WESTERN PACIFIC REGIONAL FISHERY MANAGEMENT COUNCIL

MEMORANDUM May 30, 2018

TO: Interested Parties

FROM: Kitty M. Simonds

SUBJECT: Summary of Action Items for the 173rd meeting of the Western Pacific Regional Fishery Management Council

1. **Specification of Annual Catch Limits for Main Hawaiian Island Deep 7 Bottomfish Fishery in Fishing Year 2018-2019 to 2020-2021**
2. **Framework for Managing Sea Turtle Interactions in the Hawai‘i Shallow-Set Longline Fishery**
3. **American Samoa Large Vessel Prohibited Area**
4. **Modification to US Participating Territory Catch and Effort Limit Amendment 7 Framework**
5. **Ecosystem Component Species Classification**
6. **Evaluation of 2017 Catch to the 2017 Annual Catch Limits**
7. **Omnibus Amendment to Establish an Aquaculture Management Program**
8. **American Samoa Marine Conservation Plan**

The 173rd meeting of the Western Pacific Regional Fishery Management Council will convene June 11 to13, 2018, at the Wailea Beach Resort - Marriott, 3700 Wailea Alanui Dr., Wailea, Maui, HI 96753. The Council will consider and may take action on the issues summarized below, including any public comments on them. Written public comments should be received by the Council's executive director by 5 p.m. (Hawai‘i time), Monday, June 4, 2018, by postal mail, fax or email as indicated below. After June 1, 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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Summary of Action Items

1. Specification of the Annual Catch Limits for Main Hawaiian Island Deep 7 Bottomfish Fishery in Fishing Years 2018-2019 to 2020-2021

The Council will specify multi-year annual catch limits (ACLs) for main Hawaiian Island Deep 7 bottomfish for fishing years 2018-2019, 2019-2020 and 2020-2021. Based on the best scientific information available, i.e., the 2018 benchmark stock assessment with catch projection to 2022[1], the estimated maximum sustainable yield is 509,000 pounds and the overfishing limit is 566,000 pounds. The Council's P* Working Group and the Scientific and Statistical Committee (SSC) evaluated the scientific uncertainty and recommended a risk level for Council consideration.

The Council will evaluate the following options:

1) No Action. No ACLs will be specified for fishing years 2018-2019, 2019-2020 and 2020-2021
2) Specify ACLs for fishing years 2018-2019, 2019-2020 and 2020-2021 at the previous P* level based on the 2014 stock assessment, which was an update of the 2011 benchmark stock assessment
3) Specify ACLs at the recommended P* level applied to fishing years 2018-2019, 2019-2020 and 2020-2021 based on the 2018 benchmark assessment
4) Specify ACLs lower than the recommended P* level applied to fishing years 2018-2019, 2019-2020 and 2020-2021 based on the 2018 benchmark assessment

At its 173rd meeting, the Council will consider taking final action to specify the 2018-2019, 2019-2020 and 2020-2021ACLs and accountability measures for the main Hawaiian Islands Deep 7 bottomfish fishery to prevent overfishing of the stock.

2. 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 Fishery Ecosystem Plan (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 post-hooking survival. The amendment also established 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 of information to assess the effectiveness of the measures intended to reduce sea turtle interactions. Gear requirements implemented in 2004 reduced sea turtle interactions in the shallow-set longline fishery by approximately 90 percent.

[1] Langseth B, J Syslo, A Yau, M Kapur and J Brodziak. 2018. Stock Assessment for the Main Hawaiian Islands Deep 7 Bottomfish Complex in 2018, with Catch Projections through 2022. NOAA Tech. Memo. NMFS-PIFSC 69, 222 p.

Loggerhead turtle interactions in the Hawai‘i shallow-set longline fishery since 2017 were higher than levels observed since the fishery reopened in 2004 through 2016. The total number of loggerhead interactions for 2017 was 21, and 33 loggerhead interactions were observed from January to May 2018. Available observer data indicate that sea turtle interactions fluctuate substantially between years and have the potential to accumulate quickly in some years. The preliminary characterization of the loggerhead interactions did not show the recent shallow-set longline effort or loggerhead size in 2017-2018 to be anomalous compared to previous years. However, available information on the nesting trends and size data from the longline captures suggest that the recent increase in the loggerhead turtle interactions may be associated with the increased hatchling production at the nesting beaches over the last 10 years.

The existing annual fleet-wide hard caps are useful to prevent takes above the specified limit, but the estimated anticipated level of interactions is based on past interaction levels and is not necessarily tied to the conservation needs of the population. The hard cap measure results in a closure for the remainder of the calendar year, which may come at a cost to the economic viability of the fishery and the seafood consumer. Hard caps do not sufficiently address or respond to higher interaction rates, hotspots or fluctuations when the number of interactions is below the hard cap limit.

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 more robust conservation and management framework that can respond to higher interaction rates, hotspots and fluctuations in sea turtle interactions, which may indicate a potential for higher impacts to sea turtle populations or a fishery closure early in the calendar year. A more responsive management approach could minimize interactions, while helping to ensure the year-round supply of fresh swordfish to meet market demands.

The Council at its 172nd meeting in March 2018 recommended developing a framework under the Pelagic FEP to effectively manage impacts to leatherback and loggerhead turtles. The Council also directed staff to work with the SSC and the industry to consider industry-implemented cooperative approaches that provide the industry with discretion to manage fleet-wide sea turtle interactions within the hard cap limits.

At its 173rd meeting, the Council will consider taking final action on developing a framework for managing loggerhead and leatherback turtle interactions in the Hawai‘i shallow-set longline fishery, consistent with the requirements of the Endangered Species Act and the Magnuson-Stevens Fishery Conservation and Management Act (MSA), while maintaining fishing opportunities during peak swordfish season. The Council will consider a framework that may include, among other measures, a) specification of hard caps, b) in-season measures for hard caps, c) real-time spatial management measures to monitor and manage interaction hotspots, and d) non-regulatory components including a sea turtle interaction avoidance pilot program utilizing fleet communication.

3. 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 (greater than 50 feet in length) targeting albacore for the local

canneries. In 2002, the Council established the Large Vessel Prohibited Area (LVPA) to separate the alia longline and larger longline vessels to prevent potential gear conflict and catch competition (see fig. 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.

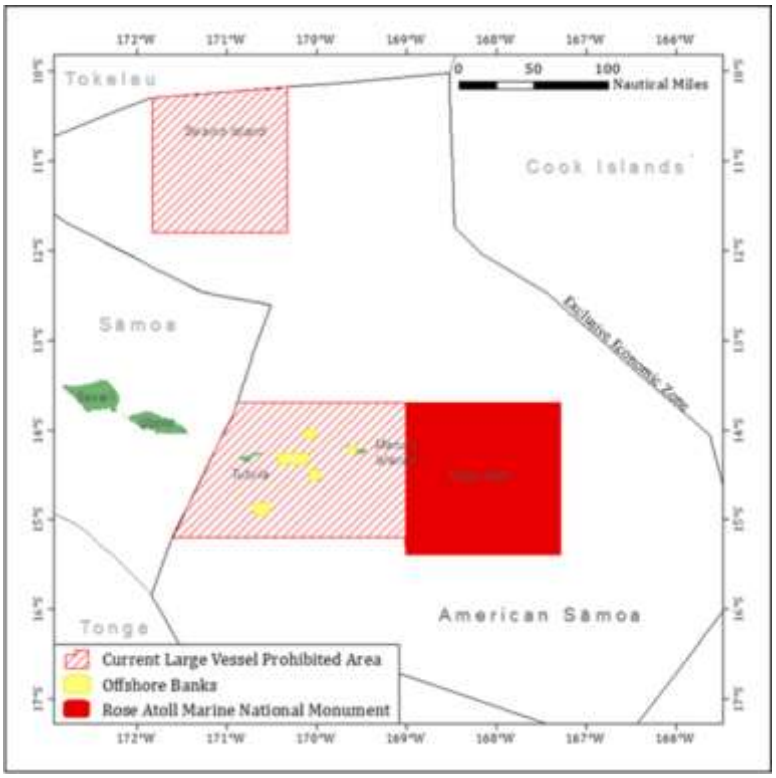

Fig. 1 US EEZ around American Samoa showing boundaries of the Rose Atoll Marine National Monument closed to commercial fishing and the LVPA around Tutuila, Manu'a Islands and Swains Island (a closure to pelagic fishing vessels greater than 50 feet in length in general out to 50 nautical miles from shore).

The Council deferred final action on this issue at its 172nd meeting in March 2018 and requested that the American Samoa government forward a recommendation consistent with the MSA to the Council for consideration at the 173rd meeting. The Council asked the American Samoa government , when developing its recommendation, to consider all relevant information including input from longline and alia fishermen and others from the community.

At its 173rd meeting, the Council will consider taking final action on LVPA options 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. The Council will consider the following LVPA options:

1) Status Quo: Maintain LVPA regulations, which generally prohibit pelagic fishing vessels greater than 50 feet in length from fishing within 50 nautical miles (nm) around Tutuila, Manu'a Islands and Swains Island

2) Exempt areas seaward from 25 nm north of Tutuila and Manuʻa Islands, within designated areas south of Tutuila and Manuʻa Islands and seaward from 12 nm around Swains Island
3) Exempt areas seaward from 25 nm of Tutuila, Manuʻa Islands and Swains Island
4) Exempt areas seaward from 25 nm of Tutuila and Manuʻa Islands and seaward from 12 nm of Swains Island
5) Exempt areas seaward of 12 nm around Tutuila, Manuʻa Islands and Swains Island (Council 2015 preferred alternative)
6) Exempt areas seaward from 12 nm around Tutuila, Manuʻa Islands and Swains Island and 2 nm around offshore banks (Council 2017 preferred alternative)
7) Exempt areas throughout the LVPA

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

In 2014, the Council developed and the National Marine Fisheries Service (NMFS) approved Amendment 7 to the Pelagic FEP. Amendment 7 provides a process under the authority of the MSA to specify catch and/or effort limits for pelagic fisheries in American Samoa, Guam and the Commonwealth of the Northern Mariana Islands (CNMI), known collectively as 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 management unit species 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 are found at 50 CFR 665.819. They require the Council to first establish a catch limit for the US Participating Territories if also specifying an allocation limit. There may be instances when specifying an allocation limit is more consistent with Western and Central Pacific Fisheries Commission and more reflective of existing fishing conditions. The existing Amendment 7 process also requires that the Council review and recommend annual catch/effort specifications and allocation limits on an annual basis. Pursuant to this annual specification process, NMFS must also annually implement the Council-recommended limits through notice-and-comment rulemaking. Due to administrative requirements and timing constraints of such notice-and-comment rulemaking, Council-recommended territorial catch and allocation specifications for bigeye in 2015, 2016 and 2017 were not implemented until after the US catch limit for bigeye was reached, thus US longline vessels were prohibited from fishing in the WCPO. The existing Amendment 7 framework allows NMFS to implement multi-year catch and allocation limits.

Under the proposed revision, the Council could recommend that NMFS codify multi-year catch and effort limits in regulations, rather than having to recommend annual specifications. The Council would still be required to review existing and proposed catch/effort and allocation limits on at least an annual basis and recommend any changes to these limits as appropriate. Allowing the option to specify a multi-year catch/effort limit or to promulgate a catch/effort limit in regulations may a) provide seamless transition between fishing under US and US Participating Territory fishing agreements; b) provide for greater levels of quota certainty among fishery participants, which may diminish the race to fish; and c) reduce the administrative burden to annually specific limits.

At its 173rd meeting, the Council will consider final action to make technical modifications to the Amendment 7 framework and associated regulations to allow more options in the specification process including 1) establishing allocation limits only and 2) promulgating catch or effort limit regulations instead of annual specifications.

5. Ecosystem Component Species Classification

The Ecosystem Component Amendment would designate ecosystem component species (ECS) defined by MSA National Standard 1 (NS1) as stocks that are included in an FEP to achieve ecosystem management objectives but do not require conservation and management. Based on the NS1 guidelines, the Council proposes to amend the American Samoa, Mariana, and Hawai‘i FEPs to reclassify certain management unit species as ECS. These reclassifications would allow the Council and NMFS to better prioritize monitoring, assessment and management resources to species that are in need of conservation and management. The purpose of this action is to improve efficiency of fishery management in the region.

Reclassifying some stocks as ECS would have essentially no change in the fisheries as currently practiced and very limited changes to federal management of them. Because the proposed action would not change any fishery activity, the amendment would have no potential effects on the physical environment (such as water or air quality, currents, temperature, salinity or weather patterns) nor any direct or indirect effects on target and non-target species, bycatch, biodiversity, marine habitat or protected species.

The action would eliminate the essential fish habitat (EFH) requirements for species designated as ECS. Other federal mandates encourage agencies to minimize impacts on the marine environment, including the Endangered Species Act, the Fish and Wildlife Coordination Act, Clean Water Act and Executive Order 13089 on Coral Reef Protection. The consultations and requirements for ECS that are similar to the EFH consultation requirement for management unit species would continue in all regional jurisdictions. For these reasons, the proposed action would not result in adverse effects to EFH, including habitat areas of particular concern, or other biological resources.

At its 173rd meeting, the Council may recommend transmitting the Ecosystem Component Amendment with the environmental analysis to NMFS for approval.

6. Evaluation of 2017 Catch to the 2017 Annual Catch Limits

The catches of stocks that are managed by ACLs are annually evaluated to determine if an overage adjustment needs to be applied. For 2017, the evaluations covered bottomfish, precious coral and crustaceans (spiny lobster, slipper lobsters, Kona crab and deep-water shrimp) stocks for the Territories and crustaceans, precious corals and the main Hawaiian Islands Deep 7 bottomfish for Hawai‘i. Coral reef ecosystem management unit species and Hawaii non-Deep 7 bottomfish stocks were not evaluated because no 2017 ACLs had been set for them due to NMFS needing to conduct environmental analyses on new information it had recently acquired.

Based on the Council’s recommendation from its 160th meeting, the 2017 ACLs were evaluated against the three-year running average of the catches (2015 through 2017). The CNMI

exceeded its ACL of 60 pounds for slipper lobster with a three-year average catch of 130 pounds. The estimated landing in 2017 from the commercial receipt books was 86 pounds. The Council's Plan Team provided rationale on the overage for the SSC to review and consider. Similar to 2016, the overage was due to improvements in the data collection with the implementation of the Territory Science Initiative. Prior to 2016, there were little to no reported catches of slipper lobsters in the CNMI. In 2016, there were 59 invoices that reported lobsters from 19 unique fishermen. In 2017, seven invoices with lobsters came from five unique fishermen. Calculations for the overfishing limit, acceptable biological catch and ACL did not take into account the increased catches due to the improved data collection system. CNMI slipper lobster is also being considered for ECS designation.

At its 173rd meeting, the Council may recommend that NMFS either keep the CNMI slipper lobster ACL at 60 pounds due to improvements in the fishery data collection or to reduce the ACL by the amount of the overage and set the ACL to 0 pound for the 2019 fishing year.

7. 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, 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 173rd meeting, the Council may 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 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 US EEZ.

8. American Samoa Marine Conservation Plan

According to Section 204(e) of the MSA, the respective governor of American Samoa, Guam and the CNMI, with the concurrence of the Council, must develop a three-year Marine Conservation Plan (MCP) providing details on uses for any funds collected under a foreign fishing agreement or from fines and penalties from violations within the US EEZ. Also authorized by the MSA is the Western Pacific Sustainable Fisheries Fund, which is used to implement MCP projects. The Council considered a draft American Samoa MCP at its 172nd meeting in March 2018.

At its 173rd meeting, the Council will review the 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.