



BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 150305219-5219-01]

RIN 0648-BE78

Fisheries Off West Coast States; Highly Migratory Species Fisheries

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

ACTION: Proposed rule; request for comments.

SUMMARY: The National Marine Fisheries Service (NMFS) is proposing to modify the existing Pacific bluefin tuna (PBF) *Thunnus orientalis* recreational daily bag limit in the Exclusive Economic Zone (EEZ) off California, and to establish filleting-at-sea requirements for any tuna species in the U.S. EEZ south of Point Conception, Santa Barbara County, under the Magnuson-Stevens Fishery Conservation and Management Act (MSA). This action is intended to conserve PBF, and is based on a recommendation of the Pacific Fishery Management Council (Council).

DATES: Comments on the proposed rule must be submitted in writing by *[Insert date 15 days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2015-0029, 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-2015-0029>, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- Mail: Submit written comments to Craig Heberer, NMFS West Coast Region Long Beach Office, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802. Include the identifier “NOAA-NMFS-2015-0029” in the comments.

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).

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-2015-0029, or contact the Regional Administrator, William W. Stelle, Jr., 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: Craig Heberer, NMFS, 760-431-9440, ext. 303.

SUPPLEMENTARY INFORMATION:

On April 7, 2004, NMFS published a final rule (69 FR 18444) to implement the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP) that included annual specification guidelines at 50 CFR 660.709. These guidelines establish a process for the Council to take final action at its regularly-scheduled November meeting on any necessary harvest guideline, quota, or other management measure and recommend any such action to NMFS. At their November 2014, meeting, the Council adopted a recommendation (<http://www.pcouncil.org/wp-content/uploads/1114decisions.pdf>) to modify the existing daily bag limit regulations at 50 CFR 660.721 for sport caught PBF harvested in the EEZ off the coast of California and to promulgate at-sea fillet regulations applicable south of Santa Barbara as routine management measures for the 2014-2015 biennial management cycle. The Council's recommendation and NMFS' proposed rulemaking are intended to reduce fishing mortality and aid in rebuilding the PBF stock, which is overfished and subject to overfishing (78 FR 41033, July 9, 2013; 80 FR 12621, March 9, 2015) and to satisfy the United States' obligation to reduce catches of PBF by sportfishing vessels in accordance with Inter-American Tropical Tuna Commission (IATTC) Resolution C-14-06. (<http://www.iattc.org/PDFFiles2/Resolutions/C-14-06-Conservation-of-bluefin-2015-2016.pdf>).

Resolution C-14-06 requires that “in 2015, all IATTC Members and Cooperating non-Members (CPCs) must take meaningful measures to reduce catches of PBF by sportfishing vessels operating under their jurisdiction to levels comparable to the levels of reduction applied under this resolution to the EPO commercial fisheries until such time that the stock is rebuilt.” The proposed daily bag limit of two fish per day being considered under this proposed rule would reduce the U.S. recreational harvest of PBF by approximately 30 percent, which is

consistent with the IATTC scientific staff's conservation recommendation for a 20-45 percent PBF harvest reduction and meets the requirements of IATTC Resolution C-14-06. The filleting-at-sea measures will assist in the enforcement of the proposed regulations by enabling enforcement personnel to differentiate PBF from other tuna species. This proposed rule is consistent with procedures established at 50 CFR 660.709(a)(4) of the implementing regulations for the HMS FMP.

The proposed regulations would reduce the existing bag limit of 10 PBF per day to 2 PBF per day and the maximum multiday possession limit (i.e., for trips of 3 days or more) from 30 PBF to 6 PBF. For fishing trips of less than 3 days, the daily bag limit is multiplied by the number of days fishing to determine the multiday possession limit (e.g., the possession limit for a 1-day trip would be two fish and for a 2-day trip, four fish). A day is defined as a 24-hour period from the time of departure. Thus a trip spanning 2 calendar days could count as only 1 day for the purpose of enforcing possession limits.

Most PBF caught by U.S. anglers are taken in the EEZ of Mexico, both on private vessels and on Commercial Passenger Fishing Vessels (CPFV). The bulk of these trips originate from and return to San Diego, CA, ports. During 2004 through 2013, approximately 78 percent of the fishing effort for PBF (measured by angler days) by U.S. West Coast recreational fishing vessels occurred in Mexico's EEZ. Fishing by U.S. recreational vessels in Mexico's EEZ is a permitted activity that is subject to management by the Government of Mexico, which has imposed bag and possession limits.

The daily bag and multiday possession limits being proposed for the U.S. EEZ off the coast of California might be more or less conservative than Mexico's limits. The proposed U.S. recreational limits would not apply to U.S. anglers while in Mexico's waters, but to facilitate

enforcement and monitoring, the limits would apply to U.S. vessels in the U.S. EEZ or landing to U.S. ports, regardless of where the fish were harvested.

The proposed regulations would also establish requirements for filleting tuna at-sea (e.g., each fish must be cut into six pieces placed in an individual bag so that certain diagnostic characteristics are left intact), which will assist law enforcement personnel in accurately identifying different species given morphometric and phenotypic similarities between tuna species, specifically, yellowfin (*Thunnus albacares*) and PBF. These requirements would apply to any tuna species caught south of Santa Barbara (i.e., south of a line running west true from Point Conception, Santa Barbara County (34° 27' N. lat.)) In addition to enhancing enforcement, the proposed fillet measures would also assist port samplers and fishery biologists conducting fishery surveys in accurately identifying tuna species.

The State of California has informed NMFS that it intends to implement companion regulations to the Federal regulations being proposed here by imposing daily PBF bag limits applicable to recreational angling and possession of fish in state waters (0-3 nm). Currently, California State regulations allow, by special permit, the retention of up to three daily bag limits for a trip occurring over multiple, consecutive days. California State regulations also allow for two or more persons angling for finfish aboard a vessel in ocean waters off California to continue fishing until boat limits are reached. NMFS and the Council consider these additional state restrictions to be consistent with Federal regulations implementing the HMS FMP, including this proposed rule if implemented. The proposed fillet requirements differ from current State of California requirements, which allow tuna filleting as long as a 1-inch square patch of skin is left on the fillet.

Several comments received during public scoping for this action called for an exception to the fillet requirements for skipjack tuna, *Katsuwonus pelamis*. The Council recommendation to NMFS did not provide an exception for skipjack tuna. However, the California Fish and Game Commission is considering a possible exception, such that skipjack tuna taken from and possessed aboard a vessel south of Point Conception (Santa Barbara County) may be processed by removing the entire fillet on each side and shall bear the entire skin attached. Skipjack tuna possess distinct horizontal bands on their belly that remain visible and distinct allowing for accurate identification, even after the fish or fillet has been frozen. NMFS is seeking further guidance from the public on the issue of a possible exception to the proposed fillet requirements for skipjack tuna.

The proposed rule would apply only to recreational fisheries in Federal waters off California. Although PBF are occasionally caught and retained in Oregon and Washington, the catches are negligible. Therefore, the benefits expected from monitoring and regulating PBF catch in waters off those states does not justify the administrative or regulatory burden of doing so.

Classification

Pursuant to section 304 (b)(1)(A) of the MSA, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the HMS FMP, other provisions of the Act, and other applicable law, subject to further consideration after public comment.

National Environmental Policy Act

The Council prepared an environmental assessment (EA) for this action that discusses the impact on the environment as a result of this proposed rule. None of the bag and possession limit alternatives analyzed in the EA are expected to jeopardize the sustainability of the PBF.

However, the preferred alternative, which reflects the action proposed in this rule, is likely to have negative economic impacts on the affected fishing communities. The alternatives, including the preferred alternative, for tuna filleting procedures are not expected to result in significant socioeconomic impacts.

Executive Order 12866

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this proposed rule, if implemented, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination under the Regulatory Flexibility Act (RFA) is as follows:

The proposed regulations would reduce the existing bag limit of 10 PBF per day to 2 PBF per day and the maximum multiday possession limit (i.e., for trips of 3 days or more) from 30 PBF to 6 PBF. For fishing trips of less than 3 days, the daily bag limit is multiplied by the number of days fishing to determine the multiday possession limit (e.g., the possession limit for a 1-day trip would be two fish and for a 2-day trip, four fish). These limits will apply to recreational anglers in U.S. waters off the West Coast or any other ocean waters that return to U.S. waters and/or ports. This rule also proposes that tunas caught by recreational anglers to be filleted according to specified configurations for bag limit monitoring and enforcement purposes.

This proposed rule, if implemented, would not be expected to directly affect any small entities. This proposed rule would change the PBF recreational bag limit and the filleting

requirements for caught tuna, which affects only individual recreational anglers. Recreational anglers, by definition, may not sell catch, and thus are not considered to be a business. Because recreational anglers are not considered to be a small entity under the RFA, the economic effects of this proposed rule on these anglers are outside the scope of the RFA. Although the for-hire sector of the sport fishery may experience indirect economic impacts due to the imposition of reduced daily bag and possession limits, those impacts are not required elements of the RFA analysis for this action.

Because this proposed rule, if implemented, would not be expected to have a significant direct adverse economic effect on a substantial number of small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

Paperwork Reduction Act

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 U.S. West Coast Highly Migratory Species Fishery Management Plan still apply. These existing requirements have been approved by the Office of Management and Budget under Control Number 0648-0204.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 15, 2015

Samuel D. Rauch III,
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is proposed to be amended as follows:

PART 660--FISHERIES OFF THE WEST COAST STATES

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*, 16 U.S.C. 773 *et seq.*, and 16 U.S.C. 7001 *et seq.*

2. In § 660.721, revise the section heading, introductory text, paragraph (a) introductory text and paragraph (b), and add paragraph (e) to read as follows:

§ 660.721 Recreational fishing bag limits and filleting requirements.

This section applies to recreational fishing for albacore tuna in the U.S. EEZ off the coast of California, Oregon, and Washington and for bluefin tuna in the U.S. EEZ off the coast of California. In addition to individual fishermen, the operator of a U.S. sportsfishing vessel that fishes for albacore or bluefin tuna is responsible for ensuring that the bag and possession limits of this section are not exceeded. The bag limits of this section apply on the basis of each 24-hour period at sea, regardless of the number of trips per day. The provisions of this section do not authorize any person to take and retain more than one daily bag limit of fish during 1 calendar day. Federal recreational HMS regulations are not intended to supersede any more restrictive state recreational HMS regulations relating to federally-managed HMS.

(a) *Albacore Tuna Daily Bag Limit.* Except pursuant to a multi-day possession permit referenced in paragraph (c) of this section, a recreational fisherman may take and retain, or possess onboard no more than:

* * * * *

(b) *Bluefin Tuna Daily Bag Limit.* A recreational fisherman may take and retain, or possess on board no more than two bluefin tuna during any part of a fishing trip that occurs in

the U.S. EEZ off California south of a line running due west true from the California - Oregon border [42° 00' N. latitude].

* * * * *

(e) *Restrictions on Filleting of Tuna South of Point Conception.* South of a line running due west true from Point Conception, Santa Barbara County (34° 27' N. latitude) to the U.S.-Mexico border, any tuna that has been filleted must be individually bagged as follows:

- (1) the bag must be marked with the species' common name, and
- (2) the fish must be cut into the following six pieces with all skin attached: the four loins, the collar removed as one piece with both pectoral fins attached and intact, and the belly cut to include the vent and with both pelvic fins attached and intact.

[FR Doc. 2015-09093 Filed: 4/20/2015 08:45 am; Publication Date: 4/21/2015]