Compliance Guide
Catch and Fishing Effort Limits for Pelagic Fisheries in American Samoa, Guam, and the Northern Mariana Islands

October 28, 2014

This guide provides information about regulations at Title 50 Code of Federal Regulations Section 665.819 (50 CFR 665.819) published in the Federal Register on October 28, 2014 (Vol. 79 Federal Register page 6497). The requirements are for setting catch, effort, and allocation limits for pelagic management unit species (MUS) -- tunas, billfish, sharks, and squid -- harvested in the fisheries of U.S. participating territories to the Western and Central Pacific Fisheries Commission (WCPFC). The territories are American Samoa, Guam, and the Northern Mariana Islands. The regulations allows the Western Pacific Fishery Management Council (Council) and the National Marine Fisheries Service (NMFS) to specify annual or multi-year limits, and authorize the government of each territory to allocate a portion of its catch or effort limit to eligible U.S. fishing vessels through a specified fishing agreement. See Section A for information on the procedures for setting catch, effort, and allocation limits. See Section B for information on specified fishing agreements. NMFS established limits for longline-caught bigeye tuna for each territory for 2014. This guide also provides information on how fishermen can comply with the 2014 limit. (See Section C).

Regulations and specifications are subject to change, so fishermen must familiarize themselves with these and future changes. Any discrepancy between this guide and the regulations and specifications will be resolved in the favor of the regulations and specifications published in the Federal Register and the Code of Federal Regulations.
A. Procedures for setting catch and fishing effort limits and allocation limits

Q1. Do the regulations specify any catch or fishing effort limit, or allocation limit for pelagic MUS in the U.S. participating territories?
The regulations are a process for specifying limits. Under the process, if the Council recommends a catch, effort, or allocation limit for pelagic MUS in the territories and, if NMFS approves the limit, NMFS will publish the proposed limit in the Federal Register and request public comment, followed by a final specification and effective date. See Section C for the 2014 catch limit specifications.

Q2. How are catch or fishing effort limits or allocation limits determined?
If the WCPFC adopts a catch or effort limit for a pelagic MUS for a U.S participating territory, the Council may recommend that NMFS may specify the limit after the opportunity for public comment. If the WCPFC does not adopt any such limit, the Council may still recommend a limit, which NMFS would specify using the same process.

The Council may, but is not required to, recommend that NMFS authorize a territory to allocate a portion of its specified catch or effort limit to eligible U.S. fishing vessels. If NMFS determines the recommended allocation limit is consistent with WCPFC decisions, the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific (Pelagic FEP), the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), and all applicable laws, NMFS would specify the limit and effective date after an opportunity for public comment. The final specification would also announce the deadline for submitting a specified fishing agreement for Council and NMFS review.

If NMFS determines that the Council's recommendation for a catch, effort, or allocation limit is inconsistent with WCPFC decisions, the Pelagic FEP, the Magnuson-Stevens Act, or other applicable laws, NMFS would disapprove the recommendation. If NMFS disapproves the Council's recommendation, or if the Council recommends, and NMFS approves, no catch, effort, or allocation limit, then no specified fishing agreements would be authorized for the fishing year.

B. Specified Fishing Agreements

Q3. What is a specified fishing agreement?
A specified fishing agreement is an agreement between a territory and U.S. fishing vessel(s) permitted under the Pelagic FEP. An agreement that meets the criteria specified in the regulations allows the vessel(s) access to a specific amount of catch or fishing effort, not to exceed the allocation limit specified by NMFS.

Q4. Which U.S. vessels are eligible to enter into a specified fishing agreement?
Any vessel with a valid Pelagic FEP permit is eligible to enter into a specified fishing agreement with a territory. Permitted fisheries include the Hawaii longline, American Samoa longline, western Pacific general longline, western Pacific pelagic troll and handline, and western Pacific squid fisheries. A vessel may not be identified in more than one valid agreement at a time. Additionally, fishing allowances may not be transferred to any vessels not named in the agreement.

Q5. How do I enter into a specified fishing agreement?
The owner of a U.S. fishing vessel (or designated representative) should contact the Governor of a territory to negotiate the terms and conditions of an agreement.

Q6. What are the criteria for a complete and valid specified fishing agreement?
NMFS will consider a specified fishing agreement to be complete and valid if it meets the following criteria. An agreement must:

   a. Identify the vessel(s) to which the fishing agreement applies, along with documentation that each vessel has a valid Pelagic FEP permit;
   b. If applicable, identify the allowed amount (by weight) of each pelagic MUS;
   c. If applicable, identify the allowed amount of fishing effort;
   d. Be signed by an authorized official of the applicable territory or designated representative;
e. Be signed by each vessel owner, or designated representative;
f. Require the identified vessel(s) to land or offload catch of the pelagic MUS in the ports of the territory to which the fishing agreement applies;
or
   Specify the amount of monetary contributions that each vessel owner in the agreement will deposit into the Western Pacific Sustainable Fisheries Fund;
g. Be consistent with the Pelagics FEP and implementing regulations, the Magnuson-Stevens Act, and other applicable laws; and
h. Not confer any right of compensation to any party enforceable against the United States should action under such agreement be prohibited or limited by NMFS pursuant to its authority under Magnuson-Stevens Act, or other applicable laws.

Monetary contributions deposited into the Western Pacific Sustainable Fisheries Fund will be made available to the Council to support projects identified in an approved Marine Conservation Plan of the territory that is party to the specified fishing agreement.

Q7. Who may submit a specified fishing agreement?
An authorized official of a territory (or designated representative) may submit a specified fishing agreement to the Council for review, but must do so on or before the deadline announced in the Federal Register (See Question 2). Applicants may submit a specified fishing agreement to the Council at the following address:

Western Pacific Fishery Management Council
1164 Bishop Street, Suite 1400
Honolulu, HI 96813

The Council, through its Executive Director, will review the agreement to ensure that it contains the required information. The Council will advise the territory of any inconsistency and provide an opportunity to modify the agreement, as appropriate. The Council will then transmit the agreement to the NMFS Pacific Islands Regional Administrator for review.

Q8. How will I know if a specified fishing agreement is complete and valid?
Upon receipt of a specified fishing agreement from the Council, NMFS will review the agreement to ensure that it is complete and is consistent with all applicable laws. Within 30 days, NMFS will provide the territory and vessel owner(s) with written notice of whether the agreement meets the criteria and is complete and valid. The territory must notify NMFS and the Council in writing of any changes to name(s) or the number of vessels to which the agreement applies, within 72 hours of the change.

Q9. Can NMFS reject a specified fishing agreement?
Yes, NMFS would find an agreement to be incomplete for any of the following reasons:

   a. It fails to meet the specified criteria; The applicant fails to disclose material information;
   b. The applicant makes a material false statement related to the specified fishing agreement;
   c. It is inconsistent with the Pelagics FEP, implementing regulations, the Magnuson-Stevens Act, or other applicable laws; or
   d. It includes vessel(s) identified in another valid specified fishing agreement.

If the specified fishing agreement does not meet the criteria, NMFS would provide a written notice to the territory, and provide the territory 30 days to modify and re-submit the agreement. The territory or vessel owner(s) may appeal a NMFS determination to the Regional Administrator in accordance with the permit appeals procedures at 50 CFR 665.801(o).

Q10. When will NMFS begin attributing catches or fishing effort made by U.S. fishing vessels identified under a valid specified fishing agreement?
Using data submitted in fishing logbooks and other information, NMFS will monitor catch and effort with respect to the amount of a limit allocated to vessels identified in a valid specified fishing agreement. Seven days before the date that NMFS projects the territory’s catch or effort will be reached, NMFS will begin attributing catch or effort by vessels in the agreement to the appropriate territorial fishery.
Q11. What happens when a catch or fishing effort limit or allocation limit is reached?
If NMFS determines that a territorial catch, effort, or allocation limit is expected to be reached, NMFS will publish a notice in the Federal Register. The notice would be made at least seven days before the limit is expected to be reached. The notice would include an advisement that the catch of, or fishing effort on, the pelagic MUS will be restricted on a specific date. The restriction may include, but is not limited to, a prohibition on retention, closure of a fishery, closure of specific areas, or other catch or fishing effort restrictions. The restriction will remain in effect until the end of the fishing year. If NMFS determines catch or fishing effort made by fishing vessels identified in a specified fishing agreement exceeds the allocated limit, NMFS will attribute any overage of the limit back to the U.S. or Pacific island fishery to which the vessel(s) is registered and permitted.

C. Bigeye Tuna Specifications for the U.S. Participating Territories – 2014 Only

Q12. What is the 2014 catch limit for longline bigeye tuna catch for the territories?
For each of the three territories, NMFS has established a 2014 longline bigeye tuna catch limit of 2,000 mt. The limits are based on the recommendation by Council consistent with the WCPFC Conservation and Management Measure 2013-01 for bigeye tuna, the Pelagic FEP and implementing regulations, the Magnuson-Stevens Act, and other applicable laws. These catch limit specifications are effective from October 24, 2014, through December 31, 2014.

Q13. What amount of the 2014 longline bigeye tuna catch limits may be allocated to U.S. fishing vessels identified in a valid specified fishing agreement?
NMFS has authorized each territory to allocate up to 1,000 mt of its 2,000 mt bigeye tuna limit to U.S. fishing vessel(s) identified in a valid specified fishing agreement. These allocation limit specifications are also effective from October 24, 2014, through December 31, 2014.

Q14. What is the deadline to submit a specified fishing agreement for the 2014 territorial bigeye tuna catch limits?
The deadline to submit a specified fishing agreement for review by the Council and NMFS is November 28, 2014. Applicants must submit a completed specified fishing agreement to the Council by this date.

Q15. When will NMFS begin attributing longline bigeye tuna catches made by U.S. fishing vessels identified under a valid specified fishing agreement?
See answer to Question 10 above.

Q16. What happens when a 2014 longline bigeye tuna catch limit or allocation limit is reached?
See answer to Question 11 above.