Number, 1660–0006. The expiration date for 1660–0006 is August 31, 2012.

D. Executive Order 13132, Federalism

A rule has implications for federalism under Executive Order 13132, "Federalism" (64 FR 43255, Aug. 10, 1999), if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. FEMA has analyzed this proposed rule under Executive Order and determined that it does not have implications for federalism.

E. Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995, Public Law 104–4, 109 Stat. 48 (Mar. 22, 1995) (2 U.S.C. 1501 *et seq.*), requires Federal agencies to assess the effects of their discretionary regulatory actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. As this proposed rule will not have a substantive effect on the public, this rule is not an unfunded Federal mandate.

F. Executive Order 12630, Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights" (53 FR 8859, Mar. 18, 1988).

G. Executive Order 12898, Environmental Justice

Under Executive Order 12898, as amended "Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629, Feb. 16, 1994), FEMA incorporates environmental justice into its policies and programs. Executive Order 12898 requires each Federal agency to conduct its programs, policies, and activities that substantially affect human health or the environment, in a manner that ensures that those programs, policies, and activities do not have the effect of excluding persons from participation in, denying persons the benefit of, or subjecting persons to discrimination because of their race, color, or national origin or income level.

No action that FEMA can anticipate under this proposed rule will have a disproportionately high and adverse human health or environmental effect on any segment of the population. Accordingly, the requirements of Executive Order 12898 do not apply to this proposed rule.

H. Executive Order 12988, Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, "Civil Justice Reform" (61 FR 4729, Feb. 7, 1996), to minimize litigation, eliminate ambiguity, and reduce burden.

I. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, "Consultation and Coordination With Indian Tribal Governments" (65 FR 67249, Nov. 9, 2000), because it does not have a substantial direct effect on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

J. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

This proposed rule will not create environmental health risks or safety risks for children under Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks (62 FR 19885, Apr. 23, 1997).

K. National Environmental Policy Act

Rulemaking is a major Federal action subject to the National Environmental Policy Act of 1969, Public Law 91–190, 83 Stat. 852 (Jan. 1, 1970) (42 U.S.C. 4321 *et seq.*), as amended. The *List of exclusion categories* at 44 CFR 10.8(d)(2)(ii) excludes the preparation, revision, and adoption of regulations from the preparation of an environmental assessment or environmental impact statement, where the rule relates to actions that qualify for categorical exclusions. Technical corrections to a rulemaking are categorically excluded under 44 CFR 10.8(d)(2)(i) and no extraordinary circumstances exist requiring the need to develop an environmental assessment or environmental impact statement. Thus, the preparation, revision, and adoption of regulations related to this action is categorically excluded.

List of Subjects in 44 CFR Part 61

Flood insurance, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, FEMA proposes to amend 44 CFR chapter I as follows:

PART 61—INSURANCE COVERAGE AND RATES

1. The authority citation for part 61 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.;* Reorganization Plan No. 3 of 1978, 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

Appendix A(2) to Part 61—[AMENDED]

2. Amend Appendix A(2) to part 61, by removing "Items" and adding "Coverage for items" in its place in paragraph III.B.4.

Dated: August 27, 2010.

W. Craig Fugate,

Administrator, Federal Emergency Management Agency.

[FR Doc. 2010–22045 Filed 9–2–10; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 100311144–0159–01]

RIN 0648–AY75

International Fisheries; Pacific Tuna Fisheries; Vessel Capacity Limit in the Purse Seine Fishery 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: NMFS is proposing regulations under the Tuna Conventions Act of 1950 (Act), as amended, to increase the vessel capacity limit for the U.S. purse seine fishery operating in the eastern Pacific Ocean (EPO) and make U.S. regulations more consistent with the Inter-American Tropical Tuna Commission (IATTC) Resolution on the Capacity of the Tuna Fleet Operating in the Eastern Pacific Ocean. These revisions would ensure that the United States is satisfying its obligations under the Tuna Conventions Act while dismantling regulatory constraints preventing economic development of the U.S. industry.

DATES: Comments must be submitted in writing by October 4, 2010. A public hearing will be held at 9 a.m. to 12 p.m. PDT, September 9, 2010, Long Beach, CA.

ADDRESSES: You may submit comments, identified by 0648–AY75, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal: *http://www.regulations.gov*
- Fax: 562–980–4047, Attn: Heidi Hermsmeyer
- Mail: Rod McInnis, Regional Administrator, NMFS Southwest Regional Office (SWR), 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802. Include the identifier "0648–AY75" in the comments.
- Public hearing: The public is welcome to attend a public hearing and offer comments on this rule on September 9, 2010, from 9 a.m. to 12 p.m. at 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802. The public may also participate in the public hearing via conference line: 800–621–8495; participant passcode: 26548.

Instructions: No comments will be posted for public viewing until after the comment period has closed. All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may 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). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS SWR and by e-mail to *David__Rostker@omb.eop.gov*, or fax to (202) 395–7285. Copies of the Environmental Assessment prepared under the authority of the National Environmental Policy Act and the IRFA are available at *http://swr.nmfs.noaa.gov/* or may be obtained from Rod McInnis, Regional Administrator, NMFS SWR.

FOR FURTHER INFORMATION CONTACT: Heidi Hermsmeyer, NMFS SWR, 562–980–4036.

SUPPLEMENTARY INFORMATION:

Background on the 1949 Convention for the Establishment of an IATTC (Convention)

The Convention entered into force in May 1949. The full text of the Convention is available at: *http://www.iattc.org/PDFFiles/IATTC__convention__1949.pdf*. The Convention Area includes the waters bounded by the coast of the Americas, the 40 N. and 40 S. parallels, and the 150 W. meridian. The Convention focuses on the conservation and management of highly migratory species (HMS) and the management of fisheries for HMS, and has provisions related to non-target, associated, and dependent species in such fisheries. In 2003, the IATTC adopted a resolution that approved the Antigua Convention, a major revision of the original convention, establishing the IATTC. This new text brings the convention current with respect to internationally accepted laws on the conservation and management of oceanic resources, including a mandate to take a more ecosystem-based approach to management. The Antigua Convention will enter into force on August 27, 2010, and may be found at: *http://www.iattc.org/PDFFiles2/Antigua__Convention__Jun__2003.pdf*.

The IATTC, established under the Convention, is comprised of the Members, including High Contracting Parties to the Convention and fishing entities that have agreed to be bound by the regime established by the Convention. Other entities that participate in the IATTC include Cooperating Non-Parties, Cooperating Fishing Entities, and Regional Economic Integration Organizations. Cooperating Fishing Entities participate with the authorization of the High Contracting Parties with responsibility for the conduct of their foreign affairs. Cooperating Non-Parties are identified by the IATTC on a yearly basis. In accepting Cooperating Non-Party status, such States agree to implement the decisions of the IATTC in the same manner as Members.

The current Members of the IATTC are Colombia, Costa Rica, Ecuador, El Salvador, France, Guatemala, Japan, Mexico, Nicaragua, Panama, Peru, Republic of Korea, Spain, United States, Vanuatu, and Venezuela. The current Cooperating Non-Parties, Cooperating Fishing Entities and Regional Economic Integration Organizations are Belize, Canada, China, Cook Islands, Kiribati, Chinese Taipei, and the European Union.

International Obligations of the United States under the Convention

As a Contracting Party to the Convention and a Member of the IATTC, the United States is legally bound to implement the decisions of the IATTC. The Act (16 U.S.C. 951 *et seq.*) authorizes the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the Department in which the United States Coast Guard (USCG) is operating (currently the Department of Homeland Security), to promulgate such regulations as may be necessary to carry out the obligations of the United States under the Convention, including the decisions of the IATTC. The authority to promulgate regulations has been delegated to NMFS.

IATTC Decisions Regarding Capacity in the Purse Seine Fishery

At its sixty-ninth annual meeting in June 2002, the IATTC adopted the Resolution on the Capacity of the Tuna Fleet Operating in the Eastern Pacific Ocean (Resolution C–02–03) to address the problem of excess capacity in the tuna purse-seine fleet operating in the EPO by limiting the capacity to a level which would ensure that tuna fisheries in the region are sustainable. The resolution, available with other decisions of the IATTC at *http://www.iattc.org/ResolutionsActiveENG.htm*, places certain obligations on the IATTC's High Contracting Parties, Cooperating Non-Parties, Cooperating Fishing Entity, and Regional Economic Integration Organization (collectively, CPCs). Resolution C–02–03 replaced the previous Resolution on Fleet Capacity adopted at the sixty-second annual meeting of the IATTC in October 1998 (Resolution C–98–11). Resolution C–02–03 established a total vessel capacity limit of 158,000 cubic meters for all vessels authorized by the IATTC to fish for tuna species in the EPO. Each CPC was allocated a vessel capacity limit by the Secretariat based on historical fishing levels in the EPO. The resolution included provisions that, among other things, prohibited the entry of new vessels to the EPO purse seine fleet, except to replace vessels removed from the Vessel Register, and prohibited the increase of the capacity of any existing purse seine vessel unless a purse seine vessel or vessels of equal or greater capacity is removed from the Vessel Register.

When Resolution C–02–03 was adopted, the United States was authorized to have a total of 39,228 cubic meters of capacity in the purse seine fishery, as well as a provision that allowed up to 32 U.S. purse seine vessels that regularly operate in the western and central Pacific Ocean (WCPO) to make one trip per year in the EPO without being included on the IATTC Vessel Register. However, for diplomatic reasons the United States

chose to further limit its fleet capacity by maintaining the U.S. fleet capacity limit established under paragraph 1 of Resolution C–98–11, which had been replaced by Resolution C–02–03. Thus, on April 12, 2005, a final rule was published in the **Federal Register** (70 FR 19004), which, among other things, established a fleet capacity limit of 8,969 mt. In August 2002, the U.S. Department of State notified the IATTC of the smaller limit that NMFS chose to impose on the U.S. fleet. This was a non-binding commitment and not necessarily intended to apply indefinitely. Since that time, a number of circumstances have changed. The diplomatic reasons for adopting the smaller regulatory limit, and specifically the conditions under which the United States was adopting its restrictions, are no longer applicable due to the manner in which Resolution C–02–03 has been implemented by the IATTC Members since its adoption. In addition, the United States has been unable to make meaningful use of the 32–trip provision because of the restriction limiting each eligible vessel to only a single trip in the EPO per year even if the total number of trips made by eligible vessels is less than 32. Some vessel owners have expressed interest in making multiple trips to the EPO since fewer than 32 vessels have ever used this provision in a given year; however, this is not allowed. Due to removals and additions of vessels from the Vessel Register, currently the United States is authorized by the IATTC to have up to 31,775 cubic meters of carrying capacity in the purse seine fleet.

Proposed Action

The proposed rule would revise the vessel capacity limit for the U.S. purse seine fishery operating in the EPO so that it is consistent with the amount authorized by the IATTC, which currently is 31,775 cubic meters, or about 27,146 metric tons. In addition, the regulations pertaining to the purse seine fishery operating in the EPO would be revised so that capacity measurements would be in cubic meter measurements, rather than in metric tons. This would be consistent with the measurements used by the IATTC and a less subjective measurement because it is based on actual well volume rather than the estimated weight of fish that would fit in the well. The exemption for small purse seine vessels to be on the Vessel Register at 50 CFR 300.22 (b)(1)(ii) would also be removed, so that all U.S. purse seine vessels would need to be listed on the Vessel Register and categorized as active under paragraph (b)(4)(i) of the same section in order to use purse seine gear to fish for tuna in the IATTC Convention Area. However, these vessels (class size 5 and under purse seine vessels that primarily fish for coastal pelagic species off the U.S. west coast) would be exempt from the frivolous request provisions for active status at 50 CFR 300.22(b)(4)(ii). The frivolous request provisions essentially penalize vessels that apply to be on the vessel register and do not fish for tuna in the EPO by putting them at the bottom of the hierarchy when applying to be on the vessel register the following year. These provisions are meant to prevent vessel owners who do not have any intent to fish in the Convention Area from applying to be on the vessel register and occupying assigned capacity. The smaller vessels would be exempt from these provisions because it would be difficult, if not impossible, for the vessel owners to anticipate whether unassociated schools of tuna would come within their range off the U.S. west coast during the summer months in a given year. These revisions would ensure that the United States is satisfying its obligations under the Tuna Conventions Act and not exceeding its allotted capacity in purse seine fishery, while dismantling regulatory constraints preventing capacity building by the U.S. industry.

Since 1971, the number of large U.S. purse seine vessels fishing for tuna in the EPO has been reduced from over 155 to an average of two over the past seven years. Most of the U.S. vessels that historically fished in the EPO have either re-flagged or are now active in the WCPO, where a treaty between the United States and certain Pacific Island States (i.e., the South Pacific Tuna Treaty) provides the fleet with access to fishing grounds. The number of vessels in the U.S. WCPO purse seine fishery gradually decreased from the late 1990s until 2006, and has fluctuated since. Since 2003, there has been an annual average of two large purse seine vessels and four small purse seine vessels that have landed tuna on the U.S. west coast. The small purse seine vessels primarily target coastal pelagic species (CPS) and target tunas opportunistically when they become available in the U.S. west coast Exclusive Economic Zone during the summer months.

Since the end of 2008, the U.S. WCPO purse seine fleet has included 37 vessels. These 37 vessels amount to roughly 55,000 cubic meters of carrying capacity. In general, WCPO tuna fishermen catch more and larger tuna per set compared to EPO tuna fishermen and thus make fewer and shorter trips. Unless there is a change in the economics of the fisheries, such that fishing in the EPO would be more advantageous for the U.S. fleet, it is unlikely that U.S. vessels will significantly expand their activity in the EPO. In addition, NMFS does not expect any other large vessels to be configured for purse seine fishing and enter into the fishery because of the high start-up costs associated with purchasing a large vessel and retrofitting it and purchasing the necessary gear to enter the fishery.

NMFS also does not expect a significant influx of smaller vessels into the EPO tuna purse seine fishery. The purse seine fisheries targeting CPS are limited entry fisheries. Any additional small purse seine vessels that could potentially enter the EPO tuna fishery would either be a new purse seine vessel that would primarily target tuna, or one of the limited entry CPS vessels. It is unlikely that there would be a significant influx of new vessels in the fishery due to the high start-up costs associated with entering the fishery, and it is unlikely that there would be a significant increase in the number of small CPS purse seine vessels that opportunistically target tunas in the summer months as shown by recent fishing practices.

As of July 2010, there were only two large U.S. purse seine vessels listed on the Vessel Register and authorized to fish in the IATTC Convention Area in the 2010 fishing year. The total U.S. vessel carrying capacity at this time is 1,194 mt, which does not include small vessels, currently exempt from the requirement to be listed on the Vessel Register under domestic regulations. In 2009, there were eight small purse seine vessels that were exempt from being listed on the IATTC Vessel Register and made landings of tuna in the EPO; these vessels amount to an estimated 1,000 mt of capacity. Thus, it is estimated that the current U.S. vessel capacity, including small vessels, is about 2,200 mt. If the proposed rule were adopted, it is possible, although highly unlikely, that the effort in the purse seine fishery operating in the EPO could increase threefold as the carrying capacity limit being proposed is about three times larger than the one currently in place. This would allow for about half of the large purse seine vessels that are currently registered to fish in the WCPO to be on the IATTC Vessel Register and be eligible to fish in the EPO. However, the current capacity limit of 8,969 mt has never been fully utilized since it was established in 2005, and when excess U.S. capacity has been available in the past, there has not been a surge to use this capacity. Thus, it is apparent that there has not been a high demand

for additional vessels to enter the fishery.

In 2008, the Western and Central Pacific Fisheries Commission (WCPFC) adopted a conservation and management measure (CMM–2008–01) that established a three-month closure in the WCPO to fishing on fish aggregating devices with purse seine gear. This closure could have resulted in an increase in the number of WCPO vessels interested in operating in the IATTC Convention Area. This did not occur during the 2008 or 2009 closures; however, NMFS staff has been advised that some vessel managers are considering shifting effort to the IATTC Convention Area in the future. The IATTC resolution on vessel capacity and U.S. regulations do allow for WCPO vessels to make a single trip in the EPO during a calendar year without having to be listed on the IATTC Vessel Register, so if the vessels wanted to make only one trip they would not need to be on the Vessel Register or be counted against the U.S. carrying capacity. However, if a WCPO vessel wanted to make more than one trip, it would have to request to be on the Vessel Register and would only be allowed to do so if there was adequate capacity available.

In addition to the capacity limits, there are other IATTC measures in place to limit effort in the purse seine fishery. Of particular relevance is IATTC Resolution C–09–01, which went into effect in July 2009 and established, among other things, time/area closures and tuna catch retention requirements in the purse seine fishery. These measures were put in place primarily to limit the fishing mortality of bigeye and yellowfin tuna. The United States implemented these measures domestically in November 2009 (74 FR 61046, November 23, 2009).

NMFS initially considered including a provision that would rank purse seine fishermen applying to be on the Vessel Register according to their historical participation in the purse seine fishery, so those who have participated longer in the fishery would have precedence when applying to be on the Vessel Register. NMFS has preliminarily determined that this provision is not necessary at this time because there has been such limited participation in the fishery in the recent past. NMFS also initially considered including additional restraints on the small purse seine vessels that would be exempt from the frivolous request provisions in order to avoid numerous small purse seiners that do not have intentions to fish for tuna later in the year from applying to be on the Vessel Register. However, NMFS determined that this is also not necessary at this time due to the limited participation in the fishery. NMFS encourages public comment on both of these issues.

Classification

The NMFS Assistant Administrator has determined that this proposed rule is consistent with the Tuna Conventions Act and other applicable law, subject to further consideration after public comment.

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

An Initial Regulatory Flexibility Analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act. The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the SUMMARY section of the preamble. The complete analysis is included in this proposed rule.

The purpose of the proposed action is to amend regulations to ensure that the United States is satisfying its obligations as a member of the IATTC and U.S. regulations are as consistent as practicable with active IATTC Resolutions, while dismantling regulatory constraints that may prevent capacity building by the U.S. industry.

The total number of affected purse seine vessels is approximated by the current number of U.S. purse seine vessels authorized to fish in the IATTC Convention Area and the number of vessels that have the potential to enter the fishery if the proposed rule were adopted and capacity was increased in the purse seine fishery. As of July 2010, there were two U.S purse seine vessels listed on the IATTC Vessel Register and authorized to fish in the Convention Area totaling 1,194 mt carrying capacity; this does not include small vessels which are exempt from the requirement to be listed on the Vessel Register. One of the large vessels is class size 6 (greater than 363 mt carrying capacity) and one is class size 5 (273–363 metric tons carrying capacity). In 2009, there were eight small purse seine vessels that were exempt from being listed on the IATTC Vessel Register and made landings of tuna in the EPO; these vessels amount to an estimated 1,000 mt of carrying capacity are class size 1–2 vessels. Thus, it is estimated that the current U.S. vessel capacity, including small vessels, is about 2,200 mt. If the proposed rule were adopted, it is possible, although unlikely, that effort in the purse seine fishery operating in the EPO could increase substantially.

If the capacity were increased to 31,775 cubic meters (or about 27,147 mt), the carrying capacity limit would be about three times larger than the carrying capacity limit currently in place. This would allow for about 20 or fewer large vessels, depending on the size of the individual vessels and the number of small vessels participating in the fishery, to be on the Vessel Register and participate in the fishery (this estimate is based on the average carrying capacity of U.S. vessels operating in the WCPO, or 1,487 cubic meters). It is estimated that at most, 10–15 small vessels would opt to be on the Vessel Register. It is estimated that the majority of the vessels entering the fishery from the WCPO would be class size 6 vessels based on current and historical participation in the EPO and WCPO purse seine fisheries.

Class size 6 purse seine vessels usually fish outside U.S. waters and deliver their catch to U.S. (e.g., American Samoa) or foreign (e.g., Ecuador, Mexico, Colombia, Costa Rica) ports. Class size 6 vessels are required to have 100 percent observer coverage. They are categorized as large business entities (revenues in excess of $4 million per year) and typically generate about 4,000 to 5,000 mt of tuna valued at about $4 to $5 million per year. Class size 5 vessels are not required to carry an observer. Purse seine vessels class size 5 or smaller would be considered small business entities (revenues equal to or less than $4 million per year) and it is estimated that from 2004–2008, the majority, if not all, of these smaller vessels had revenues of less than $0.5 million per year.

The proposed action, if adopted, would not disproportionately affect small business entities relative to large business entities. The proposed action has the potential to affect more large business entities than small business entities. The proposed rule would increase the opportunity for all purse seine vessels, regardless of size, to register to be on the IATTC Vessel Register and participate in the fishery targeting tunas in the EPO because the total carrying capacity limit would be increased. The proposed rule would also remove the current exemption that allows smaller vessels (class sizes 1–5) to opportunistically fish for tuna species in the EPO without being listed on the IATTC Vessel Register. These vessels would have to apply to be on the Vessel Register every year if they anticipate fishing for tunas; however, there would be no associated cost for registering to

be on the IATTC Vessel Register because there are no IATTC observer requirements for vessels under class size 6. This regulatory amendment is necessary because the IATTC Resolution on a Vessel Register (Resolution C–00–06) requires that all vessels provide the IATTC with applicable vessel information and be listed on the IATTC Vessel Register in order to be authorized to fish in the IATTC Convention Area for species under the purview of the IATTC. Although these smaller vessels would be required to be listed on the IATTC Vessel Register, they would be exempt from the frivolous request provisions. The frivolous request provisions essentially penalize vessels that apply to be on the Vessel Register and do not fish for tuna in the EPO by putting them at the bottom of the hierarchy when applying to be on the Vessel Register the following year. These provisions are meant to prevent vessel owners who do not have any intent to fish in the Convention Area from applying to be on the Vessel Register and take up valuable capacity. The smaller vessels would be exempt because it would be difficult, if not impossible, for the vessel owners to anticipate whether schools of tuna would become available off the U.S. west coast during the summer months in a given year. In addition, the proposal to use cubic meters rather than metric tons is not likely to negatively affect small business entities as it is an administrative change.

NMFS compared the effects of the proposed rule to three alternatives, including a no action alternative. Alternative 1 would be the same as the preferred alternative (the proposed action); however, the Vessel Register list exemption for small purse seine vessels at 50 CFR 300.22(b)(1)(ii) would not be removed, and the frivolous request regulations would not be amended. Thus, Alternative 1 would increase the U.S. vessel carrying capacity limit for the purse seine fishery operating in the EPO to 31,775 cubic meters, the capacity measurements would be changed to cubic meter measurements, and small purse seine vessels for which landings of tuna caught in the Convention Area comprise 50 percent or less of the vessel's total landings, by weight, for a given calendar year, would continue to be exempt from the requirement to be on the Vessel Register. The effects of this alternative on small business entities would be similar to those described for the proposed action, except small purse seine vessels would continue to be exempt from the requirement to be on the Vessel Register. If Alternative 1 were adopted, the United States would maintain U.S. regulations that would be less consistent with IATTC Resolution C–00–06 because not all vessels operating in the Convention Area would be on the IATTC Vessel Register.

Alternative 2 would revise the current regulations to give NMFS the discretion to revise the current 8,969 mt (10,498 cubic meters) vessel capacity limit in the future up to the amount authorized under resolutions adopted by the IATTC (currently 31,775 cubic meters) based on specific criteria. However, the vessel capacity limit would not be increased at this time because currently there appears to be limited demand for additional vessel capacity. The capacity measurements would be amended so that they are in cubic meter measurements, and small purse seine vessels for which landings of tuna caught in the Convention Area comprise 50 percent or less of the vessel's total landings, by weight, for a given calendar year, would continue to be exempt from the requirement to be on the Vessel Register. The impacts to small business entities would be similar to those described under Alternative 1 with respect to not removing the exemption for small vessels. Alternative 2 does not necessarily increase the current carrying capacity in the purse seine fishery, so this could be disadvantageous to large and some small business entities that are not exempt from being listed on the Vessel Register if the current vessel capacity were reached in a given year and they were not able to participate in the fishery due to a lack of available capacity.

Alternative 3 is the no action alternative. Under this alternative, there would be no changes to the current regulations for the purse seine fishery which targets tuna species in the EPO. The purse seine vessel capacity limit would remain at 8,969 mt, the capacity measurements would remain in metric tons, and small purse seine vessels for which landings of tuna caught in the Convention Area comprise 50 percent or less of the vessel's total landings, by weight, for a given calendar year, would continue to be exempt from the requirement to be on the Vessel Register. Under this alternative, the United States would maintain U.S. regulations that are less consistent with IATTC Resolution C–00–06 because small vessels that occasionally fish for tunas would not be included on the Vessel Register. In addition, U.S. regulations would constrain the carrying capacity limit beyond what is authorized by the IATTC and would therefore be limiting the opportunity for U.S. businesses to participate in the fishery.

This proposed rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) and which has been approved by NOAA's Office of Management and Budget (OMB) under control number 0648–0387. Public reporting burden for Vessel Register annual notification is estimated to average 35 minutes per response, 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*, 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.

NMFS prepared a draft Environmental Assessment (EA) on these proposed regulations. A copy of the draft EA is available from NMFS (see **ADDRESSES**) or at: *http://swr.nmfs.noaa.gov*.

List of Subjects in 50 CFR Part 300

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

Dated: August 30, 2010.

Eric C. Schwaab,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 300, subpart C as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

1. The authority citation for 50 CFR part 300, subpart C, continues to read as follows:

Authority: 16 U.S.C. 951–961 *et seq.*

2. Revise the heading for 50 CFR part 300, subpart C, to read as follows:

Subpart C—Eastern Pacific Tuna Fisheries

3. In § 300.21, remove the definition of "Commission's Yellowfin Regulatory Area (CYRA)".

4. In § 300.22, revise paragraphs (b)(1), (b)(3), (b)(4)(i)(A), and (b)(4)(ii) to read as follows:

§ 300.22 Eastern Pacific fisheries recordkeeping and written reports.

* * * * *

(b) * * *

(1) *Exception.* Vessels that are licensed under the South Pacific Tuna Treaty that exercise an option to fish in the Convention Area for a single trip each year are exempted from being listed on the Vessel Register to use purse seine gear to target tuna in the Convention Area, provided that the total number of optional trips does not exceed 32 in a given calendar year. Each optional trip in the Convention Area shall not exceed 90 days in duration.

* * * * *

(3) *Vessel information.* Information on each commercial fishing vessel or CPFV authorized to use purse seine, longline, drift gillnet, harpoon, troll, rod and reel, or pole and line fishing gear to fish for tuna and tuna-like species in the Convention Area for sale shall be collected by the Regional Administrator to conform to IATTC resolutions governing the Vessel Register. This information initially includes, but is not limited to, the vessel name and registration number; the name and business address of the owner(s) and managing owner(s); a photograph of the vessel with the registration number legible; previous vessel name(s) and previous flag (if known and if any); port of registry; International Radio Call Sign; vessel length, beam, and moulded depth; gross tonnage, fish hold capacity in cubic meters, and carrying capacity in cubic meters; engine horsepower; date and place where built; and type of fishing method or methods used. The required information shall be collected as part of existing information collections as described in this and other parts of the CFR.

(4) * * *

(i) * * *

(A) The cumulative carrying capacity of all purse seine vessels categorized as active on the Vessel Register may not exceed 31,775 cubic meters in a given year;

* * * * *

(ii) *Frivolous requests for active status.*

(A) Except as described under paragraph (b)(4)(ii)(B) of this section, requests for active status under paragraph (b)(4)(i) of this section will be considered frivolous if, for a vessel categorized as active in a given calendar year:

(*1*) Less than 20 percent of the vessel's total landings, by weight, in that same year is comprised of tuna harvested by purse seine in the Convention Area; or

(*2*) The vessel did not fish for tuna at all in the Convention Area in that same year.

(B) *Exceptions.* Requests described under paragraph (b)(4)(ii)(A) of this section will not be considered frivolous requests if:

(*1*) The vessel's catch pattern fell within the criteria described in pargraph (b)(4)(ii)(A) as a result of force majeure or other extraordinary circumstances as determined by the Regional Administrator; or

(*2*) The vessel's carrying capacity is 400 st (362.8 mt) or less and landings of tuna caught by the vessel in the Convention Area comprise 50 percent or less of the vessel's total landings, by weight, for a given calendar year.

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