
 - No change
 - Update based on the best scientific information available

4. Framework for Managing Sea Turtle Interactions in the Hawai'i Shallow-Set Longline Fishery

Regulatory Amendment 3 to the Pelagic Fishery Management Plan (currently the Pelagic FEP) implemented a suite of measures in 2004 for the Hawai'i shallow-set longline swordfish fishery to reduce the number and severity of sea turtle interactions. These measures included new technologies (large circle hooks and mackerel-type bait) and required Hawai'i longline vessels to carry approved de-hooking devices to maximize the post-hooking survival. The amendment also established a maximum effort limit of 2,120 shallow-sets per year administered through a set certificate program and annual interaction limits for loggerhead and leatherback turtles ("hard caps") to control fishing effort and sea turtle interactions while information was being gathered on the fishery.

Since 2004, the fishery has been subject to 100-percent observer coverage, providing more than a decade's worth of information to assess the effectiveness of the measures intended

to reduce sea turtle interactions. Gear requirements implemented in 2004 successfully reduced sea turtle interactions in the shallow-set longline fishery by approximately 90 percent. In 2008, the Council recommended removal of the effort limits and a revised hard cap for loggerhead turtles to be consistent with historical levels of fishing effort.

The shallow-set longline fishery targeting swordfish is highly seasonal, with effort typically increasing in October and peaking in March. When the hard cap limit is reached, the fishery is closed for the remainder of the calendar year. A hard cap closure during periods of peak market demand for Hawai‘i swordfish can create a disruption in the US domestic swordfish market without necessarily serving a conservation basis. Further, spillover market effects may increase sea turtle interactions within the region.

The Council, at its 171st meeting, reviewed whether the continuation of sea turtle hard caps is necessary to achieve the management objectives of the Pelagic FEP. The Council recommended development of a draft amendment to the Pelagic FEP that considers options for hard caps and selected as its preliminary preferred alternative the removal of the hard cap measure. Following the 171st meeting, Council staff initiated development of the draft amendment, including a framework alternative to implement more responsive measures that would ensure year-round operations while minimizing impacts to sea turtle populations.

Loggerhead turtle interactions in the Hawai‘i shallow-set longline fishery since the start of the current fishing season (2017 fall through 2018 summer) were higher than levels observed since the fishery reopened in 2004 through 2016. While the factors influencing the recent spike in interactions are unclear at this time, available observer data indicate sea turtle interactions can accumulate quickly in some years and have the potential to fluctuate substantially between years. The existing management measures do not provide for early detection of and response to higher interaction rates, hotspots or fluctuations that may indicate a potential for higher impacts to sea turtle populations or a fishery closure early in the calendar year. Effective management of protected species interactions should consider responsive measures that can help ensure year-round operations while addressing the needs for protected species conservation. The recent spike in loggerhead turtle interactions suggest the need for a conservation and management framework that is more robust and more responsive to fluctuations in sea turtle interactions and that minimizes further interactions, while helping to ensure year-round supply of fresh swordfish to meet market demands.

At its 172nd meeting, the Council will consider taking action on a revised set of options that includes the development of a framework for managing loggerhead and leatherback turtle interactions in the Hawai‘i shallow-set longline fishery. The Council will consider a management framework that provides for responsive measures to help ensure year-round operations while addressing the needs for protected species conservation. The framework may include, among other measures, a) specification of hard caps, b) in-season measures to implement a temporary closure when a certain proportion of the loggerhead or leatherback limit is reached, c) real-time spatial management measures to monitor and manage interaction hotspots and fluctuations, and d) establishment of a fleet communication program to facilitate implementation of real-time spatial management measures and dissemination of interaction information to the fleet.

5. 2018 US Territory Longline Bigeye Specification

Bigeye tuna comprises a Pacific-wide population that is internationally managed and assessed as separate stocks in the Western and Central Pacific (WCPO) and Eastern Pacific Ocean (EPO) by the Western and Central Pacific Fisheries Commission (WCPFC) and the Inter-American Tropical Tuna Association (IATTC), respectively. Stock assessments conducted in 2017 for the WCPO and 2017 in the EPO indicate that both stocks are not subject to overfishing nor are they overfished, according to the stock status determination reference points in the FEP for Pelagic Fisheries of the Western Pacific Region.

The WCPFC, of which the United States is a member, develops and agrees on conservation and management measures (CMMs) for highly migratory species caught by WCPFC members and Participating Territories (CCMs) in the WCPO. In December 2017, the WCPFC agreed on CMM 2017-01, which builds off earlier conservation and management measures. Under CMM 2017-01, the longline bigeye limits of six countries were restored to 2016 levels, including the United States (3,554 mt). CMM 2017-01, like earlier conservation measures, does not establish an individual limit on the amount of bigeye tuna that may be harvested annually in the Convention Area by Small Island Developing States (SIDS) and Participating Territories, including American Samoa, Guam and the CNMI. Limits are not provided to the SIDS and Participating Territories in recognition of their fisheries development aspirations.

In 2014, Amendment 7 to the Council's Pelagic FEP was approved and implemented (50 CFR 665.819). It established a management framework that provides for the following:

- Catch or effort limits applicable to the US Participating Territories that include the authority of the US Participating Territories to use, assign, allocate and manage the pelagic management species catch and effort limits agreed to by the WCPFC through Specified Fishing Agreements with US vessels permitted under the Pelagic FEP for the purposes of responsible fisheries development.
- Authorization for the Council to recommend and NMFS to specify catch or effort limits in the absence of such limits or additional or more restrictive limits than the WCPFC for conservation and management purposes.
- Consistency review of Territory arrangements with the Pelagic FEP and other applicable laws by the Council and NMFS, as well as annual review and specification recommendations by the Council.

At its 172nd meeting, the Council will consider taking final action on options related to the specification of the annual Territory bigeye longline limits applicable for 2018 for American Samoa, Guam and the CNMI. The Council will also consider limits on the amount of catch that could be transferred under Specified Fishing Arrangements by the US Participating Territories to vessels permitted under the Pelagic FEP.

The Council will consider the following limit options:

1. No management action: No specification of catch or allocation limits

2. Status quo: Specify for each US Participating Territory, a 2,000-metric ton (mt) catch limit and 1,000-mt allocation limit in 2018
3. No total longline bigeye limit per US Participating Territory, but a limit on the amount of bigeye each territory can allocate under annual Specified Fishing Agreements:
 - a. 1,000 mt allocation limit per territory
 - b. 1,500 mt allocation limit per territory
 - c. 2,000 mt allocation limit per territory

6. Framework for the Specification of Catch and Effort Limits for US Pelagic Fisheries in the Western Pacific Region to Implement International Measures from the WCPFC, IATTC and Any Other RFMO Implementing Statute that Authorizes Rulemaking under the Magnuson-Stevens Fishery Conservation and Management Act

The United States is a member of both the WCPFC and IATTC, two international regional fisheries management organizations (RFMOs) that manage fisheries for high migratory species (e.g., tuna) in the Pacific Ocean. For the United States to become a contracting party to an RFMO, the US Congress needs to implement the international convention that formed the RFMO. Congress implements conventions in the form of legislation that includes provisions providing the Secretaries of State and Commerce with the authority to participate in the RFMO and promulgate regulations and enforce measures related to the RFMO.

In 2006, Congress implemented US membership to the WCPFC through the WCPFC Implementation Act (WCPIA; P.L. 109-479). The WCPFCIA includes a section on rulemaking that provides authority to the Secretary of Commerce to promulgate regulations necessary to implement WCPFC measures that apply to US fishing vessels. The same section also provides that, in cases where the United States has discretion to implement WCPFC measures, regulations may be developed in accordance with the Magnuson-Stevens Conservation and Management Act (MSA), which is the Council-led rulemaking process.

In 2014 NMFS implemented a framework through Amendment 7 to the Pelagic FEP by which NMFS and the Council may establish catch and effort limits for pelagic MUS for pelagic fisheries of the US territories (American Samoa, Guam and CNMI) (79 FR 64097, Oct. 28, 2014). However, the Amendment 7 framework was limited to the US Participating Territories and does not allow NMFS and the Council to implement catch or effort limits for all pelagic fisheries operating within the Council's area of jurisdiction, which include vessels based in Hawai'i. In 2014, the Council took final action to amend the Pelagic FEP to include a framework that covers the implementation of WCPFC catch and effort limits for Hawai'i-based fisheries under the management authority of the Council.

In 2015, US Congress implemented the Antigua Convention (which amended the IATTC convention) through the Illegal, Unreported, and Unregulated Fishing Enforcement Act of 2015 (P.L. 114-81). Like the WCPFCIA, the statute provides authority to the Secretary of Commerce and the Council to develop regulations under the MSA to implement IATTC measures. Since the implementing statute came after the Council's 2014 recommendation, the Council needs to take additional action to include IATTC measures within the recommended Pelagic FEP framework.

At its 172nd meeting, the Council will consider taking final action to include IATTC measures and any other RFMO implementing statutes that allow regulations to be developed under the MSA to the Council's 2014 Pelagic FEP amendment action.

7. Modification to US Participating Territory Catch and Effort Limit Amendment 7 Framework

In 2014, the Council developed and NMFS approved Amendment 7 to the Pelagic FEP. Amendment 7 established a process under the authority of the MSA to specify catch and/or effort limits for pelagic fisheries in American Samoa, Guam and the CNMI (hereinafter the US Participating Territories), as recommended by the Council. The process also allows NMFS to authorize the government of each US Participating Territory to allocate a portion of its catch or fishing effort limit of pelagic MUS to a US fishing vessel permitted under the Pelagic FEP through specified fishing agreements to support fisheries development in the US Participating territories. Regulations implementing Amendment 7 became effective on Oct. 24, 2014, and can be found at 50 CFR 665.819. The existing regulations implementing Amendment 7 limit require that the Council first establish a catch limit for the US Participating Territories if also specifying an allocation limit. There may be instances where specifying an allocation limit is more consistent with WCPFC, other applicable law and existing fishing conditions.

At its 172nd meeting, the Council will consider final action to make technical modifications to Amendment 7 to allow more flexibility in the specification process.

8. American Samoa Large Vessel Prohibited Area

In the early 2000s, the American Samoa longline fleet included about 40 small vessels (alia) and 25 larger vessels (more than 50 feet in length) targeting albacore for the local canneries. In 2002, the Large Vessel Prohibited Area (LVPA) was established to separate the large and small longline vessels to prevent potential gear conflict and catch competition (see figure 1). Subsequently, the alia longline fleet dwindled to fewer than three in 2006 and one in 2010. About 15 larger longline vessels continue to operate out of Pago Pago Harbor under severe economic stress.

At its 172nd meeting, the Council will consider taking final action on LVPA options (see Table 1) that may improve economic efficiency of the larger longline vessels while taking into consideration, among other things, the need to prevent overfishing, impacts on small vessels and protecting American Samoa cultural fishing practices. This action addresses continued poor economic performance in the American Samoa longline fishery and regulations that may unnecessarily restrict fleet movement and harm fishing efficiency.

Figure 1: US EEZ around American Samoa showing boundaries of the LVPA around Tutuila, Manu'a Islands and Swains Islands (generally 50-nm closure to vessels greater than 50 feet) and Rose Atoll Marine National Monument closed to commercial fishing.

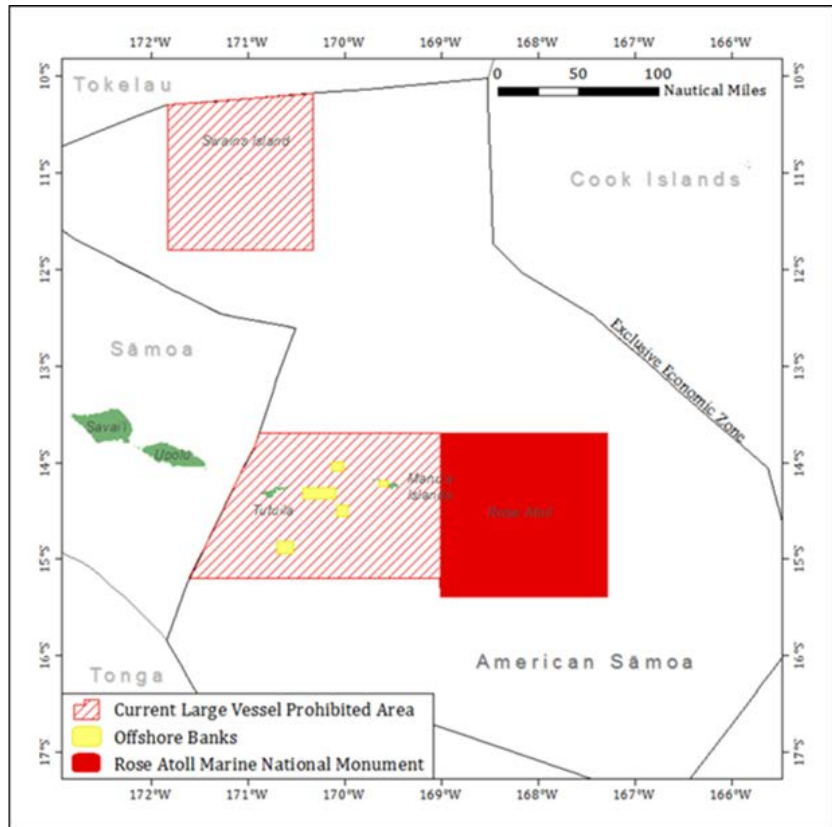


Table 1. LVPA Options

Option	LVPA Management
1	Status Quo: maintain LVPA regulations, which generally prohibit large vessels (>50 feet) from fishing within 50 nm around Tutuila, Manu'a Islands, and Swains Island
2	LVPA exemption area seaward from 25 nm north of Tutuila and Manu'a Islands; within designated areas south of Tutuila and Manu'a; seaward from 12 nm around Swains Island
3	LVPA exemption area seaward from 25 nm of Tutuila, Manu'a and Swains Islands
4	LVPA exemption area seaward from 25 nm of Tutuila and Manu'a Islands and seaward from 12 nm of Swains Island
5	LVPA exemption area seaward of 12 nm around Tutuila, Manu'a and Swains Islands (Council 2015 preferred)
6	LVPA exemption area seaward from 12 nm around Tutuila, Manu'a and Swains Islands and 2 nm around offshore banks (Council 2017 preferred)
7	Apply exemption throughout LVPA area

9. American Samoa Swordfish Trip Limit

In 2009, the Council recommended Amendment 5 to the Pelagic FEP to require gear modifications in the American Samoa longline fishery to promote hooks to be set below 100 meters in depth in order to minimize the incidental catch of green sea turtles. NMFS implemented this measure in 2011, and green turtle interactions appear to be less frequent based on the estimated total number of interactions. Amendment 5 also limited swordfish per trip to 10

to discourage fishermen from setting gear shallow to target swordfish. The limit mirrored regulations applied to the Hawai‘i deep-set longline fishery. In 2012, the swordfish limit for the Hawai‘i deep-set longline fishery was modified to 25 swordfish per trip not carrying an on-board observer and unlimited with an observer on the fishing trip.

Currently, American Samoa longliners are unable to shallow-set for swordfish, unlike the Hawai‘i shallow-set longline fishery. The American Samoa longline fishery primarily targets South Pacific albacore for the Pago Pago cannery, with a smaller amount of sales of other species (e.g., yellowfin, skipjack) to the cannery and local market. American Samoa longline fishery participants do not export fishery products. Poor economic conditions have persisted in the American Samoa longline fishery for several years due to reduced albacore catch rates, high operating costs and relatively low fish prices. At its 172nd meeting, the Council will consider taking final action on management options to modify or remove the limit on the maximum number of swordfish that can be landed on a per trip basis by vessels holding an American Samoa limited entry longline permit that operate south of the Equator. The intent of the proposed action is to optimize fishery resources by reducing regulatory discards of swordfish and increase efficiency of the fishery while maintaining safeguards for sea turtles and other protected species.

10. American Samoa Marine Conservation Plan

The Marine Conservation Plan (MCP) for American Samoa expires March 31, 2018. At its 172nd meeting, the Council will review the proposed new American Samoa MCP for concurrence and approval. After review by the Council, the MCP will be transmitted to the Secretary of Commerce for approval. If approved by the Council and Secretary of Commerce, the MCP will be valid for a period of three years; however, an MCP can be modified at any time and resubmitted for approval.

The MCP is required under the MSA Section 204(e), which authorizes the Secretary of State, with the concurrence of the Secretary of Commerce and in consultation with the Western Pacific Regional Fishery Management Council, to negotiate and enter into a Pacific Insular Area Fishery Agreement (PIAFA). A PIAFA would allow foreign fishing within the 200-mile US EEZ adjacent to American Samoa, CNMI, Guam or the Pacific Remote Island Areas with the concurrence of, and in consultation with, the applicable governor. According to the MSA, the governor, with the concurrence of the Council, must develop a three-year MCP providing details on uses for any funds collected by the Secretary under the PIAFA.

In addition to PIAFA funds, the MSA provides that fines and penalties of violations by foreign vessels occurring within the EEZ around the Pacific Insular Areas, including sums collected from forfeiture and disposition or sale of property seized by the federal government, are to be deposited into the applicable local government’s treasury and to be used to implement the respective MCP. Also authorized by the MSA is the Western Pacific Sustainable Fisheries Fund, which allows the Council to use funds to implement MCP projects.

The MSA requires the MCPs to be consistent with the Council’s FEPs and include, but not be limited to, the following conservation and management objectives:

- (i) Pacific Insular Area observer programs or other monitoring programs that the Secretary determines are adequate to monitor the harvest, bycatch and compliance with US laws by foreign fishing vessels that fish under the PIAFA.
- (ii) Marine and fisheries research, including development of systems for information collection, analysis, evaluation and reporting.
- (iii) Conservation, education and enforcement activities related to marine and coastal management, such as living marine resource assessments, habitat monitoring and coastal studies.
- (iv) Education and training in the development and implementation of sustainable marine resources development projects, scientific research and conservation strategies.
- (v) Western Pacific community-based demonstration projects under section 112(b) of the Sustainable Fisheries Act and other coastal improvement projects to foster and promote the management, conservation and economic enhancement of the Pacific Insular Areas.