

forth in section 4(a)(1) of the Act and regulations implementing the listing provisions of the Act (50 CFR part 424).

We will continue to monitor the status of the species, and to accept additional information and comments from all concerned governmental agencies, the scientific community, industry, or any other interested party concerning this finding.

#### References Cited

A complete list of all references cited in this finding is available on request from the Carlsbad Fish and Wildlife Office (see **ADDRESSES** above).

#### Author

The primary author of this finding is the staff of the Carlsbad Fish and Wildlife Office.

**Authority:** The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 28, 2004.

#### Marshall Jones,

*Acting Director, U.S. Fish and Wildlife Service.*

[FR Doc. 04-12659 Filed 6-3-04; 8:45 am]

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 300 and 600

[Docket No. 040423129-4165-02; I.D. 041404D]

RIN 0648-AQ22

#### International Fisheries Regulations; Pacific Tuna Fisheries

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues regulations to implement the 1981 Treaty Between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges (Treaty) as authorized by recently passed legislation. This final rule establishes vessel marking, record keeping, and reporting requirements for U.S. albacore tuna fishing vessel operators and vessel marking and reporting requirements for Canadian albacore tuna fishing vessel operators fishing under the Treaty. The intended effect of this final rule is to allow the United States to carry out its obligations under the Treaty by limiting

fishing by both U.S. and Canadian vessels as provided for in the Treaty.

**DATES:** Effective June 1, 2004.

**ADDRESSES:** Copies of the environmental assessment/regulatory impact review/final regulatory flexibility analysis (EA/RIR/FRFA) are available from Svein Fougner at the NMFS address. Comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted in writing to Svein Fougner, Assistant Administrator for Sustainable Fisheries, NMFS, Southwest Region and to David Rostker, OMB, by e-mail at *David\_Rostker@omb.eop.gov*, or by facsimile (Fax) to 202-395-7285.

**FOR FURTHER INFORMATION CONTACT:** Svein Fougner, Sustainable Fisheries Division, Southwest Region, NMFS, 562-980-4030; fax: 562-980-4047; and email: *svein.fougner@noaa.gov*.

**SUPPLEMENTARY INFORMATION:** The Treaty, as amended in 2002, establishes a number of obligations of the Parties (the United States and Canada) to control reciprocal fishing in the waters of one Party by vessels of the other Party as well as reciprocal port privileges. The proposed rule (69 FR 23715, April 30, 2004) provided substantial information on the history of the Treaty and that information will not be repeated here. The Treaty permits fishing vessels of one Party to fish for albacore tuna in waters under the fisheries jurisdiction of the other Party seaward of 12 nautical miles from the baseline from which the territorial sea is measured (hereafter generally referred to as "waters"). The Treaty originally allowed for unlimited fishing for albacore tuna by vessels of each Party in waters of the other Party. In response to U.S. industry concerns about the increase in fishing effort by Canadian vessels in U.S. waters beginning in 1998, the Departments of State (DOS), supported by the National Marine Fisheries Service, initiated technical discussions which led to negotiations with Canada and ultimately agreement to amend the Treaty to establish controls over reciprocal fishing. Agreement to amend the Treaty was reached on April 24, 2002. The U.S. Senate has given its advice and consent to the Treaty amendments, and Congress enacted H.R. 2584 (Public Law 108-219) on March 29, 2004, to authorize the Secretary of Commerce to issue regulations to implement the amended Treaty. The President signed H.R. 2584 into law on April 13, 2004.

The amendment to Article 1 (b) of the Treaty allows for the United States and Canada to establish a mutually agreed upon fisheries limitation regime

applicable to each Party's vessels fishing for albacore in the other Party's waters. Pursuant to that provision, the United States and Canada agreed to an initial 3-year regime that reduces reciprocal fishing effort each year until a level is reached in year three that is slightly above the pre-1998 average. Annex C of the Treaty also provides for a further reduced level of fishing after the 3-year period if the Parties are not able to reach agreement on a subsequent regime.

The specific actions that are called for under the Treaty and being implemented through this final rule are:

#### Vessel Lists

As under the original Treaty, the United States and Canada will annually exchange lists of fishing vessels which may fish for albacore tuna in each other's waters under the Treaty.

#### Vessel Marking

U.S. and Canadian vessels must have their name and vessel identification marking prominently displayed where they will be clearly visible both from the air and from a surface vessel.

#### Hail-in and Hail-out

The operators of U.S. and Canadian albacore fishing vessels must report to designated reporting offices at least 24 hours prior to entering the waters of the other nation to fish under the Treaty.

#### Recordkeeping

Operators of U.S. and Canadian vessels must keep accurate logbook records of catch and effort while fishing under the Treaty and must submit those logbooks to their respective fishery agencies.

#### Information Exchange

The United States and Canada will annually monitor the amount of fishing and the weight of albacore tuna caught by their respective vessels in waters under the fisheries jurisdiction of the other Party, and will annually exchange this information.

#### Annual Treaty Consultations

The United States and Canada will consult annually to review the information exchanged on the albacore tuna fisheries; on their respective conservation and management measures for albacore tuna; and on implementation of internationally agreed conservation and management measures applicable to the Parties related to fisheries covered under the Treaty.

### Notification of Management Laws and Regulations

The United States and Canada will notify one another of the conservation and management laws and regulations applicable to vessels fishing in each other's waters.

### Limitation of Fishing Effort

Annex C of the Treaty established a 3-year regime which limits the level of fishing that vessels of one Party can conduct in fishing for albacore tuna in the other Party's waters, beginning on June 1 of the first year of implementation of the limitation program. The limit can be exercised in terms of either the maximum number of vessels that can fish under the Treaty for up to 4 months each in a year; or the maximum number of fishing months that vessels can conduct in a year without a limit on the number of vessels that can participate in the year (i.e., vessel fishing months). The United States will administer the effort limit in terms of vessel fishing months. This is administratively the simplest approach and provides maximum flexibility to U.S. vessels to engage in fishing in Canadian waters if the fish are there. During the first year, the limit on fishing by U.S. vessels in Canadian waters will be 680 vessel fishing months; during the second year, the limit will be 560 vessel fishing months; and during the third year, the limit will be 500 vessel fishing months. There is provision for a "carry over" of unused fishing in a subsequent year.

The Treaty does not affect rights of U.S. vessels, including fishing vessels, to transit Canadian waters. However, Canadian hail-in requirements will continue to apply to transiting vessels, and with respect to albacore fishing vessels, fishing gear must be stowed in an unfishable condition to prevent the vessel from being considered to be "fishing" under the Treaty.

### Extension or Adjustment of Fishing Limits

Prior to the expiration of this 3-year effort limitation program, the United States and Canada will consult to consider a new limitation program or extension of this program for 1 or more years.

The intent of this program is to ensure that neither Party receives disproportionate benefits from the fishing opportunities provided by the Treaty and that neither Party's fishermen will be disadvantaged relative to the other Party's fishermen under the Treaty.

To carry out this agreement, NMFS establishes the following requirements

for U.S. albacore fishing vessel owners and operators:

1. *Vessel List*. The owner of any albacore fishing vessel who wants that vessel to be on the list of U.S. vessels eligible to fish for albacore tuna in Canadian waters under the Treaty must provide to NMFS the vessel name, the vessel registration number (U.S. Coast Guard documentation number or, if not documented, the state registration number), the home port, and the captain or operator's name. A vessel is not eligible to fish for albacore tuna in Canadian waters if it is not on the U.S. vessel list for at least 7 days prior to engaging in fishing for albacore tuna in Canadian waters. Each list is only valid for a single calendar year.

2. *Vessel Marking*. A U.S. vessel eligible to fish for albacore tuna in Canadian waters must be marked with the name and vessel identification marking prominently displayed where they will be clearly visible both from the air and from a surface vessel. The letter "U" must be painted or otherwise securely affixed to the vessel and be positioned at the end of each appearance on the vessel of its U.S. Coast Guard Documentation number (or if not documented, the state registration number) in the same height and size as the numerals. Regulations at 50 CFR 660.704 implementing the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP) establish vessel marking size requirements relative to the size of the vessel involved; the U would be the same size as the numerals for each vessel under those regulations.

3. *Logbook Reports*. The owner of a U.S. albacore fishing vessel is responsible for ensuring that a logbook of catch and effort covering fishing under the Treaty is maintained and submitted to the Southwest Region, NMFS, within 15 days of the end of the trip if the vessel re-enters U.S. waters or enters the Canadian territorial sea or other Canadian waters in which fishing is not permitted or a Canadian port having notified NMFS of its intent to stop fishing; or within 7 days of landing fish if the vessel entered the high seas after exiting the Canadian exclusive economic zone (EEZ). NMFS will provide the logbook form upon being advised of the owner's request to be placed on the list of eligible vessels as described above.

4. *Hail-in/Hail-out Reports*. The operator of a U.S. vessel eligible to fish for albacore tuna in Canadian waters must report to an office designated by NMFS at least 24 hours prior to entering Canadian waters to fish under the Treaty and at least 24 hours prior to

returning to U.S. waters or exiting Canadian waters and entering the high seas. NMFS has contracted for a call-in system to support U.S. reporting requirements. Reports will be acceptable through single sideband radio, landline and cell telephone, fax, and email. NMFS will provide detailed information to U.S. vessel operators of the appropriate times for reporting and the contractor contact points (phone numbers, radio frequencies, and email addresses) to all owners or operators identified on the list of eligible vessels.

NMFS and the U.S. Coast Guard will use all available means to inform fishers of closures of the fishery in Canadian waters in a timely manner. This will include use of Notice to Mariners, a hotline on current information relative to fishing limits, fax notices, and internet and web page notices. A closure notice also will be published in the **Federal Register**. Other means may be developed with the industry in the future.

This final rule also adds a new § 600.530 to the foreign fishing regulations at 50 CFR part 600 subpart F. This will reinforce Canadian regulations to govern the activity of Canadian vessels and ensure adequate ability to enforce the regulations and prosecute violations. In this context, it should be noted that Public Law 108-219 authorizes fishing by vessels from Canada in waters under the fisheries jurisdiction of the United States more than 12 nautical miles from the baseline from which the territorial sea is measured, notwithstanding the prohibitions at 50 CFR part 600, subpart F.

The DOS has concurred with issuance of this final rule, as required by Public Law 108-219.

### Changes From the Proposed Rule

Three changes were made from the proposed rule. In § 300.175, the language is clarified to require that U.S. vessels planning to fish in waters under Canadian jurisdiction must file a hail-in report to the Reporting Office at least 24 hours prior to engaging in fishing in such waters. Similarly, in § 600.530(e) and (f) Canadian vessels must file reports 24 hours prior to their entry and exit from the U.S. EEZ. These changes make this final rule consistent with the Canadian regulations. A time frame was not specified in the proposed rule.

This final rule adds a new § 600.525 to part 600, subpart F, to clarify that fishing by vessels of Canada is regulated only under §§ 600.525 and 600.530 and not by the other sections of subpart F. This makes clear that the reporting and recordkeeping requirements and other

provisions of subpart F do not apply to Canadian vessels fishing under the Treaty. The proposed rule had been unclear on this point.

#### Comments and Responses

*Comment:* NMFS received one set of comments on the proposed rule. Those comments criticized NMFS for allowing profiteering and rapacious fishermen to destroy U.S. fishery resources; and proposed that no Canadian fishing be allowed in U.S. waters nor U.S. fishing in Canadian waters; that the fisheries be reduced by 50 percent this year and 10 percent each year thereafter; that the allowed levels of fishing are far too high; that marine protected areas be established; and that the logbook requirement is a joke because there is no enforcement. No other comments were received.

*Response:* None of the comments specifically addressed the actions addressed by this rule, and no changes have been made in this final rule as a result of the comments. The United States is obliged to allow fishing by Canadian vessels consistent with the Treaty.

#### Classification

NMFS prepared a FRFA that describes the economic impact this final rule will have on small entities. The FRFA is available from NMFS (see **ADDRESSES**). A summary of the FRFA follows.

This final rule is not expected to have significant effects on U.S. vessels that are active in the troll albacore fishery off the West Coast and on the high seas, all of which are considered small entities. About 800 vessels made landings of albacore into U.S. ports or transshipped albacore to foreign ports in 2003, with a total estimated catch of just under 15,000 metric tons (mt). Average annual U.S. albacore catches have been about 12,000 mt for the past 10 years. The amount of fishing in Canadian waters has been quite low; NMFS estimates that between 1 and 2 percent of total U.S. fishing effort (estimated at about 25,000 days per year) has been conducted in Canadian waters the past 10 years. The Treaty limitations are not expected to affect either the amount of fishing by U.S. vessels or their albacore catches in future years off the West Coast, in Canadian waters, or on the high seas. There are no catch limits under the Treaty or these implementing regulations. If Canadian fishing in U.S. waters declines through the effort limitation regime, there maybe less competition on fishing grounds in U.S. waters, but it does not appear (though it is not certain) that there would be any effects on U.S. vessels' effort or catches

or on subsequent revenues and profits in the fishery.

The principal impacts of this final rule are reporting burdens (see following discussion of Paperwork Reduction Act burdens). Those owners who choose to have their vessels participate in fishing in Canadian waters under the Treaty would incur the costs associated with having the vessel name placed on the U.S. vessel list provided to Canada; reporting to NOAA Fisheries designated offices prior to entering Canadian waters to fish and prior to exiting Canadian waters; maintaining and submitting a logbook report on fishing in Canadian waters; and marking the vessels in accordance with the requirements. The total annual cost of these actions is estimated to be less than \$100 per vessel owner. In any year, it is likely that U.S. vessels' fishing in Canadian waters will be far below the U.S. limit (average of 580 vessel months per year for the first 3 years) as albacore migrate into Canadian waters in relatively few years and for only a short time (less than two months) in those years.

The effect of this final rule is distinguished from the likely impacts of the fishing limits under the Treaty. That is, under these limits, there will be lower risk of levels of Canadian fishing in U.S. waters at levels that would create problems for U.S. vessels, such as crowding on the grounds or preemption of catch. Thus, the Treaty limits may have beneficial impacts on U.S. vessels' catch per unit effort, total catch and total revenue in the future, all other things being equal. In turn, it is conceivable that failure to implement this final rule would result in further delay in implementing the Treaty fishing limits such that U.S. vessel owners would be disadvantaged by unlimited Canadian fishing in U.S. waters. Under those circumstances, however, there would likely be pressure to terminate the Treaty and foreclose the future option of U.S. fishing in Canadian waters to ensure that there would not be unlimited Canadian fishing in U.S. waters. This final rule is not expected to result in any increase or decrease in average fishing time, catch per unit effort, total catch and revenue, or costs other than the administrative costs identified above. Thus, there will be very little impact (if any) on profits of the vessel owners involved from this final rule.

NMFS considered a number of alternatives to the specific actions related to vessel lists, vessel identification and marking, hail-in and hail-out reports, and logbooks. The differences between those options were

relatively slight and the economic impacts were small. The requirements selected were felt to best balance between the need for good information to carry out U.S. obligations and the need to minimize the burden on U.S. and Canadian vessel operators and owners. With respect to the reciprocal fishing limit, however, there were substantially different choices and NMFS considered the following alternatives to the proposed approach: (a) to establish a U.S. limited entry program by which to carry out the U.S. effort limitation regime using "vessel years" as the operating limit; and (b) to establish monthly effort limits (i.e., one-fifth of the annual limit each month in the months of June through October each year) to implement the effort limitation regime on a vessel month basis.

The former would be administratively more complex than the proposed approach. It would require establishing either a lottery by which eligible vessels might be selected or criteria (e.g., prior participation) by which the requisite number of vessels would be identified as being eligible to fish in the year; issuing specific licenses or permits for fishing under the Treaty to those vessels; and then evaluating the effects and effectiveness of the program and possibly refining it the next year.

The latter would also be more complex and less flexible than the proposed approach. It could support enforcement of the program by ensuring that there would not be an excessive flood of vessels into Canadian waters in any one month. However, it also would increase the potential that the U.S. would not be able to carry out as much fishing as legally permitted under the Treaty, since unused vessel months in one month would not carry over to the following month (which is the practical effect of the proposed approach).

Thus the proposed action was chosen for administrative ease, maximum flexibility to the fleet, and ability to enforce and administer at relatively low cost.

Neither of the alternatives (nor this final rule) would be likely to substantially affect the fishing effort and catch and revenue of the U.S. albacore fishery. As noted above, U.S. vessels have not fished extensively in Canadian waters for many years, and the U.S. fleet is not expected to fish at levels permitted under the Treaty. Thus, the form of the limitation used should not result in changes in fishing effort, catches or revenue.

This final rule establishes reporting burdens subject to the Paperwork Reduction Act (PRA). The vessel

marking requirement consists of adding the letter "U" after the vessel marking number required under regulations at 50 CFR 660.704 if the vessel enters Canadian waters. This is estimated to take 5 minutes per vessel.

It is expected that all of the U.S. vessels that would fish under the Treaty are subject to the HMS FMP and/or the High Seas Fishing Compliance Act, both of which require vessel marking, and the added cost (adding the letter U) under this final rule is minimal. Given the limits of the amended Treaty, the maximum number of times the added burden would occur in the 3-year period is 1,740 vessel crossings, or 580 per year, with a burden of 48.33 hours annualized.

This final rule requires that vessel owners or operators take action each year to be sure that their vessels are on the list of vessels eligible to fish in Canadian waters under the Treaty. This can be done with a 5 minute phone call. Although it is highly unlikely, it is assumed for estimating the reporting burden that 700 vessels will get on the list (this is about 90 percent of the number of vessels that actually landed albacore into a West Coast port in 2003); under this assumption, the total fleet burden is 58.33 hours. It should be noted that there is no cost to get on the list; therefore, it is expected that many will choose to get on the list just in case an opportunity to fish in Canadian waters arises during the year. This final rule also requires U.S. vessels to report border crossings to and from Canadian waters. Assuming a round trip for the maximum of 580 vessels (assuming that every vessel fishes only 1 month toward the U.S. limit), and with each call taking an average of 5 minutes, this imposes a burden of 96.67 hours. Finally, this final rule imposes a logbook reporting requirement for U.S. vessels fishing under the Treaty in Canadian waters. Under the limits of the Treaty, U.S. vessels will be limited to an average of no more than 580 vessel months per year (over 3 years).

Assuming full fishing each month (i.e., up to 30 days per month) and 1 logbook page per day (at 5 minutes per page), the reporting burden will be 2.5 hours per vessel per month or a fleet total of 1,450 hours per year. It is estimated that 50 percent of these vessels already participate in a voluntary albacore fishery logbook program, so the net new burden for which PRA approval has been requested is 725 hours.

Most years there will be much less fishing under the Treaty than the level on which this estimate is based. However, assuming full participation,

the total new reporting burden for the fleet is 928.33 hours per year for the first 3 year period of fishing limits. There are no significant capital or equipment costs associated with this reporting burden. NMFS is working with the albacore fishery to evaluate the potential of electronic recordkeeping and reporting for this fishery. This could reduce the collection burden in the future. An emergency PRA clearance request was approved by the Office of Management and Budget (OMB) so this final rule could be published by the target effective date.

Public comment is sought regarding whether these proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall 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 information technology. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to, Svein Fougner, Assistant Administrator for Sustainable Fisheries, NMFS, Southwest Region (SEE **ADDRESSES**) and by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or facsimile (fax) to 202-395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirement of the PRA, unless that collection of information displays a currently valid OMB control number.

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

#### Administrative Procedure Act

The Assistant Administrator for Fisheries finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness of this final rule. This final rule must be made effective by June 1, 2004 (the start of the Pacific albacore tuna fishing year), as the Parties to the Treaty agreed to implement the Amended Treaty by that date. The legislation (H.R. 2584) ratifying the Amended Treaty was signed into law on April 13, 2004. NMFS published a proposed rule to implement the Amended Treaty in the **Federal Register** on April 30, 2004. As the comment period for the rule ended on May 17, 2004, NMFS has insufficient time to provide 30 days to delay the

effectiveness of this rule prior to June 1, 2004. Failure to have the rule in effect that date would mean that the U.S. and Canada could not exchange diplomatic notes confirming that all administrative steps for Treaty implementation had been taken. Failure to do so would delay for another full fishing year (i.e., until 2005) the implementation of the reciprocal fishing limit regime that is very important to the U.S. albacore fishing fleet. The Parties agreed that the Treaty would not go into effect during the fishing year (i.e., after June 1). Without this limitation program, Canadian vessels could once again fish without limits in U.S. waters to the likely disadvantage of U.S. vessels. The limitation regime is intended to allow a fair opportunity for each nation's vessels to participate in fishing on the common stock, but Canadian fishing vessels have enjoyed much greater benefit under the Treaty than U.S. vessels in recent years. NOAA has prepared an information package for almost 1,100 U.S. vessel owners and operators about the new restrictions imposed by this final rule and the proposed rule was posted on the internet and sent to industry advisors for distribution to fishers. No U.S. vessel is expected to fish under the Treaty in the first several weeks after June 1, 2004, providing additional time to distribute this information to the industry. NOAA has been advised that Canadian vessel owners and operators have also been informed that the requirement to report prior to border crossings will be a condition of their licenses to fish in U.S. waters.

#### List of Subjects

##### 50 CFR Part 300

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

##### 50 CFR Part 600

Administrative practice and procedure, Confidential business information, Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics.

Dated: May 27, 2004.

#### Rebecca Lent,

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

■ 1. A new Subpart L is added to read as follows:

### Subpart L—Pacific Albacore Tuna Fisheries

Sec.	
300.170	Purpose and scope.
300.171	Definitions.
300.172	Vessel list.
300.173	Vessel identification.
300.174	Logbook reports.
300.175	Hail-in and hail-out reports.
300.176	Prohibitions.

**Authority:** Sec. 401, Pub. L. 108-219, 118 Stat. 616 (16 U.S.C. 1821 note).

### Subpart L—Pacific Albacore Tuna Fisheries

#### § 300.170 Purpose and scope.

The regulations in this subpart govern fishing by U.S. vessels in waters under the fisheries jurisdiction of Canada pursuant to the 1981 Treaty Between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges as amended in 2002. Regulations governing fishing by Canadian vessels in waters under the fisheries jurisdiction of the United States pursuant to this Treaty as amended in 2002 are found at § 600.530 of chapter VI of this title.

#### § 300.171 Definitions.

In addition to the definitions in the Magnuson-Stevens Fishery Conservation and Management Act and § 600.10 of Chapter VI of this title, the terms used in this subpart have the following meanings:

*Fishing under the Treaty as amended in 2002* means to engage in fishing for albacore tuna in waters under the fisheries jurisdiction of Canada seaward of 12 nautical miles from the baseline from which the territorial sea is measured.

*Regional Administrator* means the Regional Administrator, Southwest Region, NMFS, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213, or a designee.

*Reporting Office* means the office designated by the Regional Administrator to take hail-in and hail-out reports from U.S. and Canadian vessel operators.

*Treaty* means the 1981 Treaty Between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges as amended in 2002.

#### § 300.172 Vessel list.

The “vessel list” is the list of U.S. vessels that are authorized to fish under the Treaty as amended in 2002. Only a vessel on the list for at least 7 days may engage in fishing in Canadian waters under the Treaty as amended in 2002. At least 7 (seven) days prior to the first day on which any fishing in Canadian waters may begin, the owner of any U.S. vessel that wishes to be eligible to fish for albacore tuna under the Treaty as amended in 2002 must provide the Regional Administrator or his designee with the vessel name, the owner’s name and address, phone number where the owner can be reached, the U.S. Coast Guard documentation number (or state registration number if not documented), and vessel operator (if different from the owner) and his or her address and phone number. NMFS will then place the vessel on the vessel list.

#### § 300.173 Vessel identification.

A U.S. vessel fishing under the Treaty as amended in 2002 must be marked with its name and vessel identification prominently displayed where they will be clearly visible both from the air and from a surface vessel. Vessel identification means the U.S. Coast Guard Documentation number (or if not documented, the state registration number) followed by the letter U in the same height and size as the numerals. Numerals and the letter U must meet these requirements of § 660.704 of chapter VI of this title.

#### § 300.174 Logbook reports.

The owner of any U.S. vessel that fishes for albacore tuna in Canadian waters under the Treaty as amended in 2002 must maintain and submit to the Regional Administrator a logbook of catch and effort of such fishing. The logbook form will be provided to the vessel owner as soon as practicable after the request to be placed on the list of vessels. The logbook must be submitted to the Regional Administrator within 15 days of the end of a trip, regardless of whether the trip ends by reentry to U.S. waters or entry to Canada’s territorial sea, other Canadian waters in which fishing is not permitted, or a Canadian port. If the departure is due to exit to the high seas, the vessel operator must submit the logbook within 7 days of its next landing.

#### § 300.175 Hail-in and hail-out reports.

(a) The operator of any U.S. vessel that wishes to engage in fishing in waters under the fisheries jurisdiction of Canada must file a hail-in report to the Reporting Office at least 24 hours prior to engaging in fishing in such waters.

(b) The operator of a U.S. vessel that has been fishing under the Treaty as amended in 2002 must file a hail-out report to the Reporting Office within 24 hours of departing waters under the fisheries jurisdiction of Canada.

#### § 300.176 Prohibitions.

It is prohibited for the owner or operator of a U.S. fishing vessel to:

- Engage in fishing in waters under the fisheries jurisdiction of Canada if:
  - The vessel has not been on the list of fisheries pursuant to § 300.172 for at least 7 days;
  - The vessel is not clearly marked as required under § 300.173;
  - The vessel operator has not filed a hail-in report with the Reporting Office as required under § 300.175(a); or
  - The Regional Administrator has announced that the U.S. limit on fishing under the Treaty as amended in 2002 has been reached.

(b) Fail to maintain and submit logbook records of catch and effort statistics as required under § 300.174;

(c) Fail to report an exit from waters under the fisheries jurisdiction of Canada as required by § 300.175(b).

■ For the reasons set out in the preamble, 50 CFR part 600 subpart F is amended as follows:

## PART 600—MAGNUSON-STEVENS ACT PROVISIONS

■ 2. The authority citation for part 600 continues to read as follows:

**Authority:** 5 U.S.C 561 and 16 U.S.C. 1801 *et seq.*

■ 3. A new § 600.525 is added to subpart F to read as follows:

#### § 600.525 Applicability of Subpart F to Canadian Albacore Fishing Vessels off the West Coast.

Fishing by vessels of Canada under the 1981 Treaty Between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges is regulated only under this section and § 600.530 of this subpart F, and is exempt from any other requirements of this subpart F. Regulations governing fishing by U.S. vessels in waters under the fisheries jurisdiction of the Canada more than 12 nautical miles from the baseline from which the territorial sea is measured are found at §§ 300.170–300.176 of chapter II of this title.

■ 4. A new § 600.530 is added to subpart F to read as follows:

#### § 600.530 Pacific albacore fishery.

(a) *Purpose and scope.* This section regulates fishing by Canadian vessels

under the 1981 Treaty Between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges as amended in 2002. Notwithstanding any other provision of this subpart F, fishing vessels of Canada may be authorized to fish in waters under the fisheries jurisdiction of the United States more than 12 nautical miles from the baseline from which the territorial sea is measured in accordance with the Treaty and this section, pursuant to Public Law 108-219 (118 Stat. 616; 16 U.S.C. 1821 note).

(b) *Definitions.* In addition to the definitions in the Magnuson-Stevens Fishery Conservation and Management Act and § 600.10, the terms used in this subpart have the following meanings:

*Fishing under the Treaty as amended in 2002* means to engage in fishing for albacore tuna in waters under the fisheries jurisdiction of the United States seaward of 12 nautical miles from the baseline from which the territorial sea is measured.

*Regional Administrator* means the Regional Administrator, Southwest

Region, NMFS, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213, or a designee.

*Reporting Office* means the office designated by the Regional Administrator to take hail-in and hail-out reports from U.S. and Canadian vessel operators.

*Treaty* means the 1981 Treaty Between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges as amended in 2002.

(c) *Vessel list.* A Canadian vessel is not eligible to fish for albacore in U.S. waters under the Treaty as amended in 2002 unless the vessel is on the list provided to NMFS by the Government of Canada of vessels authorized by Canada to fish under the Treaty as amended in 2002.

(d) *Vessel identification.* A Canadian vessel fishing under the Treaty as amended in 2002 must clearly display its Canadian vessel registration number followed by the letter C in the same height and size as the numerals, consistent with Canadian vessel marking requirements.

(e) *Hail-in reports.* The operator of a Canadian Vessel eligible to fish for albacore in U.S. waters under the Treaty as amended in 2002 must file a hail-in report with the Reporting Office at least 24 hours prior to beginning any such fishing.

(f) *Hail-out Reports.* The operator of a Canadian vessel that has been fishing in U.S. waters under the Treaty as amended in 2002 must file a hail-out report with the Reporting Office at least 24 hours prior to exiting from U.S. waters.

(g) *Prohibitions.* It is prohibited for the operator of a Canadian vessel to engage in fishing in U.S. waters if the vessel:

(1) Is not on the vessel list in paragraph (c) of this section;

(2) Has not filed a hail-in report to advise of an intent to fish under the Treaty as amended in 2002 prior to engaging in such fishing; or

(3) Is not clearly marked in accordance with paragraph (d) of this section.

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