

BCAQMD rule described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available through [www.regulations.gov](http://www.regulations.gov) and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

#### IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- does not provide the EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using

practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 12, 2017. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the Proposed Rules section of today's **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that the EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

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

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter,

Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

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

Dated: December 9, 2016.

**Alexis Strauss,**

*Acting Regional Administrator, Region IX.*

**Editorial note:** This document was received at the Office of the Federal Register on April 5, 2017.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

- 1. The authority citation for Part 52 continues to read as follows:

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

#### Subpart F—California

- 2. Section 52.220 is amended by adding paragraph (c)(457)(i)(C)(5) to read as follows:

##### § 52.220 Identification of plan-in part.

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* * * * *
(c) * * *
(457) * * *
(i) * * *
(C) * * *
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(5) Rule 433, "Rice Straw Emission Reduction Credits," amended on April 24, 2014.

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### 50 CFR Part 300

[Docket No. 170223197-7311-01]

RIN 0648-BG67

##### International Fisheries; Pacific Tuna Fisheries; Fishing Restrictions for Tropical Tuna in the Eastern Pacific Ocean

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

**ACTION:** Final rule.

**SUMMARY:** NMFS is issuing regulations under the Tuna Conventions Act to implement Resolution C-17-01 (*Conservation of Tuna in the Eastern Pacific Ocean During 2017*), which was

adopted by the Inter-American Tropical Tuna Commission (IATTC or Commission) in February 2017. Applicable to 2017 only, most provisions of Resolution C-17-01 are identical in content to the previous resolution on tropical tuna management that expired at the end of 2016. The provisions that are maintained in Resolution C-17-01 from the previous resolution include a 500 metric ton (mt) bigeye tuna (*Thunnus obesus*) calendar year catch limit applicable to longline vessels greater than 24 meters (m) in overall length and a 62-day closure period applicable each year to purse seine vessels of class size 4 to 6 (greater than 182 mt carrying capacity). In addition, the resolution includes a new requirement for total allowable catch limits (TACs) for yellowfin (*Thunnus albacares*) and bigeye tuna harvested in purse seine sets on floating objects (97,711 mt) and in sets involving chase and encirclement of dolphins (162,182 mt). This rule implements all of those requirements and revises related regulations for clarification purposes. This rule is necessary for the conservation of tropical tuna stocks in the eastern Pacific Ocean (EPO) and for the United States to satisfy its obligations as a member of the IATTC.

**DATES:** This final rule is effective May 11, 2017.

**ADDRESSES:** Copies of supporting documents that were prepared for this final rule, including the regulatory impact review (RIR) are available via the Federal e-Rulemaking Portal: <http://www.regulations.gov>, docket NOAA-NMFS-2017-0024 or contact with the Regional Administrator, Barry A. Thom, NMFS West Coast Region, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232-1274, or [RegionalAdministrator.WCRHMS@noaa.gov](mailto:RegionalAdministrator.WCRHMS@noaa.gov).

**FOR FURTHER INFORMATION CONTACT:** Rachael Wadsworth, NMFS at 562-980-4036.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background on the IATTC**

The United States is a member of the IATTC, which was established under the 1949 Convention for the Establishment of an Inter-American Tropical Tuna Commission. In 2003, the IATTC adopted the Convention for the Strengthening of the IATTC Established by the 1949 Convention between the United States of America and the Republic of Costa Rica (Antigua Convention). The Antigua Convention entered into force in 2010. The United States acceded to the Antigua Convention on February 24, 2016. The

full text of the Antigua Convention is available at: [https://www.iattc.org/PDFFiles2/Antigua\\_Convention\\_Jun\\_2003.pdf](https://www.iattc.org/PDFFiles2/Antigua_Convention_Jun_2003.pdf).

The IATTC consists of 21 member nations and four cooperating non-member nations and facilitates scientific research into, as well as the conservation and management of, tuna and tuna-like species in the IATTC Convention Area. The IATTC Convention Area is defined as waters of the EPO within the area bounded by the west coast of the Americas and by 50° N. latitude, 150° W. longitude, and 50° S. latitude. The IATTC maintains a scientific research and fishery monitoring program and regularly assesses the status of tuna, sharks, and billfish stocks in the IATTC Convention Area to determine appropriate catch limits and other measures deemed necessary to promote sustainable fisheries and prevent the overexploitation of these stocks.

##### **International Obligations of the United States Under the Antigua Convention**

As a Party to the Antigua Convention and a member of the IATTC, the United States is legally bound to implement decisions of the IATTC. The Tuna Conventions Act (16 U.S.C. 951 *et seq.*) directs the Secretary of Commerce, in consultation with the Secretary of State and, with respect to enforcement measures, the U.S. Coast Guard, to promulgate such regulations as may be necessary to carry out the United States' obligations under the Antigua Convention, including recommendations and decisions adopted by the IATTC. The authority of the Secretary of Commerce to promulgate such regulations has been delegated to NMFS.

##### **IATTC Resolution on Tropical Tuna Conservation**

In 2016, the IATTC met in July and in October, and at both meetings failed to reach consensus on management measures for tropical tuna (bigeye tuna, yellowfin tuna, and skipjack tuna (*Katsuwonus pelamis*)), which is unusual. The failure of the Commission to reach consensus at these meetings created an urgent situation because the previous measures expired at the end of the 2016 calendar year, and no measures were in place for the start of the 2017 fishing season. The IATTC finally adopted Resolution C-17-01 by consensus at its 91st Extraordinary Meeting in February 2017. NMFS is now in the position of having to implement these measures without affording the public the opportunity of advance notice and an opportunity to comment

under the Administrative Procedure Act (APA).

Applicable to 2017 only, most provisions of Resolution C-17-01 are identical in content to the previous resolution on tropical tuna management that were in place from 2013-2016. Resolution C-17-01 also sets TACs for yellowfin and bigeye tuna harvested in purse seine sets on floating objects and in sets involving chase and encirclement of dolphins. These TACs do not apply to fishing for tropical tuna by making unassociated sets. Resolution C-17-01 is intended to prevent overfishing of tropical tuna stocks in the EPO.

Resolution C-17-01 also includes provisions for 2017 requiring purse seine vessels class sizes 4 to 6 to first retain on board and then land all tropical tuna caught, except fish unfit for human consumption for reasons other than size. A single exception to this full catch retention program is on the final set of a trip, when there may be insufficient well space remaining to accommodate all of the tuna caught in that set. This regulation has already been codified at 50 CFR 300.27(a) because it was included in multiple previous IATTC resolutions.

##### **Final Regulations—Tuna Conservation Measures for 2017**

This final rule is implemented under the Tuna Conventions Act (16 U.S.C. 951 *et seq.*), as amended on November 5, 2015, by title II of Public Law 114-81. This rule implements the provisions of Resolution C-17-01 and applies to U.S. commercial fishing vessels that are used to catch tropical tuna in the IATTC Convention Area.

This rule implements three provisions that were included in the now-expired IATTC Resolution C-13-01 (*Multinational Program for the Conservation of Tuna in the Eastern Pacific Ocean During 2014-2016*), as well as one additional provision, for 2017. First, the rule maintains a 500 mt catch limit on bigeye tuna caught by longline vessels greater than 24 m in overall length in the IATTC Convention Area. Second, the rule maintains the prohibition against purse seine vessels of class size 4 to 6 (*i.e.*, vessels with a carrying capacity greater than 182 mt) from fishing for tropical tuna in the IATTC Convention Area for a period of 62 days. Notwithstanding this closure, the rule allows purse seine vessels of class size 4 (*i.e.*, vessels with a carrying capacity between 182 and 272 mt) to make a single fishing trip of up to 30 days during the closure period, provided that any such vessel carries an observer. Third, the rule continues to

require a closure for the purse seine fishery for tropical tuna within the area of 96° and 110° W and between 4° N and 3° S from 0000 hours on 29 September to 2400 hours on 29 October, 2017.

This rule also imposes new TACs on the harvest of yellowfin and bigeye tuna combined for class size 4 to 6 purse seine vessels that fish on floating objects and class size 6 vessels (*i.e.*, vessels with a carrying capacity greater than 363 mt) that chase and encircle dolphins to harvest tuna swimming underneath. The TAC for the combined yellowfin and bigeye harvest for class size 4 to 6 purse seine vessels of all nations fishing on floating objects in the IATTC Convention Area is 97,711 mt and, for class size 6 purse seine vessels of all nations that set on dolphins in the Convention Area, the TAC is 162,182 mt. Once either TAC is reached, NMFS will close the U.S. fishery for these vessels sizes and set types for the remainder of the 2017 calendar year.

Per Resolution C-17-01, the IATTC Director will notify IATTC Members and Cooperating Non-Members (collectively known as CPCs) when the combined catch of yellowfin and bigeye tuna by purse-seine vessels reaches 80 percent of the total catch limit in either sets on floating objects or dolphins. At 90 percent of the total TAC, the Director shall notify CPCs of an estimated closure date for the respective fishery, and at 100 percent the Director will announce the closure of the respective fishery.

NMFS will project a closure date for floating object sets and for dolphin sets using data provided by the IATTC. NMFS will publish a notice in the **Federal Register** announcing the closures for these set types at least seven calendar days in advance of the closure dates. Once the closure date for floating object sets is effective, U.S. purse seine vessels of class size 4 to 6 will be prohibited from making a floating object set in the Convention Area until the end of the 2017 calendar year. Once the closure date for dolphin sets is effective, U.S. purse seine vessels of class size 6 will be prohibited from making a dolphin set in the Convention Area until the end of the 2017 calendar year.

A description of the IATTC rulemaking process, formerly in 50 CFR 300.25, is moved to a more logical location at 50 CFR 300.20, which is the purpose and scope section of 50 CFR part 300 subpart C. Multiple cross-references in the prohibitions at 50 CFR 300.24 are also updated for consistency with the revisions made to 50 CFR 300.25(a) through (e). The prohibition at 50 CFR 300.24(b) regarding closures of sets on floating objects is obsolete and

is removed by this rule. This rule also revises related regulations to include the calendar year 2017, and revises regulations related to the bigeye closure for longline vessels greater than 24 m in overall length for clarification purposes.

#### Classification

The NMFS Assistant Administrator has determined that this final rule is consistent with the Tuna Conventions Act of 1950 and other applicable laws.

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

There are no new collection-of-information requirements associated with this action that are subject to the Paperwork Reduction Act (PRA), and the existing collection-of-information requirements still apply under Control Number 0648-0387. 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. All currently approved NOAA collections of information may be viewed at: [http://www.cio.noaa.gov/services\\_programs/prasubs.html](http://www.cio.noaa.gov/services_programs/prasubs.html).

The Assistant Administrator for Fisheries has determined that the need to conserve tropical tuna stocks in the EPO and comply with the international obligations of the United States under a binding resolution adopted by the IATTC under the Antigua Convention constitutes good cause, under 5 U.S.C. 553(b)(B), to waive the requirement for providing advance notice and comment. This is justified by the IATTC's late adoption of the binding Resolution C-17-01 in February of the year the requirements are effective—2017—rather than in June or July of the year before (*i.e.*, typical timing for adopting resolutions). Commercial purse seine and longline vessels have already begun fishing for tropical tuna in the EPO this year under the fishing limits in Resolution C-17-01 that apply this year. If this rule were delayed pending publication of a proposed rule and consideration of additional public comments, no enforceable limits would be in place and therefore U.S. purse seine and longline fisheries might exceed the limits established in Resolution C-17-01 with impunity, rendering the United States out of compliance with our international obligations.

Owners and operators of U.S. purse seine and longline vessels operating in the EPO are familiar with this resolution

because it is almost identical to the resolution in place for the past three years that was implemented through notice and comment rulemaking. In addition, many of the affected individuals attended the 91st Extraordinary Meeting of the IATTC in February where the resolution was adopted. Industry representatives were also consulted in advance of the February meeting through a U.S. Delegation call and were involved in briefings and discussions with the U.S. Department of State and NOAA officials on the periphery of the February IATTC meeting. As soon as the rule is published, NMFS will send a notice of this rule to owners of vessels that are affected by this rule.

Ensuring conservation of tropical tuna stocks in the EPO, and remaining in compliance with binding international obligations of the United States, by expedient domestic implementation of Resolution C-17-01 through issuing this final rule now rather than risking violation of our obligations or the health of tuna stocks is in the public's interest and further supports the good cause for waiving the requirement to publish a notice of proposed rulemaking for public comment. The IATTC will meet again in July 2017 to discuss tropical tuna measures for 2018 and beyond. NMFS intends to implement any resolution adopted in July through the typical procedure of proposed and final rulemaking.

The Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b), requires a Regulatory Flexibility Analysis only for rules promulgated through notice and comment rulemaking under Section 553(b) of the Administrative Procedure Act or any other law. Because there is good cause to waive notice and comment for this final rule, an RFA Analysis was not prepared for this rule.

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

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

Dated: April 6, 2017.

**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. Revise § 300.20 to read as follows:

#### § 300.20 Purpose and scope.

The regulations in this subpart are issued under the authority of the Tuna Conventions Act of 1950, as amended, (Act) and apply to persons and vessels subject to the jurisdiction of the United States. The regulations implement recommendations and other decisions of the Inter-American Tropical Tuna Commission (IATTC) for the conservation and management of stocks of tunas and tuna-like species and other species of fish taken by vessels fishing for tunas and tuna-like species in the IATTC Convention Area. The Secretary of Commerce, in consultation with the Secretary of State and, with respect to enforcement measures, the U.S. Coast Guard, may promulgate such regulations as may be necessary to carry out the U.S. international obligations under the Convention for the Establishment of an Inter-American Tropical Tuna Commission (Convention), the Convention for the Strengthening of the Inter-American Tropical Tuna Commission Established by the 1949 Convention between the United States of America and the Republic of Costa Rica (Antigua Convention), and the Act, including recommendations and other decisions adopted by the IATTC.

■ 3. In § 300.21, remove the definition for “Bigeye tuna”, and add definitions for “Dolphin set” and “Floating object set” and “Tropical tuna” in alphabetical order to read as follows:

#### § 300.21 Definitions.

\* \* \* \* \*

*Dolphin set* means a purse seine set where a class size 6 U.S. purse seine vessel (greater than 363 metric tons carrying capacity) deploys a net on, or encircles, dolphins to catch yellowfin tuna.

\* \* \* \* \*

*Floating object set* means a purse seine set in which purse seine gear is deployed to encircle a floating object.

\* \* \* \* \*

*Tropical tuna* means any of the following species:

Common name	Scientific name
Bigeye tuna .....	<i>Thunnus obesus</i> .

Common name	Scientific name
Skipjack tuna .....	<i>Katsuwonus pelamis</i> .
Yellowfin tuna .....	<i>Thunnus albacares</i> .

\* \* \* \* \*

■ 4. In § 300.24, remove and reserve paragraph (b), revise paragraphs (k) through (s), and add paragraph (ii) to read as follows:

#### § 300.24 Prohibitions.

\* \* \* \* \*

(b) [Reserved]

\* \* \* \* \*

(k) Use a U.S. fishing vessel over 24 meters in length to retain on board, transship, or land bigeye tuna caught by longline gear in the Convention Area or to fish in contravention of § 300.25(a)(4)(i) or (ii).

(l) Use a U.S. fishing vessel over 24 meters in overall length to fish with longline gear in the Pacific Ocean both inside and outside the Convention Area on the same fishing trip in contravention of § 300.25(a)(4)(iii).

(m) Fail to stow gear as required in § 300.25(a)(4)(iv) or (e)(7).

(n) Use a fishing vessel of class size 4–6 to fish with purse seine gear in the Convention Area in contravention of § 300.25(e)(1), (e)(2), or (e)(5) or (e)(6).

(o) Use a U.S. longline or purse seine fishing vessel used to fish for HMS within one nautical mile of an anchored data buoy while the fishing vessel is in the Convention Area in contravention of § 300.25(f)(1).

(p) Use a U.S. fishing vessel used for fishing for HMS, or any gear, equipment, or watercraft deployed by such a fishing vessel, to interact with a data buoy in the Convention Area in contravention of § 300.25(f)(2).

(q) Remove from the water a data buoy and place it on board or tow a data buoy with a U.S. fishing vessel used for fishing for HMS while the vessel is in the Convention Area without authorization by the owner of the data buoy or the owner's authorized representative in contravention of § 300.25(f)(3).

(r) In the event of an entanglement of a data buoy with a U.S. fishing vessel, or its fishing gear, equipment, or associated watercraft, used for fishing for HMS in the Convention Area, fail to promptly remove the data buoy with as little damage to the data buoy and its mooring and anchor lines as possible, in contravention of § 300.25(f)(4).

(s) Fail to take all reasonable measures to avoid fishing gear entanglement or interaction with drifting data buoys in contravention of § 300.25(f)(5).

\* \* \* \* \*

(ii) Use a U.S. purse seine fishing vessel of the applicable class size to make a set on either floating objects or dolphins in the IATTC Convention Area after a closure for either of these set types is announced by the Regional Administrator, in contravention of § 300.25(d).

■ 5. In § 300.25, revise the section heading and revise paragraphs (a) through (e) to read as follows:

#### § 300.25 Fisheries management.

(a) *Longline tuna catch limits.* (1)

Fishing seasons for all tuna species begin on January 1 and end either on December 31 or when NMFS closes the fishery for a specific species.

(2) For the calendar year 2017, there is a limit of 500 metric tons of bigeye tuna that may be caught by longline gear in the Convention Area by U.S. commercial fishing vessels that are over 24 meters in overall length.

(3) NMFS will project a date the limit of bigeye tuna established under paragraph (a)(2) of this section will be reached (*i.e.*, a closure date) by monitoring longline landings, data submitted in logbooks, and other available information. NMFS will publish a notice in the **Federal Register** at least 7 calendar days in advance of that projected closure date announcing that the limit has been reached. The **Federal Register** notice will specify that the restrictions described in paragraph (a)(4) of this section will be in effect through the end of the calendar year.

(4) Once the closure date is announced, pursuant to paragraph (a)(3) of this section the following restrictions will apply during the period specified in the announcement:

(i) A fishing vessel of the United States over 24 meters in overall length may not be used to retain on board, transship, or land bigeye tuna captured by longline gear in the Convention Area, except as follows:

(A) Any bigeye tuna already on board a U.S. fishing vessel upon the effective closure date may be retained on board, transshipped, and/or landed, to the extent authorized by applicable laws and regulations, provided that the bigeye tuna is landed within 14 days after the effective closure date.

(B) The 14-day limit is waived in the case of a U.S. fishing vessel that has already declared to NMFS, pursuant to § 665.803(a) of this title, that the current trip type is shallow-setting. However, the number of bigeye tuna retained on board, transshipped, or landed must not exceed the number on board the vessel upon the effective closure date, as recorded by the NMFS observer on board the vessel.

(ii) Bigeye tuna caught by a vessel of the United States over 24 meters in overall length and using longline gear in the Convention Area may not be transshipped to a fishing vessel unless that fishing vessel is operated in compliance with a valid permit issued under § 660.707 or § 665.801 of this title.

(iii) A fishing vessel of the United States over 24 meters in overall length may not be used to fish in the Pacific Ocean using longline gear both inside and outside the Convention Area during the same fishing trip. The only exceptions are: a fishing trip during which the closure date was announced under paragraph (a)(3) of this section, and a trip for which a declaration has been made to NMFS, pursuant to § 665.803(a) of this title, that the current trip is shallow-setting.

(iv) If a fishing vessel of the United States over 24 meters in overall length is used to fish in the Pacific Ocean using longline gear outside the Convention Area and the vessel enters the Convention Area at any time during an effective closure period on the same fishing trip, the longline gear on the fishing vessel must be stowed in a manner so as not to be readily available for fishing. Specifically, the hooks, branch or dropper lines, and floats used to buoy the mainline must be stowed and not available for immediate use, and any power-operated mainline hauler on deck must be covered in such a manner that it is not readily available for use. This provision does not apply to trips in which vessels have made a declaration to NMFS, pursuant to § 665.803(a) of this title, that the trip type is shallow-setting.

(b) *Use of tender vessels.* No person subject to these regulations may use a tender vessel in the Convention Area.

(c) *Transshipments at sea.* No person subject to these regulations may transship purse seine-caught tuna from one vessel to another vessel at sea within the Convention Area.

(d) *Purse seine tuna catch limits.* (1) Fishing seasons for all tuna species begin on January 1 and end either on December 31 or when NMFS closes the fishery for either a specific species or set-type or both.

(2) For the calendar year 2017, the following total allowable catch limits for the combined catch of bigeye and yellowfin tuna, shall apply in the IATTC Convention Area:

(i) For purse seine vessels of all nations that are class size 4–6 (more than 182 metric tons carrying capacity), the total allowable catch is 97,711 metric tons for floating object sets.

(ii) For purse seine vessels of all nations that are class size 6, the total allowable catch is 162,182 metric tons for dolphin sets.

(3) NMFS will project a closure date for floating object sets and for dolphin sets using data provided by the IATTC. NMFS will publish a notice in the **Federal Register** announcing the closures for these set types at least 7 calendar days in advance of the projected closure dates.

(4) Once the closure date for floating object sets is effective, pursuant to paragraph (d)(3) of this section, U.S. purse seine vessels of class size 4–6 will be prohibited from making a floating object set in the Convention Area until the end of the 2017 calendar year. Once the closure date for dolphin sets is effective, pursuant to paragraph (d)(3) of this section, U.S. purse seine vessels of class size 6 will be prohibited from making a dolphin set in the Convention Area until the end of the 2017 calendar year.

(e) *Purse seine closures.* (1) A commercial purse seine fishing vessel of the United States that is of class size 4–6 (more than 182 metric tons carrying capacity) may not be used to fish with purse seine gear in the Convention Area for 62 days during one of the following two periods:

(i) From 0000 hours Coordinated Universal Time (UTC) July 29, 2017, to 2400 hours UTC September 28, 2017, or

(ii) From 0000 hours UTC November 18, 2017, to 2400 hours UTC January 18, 2018.

(2) A vessel owner, manager, or association representative of a vessel that is subject to the requirements of paragraph (e)(1) of this section must, in 2017, provide written notification to the Regional Administrator declaring to which one of the two closure periods identified in paragraph (e)(1) of this section his or her vessel will adhere in that year. This written notification must be submitted by fax at (562) 980–4047 or email at

*RegionalAdministrator.WCRHMS@noaa.gov* and must be received no later than July 1 2017. The written notification must include the vessel name and registration number, the closure dates that will be adhered to by that vessel, and the vessel owner or managing owner's name, signature, business address, and business telephone number.

(3) If written notification is not submitted per paragraph (e)(2) of this section for a vessel subject to the requirements under paragraph (e)(1) of this section, that vessel must adhere to the closure period under paragraph (e)(1)(ii) of this section.

(4) *Request for exemption due to force majeure.* A request for exemption due to force majeure must be made to the Sustainable Fisheries Division by fax at (562) 980–4047 or emailed to *RegionalAdministrator.WCRHMS@noaa.gov*. The request must include the name and official number of the vessel, vessel owner or manager's name and signature, and evidence to support the request, which may include but is not limited to photographs, repair bills, certificates of departure from port, and in the case of a marine casualty, a completed copy of the U.S. Coast Guard Form CG–2692A (See 46 CFR 4.05–10).

(i) If accepted by the Sustainable Fisheries Division, the request for exemption due to force majeure will be forwarded to the IATTC Director. If declined by the Sustainable Fisheries Division, within 10 days of the date of that rejection, the applicant may give additional information or documentation to the Regional Administrator with a request that the initial decision be reconsidered by fax at (562) 980–4047 or email to *RegionalAdministrator.WCRHMS@noaa.gov*; the Regional Administrator shall respond within 14 business days.

(ii) If the request for an exemption due to force majeure is accepted by the IATTC, the vessel must observe a closure period of 30 consecutive days in the same year during which the force majeure event occurred, in one of the two closure periods described in paragraph (e)(1) of this section.

(5) A vessel of class size 4 (182 to 272 metric tons carrying capacity) may make one fishing trip of up to 30 days duration during the specified closure period in paragraph (e)(1) of this section, provided that the vessel carries an observer authorized pursuant to the Agreement on the International Dolphin Conservation Program during the entire fishing trip.

(6) A fishing vessel of the United States of class size 4–6 (more than 182 metric tons carrying capacity) may not be used from 0000 hours on September 29 to 2400 hours on October 29 in 2017 to fish with purse seine gear within the area bounded at the east and west by 96° and 110° W. longitude and bounded at the north and south by 4° N. and 3° S. latitude.

(7) At all times while a vessel is in a time/area closed period established under paragraphs (e)(1) or (e)(6) of this section, unless fishing under exceptions established under paragraphs (e)(4) or (e)(5) of this section, the fishing gear of the vessel must be stowed in a manner as not to be readily available for fishing. In particular, the boom must be lowered as far as possible so that the vessel

cannot be used for fishing, but so that the skiff is accessible for use in emergency situations; the helicopter, if any, must be tied down; and launches must be secured.

\* \* \* \* \*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[Docket No. 160426363-7275-02]

RIN 0648-BG03

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region; Amendment 26

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

**ACTION:** Final rule.

**SUMMARY:** NMFS issues regulations to implement management measures described in Amendment 26 to the Fishery Management Plan for the Coastal Migratory Pelagics Fishery of the Gulf of Mexico and Atlantic Region (FMP) as prepared and submitted jointly by the Gulf of Mexico Fishery Management Council (Gulf Council) and South Atlantic Fishery Management Council (South Atlantic Council). Amendment 26 and this final rule adjust the management boundary for the Gulf of Mexico (Gulf) and Atlantic migratory groups of king mackerel; revise acceptable biological catch (ABC), commercial and recreational annual catch limits (ACLs), commercial quotas and recreational annual catch targets (ACTs) for Atlantic migratory group king mackerel; allow limited retention and sale of Atlantic migratory group king mackerel incidentally caught in the shark gillnet fishery; establish a commercial split season for Atlantic migratory group king mackerel in the Atlantic southern zone; establish a commercial trip limit system for Atlantic migratory group king mackerel in the Atlantic southern zone; revise the commercial and recreational ACLs for Gulf migratory group king mackerel; revise commercial zone quotas for Gulf migratory group king mackerel; and modify the recreational bag limit for Gulf migratory group king mackerel. The purpose of Amendment 26 and this

final rule is to ensure that king mackerel management is based on the best scientific information available, while increasing the social and economic benefits of the fishery.

**DATES:** This final rule is effective May 11, 2017.

**ADDRESSES:** Electronic copies of Amendment 26 may be obtained from the Southeast Regional Office Web site at [http://sero.nmfs.noaa.gov/sustainable\\_fisheries/gulf\\_sa/cmp/2016/am%2026/index.html](http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_sa/cmp/2016/am%2026/index.html). Amendment 26 includes an environmental assessment, a Regulatory Flexibility Act (RFA) analysis, and a regulatory impact review.

**FOR FURTHER INFORMATION CONTACT:**

Karla Gore, Southeast Regional Office, NMFS, telephone: 727-824-5305, or email: [karla.gore@noaa.gov](mailto:karla.gore@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The coastal migratory pelagic fishery of the Gulf and Atlantic Regions is managed under the FMP and includes the management of the Gulf and Atlantic migratory groups of king mackerel, Spanish mackerel, and cobia. The FMP was prepared jointly by the Gulf and South Atlantic Councils (Councils) and is implemented through regulations at 50 CFR part 622 under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On December 14, 2016, NMFS published a notice of availability for Amendment 26 and requested public comment (81 FR 90314). On December 29, 2016, NMFS published a proposed rule for Amendment 26 and requested public comment (81 FR 95941). The proposed rule and Amendment 26 outline the rationale for the actions contained in this final rule. A summary of the management measures described in Amendment 26 and implemented by this final rule is provided below.

#### Management Measures Contained in This Final Rule

This final rule to implement Amendment 26 adjusts the management boundary of the Gulf and Atlantic migratory groups of king mackerel; revises management reference points, the commercial and recreational ACLs, commercial quotas and recreational ACTs for Atlantic migratory group king mackerel; allows limited retention and sale of incidental catch of Atlantic migratory group king mackerel in the shark gillnet fishery; establishes a commercial split season for Atlantic migratory group king mackerel in the Atlantic southern zone; establishes a commercial trip limit system for Atlantic migratory group king mackerel

in the Atlantic southern zone; revises commercial and recreational ACLs for Gulf migratory group king mackerel; revises commercial zone quotas for Gulf migratory group king mackerel; and modifies the recreational bag limit for Gulf migratory group king mackerel.

#### Management Boundary and Zone Descriptions for the Gulf and Atlantic Migratory Groups of King Mackerel

Currently, management boundaries change seasonally for the Gulf and Atlantic migratory groups of king mackerel based on the historical understanding that the two migratory groups mixed seasonally off the east coast of Florida and in Monroe County, FL. However, in 2014, the Southeast Data, Assessment, and Review (SEDAR) 38 stock assessment (SEDAR 38) determined that the mixing zone between the two migratory groups now exists only in the portion of the Exclusive Economic Zone (EEZ) off Monroe County, Florida, south of the Florida Keys. This final rule sets a single year-round regulatory boundary (Gulf/Atlantic group boundary) separating management of the two migratory groups of king mackerel, based on the genetic analysis used in SEDAR 38. This new year-round Gulf/Atlantic group boundary is set at a line extending east from the Miami-Dade/Monroe County, FL, boundary, to better represent the area where the two migratory groups primarily exist. The newly defined mixing zone off the Florida Keys is included in the Gulf migratory group and will be managed by the Gulf Council.

This final rule renames the Gulf migratory group's current eastern zone-northern subzone and eastern zone-southern subzone as the northern zone and southern zone, respectively. The southern zone includes the new mixing zone, extending east to the new Gulf/Atlantic group boundary. The name and dimensions of the Gulf migratory group's western zone remain the same. The Atlantic migratory group's northern zone also remains unchanged. This final rule shifts the southern boundary of the Atlantic migratory group's southern zone to the new Gulf/Atlantic group boundary. Due to this shift, the current Florida east coast subzone will no longer exist. Instead, that area will be included in the Atlantic migratory group's southern zone year-round.

NMFS notes that the final rule for Amendment 26 will be effective after the end of the fishing year for Atlantic migratory group king mackerel. As described in Amendment 26 and the proposed rule, landings from the Florida east coast subzone for the 2016/17