

promulgation of a final rule or regulation that is a significant regulatory action under E.O. 12866 and is likely to have a significant adverse effect on the supply, distribution, or use of energy. Although the regulations addressed in this rule have been determined to be significant for the purposes of E.O. 12866, we have determined that the energy effects are unlikely to exceed the energy impact thresholds identified in E.O. 13211. Therefore, this proposed action is not a significant energy action, and no Statement of Energy Effects is required.

#### List of Subjects in 50 CFR Part 223

Endangered and threatened species, Exports, Imports, Transportation.

Dated: February 1, 2007.

**Samuel D. Rauch III,**

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

For the reasons set out in the preamble, 50 CFR part 223 is proposed to be amended as follows:

#### PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

1. The authority citation for part 223 continues to read as follows:

**Authority:** 16 U.S.C. 1531–1543; subpart B, § 223.201 202 also issued under 16 U.S.C. 1361 *et seq.*; 16 U.S.C. 5503(d) for § 223.206(d)(9).

2. In § 223.203, paragraphs (a), (b) introductory text, and (b)(2) are revised to read as follows:

##### § 223.203 Anadromous fish.

\* \* \* \* \*

(a) *Prohibitions.* The prohibitions of section 9(a)(1) of the ESA (16 U.S.C. 1538(a)(1)) relating to endangered species apply to fish with an intact adipose fin that are part of the threatened species of salmonids listed in § 223.102(c)(3) through (c)(23).

(b) *Limits on the prohibitions.* The limits to the prohibitions of paragraph (a) of this section relating to threatened species of salmonids listed in § 223.102(c)(3) through (c)(23) are described in the following paragraphs (b)(1) through (b)(13):

\* \* \* \* \*

(2) The prohibitions of paragraph (a) of this section relating to threatened Puget Sound steelhead listed in § 223.102(c)(23) do not apply to activities specified in an application for ESA 4(d) authorization for scientific purposes or to enhance the conservation or survival of the species, provided that the application has been received by the Assistant Administrator for Fisheries,

NOAA (AA), no later than 60 days after the publication of the final rule in the **Federal Register**. The prohibitions of this section apply to these activities upon the AA's rejection of the application as insufficient, upon issuance or denial of authorization, or 6 months after the publication of the final rule in the **Federal Register**, whichever occurs earliest.

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#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

[Docket No. 070119012–7012–01; I.D. 010307B]

RIN 0648–AU78

#### Pacific Albacore Tuna Fisheries; Vessel List to Establish Eligibility to Fish for Albacore Tuna in Canadian Waters Under the U.S.–Canada Albacore Tuna Treaty

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

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

**SUMMARY:** NMFS proposes to develop a new vessel list at the beginning of each calendar year of U.S. vessels eligible to fish for albacore tuna in Canadian waters. The vessel list would revert to zero vessels on December 31 of each year, unless NMFS receives a notice for a vessel to be added to the list for the upcoming year, with the requisite information. This proposed regulation would clarify that the vessel list will remain valid for a single calendar year. Updating the list every year is intended to facilitate the United States' obligation to annually provide Canada a current list of U. S. vessels that are likely to fish albacore off the coast of Canada.

**DATES:** Comments must be received by 5 p.m. Pacific Standard Time March 9, 2007.

**ADDRESSES:** You may submit comments on this proposed rule, identified by [I.D. 010307B] by any of the following methods:

- E-mail: [albacore.fish@noaa.gov](mailto:albacore.fish@noaa.gov). Include the I.D. number in the subject line of the message.
- Federal e-Rulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Mail: Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.
- Phone: (562)980–4024.
- Fax: (562) 980–4047.

**FOR FURTHER INFORMATION CONTACT:** Chris Fanning, Southwest Region, NMFS, (562) 980–4198 or (562) 980–4030.

**SUPPLEMENTARY INFORMATION:** On August 18, 2006, NMFS published a notice (71 FR 47779) revising the methodology to create a vessel list for 2006 for vessels eligible to fish for albacore tuna in Canadian waters. 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 amended in 2002, establishes a number of obligations for both countries to control reciprocal fishing in waters of one country by vessels of the other country. One obligation is that each country is required to annually provide to the other country a list of its fishing vessels that are expected to fish for Pacific albacore tuna off the coast of the other country during the upcoming fishing season, generally June through October each year.

As described in the 2004 final rule implementing amendments to the Treaty (69 FR 31531, June 4, 2004), and codified at 50 CFR 300.172, the list must include vessel and owner name, address, and phone number; USCG documentation number (or state registration if not documented); vessel operator (if different from the owner) and his or her address with phone number. Each U.S. vessel must be on the list for at least 7 days prior to engaging in fishing under the Treaty. This is intended to ensure that both countries have equal information as to eligible vessels. U.S. and Canadian enforcement officers need up-to-date lists of eligible vessels to adequately enforce the Treaty. Vessel owners who wish their vessels remain on, or be added to, the vessel list must contact NMFS at the address specified at 50 CFR 300.171 (definition of “Regional Administrator”), which is the address that appears in the **ADDRESSES** section above and provide the required information. NMFS will notify fishermen by a confirmation letter or email of the date the request to be on the list was received.

Before the 2006 fishing season June through October, NMFS did not require owners of albacore fishing vessels that wanted their vessels to be on the list of U. S. vessels eligible to fish for albacore tuna in Canadian waters under the

Treaty to contact NMFS. Instead, NMFS relied on a lengthy list created from information provided by industry that was not readily verifiable nor did it indicate whether each vessel owner actually wished to fish for albacore tuna in Canada for any given year. The result was that NMFS was not able to provide the Canadian Government an updated vessel list of vessels owners who intended to fish for albacore tuna in Canada for a particular fishing season. With this proposed rule, NMFS would amend 50 CFR 300.172 to state explicitly that the vessel list is effective for only one calendar year and will be recompiled beginning on January 1 of each year. Additional vessels may be added to the list throughout the year in accordance with 50 CFR 300.172.

### Classification

The Regional Administrator, NMFS Southwest Region, determined that this proposed rule is consistent with the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

A fishing vessel is considered a "small" business by the U.S. Small Business Administration (SBA) if its annual receipts are not in excess of \$4.0 million (NAICS Code 114111). Because all of the vessels fishing for HMS have annual receipts below \$4.0 million, they would all be considered small businesses under the SBA standards. Therefore this rule will not create disproportionate costs between small and large vessels/businesses. Based on historic interest and recent U.S. participation in 2006, NMFS anticipates that the rule could impact approximately 100 vessels annually.

The revision of the methodology for developing the list of vessels eligible to fish for albacore tuna in Canadian waters under the U.S. Canada Albacore Tuna Treaty presents little burden to the public. The submission of a request by a vessel owner with the required information as a result of this new regulation is expected to present a minimal burden. The public reporting burden for requesting to be placed on the list of vessels eligible to fish in Canadian waters is estimated to average

0.08 hours per vessel or about 5 minutes each, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The only expected cost to a vessel owner requesting to be on the eligible list will be the cost associated with contacting NMFS by mail, fax, phone, or email. NMFS also does not anticipate a drop in profitability based on this rule, as it should not have a significant effect on the fishermen's ability to harvest HMS. Therefore, the proposed action, if implemented, will not have a significant impact on a substantial number of small entities.

Based on the analysis above, the Chief Counsel for Regulation of the Department of Commerce has determined that there will not be a significant economic impact to a substantial number of these small entities. As a result, a regulatory flexibility analysis is not required and none has been prepared.

This proposed rule for revising the methodology for developing the list of vessels eligible to fish for albacore tuna in Canadian waters under the U.S. Canada Albacore Tuna Treaty presents contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) that has been approved by OMB under control number 0648-0492. Public reporting burden for requesting to be placed on the list of vessels eligible to fish in Canadian waters is estimated to average 0.08 hours per vessel or about 5 minutes each, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov), or 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 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: February 1, 2007.

**Samuel D. Rauch III,**

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

For the reasons set out in the preamble, NMFS proposes to amend part 300 as follows:

### PART 300—INTERNATIONAL FISHERIES REGULATIONS

1. The authority citation for part 300 continues to read as follows:

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

2. Section 300.172 is revised to read as follows:

#### § 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. 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. On the date that NMFS receives a request that includes all the required information, NMFS will place the vessel on the annual vessel list. NMFS will notify fishermen by a confirmation letter or email of the date the vessel was placed on the list. Because the vessel list will revert to zero vessels on December 31 of each year, the required information must be provided in the manner specified on an annual basis.

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