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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 300**

**[Docket No. 170925942-8250-02]**

**RIN 0648-BH30**

**International Fisheries; Pacific Tuna Fisheries; Revised 2018 Commercial Fishing Restrictions for Pacific Bluefin Tuna in the Eastern Pacific Ocean; 2018 Catch Limit**

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

**ACTION:** Final rule and notice of availability of a final supplemental environmental assessment (EA).

**SUMMARY:** The National Marine Fisheries Service is issuing regulations under the Tuna Conventions Act to revise trip limits on the commercial catch of Pacific bluefin tuna applicable to 2018. U.S. commercial fishing vessels are subject to a biennial limit for 2017 and 2018, and the catch limit in 2018 is 114 metric tons (mt). To avoid exceeding the biennial limit, NMFS is imposing a 1-mt trip limit—except for large-mesh drift gillnet vessels, which would be subject to a 2-mt trip limit—throughout 2018 or until the 2018 catch limit is reached and the fishery is closed. This action is necessary for the United States to satisfy its obligations as a member of the Inter-American Tropical Tuna Commission. This document also announces the availability of a final supplemental

Environmental Assessment that analyzed the environmental impacts of imposing a reduced trip limit.

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

**ADDRESSES:** Copies of the supplemental Environmental Assessment and other supporting documents are available via the Federal eRulemaking Portal: <http://www.regulations.gov>, docket NOAA-NMFS-2017-0128, or contact the Highly Migratory Species Branch Chief, Heidi Taylor, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802, or *RegionalAdministrator.WCRHMS@noaa.gov*.

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

**SUPPLEMENTARY INFORMATION:**

**Background**

On December 7, 2017, NMFS published a proposed rule in the *Federal Register* (82 FR 57699) to revise regulations at 50 CFR part 300, subpart C, for the commercial catch of Pacific bluefin tuna applicable to U.S. commercial vessels in 2018. The public comment period was open until January 8, 2018.

This 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 Inter-American Tropical Tuna Commission (IATTC). This authority has been delegated to the National Marine Fisheries Service (NMFS).

The proposed rule contains additional background information, including information on the IATTC, the international obligations of the United States as a member of the IATTC, 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 for 2018**

This final rule revises the trip 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 2018. A 1-metric ton (mt) trip limit applicable to all U.S. commercial vessels except large-mesh drift gillnet vessels and a 2-mt trip limit applicable to large-mesh drift gillnet vessels will be in effect in 2018 or until the fishery is closed. When the 2018 catch limit of 114 mt is reached, the fishery shall be closed through the end of the 2018 calendar year.

When NMFS determines that the catch limit is expected to be reached in 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 of 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; however, 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*

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 monthly intervals if and when commercial catch approaches the limit to allow participants in the U.S. commercial fishery plan for the possibility of a fishery closure.

#### **Public Comments and Responses**

NMFS received five written comments during the 30-day public comment period on the proposed rule that closed on January 8, 2018. Two comments expressed support for the measures. Another two comments urged a 5-mt trip limit when PBF is landed with yellowfin tuna (YFT) and the majority of the landing consists of YFT. These commenters asserted that more than 1 mt of PBF is often caught incidentally in individual purse seine sets that are targeting YFT. However, NMFS does not have data that confirms the assertion that purse seine vessels harvest between 1 and 5 mt of PBF in sets that are targeting YFT. NMFS will attempt to obtain this data and consider this request in the future management of PBF, if appropriate. Furthermore, these commenters also suggested the rule would have a significant economic impact for purposes of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, contrary to the agency's conclusion.

However, available data used in the analysis do not support this position. As stated in the Classification section of the proposed rule, “the value of Pacific bluefin tuna in coastal pelagic purse seine fishery [including as incidental catch on trips targeting yellowfin] from 2006-2015...is negligible relative to the fleet’s annual revenue resulting from other species.” Additionally, this rule will apply only to 2018, so the impacts from this rule for affected entities will be limited to one year. Managers will continue to assess the relative importance of the PBF fishery to the fleet’s portfolio, along with conservation and other management priorities, in future decision-making.

A fifth commenter suggested a 2-mt trip limit for all gear-types and proposed a phased approach in which, as the annual limit is neared, the trip limit gets reduced to 1 mt and then 0.5 mt. However, because processors in California are not required to submit landing receipts until 15 days after a landing, depending on the date of the landing, NMFS may not have adequate time to reduce the trip limits on time if the catch rate is increased to 2-mt per trip. Furthermore, the proposed trip limits are designed to be large enough to avoid regulatory discards throughout the year, but a 1-mt trip limit would increase the likelihood of regulatory discards for drift gillnet vessels and 0.5-mt trip limit would likely result in regulatory discards for other gear-types as well.

### **Classification**

After consulting with the Department of State and the United States Coast Guard, 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, for purposes of the Regulatory Flexibility Act, 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. NMFS received two comments on the certification and they are addressed above under the Public Comments and Responses section. No information received during the public comment period changes NMFS' analysis. Therefore, the initial 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—remains unchanged. 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: March 22, 2018.

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

#### **§ 300.25 Fisheries management.**

\* \* \* \* \*

(g) \* \* \*

(3) In 2018, a 1 metric ton trip limit will be in effect, except for vessels using large-mesh (14 inch or greater stretched mesh) drift gillnet gear. In 2018, a 2 metric ton trip limit will be in effect for vessels using large-mesh drift gillnet gear.

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