

*G. National Technology Transfer and Advancement Act of 1995 (NTTAA)*

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Hydrocarbons, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: March 21, 2001.

**Michael Schulz,**

*Acting Regional Administrator, Region IX.*  
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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 300**

[Docket No. 010111010-1010-01; I.D. 113000B]

**RIN 0648-AO42**

**International Fisheries Regulations; Pacific Tuna Fisheries**

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

**ACTION:** Proposed rule; implementation of Inter-American Tropical Tuna Commission (IATTC) recommendations to reduce bycatch in the purse seine fishery and to establish a regional vessel register.

**SUMMARY:** NMFS proposes fishery conservation and management measures for the purse seine fishery in the eastern Pacific Ocean (EPO) to reduce bycatch of juvenile tuna, non-target fish species, and non-fish species. The measures were recommended by the IATTC and

approved by the Department of State (DOS), in accordance with the Tuna Conventions Act of 1950. These proposed regulations are intended to ensure that U.S. fisheries are conducted according to the IATTC's recommendations, as approved by the DOS. In addition, the proposed rule would establish reporting requirements for U.S. vessels fishing for tuna in the EPO so that NMFS can provide information to the IATTC for a regional vessel register. This will promote more consistent compliance across all member nations.

**DATES:** Comments must be submitted by April 30, 2001. A public hearing will be held on this action in San Diego, CA and announced by NMFS in a separate document.

**ADDRESSES:** Comments on the proposed rule should be sent to Dr. Rebecca Lent, Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802. Send comments regarding the reporting burden estimate or any other aspect of the collection-of-information requirements in this proposed rule to the NMFS address and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 00503 (Attn: NOAA Desk Officer). Copies of the Environmental Assessment/Initial Regulatory Flexibility Analysis (IRFA) are available from Svein Fougner at the NMFS address.

**FOR FURTHER INFORMATION CONTACT:** Svein Fougner, Sustainable Fisheries Division, Southwest Region, NMFS, 562-980-4030.

**SUPPLEMENTARY INFORMATION:** 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. The IATTC was established to provide an international arrangement to ensure conservation and management of yellowfin and other fish species taken by tuna fishing vessels in the EPO (also known as the Convention Area), which is generally described as the waters bounded by the coast of the Americas, 40° N. lat., 150° W. long., and 40° S. lat. The IATTC has maintained a scientific research and fishery monitoring program for many years and annually assesses the status of tuna stocks and conditions in the fisheries to determine appropriate harvest levels or other measures to prevent overexploitation and promote maximum sustainable yield. The IATTC also has recently devoted increasing time and resources to assessing the need for and

recommending conservation and management measures to deal with problems such as bycatch in the tuna fisheries.

At its annual meeting in June 2000, the IATTC adopted a resolution that recommended a number of measures to address concerns about bycatch in the purse seine fishery. First, the IATTC agreed to a 1-year pilot project in which all purse seine vessels must retain on board and land all bigeye, skipjack, and yellowfin tuna caught, except fish considered unfit for human consumption for reasons other than size, in order to provide fishermen with a disincentive to capture small tuna. That is, requiring full retention would fill the vessel earlier such that total fishing mortality from a full vessel would represent fewer dead fish than if discard of dead juvenile fish had allowed further fishing on a trip. A single exception would be the final set of a trip, when there might be insufficient well space to accommodate all fish caught in the net.

In addition, the IATTC recommendation calls for requiring purse seine fishers to promptly release all sea turtles, sharks, billfishes, rays, mahimahi, and other non-target species. The recommendation also specifies measures to handle and release encircled or entangled sea turtles. These include stationing a speedboat close to the net whenever a sea turtle is sighted in the net in order to assist in the release of the turtle; ceasing net roll if a turtle is entangled in the net, and not resuming net roll until the turtle has been disentangled and released; and if necessary, resuscitating before releasing a turtle that is brought aboard the vessel.

The IATTC staff would evaluate the effects and effectiveness of the pilot program and provide advice as to whether the program should be extended, modified, or replaced by alternative measures. DOS approved this recommendation.

At its June meeting, the IATTC also adopted a resolution to establish a regional vessel register. The vessel register would include all commercial vessels fishing for tuna in the Convention Area. Thus, purse seine, troll, harpoon, drift gillnet, and longline vessels would be included on this register. Charter and commercial passenger fishing vessels would not be included on the register. The register is intended to promote better and more consistent national monitoring and enforcement of IATTC recommendations and thus promote compliance with those recommendations. It also would provide a sound basis for identifying vessels that

might be affected by different management actions and for evaluating the manner in which they would be impacted. The DOS approved this recommendation as well.

This proposed rule would implement the IATTC recommendations by establishing bycatch reduction measures and reporting requirements consistent with those recommendations.

Duplication with other reporting requirements would be avoided to the extent possible. It is acknowledged that existing information collections provide most of the data required for the vessel register. For example, Coast Guard Documentation Records for vessels greater than 5 tons carrying capacity provide vessel name, tonnage, and other vessel characteristics. Many of these vessels also have licenses issued under the High Seas Fishing Compliance Act (HSFCA), and the applications for those permits provide much of the information (e.g., previous vessel names, vessel characteristics) that NMFS must provide to the IATTC. A standard vessel register form has been provided by the IATTC and will be used to collect the needed information. NMFS proposes to identify all owners of vessels who have fished for species under IATTC purview in the EPO; to review existing data sources and, to the extent information is available from those sources, fill in the relevant information on the vessel register form; and to require that vessel owners confirm the filled-in information and provide information not already available. Thus, persons who have already provided the needed information under existing requirements (e.g., HSFCA) would not be required to provide the same information to NMFS a second time.

#### Classification

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

NMFS prepared an Initial Regulatory Flexibility Analysis (IRFA) that describes the economic impacts that the proposed rule, if adopted, would have on small entities. A copy of this analysis is available from NMFS (see **ADDRESSES**). A summary of the analysis follows.

For the 2001 fishing year, the proposed action would require full retention of all tuna taken in a set and brought on board a fishing vessel, except on the last set when there might not be sufficient well space to accommodate all tuna in a set; require the prompt release of non-target species; and require the use of special procedures to release sea turtles with a

minimum of injury, and reduce overall mortality. These measures should not have significant economic impacts. Although requiring fishermen to retain all tuna caught may force the fishermen to retain fish with little market value (due to small size), the requirement should result in faster filling of the vessel and thus less total cost for a fishing trip. Furthermore, the requirement would reduce the time normally taken to sort the tuna catch by size to discard small fish. Moreover, in the long term, any reduction in discards and associated mortality should assist in maintaining the productivity of the stocks, which would benefit the fisheries through higher catches in the future. The requirement to promptly release non-target species essentially codifies a current practice and therefore would not generate additional cost to the fishermen. The requirement to release non-target species would not prevent retention of occasional non-target species for consumption on the vessel. Finally, the measures to handle sea turtles with special care are already standard practice and the measure relating to resuscitation of comatose sea turtles is already codified in the regulations at 50 CFR 223.206(d)(1)(B)(i) that implement the International Dolphin Conservation Program Act (IDCPA). No added costs to fishermen will be generated.

All of these measures would apply to U.S. purse seine vessels fishing for tuna in the EPO. From 1993-1997, the maximum number of U.S. tuna vessels active in the EPO was 35 vessels. Of these, 27 small vessels (less than 363 mt carrying capacity) are considered to be small business entities. None of the proposed measures would have any disproportionate economic impact on these small entities.

With respect to information collection, the proposed rule would require reporting certain information about vessels if that information is not already being reported to Federal or state agencies under other programs. It is estimated that about 1,290 vessels would be involved. However, most of the information required for the IATTC register can be obtained from other sources, and the added reporting burden is estimated to average about 565 hours per year for 3 years.

For these reasons, NMFS concludes that the proposed measures would not cause a 5-percent decrease in gross revenues or a 5-percent or greater increase in costs of production or compliance; cause compliance costs as a percent of sales to be 10 percent or higher for small entities than for large entities; or cause any increase in capital

costs of compliance for any small entities. Nor would they result in 2 percent or more of the small entities affected being forced to cease business operations.

NMFS conducted an Endangered Species Act section 7 consultation on the U.S. purse seine fishery as it would operate under the terms of the IDCPA. The proposed rule would be more restrictive than the IDCPA regulations and, as described in the environmental assessment for this proposed rule, would further decrease the risk to any listed species. The proposed action is within the scope of that earlier consultation, and no further consultations are necessary.

This action is consistent with the Marine Mammal Protection Act, as amended by the International Dolphin Conservation Program Act.

This proposed rule contains a collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA). These requirements have been submitted to OMB for approval. The owners of approximately 1,290 vessels would be required to provide at least some information, but very few will be required to provide substantial information because most of the information needed for the regional vessel register is available from existing sources. It is estimated that the average response time for this collection will be 65-80 minutes. Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information would have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS (see **ADDRESSES**) and to OMB (Attn: NOAA Desk Officer).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall a person be subject to a 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.

#### List of Subjects in 50 CFR Part 300

Fisheries, High seas fishing, International agreements, Permits, Reporting and recordkeeping requirements.

Dated: March 27, 2001.

**William T. Hogarth,**

*Acting Assistant Administrator for Fisheries,  
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**

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

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

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

2. In § 300.22, the heading is revised, the existing paragraph is designated as paragraph (a), and a new paragraph (b) is added to read as follows:

#### **§ 300.22 Recordkeeping and reporting.**

(b) The owner of any fishing vessel that uses purse seine, longline, drift gillnet, harpoon, or troll fishing gear to harvest tuna in the Convention Area for sale, or a person authorized in writing to serve as agent for the owner, must provide such information about the vessel and its characteristics as the Regional Administrator requests to conform with IATTC actions to establish a regional register of all vessels used to fish for species under IATTC purview in the Convention Area. This initially includes but is not limited to vessel name and registration number; a photograph of the vessel with the registration number showing; vessel length, beam and moulded depth; gross tonnage and hold capacity in cubic meters and tonnage; engine horsepower; date and place where built; and type of fishing method or methods used.

3. Section 300.28 is amended by adding paragraphs (h) through (l) as follows:

#### **§ 300.28 Prohibitions.**

(h) Discard any bigeye, skipjack, or yellowfin tuna off a purse seine vessel in the Convention Area, except fish unfit for human consumption due to spoilage, and except on the last set of the trip if the well capacity is filled;

(i) When using purse seine gear to fish for tuna in the Convention Area, fail to release any non-tuna species as soon as practicable after being identified;

(j) Land any non-tuna fish species taken in a purse seine set in the Convention Area;

(k) Fail to use the sea turtle handling and release and turtle resuscitation procedures in § 300.29(e); or

(l) Fail to report information when requested by the Regional Administrator under § 300.21.

4. Section 300.29 is amended by adding a new paragraph (e) to read as follows:

#### **§ 300.29 Eastern Pacific fisheries management.**

\* \* \* \* \*

(e) *Bycatch reduction measures.* (1) Through December 31, 2001, all purse seine vessels must retain on board and land all bigeye, skipjack, and yellowfin tuna brought on board the vessel after a set, except fish deemed unfit for human consumption for other than reason of size. This requirement shall not apply to the last set of a trip if the available well capacity is insufficient to accommodate the entire fish catch brought on board.

(2) All purse seine vessels must release as promptly as practicable all sharks, billfishes, rays, mahimahi (dorado), and other non-tuna fish species, except those being retained for consumption aboard the vessel.

(3) All purse seine vessels must apply special sea turtle handling and release procedures, as follows:

(i) Whenever a sea turtle is sighted in the net, a speedboat shall be stationed close to the point where the net is lifted out of the water to assist in release of the turtle;

(ii) If a turtle is entangled in the net, net roll shall stop as soon as the turtle comes out of the water and shall not resume until the turtle has been disentangled and released;

(iii) If, in spite of the measures taken under paragraphs (e)(3)(i) and (ii) of this section, a turtle is accidentally brought aboard the vessel, and the turtle is alive and active, the vessel operator shall disengage the vessel and shall release the turtle as quickly as practicable, head first;

(iv) If a turtle brought on board under paragraph (e)(3)(iii) of this section is alive but comatose or inactive, the resuscitation procedures described in § 223.206(d)(1)(B)(i) of this title shall be used before release of the turtle.

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## **DEPARTMENT OF COMMERCE**

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

#### **50 CFR Part 635**

[Docket No. 010319074–1074–01; I.D. 022201B]

RIN 0648–AP13

### **Atlantic Highly Migratory Species; Pelagic Longline Management**

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

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

**SUMMARY:** NMFS proposes to extend the closure for pelagic longline fishing within the Charleston Bump area through May 31, 2001. The intent of the proposed action, consistent with the final rule implementing the closure, is to partially recover environmental benefits in terms of bycatch reduction that were likely lost when the closure was delayed from February 1, 2001, until March 1, 2001. This proposed action would not affect the closure dates for this area in future years.

**DATES:** Comments must be received at the appropriate address or fax number (see **ADDRESSES**) no later than 5 p.m., eastern standard time, on April 9, 2001. A public hearing on this proposed rule will be held on Tuesday, April 3, 2001, from 7 to 10 pm in Silver Spring, MD. **ADDRESSES:** Written comments on the proposed rule should be submitted to Christopher Rogers, Acting Chief, Highly Migratory Species (HMS) Management Division (SF/1), Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. Comments also may be sent via facsimile (fax) to 301–713–1917. Comments will not be accepted if submitted via e-mail or Internet.

The location of the public hearing is: NOAA Science Center, 1301 East West Highway, Silver Spring, MD, 20910.

For copies of the draft Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA), contact Karyl Brewster-Geisz at 301–713–2347 or write to Christopher Rogers.

**FOR FURTHER INFORMATION CONTACT:** Karyl Brewster-Geisz at 301–713–2347, fax 301–713–1917, e-mail karyl.brewster-geisz@noaa.gov.

**SUPPLEMENTARY INFORMATION:** The Atlantic swordfish and tuna fisheries are managed under the authority of the Magnuson-Stevens Fishery