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October 8, 2021

MEMORANDUM FOR: The Record

FROM: Michael D. Tosatto
Regional Administrator

SUBJECT: Proposed 2022 Specifications; U.S. Pacific Islands Territory Bigeye Tuna Catch and Allocation Limits (RTID 0648-XP016) – National Environmental Policy Act (NEPA) Supplemental Information Report

Introduction

The National Marine Fisheries Service (NMFS) proposes to specify a 2022 limit on longline-caught bigeye tuna for each U.S. Pacific territory (American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (CNMI)), and authorize each territory to transfer up to 1,500t of its limit to U.S. longline fishing vessels through specified fishing agreements. The Western Pacific Fishery Management Council (Council) recommended these specifications, which are consistent with the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (FEP). The fishing year for bigeye tuna in the Pacific Islands Region begins on January 1 and ends on December 31.

This specification is part of an ongoing management action NMFS described in an environmental assessment (EA) prepared in 2019 (NMFS and WPFMC 2019) and supplemental EA (SEA) prepared in 2020 (NMFS and WPFMC 2020a). The EA and SEA contain a description of the proposed action, purpose and need, alternatives, and analysis of the environmental effects of the proposed action and alternatives. When NMFS implemented the 2021 territorial specifications (January 12, 2021, 86 FR 2297), it prepared a supplemental information report (2020 SIR) (NMFS 2020b) that provided a review of new information at the time. It documented NMFS finding that there was no significant new information or significant new circumstances relevant to environmental concerns and bearing on the proposed action or its impacts analyzed in the 2019 EA and 2020 SEA.

We prepared the EA, SEA, and 2020 SIR using the 1978 Council on Environmental Quality Control (CEQ) National Environmental Policy Act (NEPA) regulations. NEPA reviews initiated prior to the September 14, 2020, effective date of the new 2020 CEQ NEPA regulations may be conducted using the 1978 regulations (85 FR 43304). NMFS completed the EA and SEA prior to that effective date. We prepared this 2021 SIR using the 2020 CEQ NEPA regulations because the review started after the September 14, 2020, effective date. The EA, SEA, 2020 SIR, and 2021 SIR were prepared with existing procedures in NOAA Administrative Order (NAO) Section 216-6A, "Compliance with the National Environmental Policy Act, Executive Orders 12114, Environmental Effects Abroad of Major Federal Actions; 11988 and 13690, Floodplain Management; and 11990, Protection of Wetlands" and its Companion Manual.

CEQ regulations specify that agencies shall prepare supplements to NEPA documents if (1) the agency makes substantial changes to the proposed action that are relevant to environmental concerns, or (2) there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts. (40 CFR 1502.9(d)(l)). The CEQ regulations further specify that agencies may find that changes to the proposed action or new circumstances or information relevant to environmental concerns are not significant and therefore do not require a supplement. (40 CFR 1502.9 (d)(4)). NAO 216-6A Companion Manual in Chapter 5 and in Appendix C explain the purpose and uses of a SIR to assist a decision maker in evaluating proposed changes, or new circumstances or information to determine and document whether a supplemental NEPA document is necessary. Following those requirements and processes, this SIR evaluates new information since the 2020 SIR and documents our determination that it presents no substantial change to the proposed action that is relevant to environmental concerns, and no significant new circumstances or information relevant to environmental issues that would require supplementing the EA or SEA.

The EA describes the preferred Alternative 2 that would specify an annual 2,000 metric ton (t) bigeye tuna catch limit and a 1,000 t allocation limit for each territory, with an overall allocation limit of 3,000 t for all three territories combined. For 2020 and 2021, the Council recommended and NMFS specified a 2,000 t catch limit and an allocation limit of 1,500 t per territory, with a total allocation not to exceed 3,000 t in each year. NMFS and the Council noted that the 1,500 t allocation limit was consistent with Alternative 2 since the 3,000 t total allocation limit remained unchanged. The proposed 2022 catch and allocation limits are identical to 2020 and 2021.

Purpose and Need

The purpose and need for the 2022 specification are the same as described in Section 1.4 of the EA and Section 1.5 of the SEA for previous specifications, and are incorporated herein by reference. Specifically, the purpose of this action is to establish bigeye tuna catch and allocation limits for longline fisheries of each U.S. participating territory (American Samoa, Guam, and the Northern Mariana Islands) that: 1) prevent bigeye overfishing, 2) support fisheries development in U.S. territories, and 3) promote the availability of sustainably caught bigeye from U.S. vessels supplying the Hawaii seafood market during the culturally important end of year season of peak demand. The need for this action is to ensure that NMFS and the Council manage allocations of longline caught bigeye tuna under specified fishing agreements consistent with the conservation needs of the stock.

Proposed Action

NMFS proposes to specify a 2,000 t annual longline bigeye tuna catch limit for each U.S. participating territory (American Samoa, the CNMI, and Guam) for 2022. Each territory would be allowed to allocate up to 1,500 t of its annual bigeye tuna catch limit to U.S. longline vessels permitted under the FEP and identified in a specified fishing agreement. The total allocations, however, would not exceed 3,000 t of bigeye tuna in 2022. 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 and allocation

limits would continue to support the long-term sustainability of fishery resources of the U.S. Pacific Islands.

The proposed 2022 catch and allocation limits for each U.S. participating territory are identical to those that the Council recommended and NMFS implemented in 2020 and 2021, and are consistent with the allocation limits set in 2019. The effects of the proposed catch and allocation limits were analyzed in the EA and SEA, which allowed NMFS to determine that the proposed specifications in 2019, 2020 and 2021 would not significantly impact the quality of the human environment.

Scope

The action considered in the EA and SEA remains unchanged. The project area, fishery management considerations, fishery, geographic and resource conditions are generally the same as previously analyzed.

While there is new information described and evaluated below, we have no significant new information or circumstances regarding the affected U.S. longline fisheries including the Hawaii deep-set fishery, the Hawaii shallow-set fishery, or the American Samoa deep-set fishery, including effort, catch, or the environmental or management setting. We have no information that would change our review of the fisheries' authorized interactions with protected species or the effects of the fisheries on Endangered Species Act (ESA)-listed species, marine mammals, seabirds, or on marine habitats. The three fisheries continue to fish consistent with applicable requirements, and fishing effort is within levels reviewed in the EA and SEA. The ESA consultations for the American Samoa and Hawaii fisheries continue as described in the SEA (section 4.2).

Evaluation of New Information

We evaluate whether or not there are significant new circumstances or new information relevant to potential effects on the environment from the proposed action, as previously analyzed in the EA and SEA. The new information since the 2020 SIR includes the following:

1. Updated stock assessment for WCPO yellowfin tuna
2. Oceanic whitetip sharks and mitigation strategies
3. Fisheries performance
4. Relieving restrictions in the American Samoa LVPA
5. Proposed American Samoa longline permit modifications
6. Proposed coral designated critical habitat in American Samoa
7. ESA status review of the shortfin mako shark

WCPO Yellowfin Tuna Stock Status

Bigeye tuna are the primary targeted species, though yellowfin tuna makes up a large component of the catch. The EA described the potential effects of the proposed action and alternatives on the WCPO yellowfin tuna stock and included a review of the 2017 WCPO yellowfin tuna stock assessment by Tremblay-Boyer et al. (2017) to support the environmental effects analysis (EA,

section 3.3.2 and 4.3.2). The SEA described that at the time there was no new information about the status of any of the affected stocks, or about the relative contribution of western Pacific pelagic fisheries toward stock status with bearing on the environmental effects analysis in the 2019 EA. When the EA and SEA were prepared, stock assessment results showed that WCPO yellowfin tuna was not subject to overfishing and not overfished.

The Western and Central Pacific Fisheries Commission (WCPFC) adopted a biomass-based limit reference point (LRP) of 20% of unfished spawning stock biomass. Specifically, WCPFC considers yellowfin tuna to be overfished when the ratio of spawning biomass of bigeye tuna to spawning biomass in the absence of fishing ($SB/SB_{F=0}$) falls below 20% or $SB/SB_{F=0}<0.20$ (Tremblay-Boyer et al.). The 2017 stock assessment found that ($SB_{recent}/SB_{F=0}$) = 0.32 with a probable range of 0.20 to 0.41 (80% probable range), and that there was a roughly 8% probability (4 out of 48 models) that the recent spawning biomass had breached the WCPFC limit reference point. Furthermore, under the most pessimistic future harvest scenario, which assumes a 35% increase in longline yellowfin catch, WCPO yellowfin tuna had less than a 17% chance of breaching the WCPFC's LRP in 2041-2045 (SPC 2018). The analyses in the EA considered effects of the proposed action and a range of reasonable alternatives in the context of other fisheries and over the next several years. Based on the best scientific information available, NMFS determined that the specification of catch and allocation limits in each year 2020-2024 would not significantly impact the quality of the human environment.

More recently, in August 2020, the science providers to the WCPFC completed a new WCPO yellowfin tuna stock assessment, which indicated the stock remains healthy and is not subject to overfishing and is not overfished (Vincent et al. 2020). This assessment was presented and reviewed by the WCPFC Scientific Committee at its 16th meeting held August 12-19, 2020 (WCPFC 2020). The fishing mortality continues to remain well below fishing mortality at maximum sustainable yield (F_{MSY}). The new stock status key reference points from the 2020 assessment show a positive change from those in the 2017 assessment upon which our current NEPA analyses are based, and estimates of stock status from the structural uncertainty grid from the 2020 assessment were generally more optimistic than from the 2017 assessment. All of the key stock status reference points showed improvement in stock status reference points. (Table 1)

Table 1. Comparison of the median of key stock status reference points over the summary of the 72 models (2020) and 48 models (2017) in the structural uncertainty grid.

	Median			
	2017	2020	Change	% Change
F_{recent}/F_{MSY}	0.75	0.36	*- 0.39*	*-52.00*
$SB_{latest}/SB_{F=0}$	0.35	0.54	*+ 0.19*	*+54.29*
SB_{latest}/SB_{MSY}	1.39	2.28	*+0.89*	*+64.03*
$SB_{recent}/SB_{F=0}$	0.32	0.58	*+0.26*	*+81.25*
SB_{recent}/SB_{MSY}	1.39	2.43	*+1.04*	*+74.82*

For the 2017 assessment SB_{recent} = 2011-2014 and SB_{latest} = 2015. For the 2020 assessment SB_{recent} = 2015-2018 and SB_{latest} = 2018. Another key reference point, F_{recent}/F_{MSY}, is the estimated average fishing mortality over the full assessment area over a recent period of time divided by the FMSY which is used to determine if a stock is experiencing overfishing. For the 2017 assessment F_{recent} = 2011-2014. For the 2020 assessment F_{recent} = 2014-2017. Source: Tremblay-Boyer et al. (2017) and Vincent et al. (2020).

The analysis in the EA and SEA demonstrated that the proposed action would only marginally increase fishing mortality and decrease biomass for yellowfin tuna, but was unlikely to result in overfishing or overfished stock. In considering the improved stock status reference points in the new 2020 assessment, our analysis overestimates the impact of the proposed action on the WCPO yellowfin tuna stock and the proposed action would have less impact than analyzed in the EA and SEA. Because the updated stock assessment shows yellowfin tuna stock status is improved over the status supporting the effects analysis in the EA and SEA, the new stock assessment does not provide significant new information relevant to environmental issues with bearing on the proposed action, or its effects analyzed in the EA or SEA. We continue to conclude that the fishery under the proposed 2022 specification would not have significant adverse effects on yellow fin tuna stocks (EA, section 3.3.2 and 4.3.2).

Oceanic Whitetip Shark Populations and Future Mitigation Strategies

The EA and SEA described our analysis of the potential effects of the proposed action and alternatives on the ESA-listed oceanic whitetip shark in the Pacific. We concluded that the continued authorization of the Hawaii shallow-set fishery is not likely to jeopardize the continued existence oceanic whitetip sharks (SEA, section 4.1.1) and that we do not expect the effects of the Hawaii deep-set and American Samoa fisheries to reduce appreciably the survival or recovery of oceanic whitetip sharks in the wild during the period of consultation (EA, section 3.3.4.1 and 3.3.4.3; SEA, section 4.2.3).

At the Council's 138th Scientific and Statistical Committee meeting on December 1, 2020, researchers presented new findings (Rice et al. 2020, in prep.) that examined stock projections for oceanic whitetip sharks under future catch scenarios (up to the year 2032) that provide estimates of future biomass, spawning potential, and future U.S. impacts on the stock based on possible catch scenarios. The study considered the impact of the U.S. longline fisheries, including the American Samoa longline fishery, the Hawaii based deep-set fishery, and Hawaii shallow-set fishery. The study concluded that if there was zero mortality of oceanic whitetip sharks in all U.S. fisheries for 17 years, it would only lead to a 4% increase in stock biomass by 2034, underlining the small relative impact of the U.S. longline compared to other fisheries and relative to stock size. (Figure1).

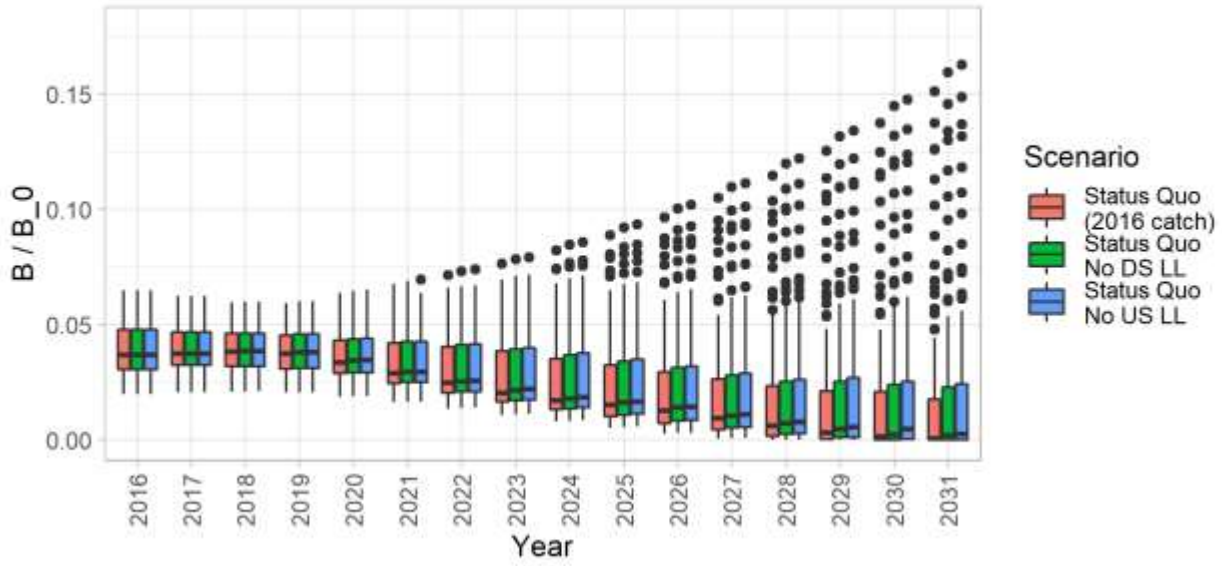

Figure 1. Biomass ratio (B/B0) over time for oceanic whitetip sharks based on the runs using the status quo catch (2016 values carried forward, in red) and assuming the 2016 catches without the US longline catches (in teal) and the 2016 catches without the DS LL catch (in green). Source: Rice et al. (2021) in prep.

The new research does not provide significant new information relevant to environmental issues with bearing on the proposed action or its effects analyzed in the EA or SEA, or during the period of extended ESA consultation. The study shows that the proposed action would continue to have a negligible relative effect on the stock status through 2022 and little impact on the future outcome of the stock (4% decline in biomass by 2031).

Despite the U.S. fisheries' small relative impact, the Council, NMFS, and fishermen are working to reduce mortality of oceanic whitetip sharks in the Hawaii deep-set longline fishery. At its 186th meeting on June 22-24, 2021, the Council recommended, and NMFS is currently preparing, regulations that would prohibit metal wire leaders in the Hawaii deep-set longline fishery and require fishermen to remove trailing gear from any oceanic whitetip shark caught in all longline fisheries operating under the FEP. We expect that these proposed requirements would reduce mortality of oceanic whitetip sharks by approximately 30% due to a combination of higher post-hooking survival via increased bite-offs of monofilament leaders as compared to wire leaders, and reductions in the length of trailing gear remaining on animals released at the fishing vessel (Bigelow and Carvalho, 2021). While this reasonably foreseeable proposed measure is expected to improve survival of oceanic whitetip sharks caught in FEP fisheries, because of the fisheries' limited contribution toward the species stock status, it would not constitute a substantial change with bearing on the proposed action or its effects analyzed in the EA or SEA. Implementing the measure however may serve as a model for management that could be adopted by other nations, thus potentially having an unquantifiable greater influence on improving oceanic whitetip stock status.

Fisheries Performance

The SEA and 2020 SIR provide information regarding Hawaii and American Samoa longline fisheries performance measures along with an assessment that these longline fisheries continue to perform as expected and described in the EA (EA, section 3.2 and 4.8.2; SEA, section 4.2.3). We note that in 2020, these fisheries experienced 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, visitor arrivals in 2020 declined 74% relative to 2019 (https://www.hawaiitourismauthority.org/media/6408/december-2020-visitor-statistics-press-release-final.pdf). Hawaii longline fishery revenue in 2020 was 30.4% lower than the average annual revenue over the previous five-year (2015-2019) time period, while landings and prices declined by 21.9 % and 11.5 % compared to the average annual landings and prices over the previous five years. As Hawaii travel and other restrictions have eased, market demand has begun to increase for locally caught seafood. In American Samoa, the longline fishery revenues and landings in 2020 declined 60% compared to the previous five-year period (NMFS, 2021).

Under the proposed action, and due to existing fishery requirements (e.g., limited entry and protected species mitigation requirements) NMFS does not expect U.S. longline fisheries to expand significantly or change operations (e.g., area fished, number of vessels fishing, number of trips per year, number of hooks per set, depth of hooks, or gear deployment techniques). Highlights of recent Hawaii and American Samoa deep-set longline fishing activity are summarized as follows:

- From 2004-2012, the annual number of vessels that participated in the Hawaii deep-set fishery remained relatively stable, ranging from 124 to 129, with a slight increasing trend beginning in 2013.
- In 2017, 145 deep-set longline vessels made 1,539 trips with 19,674 sets and deployed 53.5 million hooks (an increase of 3.21% from 2014 to 2017).
- In 2019, 150 deep-set longline vessels made 1,719 trips with 22,478 sets and deployed 63.1 million hooks (an increase of 17.9% from 2017) (EA, section 3.2.1.3; SEA, section 3.2).
- In 2020, 146 Hawaii deep-set longline vessels made 1,645 trips with 20,785 sets and deployed 59.7 million hooks, (a decrease of 5.4% from 2019).
- Preliminary data for 2021 show that in the first half of the year Hawaii deep-set longline vessels made 838 trips in comparison to 854 trips in the first half of 2020.
- In 2020, effort in the American Samoa longline fishery has declined to less than a fifth of that analyzed in the 2015 BiOp (17.5 million hooks).
- Preliminary 2021 data show American Samoa fishing effort and bigeye tuna catch continues to decline.
- We expect 2021 catch and effort in the Hawaii and American Samoa fisheries to remain at or below those anticipated in the EA and SEA and used in the environmental effect analysis.

Placement of observers aboard deep-set Hawaii and American Samoa longline vessels halted temporarily in early 2020 due to travel restrictions and in consideration of the health and safety of fishermen and observers. With enhanced health and safety protocols, observer assignments

resumed in May 2020 for the Hawaii deep-set fishery and a 15.3% coverage rate was attained by the end of the year. Observer coverage rates for the Hawaii fishery for the first half of 2021 were 100% for the shallow-set and 16% for the deep-set fisheries. NMFS anticipates that by the end of 2021, observer coverage rates in the Hawaii deep-set and shallow-set longline fisheries will be similar to previous rates (100% shallow-set, 20% deep-set). Ongoing travel restrictions to American Samoa resulted in only one observer placed in that fishery in 2020, and there have been no observed fishing trips there to date in 2021. Although observer coverage was modified in 2020 and 2021 from that described in the EA and SEA, according to preliminary unpublished information, the expanded interactions (the estimated number of protected species interactions obtained by multiplying observed interactions by a factor to account for unobserved interactions), remained below the levels anticipated and analyzed in the EA and SEA, even though interactions thus derived are likely to be high estimates when compared with estimates based on higher observer coverage rates. Longline vessels from the Hawaii and American Samoa fisheries continue to fish in accordance with all applicable regulations, and vessels continue to comply with reporting requirements.

As noted above, NMFS implemented identical catch limits and allocations in 2020 and 2021 and we are proposing the same for 2022. In June 2021, NMFS received specified fishing agreements between the CNMI and the Hawaii Longline Association (HLA) and American Samoa and the HLA that each included an allocation of 1,500 t of bigeye tuna to vessels identified in the agreements. In accordance with regulations at 50 CFR 665.819(c)(9), NMFS began allocating catches to the CNMI on August 30, 2021. We anticipate the CNMI allocation will be reached sometime in December 2021, at which time NMFS would begin allocating catch to American Samoa. As analyzed in the EA and SEA, we expect the fishery to remain open and able to fish for bigeye tuna through the end of 2021, in accordance with applicable regulations; therefore, this is not a significant new circumstance with relevance to the proposed action or that has bearing on the existing environmental analysis.

Relieving restrictions in the LVPA in American Samoa to large longline vessels

The EA identifies reopening the American Samoa LVPA as a Council recommended action (EA, section 4.8.1.1). On July 09, 2021, NMFS reinstated its 2016 rule that allows certain U.S. longline vessels 50 ft and larger ("large longline vessels") to fish in portions of the LVPA, in accordance with the FEP. (86 FR 36239, July 09, 2021). This made additional areas 12-17 nm seaward from Tutuila, Manua Islands, Swains Island, and the offshore banks available to American Samoa large longline vessels. Large longline vessels continue to be restricted from fishing within the remaining portions of the LVPA. NMFS will continue to prohibit fishing in the LVPA by large purse seine vessels.

The LVPA was recommended by the Council and approved by NMFS in 2002 to prevent potential gear conflicts between large and small longline fishing vessels. At that time, approximately 40 alia longline vessels ranging from 25 to 40 feet ("small longline vessels") were operating in offshore waters around American Samoa. Since 2002, the small longline fleet in American Samoa declined to the point where three or less alia longline vessel were operating in recent years. The conditions that led the Council and NMFS to establish the LVPA are no longer present and it may be unnecessarily reducing the efficiency of the larger American Samoa longline vessels by displacing the fleet from a part of their historical fishing grounds. Also,

Magnuson-Stevens Fishery Conservation and Management Act national standards direct that fishery management and conservation measures achieve optimum yield, are fair and equitable, and consider efficiency in the utilization of fishery resources.

This action allows fishing in an additional 16,817 nm^2 of Federal waters, allowing large longline vessels to distribute fishing effort over a larger area. This may reduce catch competition among the larger vessels and promote economic efficiency by reducing transit costs. This action is intended to improve the efficiency and economic viability of the American Samoa longline fleet, while ensuring that fishing by the longline and small vessel fleets remains sustainable on an ongoing basis. NMFS will continue to prohibit fishing by large longline vessels within the U.S. Exclusive Economic Zone (EEZ) from 3-12 nm around the islands, thus maintaining non-competitive fishing opportunities for the small-vessel longline fleet. The exemption will be reviewed annually by the Council and NMFS to take into consideration any new small vessel fisheries development initiatives, small vessel participation, and catch rates.

As mentioned in the fisheries performance section above, catch and effort have continued to decline in the American Samoa longline fishery. In 2007, 29 vessels made 377 trips, 5,910 sets, and deployed approximately 17,524,000 hooks. In contrast, in 2019, 18 vessels made 202 trips, 1,882 sets, and deployed approximately 5,104,187 hooks. In 2020, 11 vessels made 90 trips, 1,227 sets, and set approximately 3,401,313 hooks. Preliminary 2021 data show that American Samoa fishing effort continues to decline. For 2020, estimated landings for bigeye tuna by the American Samoa fleet was 21 t as compared to 31 in 2019. Even if the opening of the LVPA leads to increased catch and effort in the American Samoa longline fishery in 2022, due to the overall continued decline of the fishery, NMFS does not expect catch and effort to be above what was previously analyzed (EA, section 3.2.2; SEA, section 3.2). Also, because reopening the LVPA does not change effects of the fishery (i.e., the vessels could fish in other areas) this is not significant new information affecting the proposed action that is relevant to environmental concerns or with bearing on the environmental effects analysis in the EA or SEA.

Proposed American Samoa longline Permit Modifications

On June 30, 2021, NMFS announced a proposed Amendment 9 to the FEP (86 FR 34711) to reduce regulatory barriers that may be limiting small vessel participation in the American Samoa longline fishery by consolidating vessel class sizes, modifying permit eligibility requirements, and reducing the minimum harvest requirements for small vessels. The Council recommended Amendment 9 to provide for sustained community and indigenous participation in the small vessel longline fishery. Specifically, Amendment 9 would:

1. Replace the four vessel classes with two, where Class A and B vessels would be classified as ‘‘small’’ vessels, and Class C and D vessels would be ‘‘large’’ vessels;
2. Restrict permits to U.S. citizens and nationals, and eliminate the requirement to have documented history of participation, but maintain the priority ranking system based on earliest documented history of fishing participation in vessel class size if there is competition between two or more applicants for a permit;
3. Require that permits can only be transferred among U.S. citizens or nationals, and eliminate the requirement for documented participation in the fishery to receive a transferred permit;

4. Reduce the small vessel minimum harvest requirement from 1,000 lb to 500 lb of pelagic management unit species within a 3-year period, but maintain the existing 5,000 lb harvest requirement for large vessels;
5. Require that the entire minimum harvest amounts for the respective vessel classes are to be landed in American Samoa within a three-year permit period, but that the minimum harvests not be required to be caught within the EEZ around American Samoa;
6. Specify a fixed three-year permit period that is the same as the three-year period to make a minimum harvest requirement; and
7. Clarify that the minimum harvest period would not restart in the event of a permit transfer.

While reducing regulatory barriers to help increase small vessel participation in the American Samoa longline fishery, the proposed amendment may also have an effect on dual-permitted vessels and how and where they fish. Currently, 24 out of 147 active vessels have dual Hawaii and American Samoa longline permits. These vessels fish around Hawaii and in the high seas targeting bigeye tuna that they land in Hawaii. Under the proposed amendment, the owner of the permit would be required to land at least 5,000 lbs of fish in American Samoa, 2,862 nautical miles from Hawaii, every three years. In the event of a permit transfer, the new permit holder would be required to meet the harvest requirement of the transferred permit. On average, eight vessels (24 dual-permitted vessels/3 years) annually would be required to make a trip to American Samoa to off load a yearly average of 40,000 lb of management unit species to the American Samoa markets. To ensure fresh catch, these vessels may decide to fish farther south than they normally would on these trips. While this would benefit the American Samoa markets, the trips may be costly to the permit holders making the trip due to extra fuel costs and the lower market prices.

If the cost is too high, vessels may not retain their dual permit. Dual-permitted vessels caught on average 522 t of bigeye tuna in the last 5 years (2016-2020), which was counted against the American Samoa 2,000 t territorial limit. Without a dual permit this catch would count against the U.S. 3,554 t WCPO bigeye tuna limit, which could have the effect of closing the fishery earlier in the year if a valid territorial fishing agreement is not in place. Even so, EA preferred Alternative 2 allows for the total combined annual territorial allocation limit of 3,000 t from valid fishing agreements, which NMFS believes is sufficient to keep the fishery open through the end of the year even if dual-permitted vessels no longer attributed catch to the American Samoa territorial limit.

The EA and SEA analysis of the potential outcomes under the proposed action considered varying numbers of fishing agreements, and corresponding allocations, as well as partial or full utilization of the bigeye tuna catch limit for the U.S. participating territories. In the EA, Alternative 2 Outcome D represents the maximum potential impact of the preferred alternative. The analysis in the EA showed that the proposed action, even at maximum potential, would not affect the sustainability of any fish stock or marine resource. Even if the permit modification changed the utilization of bigeye tuna catch, it would remain within what was analyzed in the EA and SEA. The proposed American Samoa permit modification would have little impact on the proposed action and because the permit modification does not change effects of the fishery (i.e., permit holders could choose not to maintain dual permits), it is not significant new information

affecting the proposed action that is relevant to environmental concerns or with bearing on the environmental effects analysis in the EA or SEA.

Proposed Critical Habitat for Listed Coral Species

On November 27, 2020, NMFS proposed to designate critical habitat for seven Indo-Pacific corals listed as threatened under the ESA within U.S. waters around Guam, CNMI, the Pacific Remote Island Area (PRIA), and American Samoa (85 FR 76262). The proposed action does not occur around Guam, the CNMI, or the PRIA. Six of these species are located in waters around American Samoa including *Acropora globiceps, A. jacquelineae, A. retusa, A. speciosa, Euphyllia paradivisa*, and *Isopora crateriformis*. Proposed coral designated critical habitat consists of the essential feature of substrate and water column habitat characteristics essential for the reproduction, recruitment, growth, and maturation of the listed corals.

Proposed critical habitat consists of 17 separate units, each of which contains between one and six ESA-listed corals that occur there. There are four units in American Samoa (Tutuila, Ofu-Olosega, Tau, and Rose Atoll) extending 1-6 nm from shore. These proposed critical habitat units do not occur in the open ocean where the American Samoa pelagic longline fishery operates. Furthermore, pelagic longline vessels do not deploy gear in transit nor typically fish in waters above coral reef structures to mitigate the loss of gear through snagging and entanglements. Because of this, even with the longline vessel exemption in the LVPA seaward of 12 nm from Tutuila, Manua Islands, Swains Island, and the offshore banks, longline vessels are not likely to fish in areas where coral critical habitat occurs. Due to the spatial separation between fishing operations under the FEP and areas where the six listed corals may occur (i.e., vessel transiting areas and reef structures), interactions with fishing gear and the six reef building corals and their proposed critical habitat is extremely unlikely and, therefore, discountable.

The only potential for interaction with these species and their proposed critical habitat would be during entry and exit of ports by longline vessels. During vessel transit, there is the potential for vessel grounding, and spills and leaks of pollutants. However, as vessels avoid coral reefs to prevent groundings and hull damage, the chance of interactions would be extremely unlikely and, therefore, discountable. Additionally, pelagic fishing activities do not involve anchoring, so there is no potential for anchor damage during fishing activities either.

While exposure to waste from fishing vessels may occasionally occur, NMFS does not anticipate that this would be a serious stressor for the listed corals and their proposed critical habitat given strict Federal laws and associated civil and criminal fines and possible imprisonment for violations. Any hydrocarbon-based chemicals such as fuel or hydraulic fluids that may enter the marine environment during transit or fishing operations will likely be infrequent, small, and quickly diluted or dispersed. Therefore, exposure to waste and discharge in transit or during fishing operations with listed corals and their proposed critical habitat is extremely unlikely to occur and, therefore, discountable.

Because the effect of the proposed action on proposed critical coral reef habitat is expected to be discountable, the proposed critical habitat is not considered significant new information relevant to environmental issues with bearing on the proposed action, its effects analyzed in the EA or SEA, or during the period of extended ESA consultation.

ESA status review for Shortfin Mako Shark

On April 15, 2021 NMFS announced a 90-day finding on a petition from Defenders of Wildlife to list the shortfin mako shark (*Isurus oxyrinchus*) as threatened or endangered under the ESA and to designate critical habitat concurrent with the listing (86 FR 19863). NMFS found that the petition presents substantial scientific or commercial information indicating that ESA listing may be warranted, and is initiating a status review of the species. NMFS must now complete a Species Status Assessment within 12 months, evaluating whether listing the species is warranted, warranted but precluded as other species are of higher listing priority, or not warranted.

If NMFS determines that listing is warranted, it will publish a proposed listing and solicit public comment for 60 days. After consideration of public comment, if the listing is still determined to be warranted, NMFS would publish a final listing that will take effect no sooner than 30 days after publication. If the agency determines that listing the species is warranted but precluded, the species becomes a candidate for future listing. Candidate species are not protected under the ESA but are subject to special review requirements under Section 7 of the ESA. NMFS must annually reassess a candidate species' status to determine whether its listing priority should change.

If the shortfin mako shark is proposed for listing, its proposed status would not be in effect until the latter half of 2022. At that time, NMFS would enter into conference in accordance with section 7 of the ESA and provide an analysis of the effect of the proposed action on the newly listed species and its designated critical habitat. Until a listing determination is made, the proposed listing is not significant new information relevant to environmental issues with bearing on the proposed action, its effects analyzed in the EA or SEA, or during the period of extended ESA consultation. The change in status also does not affect catches of the shortfin mako shark by the proposed action and its effect on stock status (EA, section 3.1.11). This administrative status review will not change effects as analyzed, and so is not a new circumstance with bearing on the environmental effects review requiring supplementation.

Public Involvement and Interagency Review

The proposed 2022 action, although formally recommended by the Council in June 2021, is not new. It was described and the potential effects were analyzed in the EA and SEA. New information without bearing on the effects was described in the 2020 SIR. These documents were published with the required public comment opportunity. Members of the public and representatives of other federal, state, and territorial agencies have had the opportunity to comment on the proposed specification at Council meetings, including the June 2021 meeting, at which the Council formally recommended the 2022 catch and allocation limits. These opportunities for public review and agency comment received little input. For example, the proposed 2020 specification received just one substantive comment from HLA supporting the proposed specification, and the proposed 2021 specification received one substantive comment from an individual about fishing's general effects on species, ecosystems, and consumers. The proposed specification for 2022 and subsequent years will be published for public comment and interagency reviews.

Conclusions

NMFS has thoroughly reviewed the proposed action and compared it with the scope of actions analyzed in the EA and SEA in consideration of new information and has concluded the following:

1. The proposed action is the same and its effects are consistent with the preferred Alternative 2 analyzed in the EA and SEA. The Council recommended the proposed action in accordance with the process required under the FEP and implementing regulations, and described in the EA and SEA. The project area, management considerations, fishery, geographic and resource conditions are also the same as previously analyzed.
2. There are no recent management changes that raise environmental concerns or have bearing on the proposed action or its impacts or analysis of effects in the EA and SEA. The range of alternatives analyzed in the existing NEPA documents is appropriate, given the fact that there are no new environmental concerns, interests, or resource values relevant to the proposed action.
3. The updated stock assessment for western and central Pacific Ocean yellowfin tuna does not change the conditions of the yellowfin tuna stock supporting the environmental effects analysis in existing NEPA documents. Continued fishing by longline fisheries of the Pacific Islands Region is sustainable and the WCPO yellowfin tuna stocks remain healthy, based on the updated stock assessment.
4. The new findings on the impact of the Hawaii and American Samoa longline fisheries on oceanic whitetip shark populations do not provide any new information that alters the effects analyzed in the EA and SEA. Though a potential change to gear and handling requirements would improve post-hooking survival of this species, it would not result in substantial changes to the status of that stock because of the limited relative impact the U.S. fishery is having on stock status.
5. Fishery performance has not changed in any manner that would change our analysis of direct, indirect, and cumulative effects in the existing NEPA documents.
6. The longline fisheries of the Pacific Islands Region continued to perform as expected and as analyzed in the EA and SEA, even in light of current health, safety, and economic conditions.

7. Relieving restrictions for American Samoa large longline vessels in the LVPA may increase catch and effort in American Samoa. Even so, catch and effort are expected to be below what was previously analyzed in the EA and SEA due to the substantial decline of the fishery.
8. Even if the proposed American Samoa permit modification program were implemented, catches of bigeye tuna are not expected to change substantially and so catches would remain within levels analyzed in the EA and SEA.
9. The fishery does not overlap with areas proposed for designated critical coral reef habitat and does not modify essential features of proposed designated coral reef critical habitat, so the new circumstance does not have bearing relevant to the analysis in the EA.
10. NMFS determination on the petition to list the shortfin mako as threatened or endangered under the ESA will not be made until the second half of 2022 when NMFS will once again assesses the impacts of the proposed action on the human environment and determine if significant new circumstances or new information raise environmental concerns or have bearing on the proposed action or its impacts. This administrative status review will also not change effects as analyzed, and so is not a new circumstance with bearing on the environmental effects review requiring supplementation.
11. Public involvement and interagency review of the existing EA and SEA are adequate for specifying the annual catch and allocation limits. The proposed action was discussed during the public engagement process and the public has received sufficient notice and opportunity to comment regarding the proposed action, thus additional opportunity to review a supplemental EA would not provide additional public benefits.

Determination

Based on the above discussion, I determine that the existing EA and SEA adequately assesses the impacts of the proposed action on the human environment and that supplemental NEPA analysis is not required. Because the proposed action is a continuation of a management regime that has been in place for years, and because there is no large change to the fishery or the environmental effects analysis, and because there are no significant new circumstances or new information that raise environmental concerns or have bearing on the proposed action or its impacts as analyzed in the EA and SEA, I have determined the analysis in the EA and SEA remain valid. Members of the public and other agencies have received sufficient notice and opportunity to comment.

NMFS will maintain the signed memorandum in the record for the proposed action.

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cc: F/PIR3 – Harman
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GC17 – Tucher