

to the supplier by Certified Mail, return receipt requested, within ten days after the effective date of the suspension or extension. A copy of the notice will be furnished to the Office of the Inspector General.

(2) The notice will state the cause(s) for the suspension or extension.

(3) Within thirty days of notice of suspension or an extension, a supplier may submit to the vice president, Supply Management, in writing, any information or reason(s) the supplier believes makes a suspension or an extension inappropriate, and the vice president, Supply Management, in consultation with the General Counsel, will consider the supplier's submission, and, in their discretion, may revoke a suspension or an extension of a suspension. If a suspension or extension is revoked, the revocation will be in writing and a copy of the revocation will be sent to the supplier by Certified Mail, return receipt requested. A copy of the revocation will be furnished to the Office of the Inspector General.

Stanley F. Mires,

Chief Counsel, Legislative.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 0612243162-7541-02; 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: Final rule.

SUMMARY: NMFS issues a final 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 final rule is 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: This final rule is effective November 14, 2007.

ADDRESSES: Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802 4213.

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 codified 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. Based in part on the Council's recommendation, NMFS published a proposed rule on June 27, 2007, to establish daily bag limits for albacore and bluefin tuna harvested by recreational fishing in the U.S. EEZ off the coast of California (72 FR 35213).

NMFS is implementing this final rule pursuant to procedures established at 50 CFR 660.709(a)(4) of the implementing regulations for the HMS FMP. This final rule establishes a daily bag limit of 10 albacore tuna harvested by recreational fishing 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 by recreational fishing in the U.S. EEZ north of Point Conception to the California-Oregon border. This rule also establishes a daily bag limit of 10 bluefin tuna harvested by recreational fishing 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 Point 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 consider these additional state restrictions to be consistent with Federal regulations implementing the HMS FMP, including this final rule. The final rule has been modified to clarify that recreational fisherman are generally subject to the same daily bag limits (10 or 25 albacore tuna south or north of Point Conception; 10 bluefin tuna off California) regardless of the number of days a fishing trip lasts unless operating under a California multi-day possession permit, in which case the daily bag limits may be multiplied pursuant to the restrictions of that program. Language has also been added to the final rule to clarify that a fisherman must comply with the most strict bag limit applicable to all areas fished during a given trip (e.g., if any part of a fishing trip takes place in the EEZ south of Point Conception, the 10-albacore bag limit applies even if the port of departure and landing or fishing takes place north of Point Conception).

The designation of paragraphs in 50 CFR 660.721 has been revised from the proposed rule to reduce complexity and make the regulations easier to read.

This final rule 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).

Comments and Responses

During the comment period for the proposed rule, NMFS received two comments.

Comment 1: The Science and Policy Coordinator for the Tag-A-Giant Foundation wrote in support of the proposed rule to implement a bag limit for Pacific bluefin tuna off the California coast but requested that NMFS reduce the bag limit from the proposed 10 fish per day to six fish per day. The stated rationale for the reduced daily bag limit request was to prevent expansion of the recreational fishery and potential overfishing that could result. The Coordinator also requested the daily bag limit be consistently applied in federal waters off the coasts of Oregon and Washington as well given the documented presence of bluefin tuna in

these waters, particularly during El Nino years.

Response: Establishing a six fish per day bag limit is unnecessary given the very minor catch of bluefin tuna in the recreational fisheries of all three West Coast states. Based on the best available science, bluefin tuna populations in the North Pacific Ocean (NPO) are not experiencing overfishing nor are they overfished. NMFS is involved in cooperative research and monitoring efforts for the NPO populations of bluefin tuna and will, in conjunction with the Pacific Council, take necessary steps in the future to implement appropriate conservation measures if warranted, including the potential for additional regulations to address both commercial and recreational fisheries impacts. In a similar vein, expanding the daily bluefin tuna bag limit to all three West Coast states is unnecessary based on the limited window of recreational catch and effort of bluefin tuna in Federal waters off Oregon and Washington.

Comment 2: The Manager of the Marine Resources Program for the Oregon Department of Fish and Wildlife wrote in support of the proposed rule stating that the dual limit for tuna off California would make the limit off northern California consistent with the limit off Oregon.

Response: The current Oregon daily bag limit is an aggregate of 25 fish of offshore pelagic species, which includes all the species of tunas found to occur in Oregon waters. NMFS hereby implements daily bag limits that are geographically consistent thereby facilitating more efficient and enforceable regulations.

Classification

The Administrator, Southwest Region, NMFS, determined that the FMP regulation is necessary for the conservation and management of the U.S. West Coast Fisheries for Highly Migratory Species and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This final 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 during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding

this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: October 9, 2007.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 660 is 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 section 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 section 660.721 to read as follows:

§ 660.721 Recreational fishing bag limits.

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.

(a) *Albacore Tuna Daily Bag Limit.*

Except pursuant to a multi-day possession permit referenced in paragraph (c) of this section, a recreational fisherman may take or retain no more than:

(1) Ten albacore tuna if any part of the fishing trip occurs 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.

(2) Twenty-five albacore tuna if any part of the fishing trip occurs in the U.S. EEZ north of a line running due west true from 34°27' N. latitude (at Point Conception, Santa Barbara County) to the California-Oregon border.

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

(c) *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, aggregating daily trip limits for multi-day trips would be deemed consistent with Federal law.

(d) *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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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 0612242929-7490-02]

RIN 0648-AT93

Fisheries in the Western Pacific; Precious Corals Fisheries

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

ACTION: Final rule.

SUMMARY: Black coral resources in the Au'au Channel, Hawaii, have declined, possibly due to fishing pressure and an alien invasive soft coral. Current fishing regulations require minimum sizes for the harvest of living black coral colonies of 48 inches (122 cm) in height or one inch (2.54 cm) in stem diameter. Current regulations also exempt certain fishermen from the minimum stem diameter requirement, allowing the harvest of black coral with a smaller 3/4 inch (1.91 cm) stem diameter by anyone who had reported black coral harvests to the State of Hawaii within