

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[I.D. 020107A]

RIN 0648-AT55

Fisheries in the Western Pacific; Western Pacific Pelagic Fisheries; Management Measures for Bigeye Tuna Pacific-Wide and Yellowfin Tuna in the Western and Central Pacific Ocean

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of Fishery Management Plan (FMP) amendment; request for comments.

SUMMARY: NMFS announces the availability, for public review and comment, of proposed Amendment 14 to the FMP for Pelagic Fisheries of the Western Pacific Region (Pelagics FMP). The amendment responds to the Secretary of Commerce's determination that overfishing is occurring on bigeye tuna (*Thunnus obesus*) Pacific-wide, and on yellowfin tuna (*Thunnus albacares*) in the western and central Pacific Ocean (WCPO). The measures in the amendment are designed to end overfishing of bigeye tuna Pacific-wide and yellowfin tuna in the WCPO, as required under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Amendment 14 would establish Federal permitting and reporting requirements for all U.S. Hawaii-based small boat commercial pelagic fishermen. Internationally, Amendment 14 would establish for the Western Pacific Fishery Management Council (Council) an internal protocol related to its role in managing pelagic fish stocks that are managed internationally, including its participation in U.S. delegations to meetings of regional fishery management organizations (RFMOs). This amendment also recommends that NMFS and the Department of State work through the RFMOs to immediately end overfishing of bigeye tuna Pacific-wide and WCPO yellowfin tuna, focusing on fisheries with the greatest impact on Pacific bigeye tuna and WCPO yellowfin tuna, i.e., longline and purse seine fisheries.

DATES: Comments on the amendment must be received by April 16, 2007.

ADDRESSES: Comments on Pelagics Amendment 14, identified by

AT55Tuna, may be sent to any of the following addresses:

- E-mail: AT55Tuna@noaa.gov.

Include in the subject line of the e-mail comment the following document identifier "AT55Tuna." Comments sent via e-mail, including all attachments, must not exceed a 10 megabyte file size.

- Federal e-Rulemaking portal: www.regulations.gov. Follow the instructions for submitting comments.
- Mail: William L. Robinson, Regional Administrator, NMFS, Pacific Islands Region (PIR), 1601 Kapiolani Blvd, Suite 1110, Honolulu, HI 96814-4700.

An Environmental Assessment (EA) was prepared for this amendment. Copies of the Pelagics FMP and Amendment 14 (containing the EA) may be obtained from Kitty M. Simonds, Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Bob Harman, NMFS PIR, 808-944-2271.

SUPPLEMENTARY INFORMATION: Pelagics FMP Amendment 14, developed by the Council, has been submitted to NMFS for review under the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* This notice announces that the amendment is available for public review and comment for 60 days. NMFS will consider public comments received during the comment period in determining whether to approve, partially approve, or disapprove Amendment 14.

On December 15, 2004, NMFS notified the Council that overfishing was occurring on bigeye tuna Pacific-wide. On March 16, 2006, NMFS notified the Council that overfishing was occurring on western and central Pacific Ocean (WCPO) yellowfin tuna. As required by the MSA, the Council was requested to take appropriate action to end overfishing. Pelagics FMP Amendment 14 contains the Council's recommended actions to end overfishing for both stocks.

Bigeye and yellowfin tuna are highly migratory species, and occur in the waters of multiple nations and the high seas. Consequently, they are targeted by fishing fleets of several nations, including the United States of America. Until recently, the majority of bigeye tuna in the Pacific Ocean was caught by longliners, primarily for the Japanese sashimi market. During the last 10 years, however, catches of bigeye tuna by purse seiners have increased considerably. Purse seine-caught bigeye tuna are taken primarily when purse seiners targeting skipjack and yellowfin tuna set their nets around fish

aggregating devices (FADs). Smaller amounts are also taken by handline and troll vessels. Yellowfin tuna in the WCPO are caught primarily by purse seiners. WCPO longline, pole-and-line, handline and troll fisheries also catch substantial amounts of yellowfin tuna.

According to the guidelines for National Standard 1 of the Magnuson-Stevens Act (50 CFR 600.310), fishery stock status is assessed with respect to two status determination criteria, one of which is used to determine whether a stock is "overfished," and the second of which is used to determine if the stock is subject to "overfishing." A stock is considered to be overfished if its biomass falls below the minimum stock size threshold (MSST). Overfishing means that fishing is occurring at a rate or level that jeopardizes the capacity of a stock or stock complex to produce maximum sustainable yield (MSY) on a continuing basis. When a stock is not in an overfished condition, the maximum fishing mortality threshold (MFMT) is equal to the fishing mortality associated with MSY (F_{MSY}). The latest stock assessments for bigeye tuna in the Pacific and WCPO yellowfin tuna have concluded that the biomass of neither stock is below their respective MSST. However, the assessments used as a basis for the overfishing determinations (conducted in 2003 and 2004 for Pacific bigeye tuna and 2005 and 2006 for WCPO yellowfin tuna) indicated that the then-current level of fishing mortality did exceed the stocks' respective MFMTs. Consequently, NMFS determined that overfishing was occurring on the Pacific-wide stock of bigeye tuna and on the WCPO stock of yellowfin tuna.

At its 133rd meeting in June, 2006, the Council took action to recommend several management measures that would be established by Pelagics FMP Amendment 14. The Council's management recommendations would constitute a foundation plan for the Council, NMFS, and the Department of State to end overfishing of bigeye tuna Pacific-wide and WCPO yellowfin tuna.

Pelagics FMP Amendment 14 calls for NMFS to enhance data quality for U.S. Hawaii-based small boat pelagic fisheries through mandatory Federal permits and data-collection programs (logbooks) for commercial small-boat fisheries, and improved surveys and voluntary reporting for recreational fisheries.

Pelagics FMP Amendment 14 acknowledges that the Council recommended a control date of June 2, 2005, for entry into the small boat commercial pelagic fisheries in U.S. EEZ waters around Hawaii. On August

15, 2005, NMFS published a notice of this control date (70 FR 47781). The amendment also acknowledges that the Council recommended a control date of June 2, 2005, for entry into domestic longline and purse seine fisheries in U.S. EEZ waters in the western Pacific. On August 15, 2005, NMFS published a notice of this control date (70 FR 47782). These control dates were implemented to notify the public that future participation in these fisheries was not guaranteed if the Council and NMFS developed and implemented limited access programs for the fisheries. Establishment of these control dates does not, however, commit the Council or NMFS to any particular management regime or criteria for entry into these fisheries.

The international scope of the overfishing situation, and measures to meaningfully address the problem, must be addressed through RFMOs, such as the Inter-American Tropical Tuna Commission and Western and Central Pacific Fisheries Commission. Internationally, Pelagics FMP Amendment 14 contains several proposed non-regulatory measures and recommendations, including the establishment for the Council an internal protocol related to its role in managing pelagic fish stocks that are managed internationally (including

steps the Council would take to monitor the status of internationally managed fish stocks, participate in U.S. delegations in meetings with RFMOs, and follow the activities of RFMOs). The Council also recommends that NMFS and the Department of State work through RFMOs to immediately end overfishing of bigeye tuna Pacific-wide and WCPO yellowfin tuna, focusing on fisheries with the greatest impact on Pacific bigeye tuna and WCPO yellowfin tuna, i.e., longline and purse seine fisheries. Specific international recommendations include plans for reducing longline fishing capacity, reducing purse seine fishing capacity and restrictions on the use of FADs while purse seine fishing, establishment and gradual reduction of national quotas, and other measures.

Bigeye tuna is also a management unit species under the Pacific Fishery Management Council's Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP). The Pacific Council has worked with the Western Pacific Council to develop a response to the determination of overfishing on bigeye tuna Pacific-wide. Amendment 1 to the Pacific Council's HMS FMP is consistent with relevant elements of Pelagics FMP Amendment 14 to end overfishing of bigeye tuna.

Public comments are being solicited on Pelagics FMP Amendment 14. A proposed rule that would implement Amendment 14 may be published in the **Federal Register** for public comment, following evaluation by NMFS under the Magnuson-Stevens Act procedures, and other applicable laws. Public comments on the proposed rule must be received by the end of the comment period on Amendment 14 to be considered in the approval/disapproval decision for the amendment. All comments received by the end of the comment period for Amendment 14, whether specifically directed to the amendment or the proposed rule, will be considered in the approval/disapproval decision; comments received after that date will not be considered in the approval/disapproval decision for the FMP/amendment. To be considered, comments must be received by close of business on the last day of the comment period; that does not mean postmarked or otherwise transmitted by that date.

Dated: February 09, 2007.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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