

**236.602-1 Selection criteria.**

(a) Establish the evaluation criteria before making the public announcement required by FAR 5.205(c) and include the criteria and their relative order of importance in the announcement. Follow the procedures at PGI 236.602-1.

**236.602-2 and 236.602-4 [Removed]**

3. Sections 236.602-2 and 236.602-4 are removed.

4. Section 236.604 is amended by revising paragraph (c)(ii) to read as follows:

**236.604 Performance evaluation.**

\* \* \* \* \*

(c) \* \* \*

(ii) File and use the DD Form 2631, Performance Evaluation (Architect-Engineer), in a manner similar to the SF 330, Architect-Engineer Qualifications, Part II.

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 300**

[Docket No. 040617186-4186-01; I.D. 051704D]

RIN 0648-AS39

**International Fisheries; Pacific Tuna Fisheries; Restrictions for 2004 Purse Seine and Longline Fisheries in the Eastern Tropical Pacific Ocean**

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

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

**SUMMARY:** NMFS proposes this rule to implement the 2004 management measures to prevent overfishing of the eastern tropical Pacific Ocean (ETP) tuna stocks, consistent with recommendations by the Inter-American Tropical Tuna Commission (IATTC) that have been approved by the Department of State (DOS) under the Tuna Conventions Act. The purse seine fishery for tuna in a portion of the Convention Area would be closed for a 6-week period beginning August 1, 2004. This proposed rule would also close the U.S. longline fishery in the IATTC Convention Area if the catch reaches the estimated level of 2001. This action is taken to limit fishing mortality

caused by purse seine fishing and longline fishing in the Convention Area and contribute to long-term conservation of the tuna stocks at levels that support healthy fisheries.

**DATES:** Comments must be received by July 12, 2004.

**ADDRESSES:** Comments on the proposed rule should be sent to Rodney R. McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802 or by email to the Southwest Region at 0648-AS39@noaa.gov. Comments may also be submitted by email through the Federal e-Rulemaking portal: <http://www.regulations.gov>. Include in the subject line of the e-mail comment the following document identifier: 0648-AS39. Comments also may be submitted by fax to (562) 980-4047. Copies of the regulatory impact review/regulatory analysis may be obtained from the Southwest Regional Administrator, Southwest Region, NMFS, 501 W. Ocean Blvd., Long Beach, CA 90902-4213.

This **Federal Register** document is also accessible via the Internet at the Office of the **Federal Register's** website at <http://www.access.gpo.gov/su-docs/aces/>.

**FOR FURTHER INFORMATION CONTACT:** J. Allison Rount, Sustainable Fisheries Division, Southwest Region, NMFS, (562) 980-4030.

**SUPPLEMENTARY INFORMATION:** The United States is a member of the IATTC, which was established under the Convention for the Establishment of an Inter-American Tropical Tuna Commission signed in 1949 (Convention). The IATTC was established to provide an international arrangement to ensure the effective international conservation and management of highly migratory species of fish in the Convention Area. The Convention Area is defined to include the waters of the eastern tropical Pacific Ocean bounded by the coast of the Americas, the 40°N. and 40° S. parallels, and the 150° W. meridian. The IATTC has maintained a scientific research and fishery monitoring program for many years and annually assesses the status of stocks of tuna and the fisheries to determine appropriate harvest limits or other measures to prevent overexploitation of the stocks and promote viable fisheries. Under the Tuna Conventions Act, 16 U.S.C. 951-961 and 971 *et seq.*, NFMS must publish proposed rules to carry out IATTC recommendations that have been approved by DOS. The Southwest Regional Administrator, also is required

by rules at 50 CFR 300.29(b)(3) to issue a direct notice to the owners or agents of all U.S. purse seine vessels that operate in the ETP of actions recommended by the IATTC and approved by the DOS.

At an extraordinary meeting in October 2003, the IATTC adopted a resolution addressing yellowfin, bigeye, and skipjack tuna conservation for 2003 and 2004. The resolution calls upon the Parties to the Convention and cooperating non-Parties to prohibit tuna purse seine fishing in a portion of the IATTC Convention Area for the month of December 2003 and for a 6-week period beginning August 1, 2004. The 2003 closure was implemented by separate action last year. The 2004 closure would be of waters bounded by a line from the point where the 95° W. long. meridian intersects the west coast of the Americas, south to 10° N. lat., then west to 120° W. long., then south to 5° S. lat. then east to 100° W. long., then north to 5° N. lat., then east to 85° W. long., and then north to the point of intersection with the west coast of the Americas. This closure will target fishing that has higher catches of juvenile tuna. Therefore, there should be improved yields from the stocks later in the year. The resolution also calls upon Parties and cooperating non-Parties to take measures necessary to ensure that their total longline catches of bigeye tuna in the ETP during 2004 will not exceed those of 2001. The catch level for 2001 is estimated to be approximately 100 metric tons in the Convention Area. This is intended to prevent overfishing of the stock, which has declined in recent years while longline fishing effort has greatly expanded. The IATTC action at the extraordinary meeting in October 2003 came after considering a variety of measures, including the use of quotas and partial fishery closures as in 1999 through 2002 and the full month purse seine closure used in 2003. The selected measures should provide protection against overfishing of the stocks in a manner that is fair, equitable, and readily enforceable. The DOS has approved the IATTC recommendations.

The proposed 2004 time/area closure is based on 2003 assessments of the condition of the tuna stocks in the ETP and historic catch and effort data for different portions of the ETP, as well as records relating to implementation of quotas and closures in prior years. The closure is targeted to areas with high catches of bigeye tuna in the purse seine fishery and is believed by the IATTC scientific staff to be sufficient to reduce the risk of overfishing of that stock, especially when considered in

combination with the measures implemented in December 2003. The IATTC will meet in June 2004 and review new tuna stock assessments and fishery information and will consider that new information in evaluating the need for management measures for 2005 and future years.

The Acting Regional Administrator, Southwest Region, sent a notice October 10, 2003, to owners and agents of U.S. tuna purse seine fishing vessels of the actions that were recommended by the IATTC and have been approved by the DOS.

#### Classification

This action is proposed under the regulations for the Pacific Tuna Fisheries found at 50 CFR 200.29.

On December 8, 1999, NMFS prepared a biological opinion (BO) assessing the impacts of the fisheries as they would operate under the regulations (65 FR 47, January 3, 2000) implementing the International Dolphin Conservation Program Act (IDCPA) that amended the Marine Mammal Protection Act (MMPA). NMFS concluded that the fishing activities conducted under those regulations are not likely to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS or result in the destruction or adverse modification of critical habitat. This rule will not result in any changes in the fisheries such that there would be impacts beyond those considered in that BO. The IATTC has also taken action to reduce sea turtle injury and mortality from interactions in the purse seine fishery so impacts of the fisheries should be lower than in the past. Because this closure does not alter the scope of the fishery management regime analyzed in the IDCPA rule, or the scope of the impacts considered in that consultation, NMFS is relying on that analysis to conclude that this rule will not likely adversely effect any endangered or threatened species under the jurisdiction of NMFS or result in the destruction or adverse modification of critical habitat. Therefore, NMFS has determined that additional consultation is not required for this action.

The U.S. ETP tuna purse seine fisheries occasionally interact with a variety of species of dolphin, and dolphin takes are authorized and managed under the IDCPA. These conservation management measures in this proposed rule do not affect the administration of that program, which is consistent with section 303(a)(2) of the MMPA.

This proposed rule has been determined to be not significant for the 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 as substantial number of small entities as follows:

This action would prohibit the use of purse seine gear to harvest tuna in a portion of the Convention Area for a 6-week period beginning August 1, 2004, and limit the 2004 U.S. catch of bigeye tuna caught by longline in the ETP to the level reached in 2001 (approximately 100 metric tons). The proposed purse seine closure would apply to the U.S. tuna purse seine fleet, which consists of 10–20 small vessels (carrying capacity below 400 short tons (363 metric tons)) and 4–6 large vessels (carrying capacity 400 short tons (363 metric tons) or greater). The large vessels usually fish outside U.S. waters and deliver their catch to foreign ports or transship to processors outside the mainland United States. The large vessels are categorized as large business entities (revenues in excess of \$3.5 million per year). A large purse seine vessel typically generates 4,000 to 5,000 metric tons of tuna valued at between \$4 and \$5 million per year. The closure should not significantly affect their operations as they are capable of fishing in other areas that would remain open. The small vessels are categorized as small business entities (revenues below \$3.5 million per year). They fish out of California in the U.S. exclusive economic zone (EEZ) most of the year for small pelagic fish (Pacific sardine, Pacific mackerel) and for market squid in summer. Some small vessels harvest tuna seasonally when they are available. The proposed time/area closure will have no effect on small vessels because they do not have the endurance and markets to fish that far south.

The portion of the U.S. longline fleet (approximately 18 vessels) operating out of California has historically caught bigeye tuna in the swordfish fishery (now closed), so they should not be affected by the longline fishery limit. Further, the recent prohibition of swordfish targeting by this fleet has encouraged many of the vessel owners to relocate their activity to Hawaii (5 have moved or are moving to date); therefore, the likelihood that they will fish in the ETP for bigeye tuna is reduced. The portion of the fleet operating out of Hawaii has generally operated outside the boundaries of the IATTC Convention Area, and has not made significant catches in those waters. Also, with the reopening of the swordfish fishery for that fleet, effort directed at bigeye tuna (which has mainly occurred west of the Convention Area) should decrease, so there is a very low likelihood that the bigeye catch limit of 100 metric tons will be reached and trigger a closure.

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

**Authority:** 16 U.S.C. 951–961 and 971 *et seq.*

Dated: June 21, 2004.

**William T. Hogarth,**  
Assistant Administrator for Fisheries,  
National Marine Fisheries Service.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 660

[Docket No. 040617187–4187–01; I.D. 060704H]

RIN 0648–AR85

#### Fisheries Off West Coast States and in the Western Pacific; Western Pacific Bottomfish Fishery; Fishing Moratorium

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

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

**SUMMARY:** NMFS proposes to extend the current moratorium on harvesting seamount groundfish from the Hancock Seamount in the Northwestern Hawaiian Islands (NWHI) for 6 years, until August 31, 2010. The fishery has been under a moratorium since 1986. This action is being taken in response to a recommendation by the Western Pacific Fishery Management Council from its Bottomfish Plan Team (Plan Team) and Scientific and Statistical Committee (SSC) that revealed that pelagic armorhead (*Pseudopentaceros wheeleri*; formerly, *Pentaceros richardsoni*), an overfished stock, has not recovered. The intent of this action is to allow the protection provided for this resource to continue.

**DATES:** Comments must be submitted by July 12, 2004.

**ADDRESSES:** You may submit comments on this proposed rule by any of the following methods:

●E-mail: [0648-AR85.PIR@noaa.gov](mailto:0648-AR85.PIR@noaa.gov). Include in the subject line of the e-mail comment the following document identifier: 0648–AR85.

●Federal e-Rulemaking portal: <http://www.regulations.gov> Follow the instructions for submitting comments.

●Mail: William L. Robinson, Regional Administrator, Pacific Islands Region, NOAA Fisheries, 1601 Kapiolani Boulevard, Suite 1110, Honolulu, HI 96814.