DELEGATION STATUS FOR PART 63 STANDARDS—STATE OF NEW MEXICO—Continued

[Excluding Indian Country]

Subpart	Source category	NMED [1 2]	ABCAQCB [1 3]
DDDDDDD	Prepared Feeds Areas Sources	X	X
EEEEEEE	Gold Mine Ore Processing and Production Area Sources	X	X
FFFFFFF–GGGGGGG	(Reserved)		
HHHHHHH	Polyvinyl Chloride and Copolymers Production Major Sources	X	X

[1] Authorities which may not be delegated include: § 63.6(g), Approval of Alternative Non-Opacity Emission Standards; § 63.6(h)(9), Approval of Alternative Opacity Standards; § 63.7(e)(2)(ii) and (f), Approval of Major Alternatives to Test Methods; § 63.8(f), Approval of Major Alternatives to Monitoring; § 63.10(f), Approval of Major Alternatives to Recordkeeping and Reporting; and all authorities identified in the subparts (*e.g.,* under ''Delegation of Authority'') that cannot be delegated.

[2] Program delegated to New Mexico Environment Department (NMED) for standards promulgated by EPA, as amended in the **Federal Register** through August 29, 2013.

[3] Program delegated to Albuquerque-Bernalillo County Air Quality Control Board (ABCAQCB) for standards promulgated by EPA, as amended in the **Federal Register** through September 13, 2013.

[4] The NMED was previously delegated this subpart on February 9, 2004 (68 FR 69036). The ABCAQCB has adopted the subpart unchanged and applied for delegation of the standard. The subpart was vacated and remanded to EPA by the United States Court of Appeals for the District of Columbia Circuit. See, *Mossville Environmental Action Network* v. *EPA,* 370 F. 3d 1232 (D.C. Cir. 2004). Because of the DC Court's holding this subpart is not delegated to NMED or ABCAQCB at this time.

[5] This subpart was issued a partial vacatur on October 29, 2007 (72 FR 61060) by the United States Court of Appeals for the District of Columbia Circuit.

[6] Final rule. See 78 FR 7138 (January 31, 2013).

[7] This subpart was vacated and remanded to EPA by the United States Court of Appeals for the District of Columbia Circuit on March 13, 2007. See, *Sierra Club* v. *EPA,* 479 F. 3d 875 (D.C. Cir. 2007). Because of the DC Court's holding this subpart is not delegated to NMED or ABCAQCB at this time.

[8] Initial Final Rule on February 16, 2012 (77 FR 9304). Final on reconsideration of certain new source issues on April 24, 2013 (78 FR 24073). Portions of this subpart are in proposed reconsideration pending final action on June 25, 2013 (78 FR 38001).

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[FR Doc. 2015–03482 Filed 2–18–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 130703588–5112–02]

RIN 0648–BD44

International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Fishing Restrictions Regarding the Oceanic Whitetip Shark, the Whale Shark, and the Silky Shark

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations under authority of the Western and Central Pacific Fisheries Convention Implementation Act (WCPFC Implementation Act) to implement decisions of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Commission or WCPFC) on fishing restrictions related to the oceanic whitetip shark (*Carcharhinus longimanus*), the whale shark (*Rhincodon typus*), and the silky shark (*Carcharhinus falciformis*). The regulations apply to owners and operators of U.S. fishing vessels used for commercial fishing for highly migratory species (HMS) in the area of application of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention). The regulations for oceanic whitetip sharks and silky sharks prohibit the retention, transshipment, storage, or landing of oceanic whitetip sharks or silky sharks, and require the release of any oceanic whitetip shark or silky shark as soon as possible after it is caught, with as little harm to the shark as possible. The regulations for whale sharks prohibit setting a purse seine on a whale shark and specify certain measures to be taken and reporting requirements in the event a whale shark is encircled in a purse seine net. This action is necessary for the United States to satisfy its obligations under the Convention, to which it is a Contracting Party.

DATES: This rule is effective March 23, 2015.

ADDRESSES: Copies of supporting documents prepared for this final rule, including the regulatory impact review (RIR) and the Environmental Assessment (EA), as well as the proposed rule, are available via the Federal e-Rulemaking Portal, at *www.regulations.gov* (search for Docket ID NOAA–NMFS–2014–0086). Those documents, and the small entity compliance guide prepared for this final rule, are also available from NMFS at the following address: Michael D. Tosatto, Regional Administrator, NMFS, Pacific Islands Regional Office (PIRO), 1845 Wasp Blvd., Building 176, Honolulu, HI 96818. The initial regulatory flexibility analysis (IRFA) and final regulatory flexibility analysis (FRFA) prepared under the authority of the Regulatory Flexibility Act (RFA) are included in the proposed rule and this final rule, respectively.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule may be submitted to Michael D. Tosatto, Regional Administrator, NMFS PIRO (see **ADDRESSES**) and by email to *OIRA_Submission@omb.eop.gov* or fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Rini Ghosh, NMFS PIRO, 808–725–5033.

SUPPLEMENTARY INFORMATION: On August 22, 2014, NMFS published a proposed rule in the **Federal Register** (79 FR 49745) to implement decisions of the Commission on the oceanic whitetip shark, the whale shark, and the silky shark. The proposed rule was open for public comment through October 6, 2014.

This final rule is issued under the authority of the WCPFC Implementation Act (16 U.S.C. 6901 *et seq.*), which authorizes the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the Department in which the United States Coast Guard is operating (currently the Department of Homeland Security), to promulgate such regulations as may be necessary to carry out the obligations of

the United States under the Convention, including the decisions of the Commission. The authority to promulgate regulations has been delegated to NMFS.

This final rule implements the WCPFC's ''Conservation and Management Measure for Oceanic Whitetip Shark'' (CMM 2011–04), ''Conservation and Management Measure for Protection of Whale Sharks from Purse Seine Fishing Operations'' (CMM 2012–04), and ''Conservation and Management Measure for Silky Sharks'' (CMM 2013–08). The preamble to the proposed rule provides background information on a number of matters, including the Convention and the Commission, the provisions of the WCPFC decisions being implemented in this rule, and the bases for the proposed regulations, which is not repeated here.

New Requirements

The final rule includes six elements—three regarding the oceanic whitetip shark and silky shark and three regarding the whale shark.

Oceanic Whitetip Shark and Silky Shark Elements

For the oceanic whitetip shark and silky shark, the first element prohibits the crew, operator, and owner of a fishing vessel of the United States used for commercial fishing for HMS from retaining on board, transshipping, storing, or landing any part or whole carcass of an oceanic whitetip shark or silky shark that is caught in the Convention Area. The second element requires the crew, operator, and owner to release any oceanic whitetip shark or silky shark caught in the Convention Area as soon as possible after the shark is caught and brought alongside the vessel and take reasonable steps for its safe release, without compromising the safety of any persons. The third element takes into consideration that, notwithstanding the other two oceanic whitetip and silky shark elements of the rule, WCPFC observers may collect samples of oceanic whitetip sharks or silky sharks that are dead when brought alongside the vessel and the crew, operator, or owner of the vessel must allow and assist them to collect samples in the Convention Area, if requested to do so. Observers deployed by NMFS or the Pacific Islands Forum Fisheries Agency are currently considered WCPFC observers, as those programs have completed the required authorization process to become part of the WCPFC Regional Observer Programme.

CMM 2011–04 and CMM 2013–08, for the oceanic whitetip shark and the silky shark, respectively, apply to the entire Convention Area, including, for the United States, state and territorial waters. The WCPFC Implementation Act states that regulations promulgated under the act shall apply within the boundaries of any of the States of the United States and any commonwealth, territory or possession of the United States (hereafter ''State'') bordering on the Convention Area if the Secretary of Commerce has provided notice to the State, the State does not request an agency hearing, and the Secretary of Commerce has determined that the State has not, within a reasonable period of time after the promulgation of regulations, enacted laws or promulgated regulations that implement the recommendations of the WCPFC within the boundaries of the State; or has enacted laws or promulgated regulations that implement the recommendations of the WCPFC that are less restrictive than the regulations promulgated under the WCPFC Implementation Act or are not effectively enforced (16 U.S.C. 6907(e)). Some of the fisheries affected by the oceanic whitetip shark and silky shark elements of the rule operate within the waters of American Samoa, Guam, Hawaii, and the Commonwealth of the Northern Mariana Islands (CNMI). NMFS furnished copies of the proposed rule to these States at the time of publication in the **Federal Register** and will furnish copies of the final rule as well. NMFS is available to discuss ways to ensure that the conservation and management measures implemented in this rulemaking can be consistently applied to Federal, state, and territorial managed fisheries.

Whale Shark Elements

For the whale shark, the first element of the final rule prohibits owners, operators, and crew of fishing vessels from setting or attempting to set a purse seine in the Convention Area on or around a whale shark if the animal is sighted prior to the commencement of the set or the attempted set. CMM 2012–04 includes language making the prohibition specific to ''a school of tuna associated with a whale shark.'' However, it is unclear exactly what this phrase means. Thus, NMFS believes it is appropriate to apply this prohibition to any purse seine set or attempted set on or around a whale shark that has been sighted prior to commencement of the set or attempted set. This prohibition would not apply to sets made in the territorial seas or archipelagic waters of any nation or in the exclusive economic zones (EEZs) of the Parties to the Nauru Agreement (PNA). The final rule includes a definition of the PNA as the Pacific Island countries that are parties to the Nauru Agreement Concerning Cooperation in the Management of Fisheries of Common Interest, as specified on the Web site of the Parties to the Nauru Agreement at *www.pnatuna.com.* The PNA currently includes the following countries: Federated States of Micronesia, Kiribati, Marshall Islands, Nauru, Palau, Papua New Guinea, Solomon Islands, and Tuvalu. Vessel owners and operators may be subject to similar prohibitions regarding the whale shark in the EEZs of the PNA, if implemented by one or more PNA countries.

The second element for the whale shark in the final rule requires the crew, operator, and owner of a fishing vessel to release any whale shark that is encircled in a purse seine net in the Convention Area, and to take reasonable steps to ensure its safe release, without compromising the safety of any persons. This element does not apply in the territorial seas or archipelagic waters of any nation, but does apply in all EEZs, including the EEZs of the PNA.

The third and final element for the whale shark in the final rule requires the owner and operator of a fishing vessel that encircles a whale shark with a purse seine in the Convention Area to ensure that the incident is recorded by the end of the day on the catch report form, or Regional Purse Seine Logsheet (RPL), maintained pursuant to 50 CFR 300.34(c)(1), in the format specified by the NMFS Pacific Islands Regional Administrator. The NMFS Pacific Islands Regional Administrator would provide vessel owners and operators with specific instructions for how to record whale shark encirclements on the RPL.

Comments and Responses

NMFS received comments from 38 individuals on the proposed rule, as well as three comment letters from groups or organizations. The comments have been grouped together, where appropriate, in the summaries below.

Comment 1: Four commenters provided general statements of support for the rule and five additional commenters expressed support for the rule stating that oceanic whitetip sharks, whale sharks, and silky sharks need to be protected from the fishing industry as they are at risk of extinction.

Response: NMFS acknowledges these comments.

Comment 2: One commenter stated that there is no sustainable way to fish for these sharks. Their lengthy gestation

and low reproduction rate make them vulnerable to environmental changes.

Response: NMFS notes that U.S. vessel owners and operators subject to this final rule are generally not fishing for these sharks, as there is no directed commercial shark fishery in the U.S. Pacific Islands region.

Comment 3: Six commenters discussed how they view sharks as important parts of a healthy ocean and that loss of sharks would be detrimental to the environment. Two of these commenters suggested that preserving sharks could help the shark diving industry, and one of them provided a photo they had taken of an oceanic whitetip shark.

Response: NMFS acknowledges these comments and the photo.

Comment 4: Ten commenters called for protections from fishing for all shark species; half of these commenters asked for broad protections for other species, including cetaceans. Most discussed the importance of sharks to the ecosystem and some discussed their vulnerability to fishing and environmental changes.

Response: The final rule establishes regulations that prohibit the retention, transshipment, storage, and landing of oceanic whitetip sharks and silky sharks, and require the release of any oceanic whitetip shark or silky shark as soon as possible after it is caught, with as little harm to the shark as possible. The final rule also establishes regulations that prohibit setting a purse seine on a whale shark and specify certain measures to be taken in the event a whale shark is encircled in a purse seine net, as well as a requirement to report the incident to NMFS. As described in the EA, other domestic and international management measures, such as the U.S. Shark Conservation Act of 2010 (Pub. L. 111–348), are in place to mitigate the impacts of fishing on shark species. NMFS, as well as international organizations and other countries are actively considering additional management for sharks. For example, the WCPFC's CMM 2010–07 provides management measures for sharks, and the WCPFC is considering additional shark management measures.

Comment 5: One commenter recommended that the proposed regulations be adopted. The commenter stated that these shark species face many man-made perils and need any beneficial regulations that can keep them from becoming endangered. According to the commenter, the proposed regulations would provide a legal framework for the agency to take action against any offenses. The commenter stated that enforcement will likely be challenging but that it is good to have something for which to strive. It is in a fisherman's best interest to help protect the fragile ecosystem he or she relies upon.

Response: NMFS acknowledges the comment.

Comment 6: One commenter stated that oceanic whitetip sharks scour the open ocean which is devoid of most life, so when they encounter potential food, they may test it to see if it is edible. According to the commenter, the bad reputation of sharks comes from being opportunistic. However, thousands of people have swum with these sharks without injury. The sharks need to survive in a harsh, barren environment and they excel at it, so we should let them live.

Response: NMFS acknowledges the comment.

Comment 7: One commenter stated that it is unconscionable to not implement stronger protections for these sharks. According to the commenter, studies have shown declines in oceanic whitetip shark populations in the Gulf of Mexico. Silky shark populations are estimated to have also declined dramatically. The International Union for Conservation of Nature (IUCN) lists the oceanic whitetip shark as vulnerable, the silky shark as near threatened, and the whale shark as vulnerable. Many countries have recognized the fragility of whale shark populations and have legislated full protection for them. None of these species can sustain ongoing depletion.

Response: Please see the response to Comment 4.

Comment 8: One commenter asked NMFS to reconsider implementing the proposed rule, so that abuse of the ocean's beautiful creatures would stop.

Response: We understand this comment to mean that the commenter believes the rule would lead to increased abuse of living marine resources. However, please see the response to Comment 4, above, for a summary of the regulations being implemented in this rule.

Comment 9: One commenter requested NMFS to provide better protection for sharks.

Response: As stated above in the response to Comment 4, the final rule implements WCPFC decisions for the conservation and management of three shark species.

Comment 10: One commenter asked why everyone wants to kill these shark species, since they are simply fantastic and keep the ocean healthy.

Response: As described above in the response to Comment 4, the final rule implements WCPFC decisions for the conservation and management of three shark species.

Comment 11: Three commenters stated that they fully support the regulation of shark finning and more responsible fishing, as specified in the proposed rule. They also stated that these animals are critical members of the ecosystem and should be protected and that these regulations should be strictly enforced.

Response: Please see the response to Comment 4, above, for a description of the elements of the final rule. The final rule does not regulate the practice of finning sharks, but other existing laws and regulations do so (*e.g.,* the Shark Conservation Act of 2010 (Pub. L. 111–348)).

Comment 12: One commenter supported the proposed rule and hopes that the United States will set an example for other countries. The commenter also provided background information on the status and importance of these sharks. However, the commenter asked NMFS to review the whale shark provisions of the proposed rule, recommending that nets should not be allowed in the water if a whale shark is seen and the regulations should clarify what would happen if a purse seine net is already in the water when a whale shark is sighted. The commenter also expressed concern over the lack of clarity in the definition of a ''school of tuna associated with a whale shark'' and suggested that it be rewritten.

Response: The regulations in this final rule prohibit setting or attempting to set a purse seine in the Convention Area on or around a whale shark if the animal is sighted prior to the commencement of the set or the attempted set. Should a whale shark be sighted after commencement of the set when the net is already in the water, it is not certain that the whale shark would become encircled in the net or that retrieving the net immediately would avoid encircling the whale shark. However, the regulations also require the crew, operator, and owner of a fishing vessel to release any whale shark that is encircled in a purse seine net and take reasonable steps for its safe release without compromising the safety of any persons. CMM 2012–04 includes language prohibiting vessels from setting a purse seine on a ''school of tuna associated with a whale shark'' if the animal is sighted prior to the commencement of the set or the attempted set. As stated in the proposed rule, it is unclear exactly what the phrase ''school of tuna associated with a whale shark,'' as used in the CMM, means. Thus, NMFS is implementing

broad regulations to prohibit any purse seine set or attempted set on or around a whale shark that has been sighted prior to the commencement of the set or the attempted set. NMFS believes that this interpretation of the CMM is practical for the crew, operators, and owners of fishing vessels to implement and for enforcement officials to enforce.

Comment 13: One commenter stated that as an officer in the U.S. distant water purse seine fleet one of his responsibilities is to act as a medical officer. The commenter strongly encourages the word ''safely'' to be added to the language requiring the release of oceanic whitetip sharks and silky sharks as soon as possible. Captured sharks can cause serious injuries to the crewmen trying to release them alive. Risking crew injury is unacceptable.

Response: NMFS agrees that the safety of crew members is of paramount importance. The regulations in this final rule for oceanic whitetip sharks and silky sharks require the crew, operator, and owner: ''to release any oceanic whitetip shark or silky shark caught in the Convention Area as soon as possible after the shark is caught and brought alongside the vessel and take reasonable steps for its safe release, without compromising the safety of any persons.''

Comment 14: One commenter who has managed a U.S. built and owned purse seine vessel that has operated out of Pago Pago, American Samoa, since 1981 expressed concerns over the proposal and stated that U.S. vessels already practice the regulations being implemented. The commenter believes that piecemeal protections for various species are inefficient and generate excess paperwork. The commenter suggested that the United States instead propose a full purse seine closure period for all Commission Members, Cooperating Non-Members, and Participating Territories (WCPFC members), similar to what is in effect in the eastern Pacific Ocean.

Response: The final rule implements specific WCPFC decisions on oceanic whitetip sharks, whale sharks, and silky sharks. The United States, as a member of the WCPFC, regularly considers conservation and management measures that could be adopted by the WCPFC for purse seine fisheries, but such measures are outside the scope of this rulemaking.

Comment 15: One group of commenters who submitted their comments jointly supported the regulations, especially in regard to silky sharks, and provided background information on silky sharks. The commenters proposed that NMFS modify the regulations to include a reporting requirement for silky shark bycatch to monitor the effectiveness of the regulations and for collecting additional data. The commenters also suggested that NMFS provide a better definition for the phrase ''as little harm as possible,'' which is part of the provisions of CMM 2013–08 regarding the release of any silky sharks caught in the Convention Area, to ensure the safety of silky sharks and provide fair enforcement. According to the commenters, allowing the operators of individual fishing vessels to determine what level of harm is acceptable would increase the risk of the regulations being applied arbitrarily. The commenters requested NMFS to consult with experts to develop a more thorough definition or establish guidelines for allowable and prohibited conduct when releasing silky sharks.

Response: WCPFC CMM 2010–07 identifies the silky shark as a key shark species and requires retained and discarded catches to be reported by each WCPFC member in its annual report to the Commission. NMFS believes that additional reporting for silky shark catches, including discards, is not needed at this time. The final regulations specify that crew, operators, and owners must release silky sharks caught in the Convention Area as soon as possible after the shark is caught and brought alongside the vessel, taking reasonable steps for its safe release, without compromising the safety of any persons. NMFS believes that this is a reasonable interpretation of CMM 2013–08's phrase ''as little harm as possible'' that can be implemented and enforced. The WCPFC Scientific Committee has considered appropriate guidelines for the safe release of encircled animals, such as whale sharks in purse seine nets, but the WCPFC has not yet adopted uniform guidelines. NMFS will establish additional shark handling requirements if and when needed should the WCPFC adopt further measures in this regard. NMFS does not believe issuance of these regulations should be postponed in order to develop such handling guidelines or requirements.

Comment 16: One organization provided comments expressing support for the proposed regulations and noting that the implementation deadlines in CMM 2011–04, CMM 2012–04, and CMM 2013–08 have already passed. The commenter indicated the need for rapid completion of the implementation of the measures to ensure that the United States is in full compliance with its WCPFC obligations for shark conservation and management. The commenter also provided background information on the stock status and importance of the three shark species. The commenter urged NMFS to extend the applicability of the oceanic whitetip shark and silky shark regulations to all fisheries, including non-commercial fisheries, that the United States manages in the western and central Pacific Ocean (WCPO) to enhance conservation and enforcement ability. The commenter expressed agreement with NMFS' interpretation of CMM 2012–04's phrase ''school of tuna associated with a whale shark.''

Response: The final regulations for oceanic whitetip sharks and silky sharks apply to all U.S. commercial HMS fisheries operating in the Convention Area. NMFS interprets the WCPFC decisions for the oceanic whitetip shark and the silky shark as being applicable only to commercial HMS fisheries, and therefore believes that the inclusion of other fisheries in the rule, as requested by the commenter, would not be appropriate. Should NMFS determine that oceanic whitetip shark and silky shark conservation measures are needed in other fisheries, NMFS would be able to implement such measures through other processes, such as those under the Magnuson-Stevens Fishery Conservation and Management Act.

Comment 17: One organization provided comments expressing its strong support for the proposed rule. The letter approved of NMFS's interpretation of the WCPFC measures to protect whale sharks, and noted the complementary nature of these regulations to similar regulations that recently went into effect in the eastern Pacific Ocean.

Response: NMFS acknowledges these comments.

Changes From the Proposed Rule

The phrase ''areas under the national jurisdiction of the Parties to the Nauru Agreement'' is used in the regulatory text to refer to the EEZs of the PNA. For clarification purposes, a definition of areas under the national jurisdiction of the Parties to the Nauru Agreement has been added to the regulatory text.

The new paragraph under 50 CFR 300.218 has been relabeled as (h) to accommodate another addition to 50 CFR 300.218 under a separate rulemaking. The new paragraphs under 50 CFR 300.222 have been relabeled as (ss), (tt), (uu), (vv), and (ww) to accommodate another addition to 50 CFR 300.222 under a separate rulemaking.

Classification

The Administrator, Pacific Islands Region, NMFS, has determined that this final rule is consistent with the WCPFC Implementation Act and other applicable laws.

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Regulatory Flexibility Act

A FRFA was prepared. The FRFA incorporates the IRFA prepared for the proposed rule. The analysis in the IRFA is not repeated here in its entirety.

A description of the action, why it is being considered, and the legal basis for this action are contained in the preamble of the proposed rule and in the **SUMMARY** and **SUPPLEMENTARY INFORMATION** sections of this final rule, above. The analysis follows.

Significant Issues Raised by Public Comments in Response to the IRFA

NMFS did not receive any comments specifically on the IRFA. Two of the public comments received on the proposed rule touched on the economic impacts of the proposed action; see Comments #5 and #14, and NMFS' responses to those comments, above.

Description of Small Entities to Which the Rule Will Apply

Small entities include ''small businesses,'' ''small organizations,'' and ''small governmental jurisdictions.'' The Small Business Administration (SBA) has established size standards for all major industry sectors in the United States, including commercial finfish harvesters (NAICS code 114111). A business primarily involved in finfish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $20.5 million for all its affiliated operations worldwide.

The final rule will apply to owners and operators of U.S. fishing vessels used to fish for HMS for commercial purposes in the Convention Area. This includes vessels in the purse seine, longline, tropical troll (including those in American Samoa, the CNMI, Guam, and Hawaii), Hawaii handline, Hawaii pole-and-line, and west coast-based albacore troll fleets. The estimated number of affected fishing vessels is as follows, broken down by fleet: 40 purse seine vessels (based on the number of purse seine vessels licensed under the South Pacific Tuna Treaty as of March 2014); 165 longline vessels (based on the number of longline vessels permitted to fish as of July 2014 under the Fishery Ecosystem Plan for Pacific Pelagic Fisheries of the Western Pacific Region, which includes vessels based in Hawaii (a total of 164 Hawaii Longline Limited Entry permits are available), American Samoa (a total of 60 American Samoa Longline Limited Entry permits are available), and the Mariana Islands); 2,089 tropical troll and 572 Hawaii handline vessels (based on the number of active troll and handline vessels in American Samoa, Guam, the CNMI, and Hawaii in 2012, the latest year for which complete data are available); 1 tropical pole-and-line vessel (based on the number of active vessels in 2012), and 13 albacore troll vessels (based on the number of albacore troll vessels authorized to fish on the high seas in the Convention Area as of July 2014). Thus, the total estimated number of vessels that would be subject to the rule is approximately 2,880.

Based on (limited) available financial information about the affected fishing fleets and the SBA's definition of a small finfish harvester (*i.e.,* gross annual receipts of less than $20.5 million, independently owned and operated, and not dominant in its field of operation), and using individual vessels as proxies for individual businesses, NMFS believes that all of the affected fish harvesting businesses are small entities. As stated above, there are currently 40 purse seine vessels in the affected purse seine fishery. Neither gross receipts nor ex-vessel price information specific to the 40 vessels are available to NMFS. Average annual receipts for each of the 40 vessels during the last 3 years for which reasonably complete data are available (2010–2012) were estimated as follows. The vessel's reported retained catches of skipjack tuna, yellowfin tuna, and bigeye tuna in each year were each multiplied by an indicative Asia-Pacific regional cannery price for that species and year (developed by the Pacific Islands Forum Fisheries Agency and available at *https://www.ffa.int/node/425#attachments*); the products were summed across species for each year; and the sums were averaged across the 3 years. The estimated average annual receipts for each of the 40 vessels were less than the $20.5 million threshold used to classify businesses as small entities under the SBA size standard for finfish harvesting businesses.

Recordkeeping, Reporting, and Other Compliance Requirements

The final rule will establish one new reporting requirement within the meaning of the Paperwork Reduction Act, as well as additional requirements, as described in the **SUPPLEMENTARY INFORMATION** section of this final rule, above. The classes of small entities subject to the requirements and the costs of complying with the requirements are described below for each of the six elements of the final rule—three elements regarding the oceanic whitetip shark and silky shark, and three elements regarding the whale shark.

Oceanic Whitetip Shark and Silky Shark Element (1): Prohibit the crew, operator, and owner of a fishing vessel from retaining on board, transshipping, storing, or landing any oceanic whitetip shark or silky shark. This element prohibits the crew, operator, and owner of a fishing vessel of the United States used for commercial fishing for HMS from retaining on board, transshipping, storing, or landing any part or whole carcass of an oceanic whitetip shark or silky shark that is caught in the Convention Area. This requirement would not impose any new reporting or recordkeeping requirements. It is not expected to require any professional skills that the affected vessel owners, operators and crew do not already possess. This requirement would apply to owners, operators and crew of any vessel used to fish for HMS for commercial purposes in the Convention Area. Accordingly, it would apply to all vessels identified above. Based on the best available data, oceanic whitetip shark and silky shark are not caught in the Hawaii handline fishery, the Hawaii pole-and-line fishery, or the albacore troll fishery. Thus, compliance costs are expected only in the purse seine, longline, and tropical troll fleets. This requirement forecloses harvesting businesses' opportunity to retain and sell or otherwise make use of the two species. The compliance cost for each entity can be approximated by the ex-vessel value of the amount of the two species that would be expected to be retained if it were allowed (under no action). Price data for specific shark species and in specific fisheries is lacking, so this analysis assumes that the ex-vessel value of both species in all affected fisheries is $1.50/kg, which is the 2011 ex-vessel price (converted to 2013 dollars) for sharks generally in Hawaii's commercial pelagic fisheries (which do not include the purse seine fishery, in which the fate and value of retained sharks are not known). Expected retained amounts of each of the two species in each fishery (under no action) are based on the recent level of fishing effort multiplied by the recent retention rate per unit of fishing effort.

For all fisheries except the purse seine fishery, the average of the last 5 years for which complete data are available, 2008–2012, is used. The analysis of impacts for the purse seine fishery uses fishing effort and the retention rate averaged over 2010 and 2011 because the fleet was substantially smaller than the current 40-vessel size in years previous to 2010, 100% observer coverage started in 2010, and 2011 is the last year for which near-complete data are available. Fishing effort estimates are based on vessel logbook data, except in the case of the American Samoa, CNMI, and Guam troll fisheries, for which creel survey data are used. Recent retention rates in the purse seine and longline fisheries are estimated from vessel observer data. In the Hawaii troll fishery, vessel logbook data are used, and in the American Samoa, CNMI, and Guam troll fisheries, creel survey data are used. Fish numbers are converted to weights based on vessel observer data for each fishery, except for the troll fisheries, for which weight data are lacking and the average weights in the Hawaii deep-set longline fishery are used. The average weights used are, for oceanic whitetip shark and silky shark, respectively: purse seine—23 kg and 32 kg; Hawaii deep-set longline—27 kg and 28 kg; Hawaii shallow-set longline—27 kg and 28 kg; American Samoa longline—26 kg and 18 kg; and tropical troll—27 kg (the two species cannot be accurately distinguished in the data and are combined for the purpose of this analysis).

In the purse seine fishery, in which about 40 vessels are expected to participate in the near future, it is estimated that 0.1 oceanic whitetip shark and 2.9 silky shark would be retained (under no action) per vessel per year, on average. Applying the average weights and price given above, these amounts equate to estimated lost annual revenue of about $140 per vessel, on average.

As indicated above, about 165 vessels are expected to participate in the affected longline fisheries in the near future. The longline fisheries operating in the Convention Area include the Hawaii-based fisheries, which include a tuna-targeting deep-set fishery and swordfish-targeting shallow set fishery, and the American Samoa-based fishery. Occasionally there is also longline fishing by vessels based in the Mariana Islands, where participation is typically fewer than three vessels in any given year. No vessel observer data are available specifically for the Mariana Islands longline fishery, making it difficult to analyze shark catch rates, but shark catch rates in the other longline fisheries might be reasonable proxies for catch rates in the Mariana Islands fishery. In that case, to the extent either oceanic whitetip shark or silky shark is caught and retained in the Mariana Islands longline fishery in the future, the effects of the final rule can be expected to be about the same—on a per-unit of fishing effort basis—as those in the other longline fisheries, as described here. In the Hawaii and American Samoa longline fisheries, it is estimated that 0.2 oceanic whitetip shark and 0.1 silky shark would be retained (under no action) per vessel per year, on average. These amounts equate to estimated lost annual revenue of about $12 per vessel, on average.

Catch and retention rates of the two shark species in the tropical troll fisheries are difficult to estimate for several reasons. For example, in the Hawaii troll fishery, there is no species code for silky shark, so any catches of that species are recorded as unidentified sharks. In the troll fisheries of the three territories, because the two carcharhinid species are retained only infrequently, it is difficult to generate estimates of total catches of the two species with much certainty using the creel surveys that sample only a subset of all fishing trips. Because of these and other limitations, only very approximate estimates can be made. For this analysis, all unidentified sharks in the data are assumed to be oceanic whitetip shark or silky shark, so the resulting estimates are upper-bound estimates. In the Hawaii troll fishery, it is estimated that 9 sharks would be retained (under no action) per year, on average, for the fishery as a whole. With approximately 1,694 vessels expected to participate in the fishery (based on the number active in 2012), this equates to about 0.01 sharks per vessel per year, and an estimated lost annual revenue of less than one dollar per vessel. The Guam troll fishery, with about 351 vessels expected to participate in the near future, is expected to retain about 2 sharks per year (under no action), on average, for the fleet as a whole. This equates to about 0.01 sharks per vessel per year, and an estimated annual compliance cost of less than one dollar per vessel. In the American Samoa troll fishery, it is estimated that about 0.3 sharks would be retained, on average, per year (under no action). With about 9 vessels expected to participate in the fishery, this equates to about 0.03 sharks per vessel per year, and an estimated annual compliance cost of less than one dollar per vessel. The creel survey encountered no retained sharks in the CNMI troll fishery in 2008–2012, so the best estimate of lost annual revenue for each of the approximately 35 vessels expected to participate in this fishery is zero.

Oceanic Whitetip Shark and Silky Shark Element (2): Require the crew, operators, and owners of U.S. fishing vessels used for commercial fishing for HMS in the Convention Area to release any oceanic whitetip shark or silky shark caught in the Convention Area. This element requires the vessel crew, operator, and owner to release any oceanic whitetip shark or silky shark caught in the Convention Area as soon as possible after the shark is caught and brought alongside the vessel and take reasonable steps to ensure its safe release, without compromising the safety of any persons. This requirement would not impose any new reporting or recordkeeping requirements. It is not expected to require any professional skills that the affected vessel owners, operators and crew do not already possess. This requirement could bring costs in the form of reduced efficiency of fishing operations, but it is difficult to assess the costs because it is not possible to predict whether or how vessel operators and crew would change their release/discard practices relative to what they do currently. For purse seine vessels, it is expected that in most cases, the fish would be released after it is brailed from the purse seine and brought on deck. In these cases, the labor involved would probably be little different than current practice for discarded sharks. If the vessel operator and crew determine that it is possible to release the fish before it is brought on deck, this would likely involve greater intervention and time on the part of crew members, with associated labor costs. For longline and troll vessels, it is expected that the fish would be quickly released as it is brought to the side of the vessel, such as by cutting the line or removing the hook. In these cases, no costs would be incurred. In some cases, the vessel operator and crew might determine that it is necessary to bring the fish on board the vessel before releasing it. This would involve greater labor than releasing the fish from alongside the vessel, but the release methods used in these cases might be the same as those used under the status quo, in which case no new costs would be incurred.

Oceanic Whitetip Shark and Silky Shark Element (3): Require the crew, operators, and owners of U.S. fishing vessels used for commercial fishing for HMS in the Convention Area to allow and assist observers in the collection of oceanic whitetip shark or silky shark samples. This element requires the vessel crew, operator, and owner to

allow and assist a WCPFC observer to collect samples of dead oceanic whitetip sharks or silky sharks when requested to do so by the observer. In such cases, and in any case in which the observer collects a sample of an oceanic whitetip shark or silky shark, the crew, operator, and owner would be relieved of the two requirements listed above. Under existing regulations, operators and crew of vessels with WCPFC Area Endorsements (*i.e.,* vessels authorized to be used for commercial fishing for HMS on the high seas in the Convention Area) are already required to assist observers in the collection of samples. This would effectively expand that requirement—for just these two shark species—to vessels not required to have WCPFC Area Endorsements. This requirement would not impose any new reporting or recordkeeping requirements. It is not expected to require any professional skills that the affected vessel owners, operators and crew do not already possess. Although this element would relieve vessel owners, operators and crew from the requirements of the first two elements described above in those cases where the vessel observer collects a sample of an oceanic whitetip shark or silky shark, it would not be expected to relieve fishing businesses of the costs identified above for the no-retention requirement, since the samples would be kept by the observer and would not be available for sale or other use by the fishing business. This element could also bring additional costs to fishing businesses because it would require the owner, operator, and crew to assist the observer in the collection of samples if requested to do so by the observer. Observers would be under instructions to collect samples only if they do so as part of a program that has been specifically authorized by the WCPFC Scientific Committee, and only from sharks that are dead when brought alongside the vessel. It is not possible to project how often observers would request assistance in collecting samples. When it does occur, it is not expected that sample collection would be so disruptive as to substantially delay or otherwise impact fishing operations, but the fishing business could bear small costs in terms of crew labor, and possibly the loss of storage space that could be used for other purposes.

Whale Shark Element (1): Prohibit owners, operators, and crew of U.S. fishing vessels used for commercial fishing for HMS in the Convention Area from setting or attempting to set a purse seine on or around a whale shark. This requirement prohibits owners, operators and crew of fishing vessels from setting or attempting to set a purse seine in the Convention Area on or around a whale shark if the animal is sighted prior to the commencement of the set or the attempted set. This requirement applies to all U.S. purse seine vessels fishing on the high seas and in the EEZs in the Convention Area, except the EEZs of the PNA. This requirement does not impose any new reporting or recordkeeping requirements. It is not expected to require any professional skills that the affected vessel owners, operators and crew do not already possess.

In the event that a whale shark is sighted in the vicinity of a purse seine vessel prior to a desired set, complying with the final rule could cause forgone fishing opportunities and result in economic losses. It is difficult to project the frequency of pre-set whale shark-sighting events because such events are not recorded. Historical data on whale shark catches are available, but catches are not equivalent to pre-set whale shark sightings, for two reasons. On the one hand, presumably not all whale sharks within ''sightable'' distance of a set are actually caught (thus, in this respect, whale shark catch data under-represent pre-set whale shark sighting events). On the other hand, according to anecdotal information from purse seine vessel operators, not all captured whale sharks are seen before the set commences (thus, in this respect, the whale shark catch data over-represent pre-set whale shark-sighting events). Nonetheless, historical whale shark catch rates can provide a rough indicator of the frequency of pre-set whale shark sighting events in the future.

Based on unpublished vessel observer data from the FFA observer program, the average whale shark catch rate in 2010–2011 for the U.S. purse seine fishery in the Convention Area, excluding the EEZs of the PNA, was approximately 2 fish per thousand fishing days. The average catch rate during that period in the Convention Area as a whole (including the waters of the PNA EEZs) was about 5 fish per thousand fishing days. For this analysis, this range of 2–5 events per thousand fishing days is used as an estimate of pre-set whale shark-sighting events in the future. Based on the average levels of U.S. purse seine fishing effort in the Convention Area outside the EEZs of the PNA in 2010 and 2011 (462 and 842 fishing days, respectively; NMFS unpublished data), it can be expected that approximately 652 fishing days per year will be spent by the fleet in that area in the future. At that level of fishing effort, if pre-set whale shark-sighting events occurred in 2 to 5 per thousand fishing days, as described above, they would occur 1.3 to 3.3 times per year, on average, for the fleet as a whole, or 0.03 to 0.08 times per year for each of the 40 vessels in the fleet, on average.

In those instances that a whale shark is sighted prior to an intended set, the vessel operator would have to wait and/or move the vessel to find the next opportunity to make a set. The consequences in terms of time lost and distance travelled and associated costs cannot be projected with any certainty. At best, the operator would find an opportunity to make a set soon after the event, and only trivial costs would be incurred. At worst, the vessel operator would lose the opportunity to make a set for the remainder of the day. Under this worst-case assumption, a vessel could lose the net benefits associated with 0.03 to 0.08 fishing days per year, on average. Those lost net benefits cannot be estimated because of a lack of fishing cost data, but information on gross receipts can provide an upper-bound estimate. Using regional cannery prices in 2012 for each of the three marketable tuna species, and the U.S. fleet's average catches and fishing days in 2011–2012, the expected gross receipts per fishing day would be about $60,000. Thus, an upper-bound estimate of the loss in gross revenue that could occur to a vessel as a result of losing 0.03 to 0.08 fishing days is approximately $1,800 to $4,800 per year.

Whale Shark Element (2): Require the crew, operator, and owner of U.S. fishing vessels used for commercial fishing for HMS in the Convention Area to release any whale shark that is encircled in a purse seine net. This element would require the crew, operator, and owner of a fishing vessel to release any whale shark that is encircled in a purse seine net in the Convention Area, and to do so in a manner that results in as little harm to the shark as possible, without compromising the safety of any persons. This requirement would apply to all U.S. purse seine vessels fishing on the high seas and in the EEZs of the Convention Area, including the EEZs of the PNA. This requirement would not impose any new reporting or recordkeeping requirements. It is not expected to require any professional skills that the affected vessel owners, operators and crew do not already possess. Unpublished historical vessel observer data from the FFA observer program indicates that all whale sharks captured in the U.S. WCPO purse seine fishery are released; that is, they are not retained or marketed. The release requirement, therefore, is not expected

to have any effect on fishing operations or to bring any compliance costs. The requirement to release the sharks in a manner that results in as little harm to the shark as possible without compromising the safety of any persons would be a new and potentially burdensome requirement, but it is not possible to quantitatively assess the cost for two reasons. First, it is not clear how often whale sharks would be encircled. As indicated above, the average annual rate by U.S. purse seine vessels in the Convention Area in 2010 and 2011 was about 5 encirclements per thousand fishing days. But the rate in the future is expected to be reduced as a result of the setting prohibition described in the first whale shark element, above. Nonetheless, if 5 encirclements per thousand fishing days is considered an upper-bound projection, then at a future fishing effort rate of 7,991 fishing days per year in the Convention Area (based on the average spent in 2010 and 2011) and 40 vessels in the fleet, an upper-bound projection of the rate of encirclements per vessel is one per year, on average. The second reason for the difficulty in assessing the compliance costs of this requirement is that current vessel practices regarding whale shark releases are not known in detail. Although data on the condition of each captured whale shark is available (*e.g.,* based on unpublished FFA observer data for 2010 and 2011, 68 percent of captured whale sharks were released alive, 2 percent were released dead, and the condition of the remainder was unknown), these data do not reveal anything about whether the condition of the released whale sharks could have been better, or what the vessel crew would have had to have done to improve the sharks' condition. In conclusion, this requirement might bring some costs to purse seine vessel operations, in the form of the crew potentially having to spend more time handling encircled whale sharks (at most, one per year per vessel, on average) in order to release them with as little harm as possible.

Whale Shark Element (3): Require the owner and operator of a fishing vessel that encircles a whale shark to record the incident on a catch report form. This requirement would require the owner and operator of a fishing vessel that encircles a whale shark with a purse seine net in the Convention Area to ensure that the incident is recorded by the end of the day on the catch report form, or Regional Purse Seine Logsheet (RPL) maintained pursuant to 50 CFR 300.34(c)(1), in the format specified by the NMFS Pacific Islands Regional Administrator. This requirement would apply to all U.S. purse seine vessels fishing on the high seas and in the EEZs of the Convention Area, including the EEZs of the PNA. Because catch and effort logbooks are already required to be maintained and submitted in the purse seine fishery, there would be no additional cost associated with submitting the logbook, but vessels would be required to record additional information associated with whale shark encirclements. The required information for each incident would include a description of the steps taken to minimize harm and an assessment of its condition upon its release. This additional information requirement would be added to the information required to be reported under a current information collection (OMB control number 0648–0218; see the section on the Paperwork Reduction Act below for more information). As indicated for the previous element, it is not possible to project the rate of encirclements with certainty, but one encirclement per vessel per year, on average, is an upper-bound projection. NMFS estimates that it would take about 10 minutes to record the required information for each encirclement. At an estimated labor cost of $25 per hour, the annual cost per vessel would be about $4.

Disproportionate Impacts

There would be no disproportionate economic impacts between small and large vessel-operating entities resulting from this final rule. Furthermore, there would be no disproportionate economic impacts based on vessel size, gear, or home port, as all the vessels in the fleets would be subject to the same requirements and NMFS has not identified any factors related to vessel size, gear, or home port that would lead to disproportionate impacts.

Steps Taken To Minimize the Significant Economic Impacts on Small Entities

For the oceanic whitetip shark and silky shark elements of the final rule, NMFS did not identify any alternatives—other than the no-action alternative—that would minimize economic impacts on affected entities.

For the whale shark elements of the final rule, NMFS considered several alternatives. As discussed above, the first element of the final rule for the whale shark prohibits owners, operators, and crew of fishing vessels from setting or attempting to set a purse seine in the Convention Area on or around a whale shark if the animal is sighted prior to the commencement of the set or the attempted set. This element applies on the high seas and in the EEZs of the Convention Area, except for the EEZs of the PNA. CMM 2012–04 states that WCPFC members ''shall prohibit their flagged vessels from setting a purse seine on a school of tuna associated with a whale shark if the animal is sighted prior to the commencement of the set''. NMFS considered developing alternative means of implementing the prohibition on setting on a school of tuna, such as specifying a minimum distance for the prohibition (*e.g.,* no setting within half a mile of a whale shark sighting) or a minimum time period for the prohibition (*e.g.,* no setting within 10 minutes of sighting a whale shark). However, NMFS did not identify any such alternative for this element that would be reasonable and feasible. After a whale shark is sighted, it is unclear where and when it will be sighted next, since sharks do not have to return to the surface regularly to breathe. Therefore, NMFS determined that there is only one reasonable and feasible manner of implementing this element of the final rule.

CMM 2012–04 states that for fishing activities in the EEZs of WCPFC members north of 30° N. latitude, WCPFC members shall implement either the provisions of CMM 2012–04 or compatible measures consistent with the obligations under CMM 2012–04. The U.S. purse seine fleet does not fish north of 30° N. latitude in the WCPO. Thus, rather than attempting to develop a separate set of ''compatible measures'' for EEZs of WCPFC members north of 30 °N. latitude that may or may not be triggered by any actual U.S. purse seine operations, NMFS decided to implement the provisions of CMM 2012–04 for all EEZs in the Convention Area (with the exception of the first element not being applicable to the EEZs of the PNA, as described above).

NMFS did not identify any other alternatives for any of the elements of the final rule.

Taking no action could result in lesser adverse economic impacts than the final action for many affected entities. The economic impacts that would be avoided by taking no action are described above, including quantitative estimates—to the extent possible—for the first oceanic whitetip shark element and the first and third whale shark elements of the final rule. However, NMFS has determined that the no-action alternative would fail to accomplish the objectives of the WCPFC Implementation Act, including satisfying the obligations of the United States as a Contracting Party to the

Convention. The no-action alternative is rejected for this reason.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as ''small entity compliance guides.'' The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a small entity compliance guide has been prepared. The guide will be sent to permit and license holders in the affected fishery. The guide and this final rule will also be available at *www.fpir.noaa.gov* and by request from NMFS PIRO (see **ADDRESSES**).

Paperwork Reduction Act

This final rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) that has been approved by the Office of Management and Budget (OMB) under control number 0648–0218, ''South Pacific Tuna Act''. The public reporting burden for the catch report form (also known as the RPL) under that collection-of-information was estimated to average one hour per response (*i.e.,* per fishing trip), including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The whale shark encirclement reporting requirement under this final rule changes the catch report element of the collection-of-information. Under this final rule, in the event that a whale shark is encircled in a purse seine net, information about that event would be required to be included in the catch report form. Providing this additional information will increase the reporting burden by approximately 10 minutes per encirclement, which, given an estimated one encirclement per year and five fishing trips per year, on average, equates to approximately 2 minutes per fishing trip or per response. Therefore, the new estimated burden per response (*i.e.,* per fishing trip) for the catch report form is 62 minutes. No comments were received on this collection-of-information requirement in response to the proposed rule. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to Michael D. Tosatto, Regional Administrator, NMFS PIRO (see **ADDRESSES**) and by email to *OIRA_Submission@omb.eop.gov* or fax to 202–395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources, Reporting and recordkeeping requirements, Treaties.

Dated: February 12, 2015.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300 is amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart O—Western and Central Pacific Fisheries for Highly Migratory Species

■ 1. The authority citation for 50 CFR part 300, subpart O, continues to read as follows:

Authority: 16 U.S.C. 6901 *et seq.*

■ 2. In § 300.211, the definitions of ''Areas under the national jurisdiction of the Parties to the Nauru Agreement'' and ''Parties to the Nauru Agreement'' are added, in alphabetical order, to read as follows:

§ 300.211 Definitions.

* * * * *

Areas under the national jurisdiction of the Parties to the Nauru Agreement means the exclusive economic zones of the Parties to the Nauru Agreement.

* * * * *

Parties to the Nauru Agreement means the parties to the Nauru Agreement Concerning Cooperation in the Management of Fisheries of Common Interest, as specified on the Web site of the Parties to the Nauru Agreement at *www.pnatuna.com.*

* * * * *

■ 3. In § 300.218, paragraph (h) is added to read as follows:

§ 300.218 Reporting and recordkeeping requirements.

* * * * *

(h) *Whale shark encirclement reports.* The owner and operator of a fishing vessel of the United States used for commercial fishing in the Convention Area that encircles a whale shark (*Rhincodon typus*) with a purse seine in the Convention Area shall ensure that the incident is recorded by the end of the day on the catch report forms maintained pursuant to § 300.34(c)(1), in the format specified by the Pacific Islands Regional Administrator. This paragraph does not apply to the territorial seas or archipelagic waters of any nation, as defined by the domestic laws and regulations of that nation and recognized by the United States.

■ 4. In § 300.222, paragraphs (ss), (tt), (uu), (vv), and (ww) are added to read as follows:

§ 300.222 Prohibitions.

* * * * *

(ss) Fail to submit, or ensure submission of, a whale shark encirclement report as required in § 300.218(h).

(tt) Set or attempt to set a purse seine on or around a whale shark (*Rhincodon typus*) in contravention of § 300.223(g).

(uu) Fail to release a whale shark encircled in a purse seine net of a fishing vessel as required in § 300.223(h).

(vv) Use a fishing vessel to retain on board, transship, store, or land any part or whole carcass of an oceanic whitetip shark (*Carcharhinus longimanus*) or silky shark (*Carcharhinus falciformis*) in contravention of § 300.226(a).

(ww) Fail to release an oceanic whitetip shark or silky shark as required in § 300.226(b).

■ 5. In § 300.223, paragraphs (g) and (h) are added to read as follows:

§ 300.223 Purse seine fishing restrictions.

* * * * *

(g) Owners, operators, and crew of fishing vessels of the United States used for commercial fishing for HMS in the Convention Area shall not set or attempt to set a purse seine in the Convention Area on or around a whale shark (*Rhincodon typus)* if the animal is sighted at any time prior to the commencement of the set or the attempted set. This paragraph does not apply to the territorial seas or archipelagic waters of any nation, as defined by the domestic laws and regulations of that nation and recognized by the United States, or to areas under the national jurisdiction of the Parties to the Nauru Agreement.

(h) The crew, operator, and owner of a fishing vessel of the United States used for commercial fishing for HMS in the Convention Area must release any whale shark that is encircled in a purse seine net in the Convention Area, and

take reasonable steps for its safe release, without compromising the safety of any persons. This paragraph does not apply to the territorial seas or archipelagic waters of any nation, as defined by the domestic laws and regulations of that nation and recognized by the United States.

■ 6. Section 300.226 is added to read as follows:

§ 300.226 Oceanic whitetip shark and silky shark.

(a) The crew, operator, and owner of a fishing vessel of the United States used for commercial fishing for HMS cannot retain on board, transship, store, or land any part or whole carcass of an oceanic whitetip shark (*Carcharhinus longimanus*) or silky shark (*Carcharhinus falciformis*) that is caught in the Convention Area, unless subject to the provisions of paragraph (c) of this section.

(b) The crew, operator, and owner of a fishing vessel of the United States used for commercial fishing for HMS must release any oceanic whitetip shark or silky shark caught in the Convention Area as soon as possible after the shark is caught and brought alongside the vessel, and take reasonable steps for its safe release, without compromising the safety of any persons, unless subject to the provisions of paragraph (c) of this section.

(c) Paragraphs (a) and (b) of this section do not apply in the event that a WCPFC observer collects, or requests the assistance of the vessel crew, operator, or owner in the observer's collection of, samples of oceanic whitetip shark or silky shark in the Convention Area.

(d) The crew, operator, and owner of a fishing vessel of the United States used for commercial fishing for HMS in the Convention Area must allow and assist a WCPFC observer to collect samples of oceanic whitetip shark or silky shark in the Convention Area, if requested to do so by the WCPFC observer.

[FR Doc. 2015–03388 Filed 2–18–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 130925836–4174–02]

RIN 0648–XD714

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Pot Gear in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by vessels using pot gear in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2015 Pacific cod total allowable catch apportioned to vessels using pot gear in the Central Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), February 16, 2015, through 1200 hours, A.l.t., June 10, 2015.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The A season allowance of the 2015 Pacific cod total allowable catch (TAC) apportioned to vessels using pot gear in the Central Regulatory Area of the GOA is 8,036 metric tons (mt), as established by the final 2014 and 2015 harvest specifications for groundfish of the GOA (79 FR 12890, March 6, 2014) and inseason adjustment (80 FR 192, January 5, 2015).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the A season allowance of the 2015 Pacific cod TAC apportioned to vessels using pot gear in the Central Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 8,026 mt and is setting aside the remaining 10 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels using pot gear in the Central Regulatory Area of the GOA. After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the directed fishing closure of Pacific cod for vessels using pot gear in the Central Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 12, 2015.

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 finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 13, 2015.

Alan D. Risenhoover,

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

[FR Doc. 2015–03447 Filed 2–13–15; 4:15 pm]

BILLING CODE 3510–22–P