

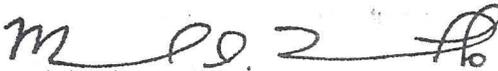


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JUN - 7 2015

MEMORANDUM FOR: The Record

FROM:

  
Michael D. Tosatto  
Regional Administrator

SUBJECT:

Proposed Specifications; Annual Catch Limits and Accountability Measures for Pacific Island Bottomfish Fisheries in 2015-2018 (RIN 0648-XD558) – National Environmental Policy Act Categorical Exclusion

National Oceanic and Atmospheric Administration (NOAA) Administrative Order 216-6 – Environmental Review Procedures for Implementing the National Environmental Policy Act (NEPA) – (NAO 216-6) requires that all proposed actions be reviewed with respect to potential environmental consequences on the human environment. This memorandum summarizes the National Marine Fisheries Service (NMFS) determination that the proposed specifications of annual catch limits (ACLs) and accountability measures (AMs) for Pacific Island bottomfish fisheries for fishing years 2015 – 2018 qualifies to be categorically excluded from further NEPA review.

### **Proposed Action**

The Western Pacific Fishery Management Council recommended that NMFS specify multi-year annual catch limits (ACL) and accountability measures (AM) effective in fishing years 2015-2018. NMFS proposes to implement the specifications for fishing year 2015, 2016, 2017, and 2018 separately prior to each fishing year. The specifications pertain to ACLs for bottomfish fisheries in the U.S Exclusive Economic Zone (EEZ) around American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands (CNMI). For American Samoa bottomfish, the proposed ACL is 101,000 lb and is associated with a 30 percent probability of overfishing. For Guam bottomfish, the proposed ACL is 66,800 lb and ACL is associated with a 28 percent probability of overfishing. For CNMI bottomfish, the proposed ACL is 228,000 lb and is associated with a 28 percent probability of overfishing. These ACLs are the same ACLs NMFS specified in 2013 (78 FR 15885, March 13, 2013) and 2014 (79 FR 4276, January 27, 2014).

For each fishery, NMFS also proposes an AM to correct or mitigate any overages of an ACL. Unless modified by NMFS, the ACLs and AMs apply to the fishing years 2015 through 2018 (January 1 – December 31 each year). The Western Pacific Fishery Management Council (Council) recommended the ACLs and AMs and developed its recommendations in accordance with the ACL process approved by NMFS. The process provides for the Council and NMFS to consider the best available scientific, commercial, and other information including public input on proposed ACLs and AMs. The action is needed to comply with the Magnuson-Stevens



Fishery Conservation and Management Act and provisions of the fishery ecosystem plans (FEPs) for American Samoa, and the Mariana Archipelago, which require NMFS specify ACL and AMs for all stocks of fish harvested in these fisheries. Information and detail about how NMFS developed the specific ACLs for these fisheries are provided in NMFS (2013).

**Effects of the Action**

In January 2013, NMFS completed an Environmental Assessment (EA) prior to specifying ACLs and AMs for Pacific Island bottomfish fisheries for 2013 and 2014 (NMFS 2013). The analysis in the EA showed that there would be no expected effect of the ACL and AM specifications on target or non-target species, marine mammals, sea turtles, or seabirds. There also would not be any impacts on any ocean or coastal habitats, including designated essential fish habitat (EFH) habitat areas of particular concern (HAPC), marine protected areas, unique areas or critical habitat. Based on the analysis in the January 2013 EA, NMFS completed a Finding of No Significant Impact (FONSI). The specification of an ACL and use of AMs provides for sustainable harvest of bottomfish resources while preventing overfishing, which would have positive long-term impacts on fishery participants and fishing communities. To date, no bottomfish fishery has exceeded its specified ACL.

Because the ACL and AM specifications for fishing year 2015-2018 are identical to those implemented in 2013 and 2014, and because no fishery has exceeded its ACL, the analysis contained in the January 2013 EA remains valid to the extent that baseline environmental conditions and conduct of these fisheries have not changed in a manner that would invalidate the previous analysis. Since completion of the January 2013 EA, two relevant changes to the fishery management setting have occurred, as follows:

1. NMFS listed scalloped hammerhead sharks under the Endangered Species Act (ESA) (79 FR 38214, July 3, 2014). Of the populations found in the Pacific Ocean, only the threatened Indo-West Pacific distinct population segment (DPS) of scalloped hammerhead shark may occur in the action area.
2. NMFS listed 20 species of reef-building corals under the ESA (79 FR 53852, September 10, 2014). Of the corals found in the Pacific Ocean, only seven occur in waters under U.S. jurisdiction, with six occurring in American Samoa, three each in Guam and the PRIA, and two in the CNMI. NMFS listed all seven coral species in the U.S. jurisdiction as threatened (See Table 1).

Table 1. ESA-listed reef-building corals under U.S. jurisdiction in the Pacific Islands (An “X” indicates presence according to information to date).

<b>Coral Species (all are listed as Threatened)</b>	<b>American Samoa</b>	<b>Guam</b>	<b>CNMI</b>	<b>PRIA*</b>
<i>Acropora globiceps</i>	X	X	X	X
<i>A. jacquelineae</i>	X			

<b>Coral Species (all are listed as Threatened)</b>	<b>American Samoa</b>	<b>Guam</b>	<b>CNMI</b>	<b>PRIA*</b>
<i>A. retusa</i>	X	X		X
<i>A. speciosa</i>	X			X
<i>Euphyllia paradivisa</i>	X			
<i>Isopora crateriformis</i>	X			
<i>Seriatopora aculeata</i>		X	X	

Source: [http://www.fpir.noaa.gov/PRD/prd\\_listed\\_coral.html](http://www.fpir.noaa.gov/PRD/prd_listed_coral.html).

\* The PRIA are not part of the proposed action area and are included for information purposes only.

#### Indo-West Pacific DPS of scalloped hammerhead shark

The Indo-West Pacific DPS of scalloped hammerhead shark is wide ranging from nearshore to pelagic environments and from the surface to depths of over 500 meters, which vary seasonally due to temperature changes. However, this DPS does not occur in Hawaiian waters. On July 3, 2014, NMFS listed the Indo-West Pacific DPS as threatened under the ESA (79 FR 38214). As a result of the listing, NMFS evaluated the potential impacts of the continued operation of the bottomfish fisheries of American Samoa, and the Mariana Archipelago (i.e., Guam and CNMI), and fishery management measures, including ACLs and AMs on this species. This evaluation is described in two biological evaluations, one prepared for American Samoa fisheries (NMFS 2015a) and one for Mariana Archipelago fisheries (NMFS 2015b), which are briefly summarized below.

To date, there have been no observed or reported interactions of scalloped hammerhead sharks in American Samoa, Guam, or CNMI bottomfish fisheries. The lack of documented interactions between hammerhead sharks and the bottomfish fisheries of American Samoa, Guam, and the CNMI may be attributable to the divergence of location of the sharks in relation to the preferred bottomfish fishing locations, gear depth, and gear type. Based on the consideration of the best available science, NMFS determined that the bottomfish fisheries of American Samoa, Guam, and the CNMI are not likely to adversely affect scalloped hammerhead sharks. NMFS documented these determinations in letters of concurrence dated April 9, 2015, for American Samoa FEP fisheries, and April 29, 2015, for Mariana FEP fisheries. Consequently, the impacts of the proposed action on non-target species, including sharks such as the scalloped hammerhead shark described in the January 2013 EA (Sections 3.3.1, 3.3.2 and 3.3.3), which NMFS found to be not significant, remain unchanged.

#### Reef-building corals

On September 10, 2014, NMFS listed 20 species of reef-building corals as threatened under the ESA (79 FR 53852). Seven occur in waters under U.S. jurisdiction, with six in American Samoa, three each in Guam and the PRIA, and two in the CNMI (see Table 1). As a result of the listing, NMFS evaluated the potential impacts of the continued operation of the bottomfish fisheries of American Samoa, and the Mariana Archipelago (i.e., Guam and CNMI), and fishery

management measures, including ACLs and AMs on these species. This evaluation is described in two aforementioned biological evaluations (NMFS 2015b), which are briefly summarized below.

Species-specific information on the exact location of the ESA-listed reef-building corals in American Samoa, Guam, and the CNMI is unavailable. For the ESA corals found in American Samoa, an analysis of possible coral reef habitat in depths shallower than 50 m (the deepest confirmed range of any of the listed coral species in American Samoa) indicates only 3% of potential habitat is within federal waters. The remaining 97 percent is within territorial waters (0-3 nm) under the jurisdiction of the American Samoa government. For the ESA-listed corals found in Guam and the CNMI, the analysis of possible coral reef habitat in depths shallower than 40 m (the deepest confirmed range of any of the listed coral species in the Mariana Archipelago) indicates approximately 24% of potential habitat is within federal waters. The remaining 76 percent of potential habitat is within territorial waters (generally seaward out to 3 nm) under the jurisdiction of Guam and the CNMI.

Based on the consideration of the best available science, and description of the bottomfish fisheries of the areas, NMFS determined that the bottomfish fisheries of American Samoa, Guam, and the CNMI are not likely to adversely affect ESA-listed coral because of the low numbers and low level of fishing activity of vessels; lack of spatial overlap between potential coral habitat and bottomfish fishing areas; and low likelihood of bottomfish gear contact with corals. NMFS documented these determinations in letters of concurrence dated April 9, 2015, for American Samoa FEP fisheries, and April 29, 2015, for Mariana FEP fisheries. Consequently, the impacts of the proposed action to EFH and HAPC, including coral reef habitat described in the January 2013 EA (Section 3.5), which NMFS found to be not significant remain unchanged.

### **Categorical Exclusion**

This proposed action has been considered under NAO 216-6, section 5.05 General Requirements for CEs. The proposed action was analyzed consistent with NAO 216-6, section 5.05b (Determining Appropriateness for Use of Categorical Exclusions) and documented to be the same as the prior action which was analyzed in an EA. The description in this memorandum show that the ACL specifications and AMs have not changed, the fishery conditions have not changed, and there is no new information would change the analysis in the EA and conclusions in the FONSI.

Exceptions for CEs, listed in NAO 216-6, section 5.05c, do not apply to the proposed action. The specification of the ACLs and AMs will not affect a geographic area with unique characteristics, the proposed action is not known to be controversial, the environmental impacts are not uncertain, the action does not involve unique or unknown risks, it does not establish a precedent or decision in principal about a future proposal, and the action will not result in cumulatively significant impacts. The specification would not result in the fishery affecting endangered and threatened species in ways that have not been considered in the EA and in recent consultations.

The proposed action qualifies for the CE specified under section 6.03d.4(a) because it is an ongoing or recurring fishery action of a routine administrative nature and the action will not have any impacts not already assessed. The January 2013 EA provides adequate documentation that

the action, individually and cumulatively, does not have the potential to pose significant effects to the quality of the human environment and this memorandum documents my determination that the continuation of the current ACL specifications and AMs for the bottomfish fisheries considered herein will not change the fishery or impacts on the environment. Accordingly, the proposed action is excluded from the need to prepare an EA or an environmental impact statement.

## **References**

National Marine Fisheries Service (NMFS). 2015a. Biological evaluation of potential impacts of American Samoa coral reef, bottomfish, crustacean, and precious coral fisheries on reef-building corals and Indo-west Pacific scalloped hammerhead shark distinct population segment. March 13, 2015. 33 p.

NMFS. 2015b. Biological evaluation of potential impacts of Mariana Archipelago coral reef, bottomfish, crustacean, and precious coral fisheries on reef-building corals and Indo-west Pacific scalloped hammerhead shark distinct population segment. April 2, 2015. 48 p.

NMFS. 2011. Environmental Assessment for Annual Catch Limit Specifications and Accountability Measures for Pacific Island Crustacean and Precious Coral Fisheries in 2012 and 2013. December 11, 2011. 182 p.

## **Attachment**

cc: F/PIR5 – Harman  
F/PIR – Luipold  
GC – Tucher