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**National Oceanic and Atmospheric Administration**  
**NATIONAL MARINE FISHERIES SERVICE**  
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Ms. Janice Castro  
Division of Coastal Resources Management  
CNMI Bureau of Environmental and Coastal Quality  
P.O. Box 501304  
Saipan, MP 96950

**SUBJECT: Federal Consistency Determination; Proposed Rule for Area of Overlap between the Convention Areas of the Inter-American Tropical Tuna Commission and the Western and Central Pacific Fisheries Commission (RIN 0648-BH59)**

Dear Ms. Castro:

The National Marine Fisheries Service (NMFS) is undertaking a rulemaking for the area of overlap between the convention areas of the Inter-American Tropical Tuna Commission (IATTC) and the Western and Central Pacific Fisheries Commission (WCPFC). Currently, WCPFC management measures apply in the overlap area and only IATTC regulations governing the IATTC Regional Vessel Register apply in the overlap area. The proposed action would change the application of IATTC and WCPFC decisions in the overlap area; that is, apply IATTC management measures in the overlap area rather than WCPFC management measures.

Pursuant to the Coastal Zone Management Act of 1972, as amended (CZMA; 16 U.S.C. § 1456(c)(1)(C)), 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 the Commonwealth of the Northern Mariana Island'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. Please contact Alex Kahl (808-725-5031) if you have any questions or need any additional information.

Sincerely,



Michael D. Tosatto  
Regional Administrator

**Enclosure**

cc: Erin Derrington, CNMI Bureau of Environmental and Coastal Quality  
Emily Northrop, CNMI Bureau of Environmental and Coastal Quality  
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 the Commonwealth of the Northern Mariana Islands' (CNMI) Coastal Zone Management Program

**Description of proposed activity:** The National Marine Fisheries Service (NMFS) is undertaking a rulemaking for the area of overlap (overlap area) between the convention areas of the Inter-American Tropical Tuna Commission (IATTC) and the Western and Central Pacific Fisheries Commission (WCPFC). Currently, WCPFC management measures apply in the overlap area and only IATTC regulations governing the IATTC Regional Vessel Register apply in the overlap area. The proposed action would change the application of IATTC and WCPFC decisions in the overlap area; that is, apply IATTC management measures in the area rather than WCPFC management measures.

The United States is a member of both the IATTC and the WCPFC. The convention areas for the IATTC and WCPFC overlap in the Pacific Ocean waters within a rectangular area bounded by 50° S. latitude, 4° S. latitude, 150° W. longitude, and 130° W. longitude ("overlap area"). Historically, regulations implementing the conservation measures adopted by the IATTC (see 50 CFR part 300, subpart C) and the WCPFC (see 50 CFR part 300, subpart O) both applied to U.S. vessels fishing for highly migratory species in the overlap area. In 2012, the IATTC and the WCPFC adopted recommendations/decisions that provide that each member belonging to both commissions is to decide, for a period of not less than 3 years, whether IATTC or WCPFC conservation and management measures will apply to vessels of that member while fishing in the overlap area.

In accordance with the WCPFC decision and IATTC recommendation regarding the overlap area, NMFS issued a final rule on April 26, 2016 (see 81 FR 24501, effective May 26, 2016; hereafter "2016 final rule"), excluding the overlap area from the description of the IATTC Convention Area for the purpose of the regulations implementing conservation measures of the IATTC (50 CFR part 300, subpart C), except that IATTC Regional Vessel Register regulations at 50 CFR 300.22(b) continue to apply in the overlap area.

Under the 2016 final rule, which remains in effect, regulations implementing conservation measures of the WCPFC continue to apply in the overlap area to U.S. vessels used for fishing for migratory fish species. The requirement for U.S. vessels that fish for tuna and other highly migratory species to be listed on the IATTC Regional Vessel Register continues to apply in the overlap area because the IATTC Regional Vessel Register is used to implement the Agreement on the International Dolphin Conservation Program (AIDCP), which is a separate international agreement that applies to purse seine vessels that fish in the eastern Pacific, including the overlap

area. The AIDPC has not adopted a decision that would allow the United States to exempt vessels from AIDCP requirements even if only WCPFC requirements apply in the overlap area.

NMFS issued an advance notice of proposed rulemaking (ANPR) to seek public input about whether U.S. fishing vessels fishing in the area should be governed by conservation measures adopted by IATTC or conservation measures adopted by WCPFC (see 83 FR 27305; published June 12, 2018). Representatives of U.S. purse seine industry provided comments on the ANPR supporting IATTC management in the overlap area for economic reasons, stating that the U.S. purse seine fleet has increased interest in fishing in the IATTC Convention Area in recent years. Based on the comments and information received in response to the ANPR, and analysis conducted by NMFS, NMFS believes that changing management of the overlap area so that IATTC-derived regulations would apply in the overlap area rather than WCPFC-derived regulations would likely result in net benefits to the nation, and is undertaking a rulemaking accordingly. This proposed action would remove several WCPFC-derived regulations from application in the overlap area and re-apply IATTC-derived regulations to the overlap area. NMFS is still considering which WCPFC-derived regulations would continue to apply in the overlap area, but it is likely that the WCPFC-derived regulations to be lifted would be those that most directly and substantively affect fishing activities, such as limits on fishing effort and catch, and not necessarily others, such as those related to monitoring fishing activity.

**Expected coastal effects:** The overlap area does not include any part of CNMI's coastal zone. Therefore, no direct effects in CNMI's coastal zone management area would be expected from the proposed action.

However, the implementation of IATTC management measures instead of WCPFC management measures in the overlap area might have some effects on the stocks of the target species of the U.S. fleets that have the potential to operate in the overlap area – the purse seine fleet, the longline fleets, and the albacore troll fleet. Based on the longline fleets' lack of historical fishing in the overlap area, their activity is not expected to be affected by the proposed action. The purse seine fleet targets skipjack tuna and yellowfin tuna, and the albacore troll fleet targets albacore, and thus, these stocks of tuna could be affected. There also could be some effects on stocks of fish and non-fish species caught incidentally by these fleets, including, for the purse seine fleet, bigeye tuna.

NMFS' preliminary analysis suggests that there could be an increase in fishing in the area by the U.S. purse seine fleet, which could lead to an increase in fishing mortality of purse seine-caught stocks. To the extent the affected stocks occur in CNMI's coastal zone, the action could lead to a decrease in abundance of these stocks in CNMI's coastal zone. However, because the effects of the action on fishing mortality rates would be small compared to the stocks' total fishing mortality rates, any effects on stocks sizes and abundance in CNMI's coastal zone would be small.

The management regimes of the WCPFC and IATTC are subject to change, so the effects of the proposed action cannot be predicted with any confidence more than a few years into the future.

**Consistency evaluation:** The policies and objectives of the CNMI's Coastal Zone Management Program, as set forth in the Coastal Resources Management Act of 1983 (Pub. L. No. 3-47, Third

Northern Marianas Commonwealth Legislature, 1982), 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 CNMI's coastal zone management area. The proposed action would be implemented as part of international agreements regarding fishing resources that all the fishing and coastal nations that are members of the IATTC and the WCPFC are obligated to implement. The agreements are in line with the policies and objectives of CNMI'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 CNMI's coastal zone management program.