

binding commitment so that contract performance can begin immediately.

(b) Be as complete and definite as practicable.

#### 817.7004 Limitations.

##### 817.7004-1 Authorization.

The contracting officer shall obtain approval one level above the contracting officer before—

(a) Entering into a UCA. The request for approval must fully explain the need to begin performance before definitization, including the adverse impact on the VA resulting from delays in beginning performance.

(b) Including requirements for non-urgent items and equipment in a UCA. The request should show that inclusion of the non-urgent items is consistent with good business practices and in the best interest of the Government.

(c) Modifying the scope of a UCA when performance has already begun. The request should show that the modification is consistent with good business practices and in the best interests of the Government.

##### 817.7004-2 Price ceiling.

UCAs shall include a not-to-exceed price.

##### 817.7004-3 Definitization schedule.

(a) UCAs shall contain definitization schedules that provide for definitization by the earlier of—

(1) The date that is 180 days after issuance of the action (this date may be extended but may not exceed the date that is 180 days after the contractor submits a definitization proposal); or

(2) The date on which the amount of funds paid to the contractor under the contract action is equal to more than 50 percent of the not-to-exceed price.

(b) Submission of a definitization proposal in accordance with the definitization schedule is a material element of the contract. If the contractor does not submit a timely definitization proposal, the contracting officer may suspend or reduce progress payments under FAR 32.503-6, or take other appropriate action.

##### 817.7004-4 Limitations on obligations.

The Government shall not obligate more than 50 percent of the not-to-exceed price before definitization.

##### 817.7004-5 Final price negotiation—profit.

Before the final price of a UCA is negotiated, contracting officers shall ensure the profit agreed to and documented in the contract negotiation memorandum reflects consideration of any risks incurred in performance of the work under the UCA.

#### 817.7005 Contract clause.

(a) Use the clause at 852.217-70, Contract Action Definitization, in—

- (1) All UCAs;
- (2) Solicitations associated with UCAs;
- (3) Orders against basic ordering agreements;
- (4) Indefinite delivery task orders; and
- (5) Any other type of contract providing for the use of UCAs.

(b) Insert the applicable information in paragraphs (a), (b), and (d) of the clause.

(c) If, at the time of entering into the UCA, the contracting officer knows that the definitive contract action will meet the criteria of FAR 15.403-1, 15.403-2, or 15.403-3 for not requiring submission of certified cost or pricing data, the words “and certified cost or pricing data” may be deleted from paragraph (a) of the clause.

#### PART 852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 9. The authority citation for part 852 continues to read as follows:

**Authority:** 38 U.S.C. 8127-8128, and 8151-8153; 40 U.S.C. 121(c); 41 U.S.C. 1121(c)(3); 41 U.S.C. 1303; 41 U.S.C. 1702; and 48 CFR 1.301-1.304.

■ 10. Section 852.217-70 is added to read as follows:

##### 852.217-70 Contract Action Definitization.

As prescribed in 817.7005(a), insert the following clause:

###### Contract Action Definitization (Date)

(a) A \_\_\_ [Insert specific type of contract action] is contemplated. The Contractor agrees to begin promptly negotiating with the Contracting Officer the terms of a definitive contract action that will include (1) all clauses required by the Federal Acquisition Regulation (FAR) on the date of execution of the undefinitized contract action, (2) all clauses required by law on the date of execution of the definitive contract action, and (3) any other mutually agreeable clauses, terms, and conditions. The Contractor agrees to submit a \_\_\_ [Insert type of proposal, e.g., fixed-price, or cost-and-fee] proposal with cost or pricing data, as appropriate, supporting it.

(b) The schedule for definitizing this contract action is as follows [Insert target date for definitization of the contract action and dates for submission of proposal, beginning of negotiations, and, if appropriate, submission of the make-or-buy plans, subcontracting plans, and cost or pricing data].

(c) If agreement on a definitive contract action to supersede this undefinitized contract action is not reached by the target

date in paragraph (b) of this clause, or within any extension of it granted by the Contracting Officer, the Contracting Officer may, with the approval of a Contracting Officer one level above, determine a reasonable price or fee in accordance with FAR subpart 15.4 and FAR part 31, subject to Contractor appeal as provided in the Disputes clause. In any event, the Contractor shall proceed with completion of the contract, subject only to FAR 52.216-24, Limitation of Government Liability.

(1) After the Contracting Officer's determination of price or fee, the contract shall be governed by—

(i) All clauses required by the FAR on the date of execution of this undefinitized contract action for either fixed-price or cost-reimbursement contracts, as determined by the Contracting Officer under this paragraph (c);

(ii) All clauses required by law as of the date of the Contracting Officer's determination; and

(iii) Any other clauses, terms, and conditions mutually agreed upon.

(2) To the extent consistent with paragraph (c)(1) of this clause, all clauses, terms, and conditions included in this undefinitized contract action shall continue in effect, except those that by their nature apply only to an undefinitized contract action.

(d) The definitive contract action resulting from this undefinitized contract action will include a negotiated \_\_\_ [Insert “cost/price ceiling” or “firm-fixed-price”] in no event to exceed \_\_\_ [Insert the not-to-exceed amount].

(End of clause)

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

[Docket No. 180716667-8667-01]

RIN 0648-BI36

### International Fisheries; Pacific Tuna Fisheries; 2019 and 2020 Commercial Fishing Restrictions for Pacific Bluefin Tuna in the Eastern Pacific Ocean

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

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

**SUMMARY:** The National Marine Fisheries Service (NMFS) is proposing regulations under the Tuna Conventions Act of 1950 (TCA) to implement Inter-American Tropical Tuna Commission (IATTC) Resolution C-18-01 (*Measures for the Conservation and Management of Bluefin Tuna in the Eastern Pacific*

Ocean, 2019–2020) and Resolution C–18–02 (*Amendment to Resolution C–16–08 on a Long-term Management Framework for the Conservation and Management of Pacific Bluefin Tuna in the Eastern Pacific Ocean*). This proposed rule would implement annual limits on commercial catch of Pacific bluefin tuna (*Thunnus orientalis*) in the eastern Pacific Ocean (EPO) for 2019 and 2020. This action is necessary to conserve Pacific bluefin tuna and for the United States to satisfy its obligations as a member of the IATTC.

**DATES:** Comments on the proposed rule and supporting documents must be submitted in writing by January 16, 2019.

**ADDRESSES:** You may submit comments on this document, identified by NOAA–NMFS–2018–0126, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2018-0126>, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Celia Barroso, NMFS West Coast Region Long Beach Office, 501 W Ocean Blvd., Suite 4200, Long Beach, CA 90802. Include the identifier “NOAA–NMFS–2018–0126” in the comments.

**Instructions:** Comments must be submitted by one of the above methods to ensure they are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Please submit written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule and subject to the Paperwork Reduction Act to Celia Barroso, NMFS West Coast Region Long Beach Office (see address above) and by email to [OIRA\\_Submission@omb.eop.gov](mailto:OIRA_Submission@omb.eop.gov) or fax to (202) 395–7285.

Copies of the draft Regulatory Impact Review (RIR) and other supporting documents are available via the Federal eRulemaking Portal: <http://www.regulations.gov>, docket NOAA–NMFS–2018–0126, or contact the Highly Migratory Species Branch Chief, Heidi Taylor, 501 W Ocean Blvd., Suite 4200, Long Beach, CA 90208, or [WCR.HMS@noaa.gov](mailto:WCR.HMS@noaa.gov).

**FOR FURTHER INFORMATION CONTACT:** Celia Barroso, NMFS, 562–432–1850, [Celia.Barroso@noaa.gov](mailto:Celia.Barroso@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**Background on the IATTC**

The United States is a member of the IATTC, which was established in 1949 and operates under 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). See: [https://www.iatcc.org/PDFFiles2/Antigua\\_Convention\\_Jun\\_2003.pdf](https://www.iatcc.org/PDFFiles2/Antigua_Convention_Jun_2003.pdf).

The IATTC consists of 21 member nations and five cooperating non-member nations. The IATTC facilitates scientific research into, as well as the conservation and management of, tuna and tuna-like species in the IATTC Convention Area (Convention Area). The 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, shark, and billfish stocks in the EPO to determine appropriate catch limits and other measures to promote sustainable fisheries and prevent overexploitation.

**International Obligations of the United States Under the 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.

**Pacific Bluefin Tuna Stock Status**

In 2011, NMFS determined overfishing was occurring on Pacific bluefin tuna (76 FR 28422, May 17, 2011), which is considered a single Pacific-wide stock. Based on the results of a 2012 stock assessment conducted by the International Scientific Committee for Tuna and Tuna-like Species in the North Pacific Ocean (ISC), NMFS determined that Pacific bluefin tuna was not only subject to overfishing, but was also overfished (78 FR 41033, July 9, 2013). Subsequently, based on the results of the 2014 and 2016 ISC stock assessments, NMFS determined that Pacific bluefin tuna continued to be overfished and subject to overfishing (80 FR 12621, March 10, 2015; 82 FR 18434, April 19, 2017).

**Pacific Bluefin Tuna Resolutions**

Recognizing the need to reduce fishing mortality of Pacific bluefin tuna, the IATTC has adopted catch limits in the Convention Area since 2012 (see the final rules implementing Resolution C–14–06 and Resolution C–16–08 for more information on previous management measures (80 FR 38986, July 8, 2015; 82 FR 18704, April 21, 2017)). At its 93rd Meeting in August 2018, the IATTC adopted Resolutions C–18–01 and C–18–02. Resolution C–18–01 reaffirms “that in 2018 the IATTC Scientific Staff did not recommend additional measures because the measures established in Resolution C–16–08 are adequate to meet the rebuilding targets. . . .” Resolution C–18–01 amends the IATTC’s long-term management framework for Pacific bluefin tuna and Resolution C–18–02 establishes catch limits and reporting requirements for 2019–2020. These resolutions and the subject of this rulemaking were approved by the Secretary of State, thereby prompting implementation by NMFS.

Since 2016, the IATTC and the Northern Committee (NC) to the Western and Central Pacific Fisheries Commission (WCPFC) have held annual joint working group meetings intended to develop a Pacific-wide approach to management of Pacific bluefin tuna. Conservation measures adopted by the IATTC and WCPFC have considered the recommendations of the Joint IATTC–WCPFC NC Working Group (Joint WG). The Joint WG recommendations have included rebuilding targets and criteria that must be met to consider future increases in catch limits. Future conservation measures adopted by the IATTC and WCPFC for Pacific bluefin tuna are also expected to be based, in part, on information and advice from

the ISC, which recently completed a stock assessment in 2018.

In 2017, WCPFC, which has purview over the management of highly migratory species stocks in the western and central Pacific Ocean, revised a conservation and management measure for Pacific bluefin tuna intended to decrease the level of fishing mortality (CMM 2017–08). This revision incorporated the recommendations of the Joint WG, and continues effort and catch limits.

Similar to previous IATTC resolutions on Pacific bluefin tuna, the main objective of Resolution C–18–01 is to reduce overfishing and to rebuild the stock by setting limits on commercial catch in the IATTC Convention Area during 2019 and 2020. C–18–01 establishes a combined catch limit of 600 metric tons (mt) for 2019 and 2020, with some potential modification, applicable to commercial vessels of each member or cooperating non-member, except Mexico, with a historical record of Pacific bluefin tuna catch from the EPO (*i.e.*, including the United States). Total catch is not to exceed 425 mt in a single year. The potential modifications to the biennial catch limit in Resolution C–18–01 may result from the following: (a) The deduction of any amount harvested in 2017 and 2018 that exceeds the biennial limit established in Resolution C–16–08 (*i.e.*, any amount above 600 mt) in accordance with Paragraph 5 of Resolution C–18–01 and Paragraph 3 of Resolution C–18–02; (b) the addition of an amount of the biennial limit established in Resolution C–16–08 that was not harvested by the end of the 2018 calendar year in accordance with Paragraph 6 of Resolution C–18–01 and Paragraph 4 of Resolution C–18–02, which limits the amount of under-harvest that may be carried over to 5 percent of the original limit (*i.e.*, not to exceed 30 mt); and (c) if the IATTC revises catch limits for 2020 in accordance with Paragraph 12 of Resolution C–18–01.

#### **Pacific Fishery Management Council (PFMC) Recommendations for the Implementation of C–18–01**

In accordance with a PFMC recommendation, NMFS implemented the catch limits in Resolution C–16–08 with a 25-mt trip limit until catch is within 50 mt of the annual limit (*i.e.*, annual limit is 425 mt in 2017) and a 2-mt trip limit when catch is within 50 mt of the annual limit (82 FR 18704, April 21, 2017). However, the annual limit was exceeded in 2017. The catch rate was more rapid than anticipated, which caused the annual limit to be exceeded before the fishery was closed

on August 28, 2017 (82 FR 40720). This series of events prompted NMFS and the PFMC to reconsider management measures for 2018 to avoid exceeding the biennial limit. Consequently, NMFS implemented a 1-mt Pacific bluefin tuna trip limit applicable to commercial U.S. vessels—except large-mesh drift gillnet vessels, which are subject to a 2-mt trip limit—in 2018 (83 FR 13203), March 28, 2018).

At its September 2018 meeting, the PFMC made the following recommendations for implementing catch limits established in Resolution C–18–01 for 2019 and 2020: (a) For 2019, an annual limit of 300 mt; and a 15-mt trip limit until landings reach 200 mt, at which time the trip limit is reduced to 2 mt; (b) for 2020, the annual limit is calculated using the amount caught in 2019 and any over-harvest or under-harvest consistent with Resolutions C–18–01 and C–18–02; and a 15-mt trip limit until the cumulative 2019–2020 landings reach 475 mt, at which time the trip limit is reduced to 2 mt; (c) Pacific bluefin tuna landings must be reported within 24 hours of landing using the California electronic landing receipt (e-ticket) reporting system; and (d) that NMFS develop a method to close the fishery or reduce the trip limit via United States Coast Guard radio broadcast, or other means that will halt additional fishing in the timeliest possible manner.

Under the California Code of Regulations, as of July 1, 2019, California e-tickets will be mandatory (Title 14 § 197) and must be submitted within three business days. To assist with catch limit monitoring, the PFMC recommended NMFS require that dealers, or buyers, submit the e-tickets to E-Tix—the electronic reporting system for commercial fishery landings in California—or submittal to the California Department of Fish and Wildlife within 24 hours.

#### **Pacific Bluefin Tuna Catch History**

While Pacific bluefin tuna catch by U.S. commercial vessels fishing in the Convention Area exceeded 1,000 mt per year in the early 1990s, annual catches have remained below 500 mt for more than a decade. The U.S. commercial catch of Pacific bluefin tuna in the Convention Area for the years 2002 to 2018 can be found in Table 1 below. Average annual Pacific bluefin tuna landings by U.S. commercial vessels fishing in the Convention Area from 2011 to 2015 represent only one percent of the average annual landings of Pacific bluefin tuna for all fleets fishing in the Convention Area. For information on Pacific bluefin tuna harvests in the

Convention Area through 2017, see [http://isc.fra.go.jp/fisheries\\_statistics/index.html](http://isc.fra.go.jp/fisheries_statistics/index.html); for preliminary information for 2018, see <http://www.iattc.org/CatchReportsDataENG.htm>.

**TABLE 1—ANNUAL U.S. COMMERCIAL CATCH, IN METRIC TONS (mt), OF PACIFIC BLUEFIN TUNA IN THE EASTERN PACIFIC OCEAN FROM 2002 TO 2018**

Year	Catch (mt)
2002	62
2003	40
2004	11
2005	208
2006	2
2007	44
2008	1
2009	416
2010	1
2011	118
2012	42
2013	11
2014	408
2015	96
2016	343
2017	484
2018	* 55.9

Source: Highly Migratory Species Stock Assessment and Fishery Evaluation: <http://www.pcouncil.org/highly-migratory-species/stock-assessment-and-fishery-evaluation-safe-documents/current-hms-safe-document/>.

\* Preliminary estimate of 2018 Pacific bluefin tuna landed catch by United States based on communications with California Department of Fish and Wildlife on December 4, 2018.

#### **Proposed Regulations for Pacific Bluefin Tuna for 2019–2020**

This proposed rule would establish catch and trip limits for U.S. commercial vessels that catch Pacific bluefin tuna in the Convention Area, pre-trip notification requirements, and accelerated landing receipt submission deadlines for 2019 and 2020. In 2019, the catch limit for the entire U.S. fleet would be 300 mt. In 2020, NMFS would announce the catch limit in a **Federal Register** notice, which would be calculated as the amount caught in 2019 subtracted from the biennial limit, but not to exceed 425 mt. The U.S. biennial limit is 600 mt, before any additions or deductions based on the over-harvest and under-harvest provisions of Resolutions C–18–01 and C–18–02.

In 2019 and 2020, NMFS would impose a 15-mt trip limit until catch is within 50 mt of the annual limit, at which time NMFS would impose a 2-mt trip limit through the end of the year, or until the fishery is closed. However, if the annual limit in 2020 is 125 mt or less, the trip limit will be 2 mt for the entire calendar year or until the fishery is closed.

As of July 1, 2019, E-tickets, which as of that date will be required under California Code of Regulations (Title 14, § 197) and must be submitted within three business days, would be required to be submitted within 24 hours if any Pacific bluefin tuna is included in a landing into California. This accelerated submission deadline is required in order to better monitor catch limits. During periods in which the trip limit is 15 metric tons, purse seine vessels would not be allowed to retain or land Pacific bluefin tuna unless NMFS received a pre-trip notification. Vessel operators would be required to provide this pre-trip notification at least 48 hours in advance of the fishing trip. The pre-trip notification must include the vessel owner's or operator's name, contact information, vessel name, port of departure, and the intended date of departure for this trip. NMFS would use the contact information provided in the pre-trip notification to notify purse seine vessel owners or operators if an inseason action (*i.e.*, reduction in trip limit or fishery closure) is expected or imposed. The pre-trip notification would be completed by sending an email to [pbf.notifications@noaa.gov](mailto:pbf.notifications@noaa.gov). A reply will be sent automatically to the vessel operator to confirm receipt of the pre-trip notification.

The pre-trip notification would assist NMFS in closely tracking catch to manage the trip limits and fishery closure requirements. For the purposes of tracking catch of Pacific bluefin tuna, NMFS would assume that 15 metric tons of Pacific bluefin tuna will be caught on every trip for which a pre-trip notification was provided. Along with other available fishery information, such as landing receipts, NMFS would estimate when the overall catch is expected to reach either the threshold to reduce the trip limit (*i.e.*, within 50 mt of the annual limit) or the annual limit. NMFS would then make decisions on inseason actions based on those estimates. NMFS would encourage owners or operators of purse seine vessels to call NMFS at 562-432-1850 in advance of landing with an estimate of how much Pacific bluefin tuna was caught on the trip.

#### *Inseason Action Announcements*

When NMFS determines that catch is expected to be within 50 mt of the annual limit (based on pre-trip notifications, landing receipts, or other available information), a 2-mt trip limit would be imposed by NMFS, effective upon the time and date that would appear in a notice on the NMFS WCR website (<https://www.westcoast.fisheries.noaa.gov/>

[fisheries/migratory\\_species/bluefin\\_tuna\\_harvest\\_status.html](https://www.westcoast.fisheries.noaa.gov/fisheries/migratory_species/bluefin_tuna_harvest_status.html)) and announced over a United States Coast Guard (USCG) Notice to Mariners that will be broadcast three times per day for four days on USCG channel 16 VHF. NMFS would then publish a notice of the reduced trip limit in the **Federal Register** as soon as practicable. If the annual limit in 2020 is 125 mt or less, NMFS would not need to provide a notice that the trip limit has been reduced because the trip limit would be 2 mt for the entire calendar year.

When NMFS determines that the annual catch limit is expected to be reached in 2019 or 2020 (based on pre-trip notifications, landings receipts, or other available fishery information), NMFS would prohibit commercial fishing for, or retention of, Pacific bluefin tuna for the remainder of the calendar year (*i.e.*, fishery closure). NMFS would provide a notice on the NMFS WCR website and the USCG would provide a Notice to Mariners three times per day for four days on USCG channel 16 VHF announcing that the targeting, retaining, transshipping or landing of Pacific bluefin tuna will be prohibited on a specified effective time and date through the end of that calendar year. Upon that effective date, a commercial fishing vessel of the United States may not be used to target, retain on board, transship, or land Pacific bluefin tuna captured in the Convention Area. However, any Pacific bluefin tuna already on board a fishing vessel on the effective date could be retained on board, transshipped, and/or landed, to the extent authorized by applicable laws and regulations, provided that they are landed within 14 days of the effective date. NMFS would then publish a notice of the fishery closure in the **Federal Register** as soon as practicable.

In 2020, NMFS would publish a notice in the **Federal Register** announcing the 2020 catch limit.

In the event the trip limit was reduced early or the fishery was closed due to an overestimation of catch, NMFS could increase the trip limit to 15 metric tons or re-open the fishery after landing receipts have been received and the landed catch quantity confirmed. NMFS would announce these actions on the NMFS WCR website and by USCG Notice to Mariners on USCG channel 16 VHF.

Although the PFMF recommended a more conservative threshold to reduce the trip limit, NMFS' proposal to make the pre-trip notification and inseason actions effective upon website posting and via USCG radio broadcast (rather than waiting for filing of a notice with

the Office of the Federal Register) is expected to enable NMFS to adequately manage the fishery by reducing the trip limit and/or closing the fishery in a timely manner, if needed.

The PFMF, at its November 2018 meeting, recommended an alternative to the pre-trip notification in the proposed regulations. Instead of requiring the pre-trip notification by purse seine vessels be received by NMFS 48 hours in advance of a trip, the PFMF recommended it be required 24 hours in advance of a trip. Additionally, instead of prohibiting retention or landing of any Pacific bluefin tuna if the pre-trip notification was not received by NMFS, the PFMF recommended allowing up to two metric tons of Pacific bluefin tuna to be retained or landed without providing a pre-trip notification. (*i.e.*, prohibiting the retention or landing of Pacific bluefin tuna in excess of 2 metric tons). NMFS is seeking public comment on this November 2018 recommendation of the PFMF in addition to the proposal set forth in the regulatory text below.

#### **Proposed Catch Reporting**

NMFS would provide updates on Pacific bluefin tuna catches in the Convention Area to the public via the IATTC listserv and the NMFS West Coast Region website: [http://www.westcoast.fisheries.noaa.gov/fisheries/migratory\\_species/bluefin\\_tuna\\_harvest\\_status.html](http://www.westcoast.fisheries.noaa.gov/fisheries/migratory_species/bluefin_tuna_harvest_status.html). Specifically, beginning April 1 of each year, NMFS would update the NMFS West Coast Region website weekly, at a minimum, provided the updates do not disclose confidential information (in accordance with Magnuson-Stevens Fishery Conservation and Management Act section 402 (b), 16 U.S.C. 1881a). These updates are intended to help participants in the U.S. commercial fishery plan for reduced trip limits and attainment of the annual limits.

#### **Classification**

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

Under the Regulatory Flexibility Act (RFA), the U.S. Small Business Administration (SBA) defines a "small business" (or "small entity") as one with annual revenue that meets or is below an established size standard. On December 29, 2015, NMFS issued a final rule establishing a small business size standard of \$11 million in annual gross receipts for all businesses primarily engaged in the commercial fishing industry (NAICS 11411) for RFA compliance purposes only (80 FR 81194). The \$11 million standard

became effective on July 1, 2016, and is to be used in place of the U.S. SBA current standards of \$20.5 million, \$5.5 million, and \$7.5 million for the finfish (NAICS 114111), shellfish (NAICS 114112), and other marine fishing (NAICS 114119) sectors of the U.S. commercial fishing industry in all NMFS rules subject to the RFA after July 1, 2016. Id. at 81194.

The small entities the proposed action would directly affect are all U.S. commercial fishing vessels that may target (e.g., coastal pelagic purse seine vessels) or incidentally catch (e.g., drift gillnet) Pacific bluefin tuna in the Convention Area; however, not all vessels that have participated in this fishery decide to do so every year. U.S. commercial catch of Pacific bluefin tuna from the IATTC Convention Area is primarily made in waters off of California by the coastal pelagic small purse seine fleet, which targets Pacific bluefin tuna opportunistically, and other fleets (e.g., California large-mesh drift gillnet, surface hook-and-line, west coast longline, and Hawaii's pelagic fisheries) that catch Pacific bluefin tuna in small quantities, such as incidentally.

Revenues of coastal purse seine vessels are not expected to be significantly altered as a result of this rule, which is applicable to 2019–2020 only. Since 2006, the average annual revenue per vessel from all finfish fishing activities for the U.S. purse seine fleet that have landed Pacific bluefin tuna has been less than \$11 million, whether considering an individual vessel or per vessel average. Since 2008, in years Pacific bluefin tuna was landed, purse seine vessels that caught Pacific bluefin tuna had an average ex-vessel revenue of about \$2.4 million per vessel (based on all species landed). Annually, from 2013 to 2017, the number of small coastal pelagic purse seine vessels that landed Pacific bluefin tuna in the Convention Area ranged from zero to eight. In 2013, the coastal purse seine fishery did not land Pacific bluefin tuna. In 2014 and 2015, four and five vessels landed Pacific bluefin tuna, respectively. In 2014, eight purse seine vessels fishing in the Convention Area landed highly migratory species (HMS) in California, but only four of them were involved in landing roughly 401 mt of Pacific bluefin tuna, worth about \$588,000, in west coast ports. Similarly, in 2015, 11 vessels fishing in the Convention Area landed HMS in California, but only 5 vessels landed approximately 86 mt of Pacific bluefin tuna, worth about \$75,000. In 2016, 9 vessels landed HMS, but only 5 landed approximately 316 mt of Pacific bluefin tuna worth about \$352,000. In 2017, 9

vessels landed HMS and 8 landed Pacific bluefin tuna; these vessels landed approximately 466 mt of Pacific bluefin tuna worth about \$516,000. The revenue derived from Pacific bluefin tuna is a fraction of the overall revenue for coastal pelagic purse seine vessels (1.4 percent annually from 2008–2017) as they typically harvest other species, including Pacific sardine, Pacific mackerel, squid, and anchovy. The value of Pacific bluefin tuna in coastal pelagic purse seine fishery from 2008–2017 was \$1.17/kilogram. This amount is negligible relative to the fleet's annual revenue resulting from other species. Since implementing a 25-mt trip limit (2015–2017), average catch was 14.8 mt per trip. Thirty-four of 61 trips, conducted by 3 to 8 vessels, that landed Pacific bluefin tuna from 2015–2017 exceeded 15 mt; however, vessels are expected to shift their focus and target other species, such as yellowfin tuna, if available, or coastal pelagic species.

Since 2006, the average annual revenue per vessel from all finfish fishing activities for the U.S. fleet with landings of Pacific bluefin tuna in small quantities, such as from incidental catch, has been less than \$11 million. These vessels include drift gillnet, surface hook-and-line, and longline gear-types. The revenues of these vessels are also not expected to be significantly altered by the rule. From 2013 to 2017, the number of drift gillnet, surface hook-and-line, and longline vessels that participated in this fishery range from 7 to 13, 1 to 61, and 1 to 3, respectively. During these years, vessels with gears other than purse seine landed an annual average of 17.4 mt of Pacific bluefin tuna, worth approximately \$135,100. Of these landings, only one trip exceeded 2 mt. As a result, it is anticipated that proposed reduced trip limits will not have a significant impact on these vessels. If the fishery is closed before the calendar year, regulatory discards by these fleets are likely. Such a scenario would result in a greater impact to the fleet that catches Pacific bluefin tuna in small quantities, as opposed to the coastal purse seine fleet, which would simply cease targeting of Pacific bluefin tuna. This could result in a greater conservation benefit for the overfished Pacific bluefin stock.

Although there are no disproportionate impacts between small and large business entities because all affected business entities are small, the impacts among the business entities will be different. Implementation of the reduced trip limit for an entire calendar year (i.e., in the event the catch limit in 2020 is 125 mt or less) in this proposed action would impose a greater economic

impact on the U.S. coastal purse seine fleet. Prior to the implementation of a 25-mt trip limit in 2015, these vessels landed an average of 41 mt per trip, and are capable of landing over 70 mt in a single trip (based on landings from purse seine vessels landing Pacific bluefin tuna in the EPO from 2011–2014). The purse seine fleet might not target Pacific bluefin tuna if the trip limit were 2 mt or less; however, as observed in 2018 while the trip limit is restricted to 1 mt for purse seine vessels, some purse seine vessels did land Pacific bluefin tuna in small quantities. Under the current regulations at 50 CFR 300.25(g)(2) and taking into account the 2017 catch, which exceeded the 2017 annual limit by at least 50 mt, a total of about 114 mt is available to U.S. commercial vessels in 2018.

NMFS considers all entities subject to this action, which based on recent participation ranges from eight to 85 because participation fluctuates substantially from year-to-year, to be small entities as defined by both the former, lower size standards and the revised size standards. Because each affected vessel is a small business, there are no disproportional affects to small versus large entities. Based on profitability analysis above, the proposed action, if adopted, will not have significant adverse economic impacts on these small business entities. As a result, an Initial Regulatory Flexibility Analysis is not required and was not prepared for this proposed rule.

This proposed rule contains a new collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been submitted to OMB for approval. The proposed new requirements are listed below. The estimates for the public reporting burden of all responses combined for each proposed requirement are as follows: E-ticket submission: 0 hours because submission will already be required by California Code of Regulations; Pre-trip notification: 4.25 hours; Voluntary pre-landing notification: 2.55 hours.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information 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 collection techniques or other forms of information technology. Send comments

on these or any other aspects of the collection of information to Celia Barroso, NMFS West Coast Region Long Beach Office at the ADDRESSES above, and by email to OIRA\_Submission@omb.eop.gov or fax to (202) 395-7285.

List of Subjects in 50 CFR Part 300

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

Dated: December 20, 2018.

Donna S. Wieting,

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

For the reasons set out in the preamble, 50 CFR part 300 is proposed to be amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

■ 1. The authority citation for part 300, subpart C, continues to read as follows:

Authority: 16 U.S.C. 951 et seq.

■ 2. In § 300.24, revise paragraph (u) to read as follows:

§ 300.24 Prohibitions.

\* \* \* \* \*

(u) Use a United States commercial fishing vessel in the Convention Area to target, retain on board, transship, or land Pacific bluefin tuna in contravention of § 300.25(g)(4) through (7) and (g)(9) through (10).

\* \* \* \* \*

■ 3. In § 300.25, revise paragraph (g) to read as follows:

§ 300.25 Fisheries management.

\* \* \* \* \*

(g) Pacific bluefin tuna (Thunnus orientalis) commercial catch limits in the eastern Pacific Ocean for 2019–2020. The following is applicable to the U.S. commercial fishery for Pacific bluefin tuna in the Convention Area in the years 2019 and 2020.

(1) The 2019–2020 biennial limit is either:

(i) 600 metric tons increased by the amount, not to exceed 30 metric tons, of Pacific bluefin tuna catch remaining from the 2018 U.S. commercial catch limit; or,

(ii) 600 metric tons reduced by the amount of Pacific bluefin tuna caught in 2018 in excess of the 2018 U.S. commercial catch limit.

(2) For the calendar year 2019, all commercial fishing vessels of the United States combined may capture, retain, transship, or land no more than 300 metric tons.

(3) In 2020, NMFS will publish a notice in the Federal Register announcing the 2020 catch limit. For the calendar year 2020, all commercial fishing vessels of the United States combined may capture, retain on board, transship, or land no more than the 2020 annual catch limit. The 2020 catch limit is the lesser of: The 2019–2020 biennial limit reduced by the amount caught by U.S. commercial vessels in 2019; or 425 metric tons.

(4) In 2019 and 2020, a 15-metric ton trip limit will be in effect until NMFS anticipates that catch will be within 50 metric tons of the catch limit, after which a 2-metric ton trip limit will be in effect upon the effective date provided in actual notice, in accordance with paragraph (g)(8) of this section.

(5) After NMFS determines that the catch limits under paragraphs (g)(2) and (3) of this section are expected to be reached by a future date, NMFS will close the fishery effective upon the date provided the actual notice, in accordance with paragraph (g)(8) of this section. Upon the effective date in the actual notice, targeting, retaining on board, transshipping, or landing Pacific bluefin tuna in the Convention Area shall be prohibited, as described in paragraph (g)(6) of this section.

(6) Beginning on the date provided in the actual notice of the fishing closure notice announced under paragraph (g)(5) of this section, a commercial fishing vessel of the United States may not be used to target, retain on board, transship, or land Pacific bluefin tuna captured in the Convention Area through the end of the calendar year, with the exception that any Pacific bluefin tuna already on board a fishing vessel on the effective date of the notice may be retained on board, transshipped, and/or landed within 14 days after the effective date published in the fishing closure notice, to the extent authorized by applicable laws and regulations.

(7) If an inseason action taken under paragraphs (g)(4), (5), or (6) of this section is based on overestimate of actual catch, NMFS will reverse that action in the timeliest possible manner, provided NMFS finds that reversing that action is consistent with the management objectives for the affected species. The fishery will reopen effective on the date provided in the actual notice in accordance with paragraph (g)(8) of this section.

(8) Inseason actions taken under paragraphs (g)(4), (5), (6), and (7) of this section will be by actual notice from posting on the National Marine Fisheries West Coast Region website (https://www.westcoast.fisheries.noaa.gov/fisheries/migratory\_species/bluefin\_tuna\_harvest\_status.html) and a United States Coast Guard Notice to Mariners. The Notice to Mariners will be broadcast three times daily for four days. This action will also be published in the Federal Register as soon as practicable. Inseason actions will be effective from the time specified in the actual notice of the action (i.e., website posting and United States Coast Guard Notice to Mariners), or at the time the inseason action published in the Federal Register is effective, whichever comes first.

(9) While the 15-metric ton trip limit is in effect, Pacific bluefin tuna may be retained or landed from a purse seine vessel only if the owner or operator provided a pre-trip notification to NMFS 48 hours in advance of departing on the fishing trip. The notification shall be made to NMFS at pbf.notifications@noaa.gov, and must include the owner or operator's name, contact information, vessel name, port of departure, and intended date and time of departure.

(10) As of July 2, 2019, if landing Pacific bluefin tuna into the State of California, fish landing receipts must be submitted within 24 hours to the California Department of Fish and Wildlife in accordance with the requirements of applicable State regulations.

\* \* \* \* \*