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

[Docket No. 050719189-5286-03; I.D. 062706A]

RIN 0648-AT33

International Fisheries; Pacific Tuna Fisheries; Restrictions for 2006 Longline Fisheries in the Eastern Tropical Pacific Ocean; Fishery Closure**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.**ACTION:** Temporary rule; closure.

SUMMARY: NMFS is closing the U.S. longline fishery for bigeye tuna in the Inter-American Tropical Tuna Commission (IATTC) Convention Area for the remainder of 2006, because the bigeye tuna catch in the Convention Area has reached the 150-metric ton (mt) limit for 2006. This action, implemented under the regulations for the Pacific Tuna Fisheries will contribute to efforts to end overfishing of bigeye tuna in the eastern tropical Pacific Ocean (ETP), consistent with recommendations by the IATTC that have been approved by the Department of State (DOS) under the Tuna Conventions Act. This action is intended to limit fishing mortality on the bigeye tuna stock caused by longline fishing in the Convention Area and contribute to the long-term conservation of the bigeye tuna stock at levels that support healthy fisheries.

DATES: Effective 12:01 a.m. (0001 hrs) Hawaii Standard Time (HST) on July 6, 2006, through 12:01 a.m. (0001 hrs) HST on January 1, 2007.

FOR FURTHER INFORMATION CONTACT: J. Allison Routt, 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 for this purpose is defined to include the waters of the ETP 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 tuna stocks and promote viable fisheries. Under the Tuna Conventions Act, 16 U.S.C. 951-962, NMFS must publish regulations to carry out IATTC recommendations and resolutions that have been approved by DOS. The Southwest Regional Administrator also is required by regulations at 50 CFR 300.25(b)(3) to issue a direct notice to the owners or agents of U.S. vessels that operate in the ETP of actions recommended by the IATTC and approved by the DOS. A notice to the fleet was sent May 31, 2005, advising the U.S. bigeye tuna longline fleet of the bigeye tuna quota in the ETP for the 2005 and 2006 fishing years. The 150-mt quota and procedure to close the U.S. longline bigeye fishery upon reaching the quota in 2006 was established by a final rule published on November 22, 2005 (70 FR 70549).

The IATTC recommended and the DOS approved a measure whereby the U.S. longline fishery for bigeye tuna in the Convention Area will close for the remainder of calendar year 2006 if the catch of bigeye tuna by U.S. longline vessels in the Convention Area reaches 150 mt (the amount estimated to have been caught by the U.S. longline fishery in the Convention Area in 2001). The measure recommended by the IATTC and approved by DOS states that no bigeye tuna may be caught and retained by a nation's longline bigeye tuna vessels in the Convention Area during the remainder of the calendar year 2006 once the nation's longline harvest of bigeye in the Convention Area has reached the nation's catch level for bigeye tuna harvested in the Convention Area by longline in 2001.

NMFS has determined that the 150-mt catch level has been reached, and hereby closes the U.S. longline fishery for bigeye tuna in the Convention Area for the remainder of the year 2006. It is, therefore, prohibited for a U.S. longline bigeye tuna vessel to catch and retain bigeye tuna in the Convention Area from the effective date of this action through December 31, 2006.

Classification

This action is consistent with the Tuna Conventions Act and regulations

for the Pacific Tuna Fisheries found at 50 CFR 300.25.

This action responds to the best available information obtained from the fishery. For the reasons set forth below, the Assistant Administrator for Fisheries (AA) finds good cause under 5 U.S.C. § 553(b)(B) to waive the requirement for prior notice and opportunity for public for this action, which closes the U.S. bigeye tuna longline fishery in the IATTC

Convention Area for the remainder of the 2006 fishing season. Similarly, the AA finds good cause to waive the 30-day delay in the effective date for this action under 5 U.S.C. 553(d)(3).

Providing prior notice and opportunity for public comment is impracticable and contrary to the public interest because it would take time to effectuate, resulting in continued harvest of bigeye tuna by the U.S. longline fleet over the 2001 catch levels. Exceeding the quota violates US obligations to conserve bigeye tuna under the Convention. In 2003, 2004, and 2005, IATTC stock assessment scientists concluded that the bigeye tuna stock is at a level below that which would produce the average maximum sustainable yield.

Furthermore, NOAA has determined that bigeye tuna in the Pacific are subject to overfishing, using the standards for "overfishing" in the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. § 1801 *et seq.* At this time, the public's interests are best served by immediately closing this fishery. Closing this fishery now will ensure that the U.S. does not exceed the U.S. longline bigeye tuna quota, and will contribute to maintaining the bigeye tuna stocks at levels that will sustain the stocks at maximum sustainable yield for the future. For the same reasons, the AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. § 553(d)(3).

This action is authorized by 50 CFR 300.25(b), and is exempt from review under Executive Order 12866.

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

Dated: June 29, 2006.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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