



U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
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Edwin Reyes, Administrator
Guam Coastal Management Program
Bureau of Statistics & Plans
P.O. Box 2950
Hagatna, Guam 96932

JUN 27 2017

Dear Mr. Reyes:

SUBJECT: Federal Consistency Determination; Proposed Rule for Western and Central Pacific Fisheries for Highly Migratory Species; Fishing Effort Limits in Purse Seine Fisheries for 2017 (RIN 0648-BG93)

The National Marine Fisheries Service (NMFS) is undertaking a rulemaking to carry out the obligations of the United States under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention). The proposed rule action would put into place a limit for 2017 on fishing effort by U.S. purse seine fishing vessels in a specific area within the Convention Area.

This action is essentially the same as regulatory actions taken in 2015 and 2016, which resulted in the establishment of identical limits on fishing effort by U.S. purse seine fishing vessels. This action would not affect the coastal zone of Guam in a manner not fully evaluated in our consistency reviews for those earlier actions.

Pursuant to the Coastal Zone Management Act of 1972, as amended (CZMA; 16 U.S.C. 1451 et seq.), and the National Oceanic and Atmospheric Administration's regulations implementing the federal consistency requirements of the CZMA at 15 CFR Part 930, NMFS has determined that the rule is consistent to the maximum extent practicable with the enforceable policies of Guam's Coastal Zone Management Program.

Enclosed please find a consistency determination that includes the information required by 15 CFR 930.39. I am writing to request your concurrence with our determination. In accordance with 15 CFR 930.41, NOAA may presume concurrence if we do not receive your response within 60 days of the State's receipt of our consistency determination. Please contact Tom Graham (808-725-5032) if you have any questions or need any additional information.

Sincerely,

Michael D. Tosatto
Regional Administrator

Enclosure

cc: Tina Mafnas, Guam Coastal Zone Management Program, Bureau of Statistics and Plans
Frederick Tucher, Chief, Pacific Islands Sec., NOAA Office of General Counsel



Coastal Zone Management Act Federal Consistency Determination

Agency: National Marine Fisheries Service (NMFS)

Relevant Authorities: The Coastal Zone Management Act of 1972, as amended (CZMA; 16 U.S.C. 1451 et seq.); CZMA Federal Consistency Regulations (15 CFR Part 930)

Determination: Consistent to the maximum extent practicable with the enforceable policies of Guam's Coastal Zone Management Program

Description of proposed activity: NMFS plans to issue a rule to implement decisions of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Commission) for the United States. The rule would be issued under the authority of the Western and Central Pacific Fisheries Convention Implementation Act (WCPFC Implementation Act; 16 U.S.C. 6901 et seq.).

The Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention) governs fisheries for highly migratory species (HMS). The area of application of the Convention is roughly the entire western and central Pacific Ocean (WCPO).¹ The Commission is the body charged with making the decisions needed to implement the provisions of the Convention. As a Contracting Party to the Convention, the United States is a member of the Commission.

The activity would implement certain provisions of the Commission's "Conservation and Management Measure for Bigeye, Yellowfin and Skipjack Tuna in the Western and Central Pacific Ocean" (CMM 2016-01), adopted in December 2016. This rule would be limited to implementing the provisions of CMM 2016-01 regarding allowable levels of fishing effort in 2017 by purse seine vessels on the high seas and in the U.S. exclusive economic zone (EEZ) in the Convention Area between the latitudes of 20° N. and 20° S. (an area referred to in U.S. fisheries regulations as the Effort Limit Area for Purse Seine, or ELAPS).

Purse seine fishing effort limits in the ELAPS have been in place since 2009. This rule would establish a 2017 ELAPS limit consistent with those for 2015 and 2016: 1,828 fishing days.² If NMFS determines that the limit is expected to be reached before the end of 2017, it would issue a *Federal Register* notice announcing that purse seine fishing in the ELAPS is prohibited for the remainder of the year. The notice would be issued at least seven days in advance of the closure.

If the 2017 limit is reached and the ELAPS is closed, the U.S. purse seine fleet would exert less fishing effort in the ELAPS in 2017 than it would if there were no limit, and it might shift some

¹ The exact boundaries of the Convention Area are provided in the Convention, which is available, along with a map of the Convention Area, at <http://www.wcpfc.int/key-documents/convention-text>

² In an advance notice of proposed rulemaking (ANPR) issued October 23, 2015 (80 FR 64382), NMFS stated that it will consider proposing regulations that mitigate adverse economic impacts of purse seine fishing restrictions on the U.S. territories that participate in the Commission (American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands; collectively "U.S. Participating Territories"), to the extent consistent with U.S. obligations under the Convention. Establishment of the limit of 1,828 fishing under this rule would not preclude NMFS from proposing at a later date such regulations for 2017 or subsequent years.

of its fishing effort to areas outside the ELAPS, such as foreign EEZs in the WCPO, in which access by U.S. purse seine vessels is allowed under a multilateral agreement, and possibly the eastern Pacific Ocean. The limit could also result in there being slightly less overall fishing effort by the U.S. WCPO purse seine fleet in 2017 than would occur if there were no limit.

Expected coastal effects: The U.S. purse seine fishery operates exclusively in the tropics, generally within 10° of the equator, so no direct effects in Guam's coastal zone management area would be expected from the action. The rule, which could result in a reduction in fishing effort by the U.S. WCPO purse seine fleet, might have some minor indirect effects on WCPO stocks of the target species of the purse seine fishery, skipjack tuna and yellowfin tuna, as well as of incidentally caught species, including bigeye tuna. To the extent these stocks occur in Guam's coastal zone, the action could, through the possible reduction in fishing effort, cause a reduction in the fishing mortality rates of these stocks and conceivably lead to greater abundance of these stocks in Guam's coastal zone. However, because any reductions in fishing mortality rates would be very small compared to the stocks' total fishing mortality rates, and because any such reductions would be limited to 2017, the resulting effects on stock sizes and abundance in Guam's coastal zone would be very small.

Consistency evaluation: The policies and objectives of Guam's Coastal Zone Management Program, as set forth in Guam Land-Use Policies, Exec. Order 78-37 (Nov. 15, 1978), promote the sustainable development and use of marine and coastal resources. As discussed above, the activity taken by NMFS would not cause any direct effects to Guam's coastal zone management area. The underlying objective of the activity is to conserve WCPO stocks of three tropical tuna species. It would be implemented as part of an international agreement that all the fishing and coastal nations that are parties to the WCPFC are obligated to implement. That objective is very much in line with the policies and objectives of Guam's Coastal Zone Management Program, particularly those related to the management of marine resources. Thus, NMFS has determined that the activity would be consistent to the maximum extent practicable with the enforceable policies and objectives of Guam's coastal zone management program.