



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 130722647-3647-01]

RIN 0648-BD55

International Fisheries; Pacific Tuna Fisheries; Fishing Restrictions for Pacific Bluefin Tuna in the Eastern Pacific Ocean

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS is proposing regulations under the Tuna Conventions Act to implement Resolution C-13-02 of the Inter-American Tropical Tuna Commission (IATTC or the Commission) by specifying limits on U.S. commercial catch of Pacific bluefin tuna from the eastern Pacific Ocean (EPO) waters of the IATTC Convention Area in 2014. This action is necessary for the United States to satisfy its obligations as a member of the IATTC.

DATES: Comments on the proposed rule and the initial regulatory flexibility analysis must be submitted in writing by [Insert date 30 days after date of publication in the FEDERAL REGISTER]. A public hearing will be held from 1 p.m. to 4 p.m. PDT, [Insert date of the last day of the 30-day comment period], in Long Beach, CA.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2013-0119, by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0119>, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- Mail: Submit written comments to Amber Rhodes, NMFS West Coast Office, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802. Include the identifier “NOAA-NMFS-2013-0119” in the comments.
- Public hearing: The public is welcome to attend a public hearing and offer comments on this proposed rule from 1 p.m. to 4 p.m. PDT, [Insert date of the last day of the 30-day comment period] at 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802. The public may also participate in the public hearing via conference line: 1-888-323-9701, passcode 11543

Instructions: Comments must be submitted by one of the above methods to ensure they are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

Copies of the draft Regulatory Impact Review (RIR) and other supporting documents are available via the Federal eRulemaking Portal: <http://www.regulations.gov>, docket NOAA-NMFS-2013-0119 or contact with the Regional Administrator, Will Stelle, NMFS West Coast Regional Office, 7600 Sand Point Way, NE, Bldg 1, Seattle, WA 98115-0070, or RegionalAdministrator.WCRHMS@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Amber Rhodes, NMFS, 562-980-3231, or Heidi Taylor, NMFS, 562-980-4039.

SUPPLEMENTARY INFORMATION:

Background on the IATTC

The United States is a member of the IATTC, which was established under the 1949 Convention for the Establishment of an Inter-American Tropical Tuna Commission. The full text of the 1949 Convention is available at:

http://www.iattc.org/PDFFiles/IATTC_convention_1949.pdf.

The IATTC facilitates scientific research into, as well as conservation and management of, highly migratory species of fish in the IATTC Convention Area (defined as the waters of the EPO). Since 1998, conservation resolutions adopted by the IATTC have further defined the Convention Area as the area bounded by the coast of the Americas, the 50° N. and 50° S. parallels, and the 150° W. meridian. The IATTC has maintained a scientific research and fishery monitoring program for many years, and regularly assesses the status of tuna and billfish stocks in the EPO to determine appropriate catch limits and other measures deemed necessary to prevent overexploitation of these stocks and to promote sustainable fisheries. Current IATTC member countries include: Belize, Canada, China, Chinese Taipei (Taiwan), Colombia, Costa Rica, Ecuador, El Salvador, the European Union, France, Guatemala, Japan, Kiribati, the

Republic of Korea, Mexico, Nicaragua, Panama, Peru, the United States, Vanuatu, and Venezuela. Bolivia, Honduras, Indonesia and the Cook Islands are cooperating non-members.

International Obligations of the United States under the Convention

As a Contracting Party to the 1949 Convention and a member of the IATTC, the United States is legally bound to implement IATTC resolutions. The Tuna Conventions Act (16 U.S.C. 951-962 and 971 et seq.) directs the Secretary of Commerce, after approval by the Secretary of State, to promulgate such regulations as may be necessary to implement resolutions adopted by the IATTC. The Secretary's authority to promulgate such regulations has been delegated to NMFS.

Pacific Bluefin Tuna Resolution

At its 85th Meeting, in June 2013, the IATTC adopted Resolution C-13-02, "Measures for the Conservation and Management of Bluefin Tuna in the Eastern Pacific Ocean," which is the subject of this rulemaking; it was approved by the Secretary of State, thereby prompting implementation by NMFS.

The main objective of Resolution C-13-02 is to conserve Pacific bluefin tuna (Thunnus orientalis) by setting limits on the commercial catch of Pacific bluefin tuna in the IATTC Convention Area for 2014. Recognizing the need to reduce fishing mortality of Pacific bluefin tuna throughout its pan-Pacific range, the IATTC first adopted catch limits for Pacific bluefin tuna in the EPO for calendar years 2012 and 2013 with Resolution C-12-09. NMFS implemented the resolution via rulemaking for the United States in 2013 (see final rule at 78 FR 33240, June 4, 2013). As with Resolution C-12-09, Resolution C-13-02 includes two catch limits: (1) a Commission-wide limit for all commercial fishing vessels of all IATTC member countries and cooperating non-member countries (collectively known as CPCs) fishing in the EPO and (2) a

catch limit of 500 metric tons for commercial vessels of each CPC with a historical record of Pacific bluefin catch from the EPO—such as the United States—to allow these nations some opportunity to catch Pacific bluefin tuna, notwithstanding the shared Commission-wide catch limit. For 2014, the Commission-wide catch limit is 5,000 metric tons and the catch limit for each CPC with a history of Pacific bluefin tuna catch is 500 metric tons.

Resolution C-13-02 reaffirms “...that it is necessary to take precautionary management measures throughout the range of the resource to contribute to the stability of the stock of Pacific bluefin tuna.” In 2011, NMFS determined overfishing is occurring on Pacific bluefin tuna (76 FR 28422, May 17, 2011). Based on the results of a 2012 stock assessment conducted by the International Scientific Committee for Tuna and Tuna-like Species in the North Pacific Ocean (ISC), NMFS determined Pacific bluefin tuna was not only experiencing overfishing but was also overfished (78 FR 41033, July 9, 2013). In 2012, the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC) adopted a conservation and management measure for Pacific bluefin tuna to ensure that the level of fishing mortality does not increase (CMM 2012-06). The WCPFC met in December 2013 and adopted a resolution called Conservation and Management Measure for Pacific Bluefin tuna (CMM-2013-09) and the IATTC will convene in the summer of 2014 to discuss the future management of Pacific bluefin tuna. Future conservation measures for Pacific bluefin tuna are expected to be based in part on information and advice from the ISC and the IATTC’s scientific staff.

Pacific Bluefin Tuna Catches

While Pacific bluefin tuna catch by U.S. commercial vessels fishing in the EPO exceeded 1,000 metric tons in the early 1990’s, catches have remained below 500 metric tons for more

than a decade. The U.S. commercial catch of Pacific bluefin tuna for the years 1999 to 2012 in the EPO can be found in Table 1 below. The average annual Pacific bluefin tuna catch as determined by landings receipts of U.S. commercial vessels fishing in the EPO from 2007 to 2011 represents only two percent of the average annual landings for all fleets fishing in the EPO during that period (for information on Pacific bluefin tuna harvests in the EPO, see: http://isc.ac.affrc.go.jp/pdf/ISC12pdf/ISC12_Plenary_Report-FINAL.pdf).

Table 1: U.S. Commercial Annual Catch of Pacific Bluefin Tuna in the EPO

Year	Pacific Bluefin Tuna Catch (metric tons)
1999	186
2000	313
2001	196
2002	11
2003	36
2004	10
2005	207
2006	1
2007	45
2008	1
2009	415
2010	1
2011	118
2012	*42

Source: Highly Migratory Species Stock Assessment and Fishery Evaluation:

<http://www.pcouncil.org/highly-migratory-species/stock-assessment-and-fishery-evaluation-safe-documents/current-hms-safe-document/>

*Preliminary PacFIN estimate of 2012 Pacific bluefin tuna landings by United States, extracted February 22, 2013.

Proposed Regulations for Pacific Bluefin tuna for 2014

Under this proposed rule, once Pacific bluefin tuna catch limits have been reached, NMFS will prohibit any further targeting, retaining on board, transshipping, or landing of Pacific

bluefin tuna in the Convention Area, because these activities can be effectively verified for enforcement purposes. Therefore, targeting, retaining on board, transshipping, or landing of Pacific bluefin tuna by all U.S. commercial vessels in the IATTC Convention Area shall be prohibited for the remainder of 2014 when the Commission-wide commercial catch limit of 5,000 metric tons of Pacific bluefin tuna is reached, and the 500 metric tons commercial catch limit of Pacific bluefin tuna is reached by the U.S. fleet. If the U.S. commercial fishing fleet has not caught 500 metric tons of Pacific bluefin tuna in the Convention Area in 2014 when the Commission-wide 5,000 metric tons catch limit is reached, then the U.S. commercial fleet may continue to target, retain, transship, or land Pacific bluefin tuna until the 500 metric ton limit is reached. The U.S. commercial fleet may continue to target, retain, transship, or land more than the 500 metric tons of Pacific bluefin tuna in 2014 unless and until the Commission-wide catch limit of 5,000 metric tons is reached.

Announcement of the Limit Being Reached

To ensure that the total catch of Pacific bluefin tuna taken from the IATTC Convention Area does not exceed the Commission-wide catch limit for 2014, NMFS will report U.S. catch to the IATTC Director on a monthly basis. The IATTC Director will inform CPCs when 50 percent of the Commission-wide limit is reached. The Director will likewise send similar notices when 60, 70, and 80 percent of the Commission-wide limit is reached. When 90 percent is reached, the Director will send the corresponding notice to all CPCs, with a projection of when the 5,000 metric ton Commission-wide limit will be reached, at which time CPCs are expected to take the necessary internal measures to avoid exceeding the limit. NMFS will provide updates on Commission-wide and U.S. catches to the public via the highly migratory and coastal pelagic species listservs and the West Coast Region website:

http://www.westcoast.fisheries.noaa.gov/fisheries/migratory_species/bluefin_tuna_harvest_status.html. Additionally, NMFS will report preliminarily estimated Pacific bluefin tuna catch

between monthly intervals if and when catches approach the limits to help participants in the U.S. commercial fishery plan for the possibility of the catch limit being reached.

When NMFS is informed that the 5,000 metric ton Commission-wide limit has been met (based on information provided by the IATTC Director) and that the 500 metric ton catch limit is expected to be reached before the end of 2014 (based on landings receipts, data submitted in logbooks, and other available fishery information), NMFS will publish a notice in the Federal Register announcing that the targeting, retaining, transshipping or landing for Pacific bluefin tuna will be prohibited on a specified effective date through December 31, 2014. Upon that effective date, a commercial fishing vessel of the United States may not be used to target, retain on board, transship, or land Pacific bluefin tuna captured in the Convention Area during the period specified in the announcement, with the exception that any Pacific bluefin tuna already on board a fishing vessel on the effective date may be retained on board, transshipped, and/or landed, to the extent authorized by applicable laws and regulations, provided that they are landed within 14 days after the effective date. NMFS anticipates limits to catches of Pacific bluefin tuna in the EPO to be included in future resolutions by the IATTC.

Classification

The NMFS Assistant Administrator has determined that this proposed rule is consistent with the Tuna Conventions Act and other applicable laws. This proposed rule has been determined to be not significant for purposes of Executive Order 12866. Additionally, while there are no new collection-of-information requirements associated with this action that are subject to the Paperwork Reduction Act, existing collection-of-information requirements

associated with the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species still apply. These requirements have been approved by the Office of Management and Budget under Control Number 0648-0204. The initial regulatory flexibility analysis is summarized in the following paragraphs.

The main objective of this proposed rule is to establish catch limits to contribute to the conservation of the Pacific bluefin tuna stock. This rule would apply to owners and operators of U.S. commercial fishing vessels that catch Pacific bluefin tuna in the IATTC Convention Area. Each vessel that would be affected is considered a small business according to the Small Business Administration's revised size standards (78 FR 37398, June 20, 2013), which increased the size standard for Finfish Fishing from \$ 4.0 to 19.0 million, Shellfish Fishing from \$ 4.0 to 5.0 million, and Other Marine Fishing from \$4.0 to 7.0 million. Pacific bluefin tuna do not serve as the primary target species for any U.S. commercial vessels, but rather are incidentally or opportunistically caught by U.S. commercial vessels fishing in the EPO. Therefore, the action is not expected to have a significant or disproportional economic impact on these small business entities.

NMFS will publish a notice in the Federal Register announcing that restrictions will be effective from the dates specified through the end of the calendar year. NMFS will take reasonable actions to inform vessel owners in advance of publishing, in a Federal Register announcement, the effective date for the restrictions on targeting, retaining, transshipping, or landing Pacific bluefin tuna captured in the IATTC Convention Area. In the event that the limit on Pacific bluefin tuna catch is reached in 2014, it will be the responsibility of the commercial vessel owner to ensure that no further targeting of Pacific bluefin tuna occurs, and that no more Pacific bluefin tuna are retained on board, transshipped, or landed after the specified dates

published in the Federal Register notice announcing that the annual limit is expected to be reached.

While this proposed rule does not mandate any new “reporting” or “recordkeeping” requirements for the public, some compliance costs may be associated with the regulations if the restrictions on targeting, retaining, transshipping, or landing Pacific bluefin tuna captured in the IATTC Convention Area becomes effective in 2014 as a result of the commercial catch limits being reached. The Pacific bluefin tuna commercial catch limits are not expected to result in closing fishing of Pacific bluefin tuna in the Convention Area to U.S. commercial vessels because annual U.S. catches of Pacific bluefin tuna have not reached 500 metric tons in more than a decade. In the event of a closure under this rule, the cost of compliance would be de minimis. Compliance costs could consist of returning incidentally caught bluefin tuna to the ocean, forgoing associated profits, and potentially losing fishing opportunity if bluefin are available to the U.S. fleet during the time a closure is in place.

The U.S. catch of Pacific bluefin tuna in the EPO represents a relatively minor component of the overall catch of Pacific bluefin tuna from the EPO. The average annual U.S. catch of Pacific bluefin tuna was 113 metric tons for 1999 through 2012. Table 1 (above) illustrates U.S. commercial catch of bluefin tuna in the EPO for the years 1999 to 2012. Pacific bluefin tuna is commercially caught by U.S. vessels fishing in the EPO on an irregular basis. Most of the landings are made by small coastal purse seine vessels operating in the Southern California Bight with limited additional landings made by the drift gillnet fleet that targets swordfish and thresher shark. Lesser amounts of Pacific bluefin tuna are caught by surface hook and line and longline gear (typically less than .05 metric tons per year for these gear types combined). The number of purse seine vessels that have landed tuna in California averaged 197

annually from 1981 through 1990. However, from 2000 to 2013, six small purse seiners have been registered with the IATTC to target Pacific bluefin tuna in the Convention Area each year. The landings data suggests that they opportunistically targeted Pacific bluefin tuna in alternate years since 2001. The decline in the number of domestic vessels is correlated in part with the relocation of large cannery operations.

NMFS compared the effects of the Pacific bluefin tuna restrictions imposed by this rule to a no action alternative. Under the no action alternative, there would be no limit on U.S. commercial catches of Pacific bluefin tuna in the IATTC Convention Area. It is unlikely that any benefit to U.S. commercial fisheries would be gained from not implementing Resolution C-13-02 as recent trends in Pacific bluefin tuna catch data indicate that it is unlikely that the U.S. catch limit will be reached. However, failing to adopt this rule would result in the United States not satisfying its international obligations as a member of the IATTC. Furthermore, implementing Resolution C-13-02 could benefit the conservation of Pacific bluefin tuna by limiting catches if the fish were to become abundantly available to U.S. commercial vessels fishing in the EPO in 2014.

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources,
Reporting and recordkeeping requirements, Treaties.

Dated: January 7, 2014.

Alan D. Risenhoover, Director, Office of Sustainable Fisheries,
performing the functions and duties of the Deputy Assistant Administrator
for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300 is proposed to be amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

1. The authority citation for 50 CFR part 300, continues to read as follows:

Authority: 16 U.S.C. 951-961 et seq.

2. In § 300.24, paragraph (u) is added to read as follows:

§ 300.24 Prohibitions.

* * * * *

(u) Use a United States commercial fishing vessel in the IATTC Convention Area in
contravention of §300.25(h)(4)

3. In § 300.25, paragraph (h) is added to read as follows:

§ 300.25 Eastern Pacific fisheries management.

* * * * *

(h) Pacific bluefin tuna commercial catch limits in the eastern Pacific Ocean. (1) For the calendar year 2014, all commercial fishing vessels of IATTC member countries and cooperating non-member countries collectively are subject to a limit of 5,000 metric tons of Pacific bluefin tuna that may be captured, retained, and landed in the Convention Area.

(2) Notwithstanding the collective 5,000 metric ton limit, in calendar year 2014 commercial vessels of the United States may capture, retain, transship, or land up to 500 metric tons of Pacific bluefin tuna.

(3) After NMFS determines that the limits under paragraphs (h)(1) and (2) of this section are expected to be reached by a future date, and at least 7 calendar days in advance of that date, NMFS will publish a notice of closure in the Federal Register announcing the effective date that additional targeting, retaining on board, transshipping or landing Pacific bluefin tuna in the Convention Area shall be prohibited as described in paragraph (h)(4) of this section.

(4) Beginning on the date announced in the notice of closure published under paragraph (h)(3) of this section through the end of the calendar year, a commercial fishing vessel of the United States may not be used to target, retain on board, transship, or land Pacific bluefin tuna captured in the Convention Area, with the exception that any Pacific bluefin tuna already on board a fishing vessel on the effective date of the notice may be retained on board, transshipped, and/or landed, to the extent authorized by applicable laws and regulations, provided such tuna is landed within 14 days after the effective date published in the notice of closure.

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