

## Int'l. Fishing and Related Activities

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(C) Observe that the turtle is safely away from the vessel before engaging the propeller and continuing operations.

(viii) *Other sea turtle requirements.* No sea turtle, including a dead turtle, may be consumed or sold. A sea turtle may be landed, offloaded, transshipped or kept below deck only if NMFS requests the retention of a dead sea turtle or a part thereof for research.

[74 FR 38554, Aug. 4, 2009, as amended at 76 FR 82183, Dec. 30, 2011]

### § 300.224 Longline fishing restrictions.

(a) *Establishment of bigeye tuna catch limit.* There is a limit of 3,763 metric tons of bigeye tuna that may be captured in the Convention Area by longline gear and retained on board by fishing vessels of the United States during the 2012 calendar year.

(b) *Exception for bigeye tuna landed in territories.* Bigeye tuna landed in American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands will be attributed to the longline fishery of the territory in which it is landed and will not be counted against the limit established under paragraph (a) of this section, provided that:

(1) The bigeye tuna were not caught in the portion of the EEZ surrounding the Hawaiian Archipelago; and

(2) The bigeye tuna were landed by a fishing vessel operated in compliance with a valid permit issued under § 660.707 or § 665.801 of this title.

(c) *Exception for bigeye tuna caught by vessels with American Samoa Longline Limited Access Permits.* Bigeye tuna caught by a vessel registered for use under a valid American Samoa Longline Limited Access Permit issued under § 665.801(c) of this title will be attributed to the longline fishery of American Samoa and will not be counted against the limit established under paragraph (a) of this section, provided that:

(1) The bigeye tuna were not caught in the portion of the EEZ surrounding the Hawaiian Archipelago; and

(2) The bigeye tuna were landed by a fishing vessel operated in compliance with a valid permit issued under § 660.707 or § 665.801 of this title.

(d) *Exception for bigeye tuna caught by vessels included in Section 113(a) arrange-*

*ments.* Bigeye tuna caught in 2012 by a vessel that is included in an arrangement under the authorization of Section 113(a) of Public Law 112-55, 125 Stat. 552 *et seq.*, the Consolidated and Further Continuing Appropriations Act, 2012, will be attributed to the longline fishery of American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands, according to the terms of the arrangement to the extent they are consistent with this section and applicable law, and will not be counted against the limit, provided that:

(1) NMFS has received a copy of the arrangement from the vessel owner or a designated representative at least 14 days prior to the date the bigeye tuna was caught, except that this requirement shall not apply to any arrangement provided to NMFS prior to the effective date of this paragraph;

(2) The bigeye tuna was caught on or after the “start date” specified in paragraph (g)(2) of this section; and

(3) NMFS has determined that the arrangement satisfies the requirements of Section 113(a) of Public Law 112-55, 125 Stat. 552 *et seq.*, the Consolidated and Further Continuing Appropriations Act, 2012, in accordance with the criteria specified in paragraph (g)(3) of this section.

(e) *Announcement of catch limit being reached and fishing prohibitions.* NMFS will monitor retained catches of bigeye tuna with respect to the limit established under paragraph (a) of this section using data submitted in logbooks and other available information. After NMFS determines that the limit is expected to be reached by a specific future date, and at least seven calendar days in advance of that specific future date, NMFS will publish a notice in the FEDERAL REGISTER announcing that specific prohibitions will be in effect starting on that specific future date and ending December 31, 2012.

(f) *Prohibitions after catch limit is reached.* Once an announcement is made pursuant to paragraph (e) of this section, the following restrictions will apply during the period specified in the announcement:

(1) A fishing vessel of the United States may not be used to retain on board, transship, or land bigeye tuna

captured by longline gear in the Convention Area, except as follows:

(i) Any bigeye tuna already on board a fishing vessel upon the effective date of the prohibitions may be retained on board, transshipped, and/or landed, to the extent authorized by applicable laws and regulations, provided that they are landed within 14 days after the prohibitions become effective. The 14-day landing requirement does not apply to a vessel that has declared to NMFS, pursuant to §665.803(a) of this title, that the current trip type is shallow-setting.

(ii) Bigeye tuna captured by longline gear may be retained on board, transshipped, and/or landed if they are landed in American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands, provided that:

(A) The bigeye tuna were not caught in the portion of the EEZ surrounding the Hawaiian Archipelago;

(B) Such retention, transshipment, and/or landing is in compliance with applicable laws and regulations; and

(C) The bigeye tuna are landed by a fishing vessel operated in compliance with a valid permit issued under §660.707 or §665.801 of this title.

(iii) Bigeye tuna captured by longline gear may be retained on board, transshipped, and/or landed if they are caught by a vessel registered for use under a valid American Samoa Longline Limited Access Permit issued under §665.801(c) of this title, provided that:

(A) The bigeye tuna were not caught in the portion of the EEZ surrounding the Hawaiian Archipelago;

(B) Such retention, transshipment, and/or landing is in compliance with applicable laws and regulations; and

(C) The bigeye tuna are landed by a fishing vessel operated in compliance with a valid permit issued under §660.707 or §665.801 of this title.

(iv) Bigeye tuna captured by longline gear may be retained on board, transshipped, and/or landed if they were caught by a vessel that is included in an arrangement under the authorization of Section 113(a) of Public Law 112-55, 125 Stat. 552 *et seq.*, the Consolidated and Further Continuing Appropriations Act, 2012, if the arrangement provides for the bigeye tuna when

caught to be attributed to the longline fishery of American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands, provided that:

(A) NMFS has received a copy of the arrangement at least 14 days prior to the activity (i.e., the retention on board, transshipment, or landing), unless NMFS has received a copy of the arrangement prior to the effective date of this section;

(B) The “start date” specified in paragraph (g)(2) of this section has occurred or passed; and

(C) NMFS has determined that the arrangement satisfies the requirements of Section 113(a) of Public Law 112-55, 125 Stat. 552 *et seq.*, the Consolidated and Further Continuing Appropriations Act, 2012, in accordance with the criteria specified in paragraph (g)(3) of this section.

(2) Bigeye tuna caught by longline gear in the Convention Area may not be transshipped to a fishing vessel unless that fishing vessel is operated in compliance with a valid permit issued under §660.707 or §665.801 of this title.

(3) A fishing vessel of the United States, other than a vessel that catches bigeye tuna catch that is to be attributed to the longline fishery of American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands in accordance with paragraphs (b), (c), or (d) of this section, or a vessel for which a declaration has been made to NMFS, pursuant to §665.803(a) of this title, that the current trip type is shallow-setting, may not be used to fish in the Pacific Ocean using longline gear both inside and outside the Convention Area during the same fishing trip, with the exception of a fishing trip during which the prohibitions were put into effect as announced under paragraph (e) of this section, in which case the bigeye tuna on board the vessel may be retained on board, transshipped, and/or landed, to the extent authorized by applicable laws and regulations, provided that they are landed within 14 days after the prohibitions become effective.

(4) If a fishing vessel of the United States, other than a vessel that catches bigeye tuna catch that is to be attributed to the longline fishery of

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American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands, in accordance with paragraphs (b), (c), and (d) of this section, or a vessel for which a declaration has been made to NMFS, pursuant to §665.803(a) of this title, that the current trip type is shallow-setting, is used to fish in the Pacific Ocean using longline gear outside the Convention Area and the vessel enters the Convention Area at any time during the same fishing trip, the longline gear on the fishing vessel must, while in the Convention Area, be stowed in a manner so as not to be readily available for fishing; specifically, the hooks, branch or dropper lines, and floats used to buoy the mainline must be stowed and not available for immediate use, and any power-operated mainline hauler on deck must be covered in such a manner that it is not readily available for use.

(g) *Procedures and conditions for Section 113(a) arrangements.* This paragraph establishes procedures to be followed and conditions that must be met with respect to arrangements authorized under Section 113(a) of Public Law 112-55, 125 Stat. 552 *et seq.*, the Consolidated and Further Continuing Appropriations Act, 2012. These procedures and conditions apply to paragraphs (d), (f)(1)(iv), (f)(3), and (f)(4) of this section.

(1) For the purpose of this section, the “pre-Section 113(a) attribution forecast date” is the date the catch limit established under paragraph (a) of this section is forecast by NMFS to be reached, assuming that no catches would be attributed to the longline fisheries of American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands under arrangements authorized under Section 113(a) of Public Law 112-55, 125 Stat. 552 *et seq.*, the Consolidated and Further Continuing Appropriations Act, 2012. Since forecasts are subject to change as new information becomes available, NMFS will use for this purpose the first forecast it prepares that indicates that the date of the limit being reached is less than 28 days after the date the forecast is prepared.

(2) For the purpose of this section, the “start date” for attribution of catches to the longline fisheries of American Samoa, Guam, or the Com-

monwealth of the Northern Mariana Islands for a particular arrangement is:

(i) For arrangements copies of which are received by NMFS no later than the date NMFS determines the pre-Section 113(a) attribution forecast date, seven days before the pre-Section 113(a) attribution forecast date; and

(ii) For arrangements copies of which are received by NMFS after the date NMFS determines the pre-Section 113(a) attribution forecast date, 14 days after the date that NMFS receives a copy of the arrangement or seven days before the pre-Section 113(a) attribution forecast date, whichever is later.

(3) NMFS will determine whether an arrangement satisfies the requirements of Section 113(a) of Public Law 112-55, 125 Stat. 552 *et seq.*, the Consolidated and Further Continuing Appropriations Act, 2012, for the attribution of bigeye tuna to the longline fishery of American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands according to the following criteria:

(i) Vessels included under the arrangement must be registered for use with valid permits issued under the Fishery Ecosystem Plan for Pacific Pelagic Fisheries of the Western Pacific Region;

(ii) The arrangement must not impose any requirements regarding where the vessels included in the arrangement fish or land their catch;

(iii) The arrangement must be signed by the owners of all the vessels included in the arrangement or their designated representative(s);

(iv) The arrangement must be signed by an authorized official of American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands or his or her designated representative(s); and

(v) The arrangement must be funded by deposits to the Western Pacific Sustainable Fisheries Fund in support of fisheries development projects identified in the Marine Conservation Plan of American Samoa, Guam, or the Commonwealth of the Northern Mariana Islands adopted pursuant to section 204 of the Magnuson-Stevens Fishery Conservation and Management Act.

(4) NMFS will notify the parties to the arrangement or their designated representative(s) within 14 days of receiving a copy of the arrangement, if

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the arrangement does not meet the criteria specified in paragraph (g)(3) of this section.

[77 FR 51714, Aug. 27, 2012]

### Subpart P—Vessels on IUU Vessel Lists

SOURCE: 75 FR 59142, Sept. 27, 2010, unless otherwise noted.

#### § 300.300 Purpose and scope.

(a) This subpart implements internationally-adopted measures pertaining to foreign vessels determined to have engaged in illegal, unreported, and unregulated (IUU) fishing and placed on IUU vessel lists of the:

(1) International Commission for the Conservation of Atlantic Tunas (ICCAT),

(2) Commission for the Conservation of Antarctic Marine Living Resources (CCAMLR),

(3) Northwest Atlantic Fisheries Organization (NAFO),

(4) Western and Central Pacific Fisheries Commission (WCPFC),

(5) Inter-American Tropical Tuna Commission (IATTC), and

(6) Parties to the Agreement on the International Dolphin Conservation Program (AIDCP).

(b) For purposes of this subpart, the above organizations are referred to as regional fishery management organizations (RFMOs). Each of these RFMOs adopts or approves an IUU vessel list in accordance with their respective rules and procedures. The lists are publicly available at each RFMO's Web site. The regulations in this subpart apply to all persons subject to the jurisdiction of the United States, wherever they are.

#### § 300.301 Definitions.

In addition to the terms defined in § 300.2, the terms used in this subpart have the following meanings.

*Landing* means to begin to offload fish, or to offload fish from any vessel.

*Listed IUU Vessel* means a vessel that is included on a final IUU vessel list adopted or approved by an RFMO to which the United States is a party.

*Processing* means the preparation or packaging of fish to render it suitable

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for human consumption, retail sale, industrial uses or long-term storage, including, but not limited to, cooking, canning, smoking, salting, drying, filleting, freezing, or rendering into meal or oil.

*Transshipping* means the offloading, unloading, or transferring of fish or fish products from one vessel to another.

#### § 300.302 Port entry by foreign, listed IUU vessels.

The Assistant Administrator may, in accordance with applicable provisions of RFMO conservation and management measures, deny a foreign, listed IUU vessel entry to any port or place subject to the jurisdiction of the United States, except in cases of *force majeure*.

#### § 300.303 Port access by foreign, listed IUU vessels.

If a foreign, listed IUU vessel is allowed to enter a port or place subject to the jurisdiction of the United States, the Assistant Administrator may, in accordance with applicable provisions of RFMO conservation and management measures, take one or more of the following actions:

(a) Inspect the vessel;

(b) Deny the vessel access to port services, including but not limited to refueling, resupplying, or disembarking or embarking of crew; or

(c) Prohibit the vessel from engaging in commercial transactions including, but not limited to, transshipping or landing product.

#### § 300.304 Prohibitions.

(a) It is unlawful for a foreign, listed IUU vessel denied entry under § 300.302 to enter any port or place subject to the jurisdiction of the United States.

(b) It is unlawful for any foreign, listed IUU vessel to obtain port services or engage in commercial transactions, or attempt to obtain such services or engage in such transactions, if such activities have been denied or prohibited under § 300.303(b) and/or § 300.303(c), or if the vessel has been denied entry under § 300.302.

(c) It is unlawful for any person, without prior authorization from the Assistant Administrator, to engage in