

830, Room 7201, 400 7th St., SW., Washington, DC 20590. Written applications must be signed by the submitting party and accompanied by a check in the amount of \$16,460.00 made payable to the "Maritime Administration."

(b) *Required transport and launch project information.* (1) Applications must include a general description of the launch project, including:

(i) A description of the jacket structure with launching weight, center of gravity, major dimensions, and a general arrangement plan,

(ii) The projected loading date and site,

(iii) The projected launching date and site, and

(iv) The launch barges considered, their technical merits and availability studies.

(2) Characteristics of the desired Launch Barge, including, at a minimum, the following information:

(i) Name of the Launch Barge,

(ii) Registered owner of the barge,

(iii) Physical dimensions, deadweight capacity in long tons, ballasting capacities and arrangements, and launch rail capacity and arrangements,

(iv) Hull girder stress study, with supporting documentation, for the proposed launching scenario, and with American Bureau of Shipping (ABS) or United States Coast Guard (USCG) approval,

(v) Hull girder stress study, with supporting documentation, for the proposed transit scenario, and with ABS or USCG approval,

(vi) Vessel intact stability study, with supporting documentation, for the transit condition with a 100-year storm, and with USCG approval, and

(vii) Vessel intact stability study, with supporting documentation, for the launching operation in calm sea condition, and with USCG approval.

(3) Date and place of construction and (if applicable) rebuilding. (If applicant is unable to document the origin of the vessel, foreign construction will be assumed).

(4) Name, address, and telephone number of the vessel owner.

(5) A statement that the applicant represents that the information in this paragraph (b) is true to the best of the applicant's knowledge.

(c) MARAD may require additional information from the applicant as part of the review process.

#### **§ 389.4 Review; Issuance of determinations.**

(a) *Initial process; Completeness.* MARAD will review each application for completeness as received.

Applications will not be processed until deemed complete by MARAD. We will notify the applicant if additional information is necessary. MARAD encourages the submission of applications well in advance of projects dates in order to allow sufficient time for review under this part. All applications will be available for public inspection electronically in the Department of Transportation Docket at <http://dot.dms.gov>.

(b) *Technical reviews.* (1) MARAD technical personnel will review the technical data stated in § 389.3. The data must be complete and current. The submitted data will not be returned to the applicant and will be retained by MARAD on file for a period of time. The review will not substitute the review and approval by either the ABS or USCG. The review will not verify the accuracy or correctness of the applicant's engineering proposal. The review only pertains to the general reasonableness and soundness of the technical approach.

(2) If a previously reviewed and approved Launch Barge is to be used for carrying a jacket that in all aspects is similar to the last loading and launching operation, the applicant may state so in writing, and submit only the Jacket information for verification and no in-depth vessel stability or hull girder stress studies will be required.

(c) *Administrative review; Public comment.* (1) Notice of applications under review will be published in the **Federal Register**. Interested parties will have thirty (30) days from the date of publication to submit information regarding the availability of eligible coastwise-qualified vessels. Such information should include the technical data outlined in § 389.3(b)(2).

(2) If MARAD does not receive information within the thirty (30) day comment period indicating that a suitable coastwise-qualified vessel is available for the transportation of the platform jacket, or if MARAD receives such information, but determines that the vessel is not suitable or is not reasonably available for the transportation, then MARAD will issue a determination indicating the non-availability of a coastwise-qualified barge.

(3) Determinations will be issued within ninety (90) days from the date the initial notice of application is published in the **Federal Register**.

(4) Upon issuance of a determination, MARAD recommends that applicants contact the Bureau of Customs and Border Protection to ensure that all other requirements of the coastwise laws are satisfied.

(5) Determinations of availability expire one hundred twenty (120) days after the date of issuance, unless extended for good cause, as determined by the Maritime Administrator.

Dated: August 9, 2005.

By order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary.*

[FR Doc. 05-16096 Filed 8-12-05; 8:45 am]

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## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

#### **50 CFR Part 300**

[Docket No. 060719189-5189-01; I.D. 071405C]

**RIN 0648-AT33**

### **International Fisheries; Pacific Tuna Fisheries; Restrictions for 2005 and 2006 Purse Seine and Longline Fisheries in the Eastern Tropical Pacific Ocean**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes this rule to implement the 2005 and 2006 management measures to prevent overfishing of the eastern tropical Pacific Ocean (ETP) tuna stocks, consistent with recommendations by the Inter-American Tropical Tuna Commission (IATTC) that have been approved by the Department of State (DOS) under the Tuna Conventions Act. The purse seine fishery for tuna in the Convention Area would be closed for a 6-week period beginning November 20, 2005, through December 31, 2005, and beginning November 20, 2006, through December 31, 2006. A closure later in the fishing year minimizes the disruption of planned fishery operations, which are not traditionally active during the winter, while meeting the conservation goals for tunas in the ETP. This proposed rule would also close the U.S. longline fishery in the IATTC Convention Area in 2005 and 2006 if the catch reaches the estimated level of 2001. For 2001, the estimated catch of longline caught bigeye tuna was 150 metric tons (mt). This action is taken to limit fishing mortality caused by purse seine fishing and longline fishing in the Convention Area and

contribute to long-term conservation of the tuna stocks at levels that support healthy fisheries.

**DATES:** Comments must be received by September 14, 2005.

**ADDRESSES:** Comments on the proposed rule or the initial regulatory flexibility analysis (IRFA) should be sent to Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802 or by email to the Southwest Region at [0648-AT33@noaa.gov](mailto:0648-AT33@noaa.gov). Comments may also be submitted by email through the Federal e-Rulemaking portal: <http://www.regulations.gov>. Include in the subject line of the e-mail comment the following document identifier: 0648-AT33. Comments also may be submitted by fax to (562) 980-4047. Copies of the initial regulatory impact review/IRFA may be obtained from the Southwest Regional Administrator, Southwest Region, NMFS, 501 W. Ocean Blvd., Long Beach, CA 90902-4213.

**FOR FURTHER INFORMATION CONTACT:** J. Allison Routt, Sustainable Fisheries Division, Southwest Region, NMFS, (562) 980-4030.

#### **SUPPLEMENTARY INFORMATION:**

##### **Electronic Access**

This proposed rule is also accessible via the Internet at the Office of the Federal Register's website at <http://www.gpoaccess.gov/fr/index.html>.

The United States is a member of the IATTC, which was established under the Convention for the Establishment of an Inter-American Tropical Tuna Commission signed in 1949 (Convention). The IATTC was established to provide an international arrangement to ensure the effective international conservation and management of highly migratory species of fish in the Convention Area. For the purposes of this closure, the Convention Area is defined to include the waters of the eastern tropical Pacific Ocean bounded by the coast of the Americas, the 40° N. and 40° S. parallels, and the 150° W. meridian. The IATTC has maintained a scientific research and fishery monitoring program for many years and annually assesses the status of stocks of tuna and the fisheries to determine appropriate harvest limits or other measures to prevent overexploitation of the stocks and promote viable fisheries.

Under the Tuna Conventions Act, 16 U.S.C. 951-961 and 971 *et seq.*, NMFS must publish proposed rules to carry out IATTC recommendations that have been approved by DOS. The Southwest Regional Administrator, also is required

by rules at 50 CFR 300.29(b)(3) to issue a direct notice to the owners or agents of all U.S. purse seine vessels that operate in the ETP of actions recommended by the IATTC and approved by the DOS.

At an extraordinary meeting in October 2003, the IATTC adopted a resolution addressing yellowfin, bigeye, and skipjack tuna conservation for 2003 and 2004. The 2003 resolution called upon the Parties to the Convention and cooperating non-Parties to prohibit tuna purse seine fishing in a portion of the IATTC Convention Area for the month of December 2003 and for a 6-week period beginning August 1, 2004. NMFS implemented the 2003 closure by separate action in 2003.

At the June 2004 IATTC meeting, the October 2003 resolution was revised and a new resolution was adopted by the Commission. The June 2004 resolution is a multi-annual program on the conservation of tuna in the eastern Pacific Ocean for 2004, 2005, and 2006. This resolution offers a choice for closing the purse seine fishery, either a 6-week closure beginning August 1, of each year, or a 6-week closure beginning November 20, of each year. The resolution of June 2004 incorporated flexibility for nations to administer the purse seine closure in accordance with national legislation and national sovereignty. The selected measures should provide protection against overfishing of the stocks in a manner that is fair, equitable, and readily enforceable.

Comments were received during the 2004 proposed rule comment period with respect to the timing of the closure. Most comments received noted that a closure later in the fishing year gave better public notice, minimized the disruption of planned fishery operations, and was in keeping with the timing of closures for this purse seine fishery and the ability for the industry to prepare for and plan the closure while meeting the conservation goals for tunas in the ETP. In response to these comments, the U.S. chose the period beginning on November 20, 2004 for the 2004 closure of the purse seine fishery.

The June 2004 resolution also calls upon each Party and cooperating non-Party to take measures necessary to ensure that each nation's longline catch of bigeye tuna in the ETP during 2005 and 2006 will not exceed the catch level of 2001. The U.S. catch level of longline caught bigeye tuna for 2001 is estimated to be 150 metric tons in the Convention Area. This limitation is intended to prevent overfishing of the stock, which has declined in recent years while longline fishing effort has greatly

expanded. In 2004, the U.S. catch level of longline-caught bigeye in the Convention Area of 150 mt was reached. On December 10, 2004, NMFS closed the U.S. longline fishery for bigeye tuna in the Convention Area for the remainder of 2004.

The IATTC action at the extraordinary meeting in October 2003 and the June 2004 resolution came after considering a variety of measures, including the use of quotas and partial fishery closures as in 1999 through 2002 and the full month purse seine closure used in 2003.

The proposed 2005 and 2006 time/area closure is based on 2004 assessments of the condition of the tuna stocks in the ETP and historic catch and effort data for different portions of the ETP, as well as records relating to implementation of quotas and closures in prior years. The closure is targeted to areas with high catches of bigeye tuna in the purse seine fishery and is believed by the IATTC scientific staff to be sufficient to reduce the risk of overfishing of that stock, especially when considered in combination with the measures implemented in December 2004. The IATTC met in June 2005 and reviewed tuna stock assessments and fishery information and considered that new information in evaluating the need for management measures for 2005 and future years. The IATTC's June 2004 resolution remains in force, and the DOS has approved the resolution, including the management measures described above.

The Regional Administrator, Southwest Region, sent a notice May 31, 2005, to owners and agents of U.S. fishing vessels of the actions adopted by the IATTC and approved by the DOS.

##### **Classification**

This action is proposed under the regulations for the Pacific Tuna Fisheries found at 50 CFR 300.25.

On December 8, 1999, NMFS prepared a biological opinion (BO) assessing the impacts of the fisheries as they would operate under the regulations (65 FR 47, January 3, 2000) implementing the International Dolphin Conservation Program Act (IDCPA). For the final rule (69 FR 176, September 13, 2004) to implement the IDCPA, NMFS amended the incidental take statement included in the December 8, 1999 BO. NMFS concluded that the fishing activities conducted under those regulations are not likely to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS or result in the destruction or adverse modification of critical habitat. This proposed rule will not result in any changes in the fisheries

such that there would be impacts beyond those considered in that BO. The IATTC has also taken action to reduce sea turtle injury and mortality from interactions in the purse seine fishery so impacts of the fisheries should be lower than in the past. Because this closure does not alter the scope of the fishery management regime analyzed in the IDCPA rule, or the scope of the impacts considered in that consultation, NMFS is relying on that analysis to conclude that this rule will not likely adversely effect any endangered or threatened species under the jurisdiction of NMFS or result in the destruction or adverse modification of critical habitat. Therefore, NMFS has determined that additional consultation is not required for this action.

The U.S. ETP tuna purse seine fisheries occasionally interact with a variety of species of dolphin, and dolphin takes are authorized and managed under the IDCPA. These conservation management measures in this proposed rule do not affect the administration of that program, which is consistent with section 303(a)(2) of the Marine Mammal Protection Act.

NMFS prepared an EA for the final rule (70 FR 69, April 12, 2005), to implement resolutions adopted by the IATTC and by the Parties to the Agreement on the International Dolphin Conservation Program. The Assistant Administrator for Fisheries concluded that there would be no significant impact on the human environment as a result of that final rule. The impacts of the fisheries as they will operate under the 6-week closures in 2005 and 2006 are within the range of impacts of the alternatives considered in that EA, and are not expected to pose different impacts to the human environment. Therefore, this action does not require further analysis under NEPA.

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

An IRFA was prepared that describes the economic impact that this proposed rule, if adopted, would have on small entities. A copy of the IRFA for this proposed rule is available for public comment (see **ADDRESSES**). A summary of the analysis follows.

This action would prohibit the use of purse seine gear to harvest tuna in the Convention Area for a 6-week period beginning November 20, 2005, through December 31, 2005, and beginning November 20, 2006, through December 31, 2006, and limit the annual 2005 and 2006 U.S. catch of bigeye tuna caught by longline in the ETP to the level reached in 2001 (150 metric tons).

The proposed purse seine closure would apply to the U.S. tuna purse seine fleet, which consists of 10-20 small vessels (carrying capacity below 400 short tons (363 metric tons)) and 4-6 large vessels (carrying capacity 400 short tons (363 metric tons) or greater). The large vessels usually fish outside U.S. waters and deliver their catch to foreign ports or transship to processors outside the mainland United States. The large vessels are categorized as large business entities (revenues in excess of \$3.5 million per year). A large purse seine vessel typically generates 4,000 to 5,000 metric tons of tuna valued at between \$4 and \$5 million per year. The closure should not significantly affect their operations as they are capable of fishing in other areas that would remain open. The small vessels are categorized as small business entities (revenues below \$3.5 million per year). They fish out of California in the U.S. exclusive economic zone (EEZ) most of the year for small pelagic fish (Pacific sardine, Pacific mackerel) and for market squid in summer. Some small vessels harvest tuna seasonally when they are available. The proposed time/area closure will have no effect on small vessels because they do not have the endurance and markets to fish that far south.

For 2004, the U.S. chose to close the purse seine fishery beginning November 20, 2004, for the remainder of 2004. In 2004 the U.S. catch level of longline caught bigeye tuna in the Convention Area of 150 metric tons was reached. On December 10, 2004, NMFS closed the U.S. longline fishery for bigeye tuna in the Convention Area for the remainder of 2004.

The portion of the U.S. longline fleet (approximately 18 vessels) operating out of California has historically caught bigeye tuna in the swordfish fishery (now closed), so they should not be affected by the longline fishery limit. Further, the prohibition of swordfish targeted by this fleet has encouraged many of the vessel owners to relocate their activity to Hawaii; therefore, the likelihood that they will fish in the ETP for bigeye tuna is reduced. The portion of the fleet operating out of Hawaii has generally operated outside the boundaries of the IATTC Convention Area, and has not made significant catches in those waters. In 2004, the Hawaii based longline fishery harvested the 150 metric ton limit of bigeye tuna in the Convention Area. With the reopening of the swordfish fishery for that fleet, effort directed at bigeye tuna (which has mainly occurred west of the Convention Area) should decrease. A closure should not significantly affect

their operations as they are capable of fishing in other areas that would remain open, outside the boundaries of the IATTC Convention Area.

NMFS is not aware of any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule. This rule does not impose reporting or recordkeeping requirements, and the compliance requirements for the closure areas are as described at the outset of this summary.

NMFS considered three alternatives for this proposed rule:

The 2004 IATTC Tuna Conservation Resolution allows nations to opt for a six-week summer closure of the purse seine fishery from August 1 through September 20 of each of the years 2004, 2005, and 2006, rather than the closure from November 21 through December 31. Based on public comments on the proposed rule in 2004, NMFS chose to pursue six-week closures that begin in November 2005 and November 2006. The August 1 September 20 closure alternative would have had a greater economic impact on small entities than the November 20 December 31 closure. In particular, the U.S. purse seine fleet prefers a closure later in the fishing year because the winter weather is not conducive to fishing. Also, throughout the history of this fishery shipyards have been prepared to accept vessels for scheduled repairs during the winter months. The fishery closure later in the year allows the industry to plan for and mitigate economic impacts of a closure while still providing the conservation benefits to the tuna resources in the ETP.

NMFS also considered the alternative of not implementing the 2004 IATTC Tuna Conservation Resolution. This alternative would have imposed no economic costs on small entities. However, failure to implement measures that have been agreed on pursuant to this Convention would violate the United States' obligations under the Convention, and would violate the Tuna Conventions Act.

**Authority:** 16 U.S.C. 951-961 and 971 *et seq.*

Dated: August 9, 2005.

**James W. Balsinger,**

*Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

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