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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 300**

**[Docket No. 161031999-7314-02]**

**RIN 0648-BG41**

**International Fisheries; Pacific Tuna Fisheries; 2017 and 2018 Commercial 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:** Final rule.

**SUMMARY:** The National Marine Fisheries Service (NMFS) is issuing regulations under the Tuna Conventions Act to implement Inter-American Tropical Tuna Commission (IATTC or the Commission) Resolution C-16-08, which establishes limits on the U.S. commercial catch of Pacific bluefin tuna from waters of the IATTC Convention Area for 2017 and 2018. This action is necessary for the United States to satisfy its obligations as a member of the IATTC.

**DATES:** The final rule is effective [*Insert date 30 days after date of publication in the FEDERAL REGISTER*].

**ADDRESSES:** Copies of the Regulatory Impact Review (RIR) and other supporting documents are available via the Federal eRulemaking Portal: <http://www.regulations.gov>, docket NOAA-NMFS-2016-0141, or contact with the Regional Administrator, Barry A.

Thom, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232-1274, or  
*RegionalAdministrator.WCRHMS@noaa.gov*.

**FOR FURTHER INFORMATION CONTACT:** Celia Barroso, NMFS,  
*Celia.Barroso@noaa.gov*, 562-432-1850.

**SUPPLEMENTARY INFORMATION:**

**Background**

On January 18, 2017, NMFS published a proposed rule in the **Federal Register** (82 FR 5508) to revise regulations at 50 CFR part 300, subpart C, to implement IATTC Resolution C-16-08, “Measures for the Conservation and Management of Bluefin Tuna in the Eastern Pacific Ocean.” This resolution, which contains commercial catch limits applicable to 2017 and 2018, was adopted by the IATTC at its resumed 90th meeting in October 2016. The proposed trip limits are not in the resolution and were based on a recommendation from the Pacific Fishery Management Council (Council) at its November 2016 meeting. Additionally, these are the same trip limits established by a final rule implementing the previous IATTC resolution on Pacific bluefin tuna (Resolution C-14-06) which expired on December 31, 2016. The public comment period was open until February 17, 2017.

The final rule is implemented under the authority of the Tuna Conventions Act (16 U.S.C. 951 *et seq.*), which directs the Secretary of Commerce, after approval by the Secretary of State, to promulgate regulations as may be necessary to implement resolutions adopted by the IATTC. This authority has been delegated to NMFS.

The proposed rule contains additional background information, including information on the IATTC, the international obligations of the United States as an IATTC

member, and the need for regulations. Public comments received are addressed below.

The regulatory text in this final rule is unchanged from the regulatory text of the proposed rule.

### **New Regulations**

This final rule establishes catch limits for U.S. commercial vessels that catch Pacific bluefin tuna in the Convention Area (defined as the area bounded by the coast of the Americas, the 50° N. and 50° S. parallels, the 150° W. meridian, and the waters of the eastern Pacific Ocean (EPO)) for 2017 and 2018. In 2017, the catch limit for the entire U.S. fleet is 425 metric tons (mt) with an initial trip limit<sup>1</sup> of 25 mt per vessel. When NMFS anticipates that the total catch for the fleet has reached 375 mt, it will impose a 2-mt trip limit for each vessel that will be in effect until the total catch for 2017 reaches 425 mt. For calendar year 2018, NMFS will announce the catch limit in a **Federal Register** notice. NMFS will calculate the 2018 catch limit to ensure compliance with Resolution C-16-08 (i.e., not to exceed 425 mt in either year). The 2018 catch limit will be calculated as the remainder from the 2017 catch limit (i.e., how much of 425 mt was not caught) added to 175 mt, except as follows: 1) if 175 mt or less is caught in 2017, then the 2018 catch limit is 425 mt; or 2) if greater than 425 mt is caught in 2017, then the catch limit in 2018 will be further reduced by the amount in excess of 425 mt (i.e., the remainder of the 600 mt limit for 2017-2018). In 2018, the fishery will also be subject to an initial 25-mt trip limit until catch is within 50 mt of the 2018 catch limit, after which a 2-mt trip limit will be imposed.

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<sup>1</sup> “Trip limit” is defined in 50 CFR 300.21 as the total allowable amount of a species by weight of fish that may be retained on board, transshipped, or landed during a single fishing trip.

When NMFS determines that the catch limit is expected to be reached in 2017 or 2018 (based on landings receipts, data submitted in logbooks, and other available fishery information), it will prohibit commercial fishing for, or retention of, Pacific bluefin tuna for the remainder of the calendar year. 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 the end of that calendar year. 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.

*Catch Monitoring, Catch Limit Announcements*

NMFS will provide updates on Pacific bluefin tuna catch in the Convention Area to the public via the IATTC listserv and the West Coast Region website:

[http://www.westcoast.fisheries.noaa.gov/fisheries/migratory\\_species/bluefin\\_tuna\\_harvest\\_status.html](http://www.westcoast.fisheries.noaa.gov/fisheries/migratory_species/bluefin_tuna_harvest_status.html). Additionally, NMFS will report preliminary estimates of Pacific bluefin tuna catch more frequently than in monthly intervals if and when commercial catch approaches the limits to help participants in the U.S. commercial fishery plan for the possibility of catch limits being reached.

In 2017, NMFS will publish up to two **Federal Register** notices imposing inseason management measures after the final rule is issued. First, NMFS will publish a

notice when the commercial 2-mt trip limit is imposed (i.e., catch is expected to reach 375 mt). Second, NMFS will publish a notice closing the entire commercial fishery when NMFS determines that the catch limit is expected to be met.

In 2018, NMFS will publish up to three notices in the **Federal Register**. The first notice will announce the 2018 catch limit. A second notice will announce the 2-mt trip limit when NMFS determines that the commercial catch is expected to be within 50 mt of the catch limit. NMFS will publish a third notice in the **Federal Register** when it determines that the catch limit is expected to be reached.

### **Public Comments and Responses**

NMFS received two written comments. Both commenters supported the proposed catch limits, while one of the commenters also suggested a moratorium on commercial fishing for Pacific bluefin tuna in either 2017 or 2018. NMFS notes that a fishing moratorium on commercial fishing for Pacific bluefin tuna is beyond the scope of this rule, which implements an international agreement to establish catch limits; however, in 2016, NMFS responded to a petition that, among other requests, called for a prohibition on fishing for Pacific bluefin tuna under the Magnuson-Stevens Fishery Conservation and Management Act (81 FR 39213, June 16, 2016). Please see NMFS' response here: <https://www.federalregister.gov/documents/2016/06/16/2016-14239/pacific-bluefin-tuna-in-the-eastern-pacific-ocean-response-to-petition-for-rulemaking>.

### **Classification**

The NMFS Assistant Administrator has determined that this rule is consistent with the Tuna Conventions Act and other applicable laws.

This rule was determined to be not significant for purposes of Executive Order 12866.

Although 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. Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection-of-information subject to the requirements of the PRA, unless that collection-of-information displays a currently valid OMB control number.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding the certification. Therefore, the certification published with the proposed rule—that this rule is not expected to have a significant economic impact on a substantial number of small entities—is still valid. As a result, a regulatory flexibility analysis was not required and none was prepared.

## List of Subjects in 50 CFR Part 300

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

Dated: April 18, 2017.

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Alan D. Risenhoover,

Acting Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.

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

### **PART 300—INTERNATIONAL FISHERIES REGULATIONS**

#### **Subpart C—Eastern Pacific Tuna Fisheries**

1. The authority citation for part 300, subpart C, continues to read as follows:

**Authority:** 16 U.S.C. 951 *et seq.*

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

#### **§ 300.24 Prohibitions.**

\* \* \* \* \*

(u) Use a United States commercial fishing vessel in the Convention Area to target, retain on board, transship, or land Pacific bluefin tuna in contravention of § 300.25(g)(3) through (5).

\* \* \* \* \*

3. In § 300.25, revise paragraph (g) to read as follows:

**§ 300.25 Eastern Pacific fisheries management.**

\* \* \* \* \*

(g) *Pacific bluefin tuna (Thunnus orientalis) commercial catch limits in the eastern Pacific Ocean for 2017-2018.* The following is applicable to the U.S. commercial fishery for Pacific bluefin tuna in the Convention Area in the years 2017 and 2018.

(1) For the calendar year 2017, all commercial fishing vessels of the United States combined may capture, retain, transship, or land no more than 425 metric tons in the Convention Area.

(2) In 2018, NMFS will publish a notice in the **Federal Register** announcing the 2018 catch limit. For the calendar year 2018, all commercial fishing vessels of the United States combined may capture, retain on board, transship, or land no more than the 2018 annual catch limit. The 2018 catch limit is calculated by adding any amount of the 425 metric ton catch limit that was not caught in 2017, as determined by NMFS, to 175 metric tons, except as follows:

(i) If 175 metric tons or less are caught in 2017, as determined by NMFS, then the 2018 catch limit is 425 metric tons; or,

(ii) If greater than 425 metric tons are caught in 2017, as determined by NMFS, then the 2018 catch limit is calculated by subtracting the amount caught in 2017 from 600 metric tons.

(3) In 2017 and 2018, a 25 metric ton trip limit will be in effect until NMFS anticipates that catch will be within 50 metric tons of the catch limit, after which a 2 metric ton trip limit will be in effect upon publication of a notice in the **Federal Register** by NMFS.

(4) After NMFS determines that the catch limits under paragraphs (g)(1) and (g)(2) of this section are expected to be reached by a future date, NMFS will publish a fishing closure notice in the **Federal Register** announcing the effective date that targeting, retaining on board, transshipping, or landing Pacific bluefin tuna in the Convention Area shall be prohibited as described in paragraph (g)(5) of this section.

(5) Beginning on the date announced in the fishing closure notice published under paragraph (g)(4) 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 Pacific bluefin tuna is landed within 14 days after the effective date published in the fishing closure notice.

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