

EPA regulations. To date, EPA has not established a national policy (either through rulemaking or through non-binding guidance to assist in the interpretation of the bypass regulation) regarding whether and under what circumstances wet weather blending at a POTW plant would not constitute a bypass. Prior to today's action, permitting agencies have interpreted and applied the bypass regulation on a case-by-case basis according to the facts and circumstances presented by a particular POTW. Therefore, by today's action, EPA also invites comment on whether or not it should conduct rulemaking to implement the proposed policy, specifically, whether the Agency should revise the text of the regulations specifically to address the matters discussed in today's proposal.

Dated: November 3, 2003.

G. Tracy Mehan, III,

Assistant Administrator, Office of Water.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 0310222265-3265-01; I.D. 092203E]

RIN 0648-AQ93

International Fisheries; Pacific Tuna Fisheries

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

ACTION: Proposed rule; 2003 management measures for tuna purse seine fisheries in the Eastern Pacific Ocean

SUMMARY: NMFS proposes this rule to implement the 2003 management measures to prevent overfishing of 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 the month of December, 2003. This action is taken to limit fishing mortality caused by purse seine fishing in that portion of the Convention Area and contribute to long-term conservation of

the tuna stocks at levels that support healthy fisheries.

DATES: Comments must be submitted in writing by November 19, 2003.

ADDRESSES: 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 90802-4213.

FOR FURTHER INFORMATION CONTACT: Svein Fougner, Sustainable Fisheries Division, Southwest Region, NMFS, 562-980-4040.

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/aces140.html>.

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. 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 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. The Convention Area is defined to include 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. Under the Tuna Conventions Act, NMFS 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 its annual meeting held on June 25-27, 2003, the IATTC provisionally adopted a resolution dealing with conservation of ETP tuna stocks. However, one Party to the IATTC indicated that it would have to obtain higher level concurrence before it could officially agree to those measures and ultimately indicated it could not agree. The IATTC then held another meeting October 6-7, 2003, and agreed to measures for 2003. The IATTC agreed to recommend that purse seine fishing for tuna be prohibited in December 2003 in

waters bounded by a line from the point where the 95° W. long. meridian intersects the west coast of the Americas, south to 10° S. 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 is a smaller closure than originally agreed to but will target fishing which has higher catches of juvenile tuna. Thus, there should be improved yields from the stocks later in the year. The IATTC action came after considering a variety of measures, including the use of quotas and partial fishery closures as in 1999, 2000, and 2001 and the full month purse seine closure used in 2002. In addition, the IATTC agreed to broader measures for 2004, which NMFS will consider in a future rulemaking, including a 6-week closure of all purse seine fisheries in the eastern Pacific Ocean beginning August 1, 2004, and limitation of longline fisheries to the bigeye tuna catch levels achieved in 2001. This approach should provide protection against overfishing of the stocks in a manner that is fair, equitable and readily enforceable. The DOS has approved this recommendation.

The proposed 2003 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 eastern Pacific Ocean, as well as records relating to implementation of quotas and closures in prior years. To ensure the continued health of the stocks, the IATTC recommended and the DOS approved a closure in a portion of the Convention Area for the month of December 2003. The closure is targeted to areas with high catches of bigeye tuna in the purse seine fishery and, together with agreed upon restriction for 2004, 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 recommended for 2004. 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.