

motor carrier security tracking should not be taken prior to the completion of TSA's pilot, and, in any event, be carried out under TSA's legal authority, rather than primarily as an amendment to the HMR. By contrast, the proposals to require use of escorts or a pre-notification system do not appear worthy of further consideration. As mentioned above, PHMSA will continue to address safe havens and other issues related to the storage of explosives during transportation in Docket HM-238. In the meantime, PHMSA will consult and coordinate with TSA on hazardous materials transportation security issues in accordance with the PHMSA-TSA Annex.

Accordingly, PHMSA is withdrawing the July 16, 2002 ANPRM and terminating this rulemaking proceeding.

Issued in Washington, DC, on June 1, 2007, under authority delegated in 49 CFR Part 1.

**Theodore L. Willke,**

*Acting Associate Administrator for Hazardous Materials Safety.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 070611120-7120-01; I.D. 032607A]

RIN 0648-AU77

#### Fisheries Off West Coast States; Highly Migratory Species Fisheries

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

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

**SUMMARY:** NMFS issues a proposed rule to implement daily bag limits for sport-caught albacore tuna (*Thunnus alalunga*) and bluefin tuna (*Thunnus orientalis*) in the Exclusive Economic Zone (EEZ) off California under the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP). This proposed rule would be implemented as a conservation measure as part of the 2007-2009 biennial management cycle as established in the HMS FMP Framework provisions for changes to routine management measures.

**DATES:** Comments must be received by July 27, 2007.

**ADDRESSES:** You may submit comments on this notice, identified by I.D. 032607A, by any of the following methods:

- E-mail: [0648-AU77.SWR@noaa.gov](mailto:0648-AU77.SWR@noaa.gov). Include the I.D. number in the subject line of the message.

- Federal eRulemaking Portal: [www.regulations.gov](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.

- Fax: (562) 980-4047.

**FOR FURTHER INFORMATION CONTACT:**

Craig Heberer, Sustainable Fisheries Division, NMFS, 760-431-9440, ext. 303.

**SUPPLEMENTARY INFORMATION:** On April 7, 2004, NMFS published a final rule to implement the HMS FMP (69 FR 18444) that included annual specification guidelines at 50 CFR 660.709. These guidelines establish a process for the Pacific Fishery Management Council (Council) to take final action at its regularly-scheduled November meeting on any necessary harvest guideline, quota, or other management measure and recommend any such action to NMFS. At their November 12-17, 2006, meeting, the Council adopted a recommendation to establish daily bag limits for sport caught albacore and bluefin tuna harvested in the EEZ off of California as a routine management measure for the 2007-2009 biennial management cycle. NMFS is initiating rulemaking for this action pursuant to procedures established at 50 CFR 660.709(a)(4) of the implementing regulations for the HMS FMP.

This proposed rule would establish a daily bag limit of 10 albacore tuna harvested in the U.S. EEZ south of Point Conception (34° 27' N. latitude) to the U.S.-Mexico border and a daily bag limit of 25 albacore tuna harvested in the U.S. EEZ north of Point Conception to the California-Oregon border. This proposed rule would also establish a daily bag limit of 10 bluefin tuna in the U.S. EEZ off the entire California coast. The two bag limits for albacore tuna are intended to accommodate differences in fishing opportunity in the two regions south and north of Point Conception. The 25 fish albacore tuna bag limit north of Point Conception is consistent with the current albacore tuna bag limit established by the State of Oregon for recreational fisheries in its waters and recognizes the more frequent weather-related loss of fishing opportunity in these waters compared to waters south of Pt. Conception.

California State regulations allow, by special permit, the retention of up to three daily bag limits for a trip occurring over multiple, consecutive days.

California State regulations also allow for two or more persons angling for finfish aboard a vessel in ocean waters off California to continue fishing until boat limits are reached. NMFS and the Council would consider these additional state restrictions to be consistent with Federal regulations implementing the HMS FMP, including this proposed rule if implemented. If approved, this regulation will stay in effect until such time as the Council and/or NMFS proposes further modifications as part of the HMS FMP biennial management cycle process. The State of California has informed NMFS that it intends to implement companion regulations to impose daily albacore and bluefin bag limits applicable to recreational angling and possession of fish in state waters (0-3 nm).

#### Classification

NMFS has determined that the proposed rule is consistent with the HMS FMP and preliminarily determined that this proposed rule is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

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

Approximately 165 HMS recreational charter vessels based in California were permitted under the HMS FMP to operate in the HMS recreational fishery off the U.S. West Coast in 2006. The California HMS recreational charter vessels are considered small business entities. The HMS recreational charter fleet based in Oregon does not fish off the coast of California and would therefore not be impacted by this proposed rule. A review of historic recreational fisheries data in ocean waters adjacent to California by recreational anglers, in all marine areas, and all boat-based fishing modes from 1997 through 2005 shows that approximately 98 percent of sampled catches that contained albacore landed less than 10 fish per day. For the 2 percent of trips that would be impacted by this proposed rule, the estimated economic impact equates to a potential expenditure loss of 0.08 percent to 1.0 percent. The data for bluefin tuna catches shows that 100 percent of the 1997 through 2005 sampled catches that landed bluefin contained less than six fish per day therefore potential expenditure loss under this proposed rule would be zero. In addition, the

proposed imposition of a daily bag limit for these species would not constrain continued catch-and-release angling should the bag limits be reached further mitigating the potential economic impacts this proposed rule would have on recreational fishermen and small business entities.

As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

**List of Subjects in 50 CFR Part 660**

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 21, 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 660 is proposed to be amended as follows:

**PART 660—FISHERIES OFF THE WEST COAST STATES**

1. The authority citation for part 660 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

2. A new paragraph (qq) is added to § 660.705 to read as follows:

**§ 660.705 Prohibitions.**

\* \* \* \* \*

(qq) Take and retain, possess on board, or land, fish in excess of any bag limit specified in § 660.721.

3. Subpart K is amended by adding a new § 660.721 to read as follows:

**§ 660.721 Recreational fishing bag limits.**

(a) *General.* This section applies to recreational fishing for HMS management unit species in the U.S. EEZ off the coast of California, Oregon, and Washington and in the adjacent high seas areas. In addition to individual fishermen, the operator of a vessel that fishes in the EEZ is responsible for ensuring that the bag limits of this section are not exceeded. The bag limits of this section apply on the basis of each 24-hour period at sea, regardless of the number of trips per day. The provisions of this section do not authorize any person to take more than one daily bag limit of fishing during one calendar day. Federal recreational HMS regulations are not intended to supersede any more restrictive state recreational HMS regulations relating to federally-managed HMS. The bag limits include fish taken in both state and Federal waters.

(1) *Albacore Tuna Daily Bag Limit.* A recreational fisherman may take or retain no more than:

(i) Ten albacore tuna per day in the U.S. EEZ south of a line running due

west true from 34° 27' N. latitude (at Point Conception, Santa Barbara County) to the U.S.-Mexico border.

(ii) Twenty-five albacore tuna per day in waters north of a line running due west true from 34° 27' N. latitude (at Point Conception, Santa Barbara County) to the California-Oregon border.

(2) *Bluefin Tuna Daily Bag Limit.* A recreational fisherman may take or retain no more than 10 bluefin tuna per day in the U.S. EEZ off the coast of California.

(3) *Possession Limits.* If the State of California requires a multi-day possession permit for albacore or bluefin tuna harvested by a recreational fishing vessel and landed in California, such restrictions would be deemed consistent with Federal law.

(4) *Boat Limits.* Off the coast of California, boat limits apply, whereby each fisherman aboard a vessel may continue to use recreational angling gear until the combined daily limits of HMS for all licensed and juvenile anglers aboard has been attained (additional state restrictions on boat limits may apply). Unless otherwise prohibited, when two or more persons are angling for HMS species aboard a vessel in the EEZ, fishing may continue until boat limits are reached.

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