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international obligations, including the WTO Agreement.

[76 FR 2024, Jan. 12, 2011. Redesignated and amended at 78 FR 3343, 3345, Jan. 16, 2013]

§ 300.209 Alternative procedures for nations identified as having vessels engaged in shark catch that are not certified in this subpart.

(a) These certification procedures may be applied to fish and fish products from a vessel of a harvesting nation that has been identified under § 300.204 in the event that the Secretary cannot reach a certification determination for that nation by the time of the next biennial report. These procedures shall not apply to fish and fish products from identified nations that have received either a negative or a positive certification under this subpart.

(b) Consistent with paragraph (a) of this section, the Secretary of Commerce may allow entry of fish and fish products on a shipment-by-shipment, shipper-by-shipper, or other basis if the Secretary determines that imports were harvested by fishing activities or practices that do not target or incidentally catch sharks, or were harvested by practices that—

(1) Are comparable to those of the United States, taking into account different conditions; and

(2) Include the gathering of species specific shark data that can be used to support international and regional assessments and conservation efforts for sharks.

(c) In addition to any other import documentation requirements that otherwise apply, fish and fish products offered for entry under this section must be accompanied by certification of admissibility, for which a form is available from NMFS. The certification of admissibility must be properly completed and signed by a duly authorized official of the identified nation and validated by a responsible official(s) designated by NMFS. The certification must also be signed by the importer of record and submitted to NMFS in a format (electronic facsimile (fax), the Internet, etc.) specified by NMFS.

(d) Any action recommended under this section shall be consistent with

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international obligations, including the WTO Agreement.

[78 FR 3346, Jan. 16, 2013]

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

SOURCE: 74 FR 38554, Aug. 4, 2009, unless otherwise noted.

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

§ 300.210 Purpose and scope.

This subpart implements provisions of the Western and Central Pacific Fisheries Convention Implementation Act (Act) and applies to persons and vessels subject to the jurisdiction of the United States.

§ 300.211 Definitions.

In addition to the terms defined in § 300.2 and those in the Act and in the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, with Annexes (WCPF Convention), which was adopted at Honolulu, Hawaii, on September 5, 2000, by the Multilateral High-Level Conference on Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, the terms used in this subpart have the following meanings.

1982 Convention means the United Nations Convention on the Law of the Sea of 10 December 1982.

Active FAD is a FAD that is equipped with a buoy with a clearly marked reference number allowing its identification and equipped with a satellite tracking system to monitor its position.

Aggregate or summary form means information structured in such a way which does not directly or indirectly disclose the identity or business of any person who submits such information.

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

Commercial, with respect to commercial fishing, means fishing in which the fish harvested, either in whole or in part, are intended to enter commerce through sale, barter or trade.

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Commission means the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean established in accordance with the WCPF Convention, including its employees and contractors.

Confidential information means any observer information or any information submitted to the Secretary, a State fishery management agency, or a Marine Fisheries Commission by any person in compliance with any requirement or regulation under the Act or under the Magnuson-Stevens Fishery Conservation and Management Act.

Conservation and management measure means those conservation and management measures adopted by the Commission pursuant to Article 10 of the WCPF Convention.

Convention Area means all waters of the Pacific Ocean bounded to the south and to the east by the following line: From the south coast of Australia due south along the 141st meridian of east longitude to its intersection with the 55th parallel of south latitude; thence due east along the 55th parallel of south latitude to its intersection with the 150th meridian of east longitude; thence due south along the 150th meridian of east longitude to its intersection with the 60th parallel of south latitude; thence due east along the 60th parallel of south latitude to its intersection with the 130th meridian of west longitude; thence due north along the 130th meridian of west longitude to its intersection with the 4th parallel of south latitude; thence due west along the 4th parallel of south latitude to its intersection with the 150th meridian of west longitude; thence due north along the 150th meridian of west longitude.

Cooperating Non-Member means a non-Member of the Commission that has been accorded Cooperating Non-Member status by the Commission at the Commission's most recent annual meeting.

Eastern High Seas Special Management Area means the area of the high seas within the area bounded by the four lines connecting, in the most direct fashion, the coordinates specified as follows: 11° S. latitude and 161° W. longitude; 11° S. latitude and 154° W. longitude; 16° S. latitude and 154° W. lon-

gitude; and 16° S. latitude and 161° W. longitude.

Effort Limit Area for Purse Seine, or ELAPS, means, within the area between 20° N latitude and 20° S latitude, areas within the Convention Area that either are high seas or within the EEZ, except for the Overlap Area.

Fish aggregating device, or FAD, means any artificial or natural floating object, whether anchored or not and whether situated at the water surface or not, that is capable of aggregating fish, as well as any object used for that purpose that is situated on board a vessel or otherwise out of the water. The definition of FAD does not include a vessel.

Fishing means using any vessel, vehicle, aircraft or hovercraft for any of the following activities, or attempting to do so:

(1) Searching for, catching, taking, or harvesting fish;

(2) Engaging in any other activity which can reasonably be expected to result in the locating, catching, taking, or harvesting of fish for any purpose;

(3) Placing, searching for, or recovering fish aggregating devices or associated electronic equipment such as radio beacons;

(4) Engaging in any operations at sea directly in support of, or in preparation for, any of the activities previously described in paragraphs (1) through (3) of this definition, including, but not limited to, bunkering;

(5) Engaging in transshipment at sea, either unloading or loading fish.

Fishing day means, for fishing vessels equipped with purse seine gear, any day in which a fishing vessel searches for fish, deploys a FAD, services a FAD, or sets a purse seine, with the exception of setting a purse seine solely for the purpose of testing or cleaning the gear and resulting in no catch.

Fishing trip means a period that a fishing vessel spends at sea between port visits and during which any fishing occurs.

Fishing vessel means any vessel used or intended for use for the purpose of fishing, including bunkering and other support vessels, carrier vessels and other vessels that unload or load fish

in a transshipment, and any other vessel directly involved in fishing.

Hawaiian Archipelago means the Main and Northwestern Hawaiian Islands, including Midway Atoll.

High seas means the waters beyond the territorial sea or exclusive economic zone (or the equivalent) of any nation, to the extent that such territorial sea or exclusive economic zone (or the equivalent) is recognized by the United States.

High seas fishing permit means a permit issued under §300.13.

Highly migratory species (or HMS) means any of the following species:

Common name	Scientific name
Albacore	<i>Thunnus alalunga</i> .
Pacific bluefin tuna	<i>Thunnus orientalis</i> .
Southern bluefin tuna.	<i>Thunnus maccoyii</i> .
Bigeye tuna	<i>Thunnus obesus</i> .
Skipjack tuna	<i>Katsuwonus pelamis</i> .
Yellowfin tuna	<i>Thunnus albacares</i> .
Little tuna	<i>Euthynnus affinis</i> .
Frigate mackerel	<i>Auxis thazard</i> ; <i>Auxis rochei</i> .
Pomfrets	Family Bramidae.
Marlins	<i>Tetrapturus angustirostris</i> ; <i>Tetrapturus audax</i> ; <i>Makaira mazara</i> ; <i>Makaira indica</i> ; <i>Makaira nigricans</i> .
Sail-fishes	<i>Istiophorus platypterus</i> .
Swordfish	<i>Xiphias gladius</i> .
Dolphinfish	<i>Coryphaena hippurus</i> ; <i>Coryphaena equiselis</i> .
Oceanic sharks	<i>Hexanchus griseus</i> ; <i>Cetorhinus maximus</i> ; Family Alopiidae; <i>Rhincodon typus</i> ; Family Carcharhinidae; Family Sphyrnidae; Family Isuridae (or Lamnidae).

Longline gear means a type of fishing gear consisting of a main line that exceeds 1 nautical mile in length, is suspended horizontally in the water column either anchored, floating, or attached to a vessel, and from which branch or dropper lines with hooks are attached; except that, within the protected species zone, longline gear means a type of fishing gear consisting of a main line of any length that is suspended horizontally in the water column either anchored, floating, or attached to a vessel, and from which branch or dropper lines with hooks are attached, where “protected species zone” is used as defined at §665.12 of this title.

Marine Fisheries Commission means the Atlantic States Marine Fisheries Commission, the Gulf States Marine Fisheries Commission, or the Pacific States Marine Fisheries Commission.

Member of the Commission means any Contracting Party to the WCPF Convention, and, unless otherwise stated in context, any territory that has been authorized by an appropriate Contracting Party to participate in the Commission and its subsidiary bodies pursuant to Article 43 of the WCPF Convention and any fishing entity that has agreed to be bound by the regime established by the WCPF Convention pursuant to Annex I of the WCPF Convention.

Net sharing means the transfer of fish that have not yet been loaded on board any fishing vessel from the purse seine net of one vessel to another fishing vessel. Fish shall be considered to be on board a fishing vessel once they are on a deck or in a hold, or once they are first lifted out of the water by the vessel.

NOAA means the National Oceanic and Atmospheric Administration, Department of Commerce.

Observer employer/observer provider means any person that provides observers to fishing vessels, shoreside processors, or stationary floating processors under a requirement of the Act or the Magnuson-Stevens Fishery Conservation and Management Act.

Observer information means any information collected, observed, retrieved, or created by an observer or electronic monitoring system pursuant to authorization by the Secretary, or collected as part of a cooperative research initiative, including fish harvest or processing observations, fish sampling or weighing data, vessel logbook data, vessel or processor-specific information (including any safety, location, or operating condition observations), and video, audio, photographic, or written documents.

Overlap Area means the area within the Pacific Ocean bounded by 50° S latitude, 4° S latitude, 150° W longitude, and 130° W longitude.

Pacific Islands Regional Administrator means the Regional Administrator, Pacific Islands Region, NMFS, 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818, or a designee.

Parties to the Nauru Agreement means the parties to the Nauru Agreement

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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.

Person means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

Purse seine means a floated and weighted encircling net that is closed by means of a drawstring threaded through rings attached to the bottom of the net.

Special Agent-In-Charge (or SAC) means the Special-Agent-In-Charge, NOAA Office of Law Enforcement, Pacific Islands Division, 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818; tel: 808-725-6100; facsimile: 808-725-6199; email: pidvms@noaa.gov, or a designee.

State means each of the several States of the United States, the District of Columbia, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, and any other commonwealth, territory, or possession of the United States.

Transshipment means the unloading of fish from on board one fishing vessel and its direct transfer to, and loading on board, another fishing vessel, either at sea or in port. Fish shall be considered to be on board a fishing vessel once they are on a deck or in a hold, or once they are first lifted out of the water by the vessel. Net sharing is not a transshipment.

Vessel monitoring system (or VMS) means an automated, remote system that provides information about a vessel's identity, location and activity, for the purposes of routine monitoring, control, surveillance and enforcement of area and time restrictions and other fishery management measures.

VMS unit, sometimes known as a "mobile transmitting unit," means a transceiver or communications device, including all hardware and software, that is carried and operated on a vessel as part of a VMS.

WCPFC Area Endorsement means the authorization issued by NMFS under

§300.212, supplementary to a valid high seas fishing permit and expressed as an endorsement to such permit, for a fishing vessel used for commercial fishing for highly migratory species on the high seas in the Convention Area.

WCPF Convention means the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (including any annexes, amendments, or protocols that are in force, or have come into force, for the United States) that was adopted at Honolulu, Hawaii, on September 5, 2000, by the Multilateral High-Level Conference on Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.

WCPFC inspection vessel means any vessel that is:

(1) Authorized by a member of the Commission to be used to undertake boarding and inspection of fishing vessels on the high seas pursuant to, and in accordance with, Article 26 of the WCPF Convention and procedures established by the Commission pursuant thereto;

(2) Included in the Commission's register of authorized inspection vessels and authorities or inspectors, established by the Commission in procedures pursuant to Article 26 of the WCPF Convention; and

(3) Flying the WCPFC inspection flag established by the Commission.

WCPFC inspector means a person that is authorized by a member of the Commission to undertake boarding and inspection of fishing vessels on the high seas pursuant to, and in accordance with, the boarding and inspection procedures adopted by the Commission under Article 26 of the WCPF Convention, and referred to therein as a "duly authorized inspector" or "authorized inspector."

WCPFC Interim Register of Non-Member Carrier and Bunker Vessels means, for the purposes of this subpart, the WCPFC Interim Register of non-Member Carrier and Bunker Vessels as established in the decisions of the WCPFC and maintained on the WCPFC's Web site at <http://www.wcpfc.int/>.

WCPFC observer means a person authorized by the Commission in accordance with any procedures established

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by the Commission to undertake vessel observer duties as part of the Commission's Regional Observer Programme, including an observer deployed as part of a NMFS-administered observer program or as part of another national or sub-regional observer program, provided that such program is authorized by the Commission to be part of the Commission's Regional Observer Programme.

WCPFC Record of Fishing Vessels means, for the purposes of this subpart, the WCPFC Record of Fishing Vessels as established in the decisions of the WCPFC and maintained on the WCPFC's Web site at <http://www.wcpfc.int/>.

WCPFC transshipment monitor means, with respect to transshipments that take place on the high seas, a person authorized by the Commission to conduct transshipment monitoring on the high seas, and with respect to transshipments that take place in areas under the jurisdiction of a member of the Commission other than the United States, a person authorized by such member of the Commission to conduct transshipment monitoring.

[72 FR 18405, Apr. 12, 2007, as amended at 74 FR 64010, Dec. 7, 2009; 75 FR 3347, Jan. 21, 2010; 77 FR 71509, Dec. 3, 2012; 78 FR 30778, May 23, 2013; 79 FR 64110, Oct. 28, 2014; 80 FR 8815, Feb. 19, 2015; 80 FR 59047, Oct. 1, 2015; 83 FR 33869, July 18, 2018; 85 FR 37388, June 22, 2020]

§ 300.212 Vessel permit endorsements.

(a) Any fishing vessel of the United States used for commercial fishing for HMS on the high seas in the Convention Area must have on board a valid high seas fishing permit, or a copy thereof, that has a valid WCPFC Area Endorsement, or a copy thereof.

(b) *Eligibility.* Only a fishing vessel that has a valid high seas fishing permit is eligible to receive a WCPFC Area Endorsement.

(c) *Application.* (1) A WCPFC Area Endorsement may be applied for at the same time the underlying high seas permit is applied for, or at any time thereafter.

(2) The owner or operator of a high seas fishing vessel may apply for a WCPFC Area Endorsement by completing an application form, available

from the Pacific Islands Regional Administrator, and submitting the complete and accurate application, signed by the applicant, to the Pacific Islands Regional Administrator, along with the required fees.

(3) The application must be accompanied by a bow-to-stern side-view photograph of the vessel in its current form and appearance. The photograph must meet the specifications prescribed on the application form and clearly show that the vessel is marked in accordance with the vessel identification requirements of § 300.217.

(d) *Fees.* NMFS will charge a fee to recover the administrative expenses of issuance of a WCPFC Area Endorsement. The amount of the fee will be determined in accordance with the procedures of the NOAA Finance Handbook, available from the Pacific Islands Regional Administrator, for determining administrative costs of each special product or service. The fee is specified in the application form. The appropriate fee must accompany each application. Failure to pay the fee will preclude issuance of the WCPFC Area Endorsement. Payment by a commercial instrument later determined to be insufficiently funded is grounds for invalidating the WCPFC Area Endorsement.

(e) *Issuance.* (1) The Pacific Islands Regional Administrator will issue a WCPFC Area Endorsement within 30 days of receipt of a complete application that meets the requirements of this section and upon payment of the appropriate fee.

(2) If an incomplete or improperly completed application is submitted, the Pacific Islands Regional Administrator will notify the applicant of such deficiency within 30 days of the date of receipt of the application. If the applicant fails to correct the deficiency and send a complete and accurate application to the Pacific Islands Regional Administrator within 30 days of the date of the notification of deficiency, the application will be considered withdrawn and no further action will be taken to process the application. Following withdrawal, the applicant may at any time submit a new application for consideration.

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(f) *Validity.* A WCPFC Area Endorsement issued under this subpart expires upon the expiration of the underlying high seas fishing permit, and shall be void whenever the underlying high seas fishing permit is void, suspended, sanctioned or revoked. A WCPFC Area Endorsement is also subject to suspension or revocation independent of the high seas fishing permit. Renewal of a WCPFC Area Endorsement prior to its expiration is the responsibility of the WCPFC Area Endorsement holder.

(g) *Change in application information.* Any change in the required information provided in an approved or pending application for a WCPFC Area Endorsement must be reported by the vessel owner or operator to the Pacific Islands Regional Administrator in writing within 15 days of such change.

(h) *Transfer.* A WCPFC Area Endorsement issued under this subpart is valid only for the vessel, owner, and high seas fishing permit to which it is issued and is not transferable or assignable to another high seas fishing permit or to another vessel.

(i) *Display.* A valid WCPFC Area Endorsement, or a photocopy or facsimile copy thereof, issued under this subpart must be on board the vessel and available for inspection by any authorized officer while the vessel is at sea and must be available for inspection by any WCPFC inspector while the vessel is on the high seas in the Convention Area.

[75 FR 3349, Jan. 21, 2010]

§ 300.213 Vessel information.

(a) The owner or operator of any fishing vessel of the United States that is used for fishing for HMS in the Convention Area in waters under the jurisdiction of any nation other than the United States must, prior to the commencement of such fishing, submit to the Pacific Islands Regional Administrator information about the vessel and its ownership and operation, and the authorized fishing activities, including copies of any permits, licenses, or authorizations issued for such activities, as specified on forms available from the Pacific Islands Regional Administrator. The owner or operator of such a fishing vessel must also submit to the Pacific Islands Regional Administrator a bow-to-stern side-view pho-

tograph of the vessel in its current form and appearance, and the photograph must meet the specifications prescribed on the application form. If any of the submitted information changes, the vessel owner or operator must report the updated information to the Pacific Islands Regional Administrator in writing within 15 days of the change.

(b) If any of the information or the vessel photograph required under paragraph (a) of this section has been submitted for the subject vessel on an application for a high seas fishing permit or an application for a WCPFC Area Endorsement, then the requirements of paragraph (a) of this section will be deemed satisfied. However, in order to satisfy this requirement, the high seas fishing permit or WCPFC Area Endorsement must be valid, the information provided must be true, accurate and complete, and in the case of a vessel photograph, it must meet the specifications prescribed on the form used for the purpose of submitting the photograph under this section.

[75 FR 3349, Jan. 21, 2010]

§ 300.214 Compliance with laws of other nations.

(a) The owner and operator of a fishing vessel of the United States with a WCPFC Area Endorsement or for which a WCPFC Area Endorsement is required:

(1) May not use the vessel for fishing, retaining fish on board, or landing fish in areas under the jurisdiction of a nation other than the United States unless any license, permit, or other authorization that may be required by such other nation for such activity has been issued with respect to the vessel.

(2) Shall, when the vessel is in the Convention Area in areas under the jurisdiction of a member of the Commission other than the United States, operate the vessel in compliance with, and ensure its crew complies with, the applicable national laws of such member.

(b) The owner and operator of a fishing vessel of the United States shall ensure that:

(1) The vessel is not used for fishing for HMS, retaining HMS on board, or landing HMS in the Convention Area in

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areas under the jurisdiction of a nation other than the United States unless any license, permit, or other authorization that may be required by such other nation for such activity has been issued with respect to the vessel.

(2) If the vessel is used for commercial fishing for HMS, including transshipment of HMS, in the Convention Area in areas under the jurisdiction of a member of the Commission other than the United States, the vessel is operated in compliance with, and the vessel crew complies with, the applicable laws of such member, including any laws related to carrying vessel observers or the operation of VMS units.

(c) For the purpose of this section, the meaning of transshipment does not include transfers that exclusively involve fish that have been previously landed and processed.

[75 FR 3349, Jan. 21, 2010]

§ 300.215 Observers.

(a) *Applicability.* This section applies to the following categories of fishing vessels:

(1) Any fishing vessel of the United States with a WCPFC Area Endorsement.

(2) Any fishing vessel of the United States for which a WCPFC Area Endorsement is required.

(3) Any fishing vessel of the United States used for commercial fishing that receives or offloads in the Convention Area a transshipment of HMS at sea.

(b) *Notifications.* (1) If a fishing vessel of the United States used for commercial fishing for HMS in the Convention Area intends to conduct transshipments at sea, the owner or operator of that fishing vessel is required to carry a WCPFC observer under paragraph (d) of this section during the fishing trip and shall notify the Pacific Islands Regional Administrator of the need for a WCPFC observer at least 72 hours (exclusive of weekends and Federal holidays) before the vessel leaves port on the fishing trip. The notice shall be provided to the Observer Placement Contact specified by the Pacific Islands Regional Administrator and must include the official number of the vessel, the name of the vessel, the intended departure date, time, and lo-

cation, the name of the operator of the vessel, and a telephone number at which the owner, operator, or a designated agent may be contacted during the business day (8 a.m. to 5 p.m. Hawaii Standard Time). If applicable, this notice may be provided in conjunction with the notice required under § 665.803(a) of this title.

(2) In order to obtain a WCPFC observer on a fishing trip departing from American Samoa, the owner or operator of a fishing vessel of the United States equipped with purse seine gear shall provide the Pacific Islands Regional Administrator with the following information before departure on the fishing trip, at least five days (exclusive of weekends and Federal holidays) before the owner or operator of the fishing vessel's intended departure: The name of the vessel; name of the operator of the vessel; a telephone number or email at which the owner or operator may be contacted; and the intended departure date. This information shall be provided to the address specified by the Pacific Islands Regional Administrator.

(c) *Accommodating observers.* (1) Fishing vessels specified in paragraphs (a)(1) and (2) of this section must carry, when directed to do so by NMFS, a WCPFC observer on fishing trips during which the vessel at any time enters or is within any part of the Convention Area other than the Overlap Area. The operator and each member of the crew of the fishing vessel shall act in accordance with paragraphs (c)(3), (4), and (5) of this section with respect to any WCPFC observer.

(2) Fishing vessels specified in paragraph (a)(3) of this section must carry an observer when required to do so under paragraph (d) of this section, except for within the Overlap Area. The operator and each member of the crew of the fishing vessel shall act in accordance with paragraphs (c)(3), (4), and (5) of this section, as applicable, with respect to any WCPFC observer.

(3) The operator and crew shall allow and assist WCPFC observers to:

(i) Embark at a place and time determined by NMFS or otherwise agreed to by NMFS and the vessel operator;

(ii) Have access to and use of all facilities and equipment as necessary to

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conduct observer duties, including, but not limited to: Full access to the bridge, the fish on board, and areas which may be used to hold, process, weigh and store fish; full access to the vessel's records, including its logs and documentation, for the purpose of inspection and copying; access to, and use of, navigational equipment, charts and radios; and access to other information relating to fishing;

(iii) Remove samples;

(iv) Disembark at a place and time determined by NMFS or otherwise agreed to by NMFS and the vessel operator; and

(v) Carry out all duties safely.

(4) The operator shall provide the WCPFC observer, while on board the vessel, with food, accommodation and medical facilities of a reasonable standard equivalent to those normally available to an officer on board the vessel, at no expense to the WCPFC observer.

(5) The operator and crew shall not assault, obstruct, resist, delay, refuse boarding to, intimidate, harass or interfere with WCPFC observers in the performance of their duties, or attempt to do any of the same.

(d) *Transshipment observer coverage—*

(1) *Receiving vessels.* Any fishing vessel of the United States used for commercial fishing that receives in the Convention Area a transshipment of HMS at sea must have a WCPFC observer on board during such transshipment unless at least one of the following sets of conditions applies:

(i) The vessel is less than or equal to 33 meters in registered length, the transshipment does not include any fish caught by purse seine gear, the transshipment does not include any frozen fish caught by longline gear, and, during the transshipment, there is a WCPFC observer on board the vessel that offloads the transshipment;

(ii) The transshipment takes place entirely within 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 entirely within the Overlap Area, and only includes fish caught in such waters; or

(iii) The transshipment is an emergency, as specified under § 300.216(b)(4); or

(iv) The Pacific Islands Regional Administrator has by temporary specification published in the FEDERAL REGISTER modified or suspended the requirement to carry an observer for transshipments in accordance with § 300.228.

(2) *Offloading vessels.* Any fishing vessel of the United States used for commercial fishing that offloads a transshipment of HMS at sea in the Convention Area must have a WCPFC observer on board, unless one or more of the following conditions apply:

(i) The vessel that receives the transshipment has a WCPFC observer on board;

(ii) The vessel that receives the transshipment is greater than 33 meters in registered length;

(iii) The transshipment includes fish caught by purse seine gear;

(iv) The transshipment includes frozen fish caught by longline gear;

(v) The transshipment takes place entirely within 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 entirely within the Overlap Area, and only includes fish caught in such waters; or

(vi) The transshipment is an emergency, as specified under § 300.216(b)(4); or

(vii) The Pacific Islands Regional Administrator has by temporary specification published in the FEDERAL REGISTER modified or suspended the requirement to carry an observer for transshipments in accordance with § 300.228.

(e) *Related observer requirements.* Observers deployed by NMFS pursuant to regulations issued under other statutory authorities on vessels used for fishing for HMS in the Convention Area will be deemed by NMFS to have been deployed pursuant to this section.

(f) *Observer safety.* The following requirements apply when a WCPFC observer is on a fishing trip operating under the Commission's Regional Observer Programme.

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(1) The owner or operator of a fishing vessel of the United States shall immediately report the serious illness that threatens the health or safety of a WCPFC observer to the U.S. Government contact on the list provided by the Pacific Islands Regional Administrator at <https://www.fisheries.noaa.gov/pacific-islands/commercial-fishing/western-and-central-pacific-longline-and-purse-seine-vessels>. In addition, the owner or operator of the fishing vessel must:

(i) Immediately cease fishing operations;

(ii) Take all reasonable actions to care for the observer and provide any medical treatment available and possible on board the vessel, and where appropriate seek external medical advice;

(iii) Where directed by the observer provider, if not already directed by the appropriate U.S. Government contact, facilitate the disembarkation and transport of the observer to a medical facility equipped to provide the required care, as soon as practicable; and

(iv) Cooperate fully in any official investigations into the cause of the illness.

(2) In the event that a WCPFC observer on a fishing vessel of the United States has been assaulted, intimidated, threatened, or harassed, the owner or operator of the fishing vessel shall immediately notify the U.S. Government contact and observer program contact on the list provided by the Pacific Islands Regional Administrator at <https://www.fisheries.noaa.gov/pacific-islands/commercial-fishing/western-and-central-pacific-longline-and-purse-seine-vessels> of the situation and the status and location of the observer. In addition, the owner or operator of the fishing vessel must:

(i) Immediately take action to preserve the safety of the observer and mitigate and resolve the situation on board;

(ii) If the observer or the observer provider indicate that they wish to be removed from the vessel, facilitate the safe disembarkation of the observer in a manner and place, as agreed by the observer provider and a U.S. Government contact, that facilitates access to any needed medical treatment; and

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(iii) Cooperate fully in any official investigations into the incident.

[77 FR 71509, Dec. 3, 2012, as amended at 85 FR 37388, June 22, 2020; 86 FR 31180, June 11, 2021; 86 FR 35658, July 7, 2021]

§ 300.216 Transshipping, bunkering and net sharing.

(a) *Transshipment monitoring.* [Reserved]

(b) *Restrictions on transshipping and bunkering*—(1) *Restrictions on transshipments involving purse seine fishing vessels.* (i) Fish may not be transshipped from a fishing vessel of the United States equipped with purse seine gear at sea in the Convention Area, and a fishing vessel of the United States may not be used to receive a transshipment of fish from a fishing vessel equipped with purse seine gear at sea in the Convention Area.

(ii) Fish caught in the Convention Area may not be transshipped from a fishing vessel of the United States equipped with purse seine gear at sea, and a fishing vessel of the United States may not be used to receive a transshipment of fish caught in the Convention Area from a fishing vessel equipped with purse seine gear at sea.

(iii) The restrictions in paragraphs (b)(1)(i) and (ii) of this section shall not apply to transshipments that are subject to a modification or suspension issued by the Pacific Islands Regional Administrator and published in the FEDERAL REGISTER under § 300.228.

(2) *Restrictions on at-sea transshipments.* This paragraph (b)(2) does not apply to transshipments meeting any of the following conditions: The transshipment is subject to a modification or suspension issued by the Pacific Islands Regional Administrator and published in the FEDERAL REGISTER under § 300.228; the transshipment takes place entirely within 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, and only includes fish caught within such waters; or, the transshipment takes place entirely within the Overlap Area, and only includes fish caught within such waters.

(i) The owner and operator of a fishing vessel of the United States used for

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commercial fishing that offloads or receives a transshipment of HMS at sea in the Convention Area must ensure that a WCPFC observer is on board at least one of the vessels involved in the transshipment for the duration of the transshipment.

(ii) A fishing vessel of the United States used for commercial fishing that receives transshipments of HMS at sea in the Convention Area shall not receive such transshipments from more than one vessel at a time unless there is a separate WCPFC observer available on either the offloading or receiving vessel to monitor each additional transshipment.

(3) *General restrictions on transshipping and bunkering*—(i) *Transshipment*. Only fishing vessels that are authorized to be used for fishing in the EEZ may engage in transshipment in the EEZ. Any fishing vessel of the United States used for commercial fishing shall not be used to offload or receive a transshipment of HMS in the Convention Area unless one or more of the following is satisfied:

(A) The other vessel involved in the transshipment is flagged to a Member or Cooperating Non-Member of the Commission;

(B) The other vessel involved in the transshipment is on the WCPFC Record of Fishing Vessels;

(C) The other vessel involved in the transshipment is on the WCPFC Interim Register of Non-Member Carrier and Bunker Vessels; or

(D) The transshipment takes place entirely within 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 entirely within the Overlap Area, and only includes fish caught within such waters.

(ii) *Bunkering, supplying and provisioning*. Only fishing vessels that are authorized to be used for fishing in the EEZ may engage in bunkering in the EEZ. A fishing vessel of the United States used for commercial fishing for HMS shall not be used to provide bunkering, to receive bunkering, or to exchange supplies or provisions with another vessel in the Convention Area, except for the Overlap Area, unless one or more of the following is satisfied:

(A) The other vessel involved in the bunkering or exchange of supplies or provisions is flagged to a Member or a Cooperating Non-Member of the Commission;

(B) The other vessel involved in the bunkering or exchange of supplies or provisions is on the WCPFC Record of Fishing Vessels; or

(C) The other vessel involved in the bunkering or exchange of supplies or provisions is on the WCPFC Interim Register of Non-Member Carrier and Bunker Vessels.

(4) *Emergency transshipments*. The restrictions in paragraphs (b)(1), (b)(2), and (b)(3)(i) of this section shall not apply to a transshipment conducted under circumstances of force majeure or other serious mechanical breakdown that could reasonably be expected to threaten the health or safety of the vessel or crew or cause a significant financial loss through fish spoilage.

(c) *Net sharing restrictions*. (1) The owner and operator of a fishing vessel of the United States shall not conduct net sharing in the Convention Area, except for within the Overlap Area, unless all of the following conditions are met:

(i) The vessel transferring the fish is a fishing vessel of the United States equipped with purse seine gear;

(ii) The vessel transferring the fish has insufficient well space for the fish;

(iii) The vessel transferring the fish engages in no additional purse seine sets during the remainder of the fishing trip; and

(iv) The vessel accepting the fish is a fishing vessel of the United States equipped with purse seine gear.

(2) Only fishing vessels of the United States that are authorized to be used for fishing in the EEZ may engage in net sharing in the EEZ, subject to the provisions of paragraph (c)(1) of this section.

[77 FR 71510, Dec. 3, 2012, as amended at 85 FR 37389, June 22, 2020; 86 FR 31180, June 11, 2021]

§ 300.217 Vessel identification.

(a) *General*. (1) A fishing vessel must be marked in accordance with the requirements of this section in order for a WCPFC Area Endorsement to be issued for the fishing vessel.

(2) Any fishing vessel of the United States with a WCPFC Area Endorsement or for which a WCPFC Area Endorsement is required shall be marked for identification purposes in accordance with this section, and all parts of such markings shall be clear, distinct, uncovered, and unobstructed.

(3) Any boat, skiff, or other watercraft carried on board the fishing vessel shall be marked with the same identification markings as required under this section for the fishing vessel and shall be marked in accordance with this section.

(b) *Marking.* (1) Vessels shall be marked in accordance with the identification requirements of § 300.336(b)(2), and if an IRCS has not been assigned to the vessel, then the Federal, State, or other documentation number used in lieu of the IRCS must be preceded by the characters “USA” and a hyphen (that is, “USA-”).

(2) With the exception of the vessel’s name and hailing port, the marking required in this section shall be the only vessel identification mark consisting of letters and numbers to be displayed on the hull and superstructure.

(c) *IMO numbers.* (1) For the purpose of this section, an IMO number is the unique number issued for a vessel under the ship identification number scheme established by the International Maritime Organization or, for vessels that are not strictly subject to that scheme, the unique number issued by the administrator of that scheme using the scheme’s numbering format, sometimes known as a Lloyd’s Register number or LR number.

(2) The owner of a fishing vessel of the United States used for commercial fishing for HMS in the Convention Area, either on the high seas or in waters under the jurisdiction of any nation other than the United States, shall request and obtain an IMO number for the vessel if the gross tonnage of the vessel, as indicated on the vessel’s current Certificate of Documentation issued under 46 CFR part 67, is at least 100 GRT or 100 GT ITC. An IMO number may be requested for a vessel by following the instructions given by the administrator of the IMO ship identification number scheme; those instructions are currently available on

the Web site of IHS Maritime, at: www.imonumbers.lrfairplay.com/default.aspx.

(3) In the event that the owner of a fishing vessel subject to the requirement of paragraph (c)(2) of this section, after following the instructions given by the administrator of the IMO ship identification number scheme, is unable to obtain an IMO number for the fishing vessel, the fishing vessel owner may request an exemption from the requirement from the Pacific Islands Regional Administrator. The request must be sent by mail to the Pacific Islands Regional Administrator or by email to pir.wcpfc@noaa.gov and must include the vessel’s name, the vessel’s official number, a description of the steps taken to request an IMO number, and a description of any responses from the administrator of the IMO ship identification number scheme.

(4) Upon receipt of a request for an exemption under paragraph (c)(3) of this section, the Pacific Islands Regional Administrator will, to the extent he or she determines appropriate, assist the fishing vessel owner in requesting an IMO number. If the Pacific Islands Regional Administrator determines that it is infeasible or impractical for the fishing vessel owner to obtain an IMO number for the fishing vessel, he or she will issue an exemption from the requirements of paragraph (c)(2) of this section for the subject fishing vessel and its owner and notify the fishing vessel owner of the exemption. The Pacific Islands Regional Administrator may limit the duration of the exemption. The Pacific Islands Regional Administrator may rescind an exemption at any time. If an exemption is rescinded, the fishing vessel owner must comply with the requirements of paragraph (c)(2) of this section within 30 days of being notified of the rescission. If the ownership of a fishing vessel changes, an exemption issued to the former fishing vessel owner becomes void.

[75 FR 3350, Jan. 21, 2010, as amended at 76 FR 73520, Nov. 29, 2011; 80 FR 59047, Oct. 1, 2015; 83 FR 33869, July 18, 2018]

§ 300.218 Reporting and recordkeeping requirements.

(a) *Fishing reports*—(1) *General*. The owner or operator of any fishing vessel of the United States used for commercial fishing for HMS in the Pacific Ocean must maintain and report to NMFS catch and effort and other operational information for all such fishing activities. The reports must include at a minimum: identification information for the vessel; description of fishing gear used; dates, times and locations of fishing; and species and amounts of fish retained and discarded.

(2) *Reporting options*. Vessel owners and operators shall be deemed to meet the recordkeeping and reporting requirements of paragraph (a)(1) of this section by satisfying all applicable catch and effort reporting requirements as listed below:

(i) *Western Pacific pelagic fisheries*. Fishing activities subject to the reporting requirements of §665.14 of this title must be maintained and reported in the manner specified in that section.

(ii) *West Coast HMS fisheries*. Fishing activities subject to the reporting requirements of §660.708(a) of this title must be maintained and reported in the manner specified in that section.

(iii) *Pacific tuna fisheries*. Fishing activities subject to the reporting requirements of §300.22 must be maintained and reported in the manner specified in that section.

(iv) *South Pacific tuna fisheries*. Fishing activities subject to the reporting requirements of §300.34(c)(1) must be maintained and reported in the manner specified in that section.

(v) *High seas fisheries*. Fishing activities subject to the reporting requirements of §300.341 must be maintained and reported in the manner specified in §300.341(a).

(vi) *Canada albacore fisheries*. Fishing activities subject to the reporting requirements of §300.174 must be maintained and reported in the manner specified in that section.

(vii) *State-regulated fisheries*. Catch and effort information for fishing activities for which reporting of effort, catch, and/or landings is required under State law must be maintained and reported in the manner specified under such State law.

(viii) *Other fisheries*. All other fishing activities subject to the requirement of paragraph (a)(1) of this section must be recorded on paper or electronic forms specified or provided by the Pacific Islands Regional Administrator. Such forms will specify the information required, which may include: Identification information for the vessel; description of fishing gear used; dates, times and locations of fishing; and species and amounts of fish retained and discarded. All information specified by the Pacific Islands Regional Administrator on such forms must be recorded on paper or electronically within 24 hours of the completion of each fishing day. The information recorded must, for each fishing day, include a dated signature of the vessel operator or other type of authentication as specified by the Pacific Islands Regional Administrator. The vessel operator must, unless otherwise specified by the Pacific Islands Regional Administrator, submit the information for each fishing day to the Pacific Islands Regional Administrator within 72 hours of the first landing or port call after the fishing day, and must submit the information in the manner specified by the Pacific Islands Regional Administrator.

(3) *Exceptions*. (i) Catch and effort information for fishing activities that take place in waters under State jurisdiction must be maintained and reported only in cases where the reporting of such activity is required under State law or under Federal regulations at §§300.22 and 300.34, and §§660.708 and 665.14 of this title.

(ii) Catch and effort information for fishing activities that take place in waters under Federal jurisdiction around American Samoa, Guam and the Northern Mariana Islands need not be reported under this section unless reporting of such activity is required under regulations in chapter VI of this title.

(b) *Transshipment reports*. The owner and operator of any fishing vessel of the United States used for commercial fishing that offloads or receives a transshipment of HMS in the Convention Area, or a transshipment anywhere of HMS caught in the Convention Area, must ensure that a transshipment report for the transshipment is completed, using a form that is

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available from the Pacific Islands Regional Administrator, and recording all the information specified on the form. The owner and operator of the vessel must ensure that the transshipment report is completed and signed within 24 hours of the completion of the transshipment, and must ensure that the report is submitted as follows:

(1) For vessels licensed under § 300.32, the original transshipment report is submitted to the address specified by the Pacific Islands Regional Administrator by the due date specified at § 300.34(c)(2) for submitting the transshipment logsheet form to the Administrator as defined at § 300.31.

(2) For vessels registered for use under § 660.707 of this title, the original transshipment report is submitted to the address specified by the Pacific Islands Regional Administrator by the due date specified for the logbook form at § 660.708 of this title.

(3) For vessels subject to the requirements of § 665.14(c) and § 665.801(e) of this title, and not subject to the requirements of paragraphs (b)(1) or (b)(2) of this section, the original transshipment report is submitted to the address specified by the Pacific Islands Regional Administrator by the due date specified at § 665.14(c) of this title for submitting transshipment logbooks to the Pacific Islands Regional Administrator for landings of western Pacific pelagic management unit species.

(4) For all transshipments on the high seas and emergency transshipments that meet the conditions described in § 300.216(b)(4), including transshipments involving the categories of vessels specified in paragraphs (b)(1), (b)(2), and (b)(3) of this section, the report is submitted by fax or email to the address specified by the Pacific Islands Regional Administrator no later than 10 calendar days after completion of the transshipment. The report may be submitted with or without signatures so long as the original transshipment report with signatures is submitted to the address specified by the Pacific Islands Regional Administrator no later than 15 calendar days after the vessel first enters into port or 15 calendar days after completion of the transshipment for emergency transshipments in port.

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(5) For all other transshipments at sea, the original transshipment report is submitted to the address specified by the Pacific Islands Regional Administrator no later than 72 hours after the vessel first enters into port.

(6) For all other transshipments in port, the original transshipment report is submitted to the address specified by the Pacific Islands Regional Administrator no later than 72 hours after completion of the transshipment.

(c) *Exceptions to transshipment reporting requirements.* Paragraph (b) of this section shall not apply to a transshipment that takes place entirely within the Overlap Area or within 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, and only includes fish caught within such waters.

(d) *Transshipment notices*—(1) *High seas transshipments.* This section shall not apply to a transshipment that takes place entirely within the Overlap Area and only includes fish caught within such waters. The owner and operator of a fishing vessel of the United States used for commercial fishing that offloads or receives a transshipment of HMS on the high seas in the Convention Area or a transshipment of HMS caught in the Convention Area anywhere on the high seas and not subject to the requirements of paragraph (d)(2) of this section, must ensure that a notice is submitted to the Commission by fax or email at least 36 hours prior to the start of such transshipment at the address specified by the Pacific Islands Regional Administrator, and that a copy of that notice is submitted to NMFS at the address specified by the Pacific Islands Regional Administrator at least 36 hours prior to the start of the transshipment. The notice must be reported in the format provided by the Pacific Islands Regional Administrator and must contain the following information:

- (i) The name of the offloading vessel.
- (ii) The vessel identification markings located on the hull or superstructure of the offloading vessel.
- (iii) The name of the receiving vessel.

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(iv) The vessel identification markings located on the hull or superstructure of the receiving vessel.

(v) The expected amount, in metric tons, of fish product to be transshipped, broken down by species and processed state.

(vi) The expected date or dates of the transshipment.

(vii) The expected location of the transshipment, including latitude and longitude to the nearest tenth of a degree.

(viii) An indication of which one of the following areas the expected transshipment location is situated: high seas inside the Convention Area; high seas outside the Convention Area; or an area under the jurisdiction of a particular nation, in which case the nation must be specified.

(ix) The expected amount of HMS to be transshipped, in metric tons, that was caught in each of the following areas: inside the Convention Area, on the high seas; outside the Convention Area, on the high seas; and within areas under the jurisdiction of particular nations, with each such nation and the associated amount specified. This information is not required if the reporting vessel is the receiving vessel.

(2) *Emergency transshipments.* This section shall not apply to a transshipment that takes place entirely within the Overlap Area and only includes fish caught within such waters. The owner and operator of a fishing vessel of the United States used for commercial fishing for HMS that offloads or receives a transshipment of HMS in the Convention Area or a transshipment of HMS caught in the Convention Area anywhere that is allowed under §300.216(b)(4) but would otherwise be prohibited under the regulations in this subpart, must ensure that a notice is submitted by fax or email to the Commission at the address specified by the Pacific Islands Regional Administrator, and a copy is submitted to NMFS at the address specified by the Pacific Islands Regional Administrator within 12 hours of the completion of the transshipment. The notice must be reported in the format provided by the Pacific Islands Regional Administrator and

must contain the following information:

(i) The name of the offloading vessel.

(ii) The vessel identification markings located on the hull or superstructure of the offloading vessel.

(iii) The name of the receiving vessel.

(iv) The vessel identification markings located on the hull or superstructure of the receiving vessel.

(v) The expected or actual amount, in metric tons, of fish product transshipped, broken down by species and processed state.

(vi) The expected or actual date or dates of the transshipment.

(vii) The expected or actual location of the transshipment, including latitude and longitude to the nearest tenth of a degree.

(viii) An indication of which one of the following areas the expected or actual transshipment location is situated: High seas inside the Convention Area; high seas outside the Convention Area; or an area under the jurisdiction of a particular nation, in which case the nation must be specified.

(ix) The amount of HMS to be transshipped, in metric tons, that was caught in each of the following areas: inside the Convention Area, on the high seas; outside the Convention Area, on the high seas; and within areas under the jurisdiction of particular nations, with each such nation and the associated amount specified. This information is not required if the reporting vessel is the receiving vessel.

(x) The reason or reasons for the emergency transshipment (i.e., a transshipment conducted under circumstances of force majeure or other serious mechanical breakdown that could reasonably be expected to threaten the health or safety of the vessel or crew or cause a significant financial loss through fish spoilage).

(3) *Location of high seas and emergency transshipments.* A high seas or emergency transshipment in the Convention Area or of HMS caught in the Convention Area anywhere subject to the notification requirements of paragraph (d)(1) or (d)(2) must take place within 24 nautical miles of the location for the transshipment indicated in the notice submitted under paragraph (d)(1)(vii) or (d)(2)(vii) of this section.

(e) *Purse seine discard reports.* The owner and operator of any fishing vessel of the United States equipped with purse seine gear must ensure that a report of any at-sea discards of any big-eye tuna (*Thunnus obesus*), yellowfin tuna (*Thunnus albacares*), or skipjack tuna (*Katsuwonus pelamis*) caught in the Convention Area, except for within the Overlap Area, is completed, using a form that is available from the Pacific Islands Regional Administrator, and recording all the information specified on the form. The report must be submitted within 48 hours after any discard to the Commission by fax or email at the address specified by the Pacific Islands Regional Administrator. A copy of the report must be submitted to NMFS at the address specified by the Pacific Islands Regional Administrator by fax or email within 48 hours after any such discard. A hard copy of the report must be provided to the observer on board the vessel, if any.

(f) *Net sharing reports.* This paragraph (f) does not apply to net sharing activity within the Overlap Area.

(1) *Transferring vessels.* The owner and operator of a fishing vessel of the United States equipped with purse seine gear that transfers fish to another fishing vessel equipped with purse seine gear under § 300.216(c) shall ensure that the amount, by species, of fish transferred, as well as the net sharing activity, is recorded on the catch report forms maintained pursuant to § 300.34(c)(1), in the format specified by the Pacific Islands Regional Administrator.

(2) *Accepting vessels.* The owner and operator of a fishing vessel of the United States equipped with purse seine gear that accepts fish from another purse seine fishing vessel under § 300.216(c) shall ensure that the net sharing activity is recorded on the catch report forms maintained pursuant to § 300.34(c)(1), in the format specified by the Pacific Islands Regional Administrator.

(g) *Daily purse seine fishing effort reports.* If directed by NMFS, the owner or operator of any fishing vessel of the United States equipped with purse seine gear must report to NMFS, for the period and in the format and manner directed by the Pacific Islands Re-

gional Administrator, within 24 hours of the end of each day that the vessel is at sea in the Convention Area, except for within the Overlap Area, the activity of the vessel (*e.g.*, setting, transiting, searching), location and type of set, if a set was made during that day.

(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 (h) does not apply in 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 in the Overlap Area.

[75 FR 3350, Jan. 21, 2010, as amended at 77 FR 71511, Dec. 3, 2012; 79 FR 77943, Dec. 29, 2014; 80 FR 8815, Feb. 19, 2015; 80 FR 59048, Oct. 1, 2015; 83 FR 33869, July 18, 2018; 85 FR 37389, June 22, 2020]

§ 300.219 Vessel monitoring system.

(a) *SAC and VMS Helpdesk contact information and business hours.* For the purpose of this section, the following contact information applies:

(1) *SAC.* Address: 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818; telephone: 808-725-6100; facsimile: 808-725-6199; email: pidvms@noaa.gov; business hours: Monday through Friday, except Federal holidays, 8 a.m. to 4:30 p.m., Hawaii Standard Time.

(2) *VMS Helpdesk.* Telephone: 888-219-9228; email: ole.helpdesk@noaa.gov; business hours: Monday through Friday, except Federal holidays, 7 a.m. to 11 p.m., Eastern Time.

(b) *Applicability.* This section applies to any fishing vessel of the United States with a WCPFC Area Endorsement or for which a WCPFC Area Endorsement is required.

(c) *Provision of vessel position information—(1) VMS unit.* The vessel owner and operator shall install and maintain on the fishing vessel, in accordance with instructions provided by the SAC

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and the VMS unit manufacturer, a VMS unit that is type-approved by NMFS for fisheries governed under the Act. The vessel owner and operator shall arrange for a NMFS-approved mobile communications service provider to receive and relay transmissions from the VMS unit to NMFS. NMFS makes available lists of type-approved VMS units and approved mobile communications service providers. NMFS and the Commission are authorized to receive and relay transmissions from the VMS unit.

(2) *VMS unit activation.* If the VMS unit has not yet been activated as described in this paragraph, or if the VMS unit has been newly installed or reinstalled, or if the mobile communications service provider has changed since the previous activation, or if directed by the SAC, the vessel owner and operator shall, prior to the vessel leaving port:

(i) Turn on the VMS unit to make it operational;

(ii) Submit a written activation report, via mail, facsimile or e-mail, to the SAC, that includes: the vessel's name; the vessel's official number; the VMS unit manufacturer and identification number; and telephone, facsimile or e-mail contact information for the vessel owner or operator; and

(iii) Receive verbal or written confirmation from the SAC that proper transmissions are being received from the VMS unit.

(3) *VMS unit operation.* The vessel owner and operator shall continuously operate the VMS unit at all times, except that the VMS unit may be shut down while the vessel is at port or otherwise not at sea, provided that the owner and operator:

(i) Prior to shutting down the VMS unit, report to the SAC or the NOAA Office of Law Enforcement's VMS Helpdesk via facsimile or e-mail, the following information: the intent to shut down the VMS unit; the vessel's name; the vessel's official number; and telephone, facsimile or e-mail contact information for the vessel owner or operator; and

(ii) When turning the VMS unit back on, report to the SAC or the NOAA Office of Law Enforcement's VMS Helpdesk, via mail, facsimile or e-mail,

the following information: that the VMS unit has been turned on; the vessel's name; the vessel's official number; and telephone, facsimile or e-mail contact information for the vessel owner or operator; and

(iii) Prior to leaving port, receive verbal or written confirmation from the SAC that proper transmissions are being received from the VMS unit.

(4) *Failure of VMS unit.* If the vessel owner or operator becomes aware that the VMS unit has become inoperable or that transmission of automatic position reports from the VMS unit has been interrupted, or if notified by NMFS or the USCG that automatic position reports are not being received from the VMS unit or that an inspection of the VMS unit has revealed a problem with the performance of the VMS unit, the vessel owner and operator shall comply with the following requirements:

(i) If the vessel is at port: The vessel owner or operator shall repair or replace the VMS unit and ensure it is operable before the vessel leaves port.

(ii) If the vessel is at sea: The vessel owner, operator, or designee shall contact the SAC by telephone, facsimile, or e-mail at the earliest opportunity during the SAC's business hours and identify the caller and vessel. The vessel operator shall follow the instructions provided by the SAC, which could include, but are not limited to: ceasing fishing, stowing fishing gear, returning to port, and/or submitting periodic position reports at specified intervals by other means; and, repair or replace the VMS unit and ensure it is operable before starting the next trip.

(5) *Related VMS requirements.* Installing, carrying and operating a VMS unit in compliance with the requirements in part 300 of this title, part 660 of this title, or part 665 of this title relating to the installation, carrying, and operation of VMS units shall be deemed to satisfy the requirements of paragraph (c) of this section, provided that the VMS unit is operated continuously and at all times while the vessel is at sea, the VMS unit is type-approved by NMFS for fisheries governed under the Act, and the specific requirements of paragraph (c)(4) of this section are complied with. If the VMS unit is

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owned by NMFS, the requirement under paragraph (c)(4) of this section to repair or replace the VMS unit will be the responsibility of NMFS, but the vessel owner and operator shall be responsible for ensuring that the VMS unit is operable before leaving port or starting the next trip.

(d) *Costs.* The vessel owner and operator shall be responsible for all costs associated with the purchase, installation and maintenance of the VMS unit, and for all charges levied by the mobile communications service provider as necessary to ensure the transmission of automatic position reports to NMFS as required in paragraph (c) of this section. However, if the VMS unit is being carried and operated in compliance with the requirements in part 300 of this title, part 660 of this title, or part 665 of this title relating to the installation, carrying, and operation of VMS units, the vessel owner and operator shall not be responsible for costs that are the responsibility of NMFS under those regulations.

(e) *Tampering.* The vessel owner and operator shall ensure that the VMS unit is not tampered with, disabled, destroyed, damaged or operated improperly, and that its operation is not impeded or interfered with.

(f) *Inspection.* The vessel owner and operator shall make the VMS unit, including its antenna, connectors and antenna cable, available for inspection by authorized officers, by employees of the Commission, by persons appointed by the Executive Director of the Commission for this purpose, and, when the vessel is on the high seas in the Convention Area, by WCPFC inspectors.

(g) *Access to data.* The vessel owner and operator shall make the vessel's position data obtained from the VMS unit or other means immediately and always available for inspection by NOAA personnel, USCG personnel, and authorized officers, and shall make the vessel's position data for positions on the high seas in the Convention Area immediately and always available to WCPFC inspectors and the Commission.

(h) *Communication devices.* (1) To facilitate communication with management and enforcement authorities regarding the functioning of the VMS

unit and other purposes, the vessel operator shall, while the vessel is at sea, carry on board and continuously monitor a two-way communication device that is capable of real-time communication with the SAC. The VMS unit used to fulfill the requirements of paragraph (c) of this section may not be used to satisfy this requirement. If the device is anything other than a radio, the contact number for the device must be provided to the Pacific Islands Regional Administrator on the application form for the WCPFC Area Endorsement in accordance with the requirements of § 300.212.

(2) For the purpose of submitting the position reports that might be required in cases of VMS unit failure under paragraph (c)(4)(ii) of this section, the vessel operator shall, while the vessel is at sea, carry on board a communication device capable of transmitting, while the vessel is on the high seas in the Convention Area, communications by telephone, facsimile, e-mail, or radio to the Commission, in Pohnpei, Micronesia. The VMS unit used to fulfill the requirements of paragraph (c) of this section may not be used to satisfy this requirement. The same communication device may be able to satisfy the requirements of both this paragraph and paragraph (h)(1) of this section.

[75 FR 3351, Jan. 21, 2010, as amended at 79 FR 64110, Oct. 28, 2014; 80 FR 59048, Oct. 1, 2015]

§ 300.220 Confidentiality of information.

(a) *Types of information covered.* NOAA is authorized under the Act and other statutes to collect and maintain information. This section applies to confidential information collected under authority of the Act.

(b) *Collection and maintenance of information—(1) General.* (i) Any information required to be submitted to the Secretary, a State fishery management agency, or a Marine Fisheries Commission under the Act shall be provided to the Assistant Administrator.

(ii) Any observer information collected under the Act shall be provided to the Assistant Administrator.

(iii) Appropriate safeguards as specified by NOAA Administrative Order

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(NAO) 216-100 or other NOAA/NMFS internal procedures, apply to the collection and maintenance of any information collected pursuant to paragraphs (b)(1) or (b)(2) of this section, whether separated from identifying particulars or not, so as to ensure their confidentiality. Information submitted to the Secretary in compliance with this subpart shall not be disclosed except as authorized herein or by other law or regulation.

(2) *Collection agreements with States or Marine Fisheries Commissions.* (i) The Assistant Administrator may enter into an agreement with a State or a Marine Fisheries Commission authorizing the State or Marine Fisheries Commission to collect information on behalf of the Secretary.

(ii) To enter into a cooperative collection agreement with a State or a Marine Fisheries Commission, NMFS must ensure that:

(A) The State has authority to protect the information from disclosure in a manner at least as protective as these regulations.

(B) The Marine Fisheries Commission has enacted policies and procedures to protect the information from public disclosure.

(3) *Collection services by observer employer/observer provider.* The Assistant Administrator shall make the following determinations before issuing a permit or letting a contract or grant to an organization that provides observer services:

(i) That the observer employer/observer provider has enacted policies and procedures to protect the information from public disclosure;

(ii) That the observer employer/observer provider has entered into an agreement with the Assistant Administrator that prohibits public disclosure and specifies penalties for such disclosure; and

(iii) That the observer employer/observer provider requires each observer to sign an agreement with NOAA/NMFS that prohibits public disclosure of observer information and specifies penalties for such disclosure.

(c) *Access to information—(1) General.* This section establishes procedures intended to manage, preserve, and protect the confidentiality of information

submitted in compliance with the Act and its implementing regulations. This section applies to those persons and organizations deemed eligible to access confidential information subject to the terms and conditions described in this section and the Act. All other persons requesting access to confidential information should follow the procedures set forth in the Freedom of Information Act, 5 U.S.C. 552, 15 CFR parts 15 and 903, NAO 205-14, and Department of Commerce Administrative Orders 205-12 and 205-14, as applicable. Persons eligible to access confidential information under this section shall submit to NMFS a written request with the following information:

(i) The specific types of information requested;

(ii) The relevance of the information to requirements of the Act;

(iii) The duration of time that access will be required: continuous, infrequent, or one-time; and

(iv) An explanation of why the availability of information in aggregate or summary form from other sources would not satisfy the requested needs.

(2) *Federal employees.* Confidential information will only be accessible to the following:

(i) Federal employees who are responsible for administering, implementing, or enforcing the Act. Such persons are exempt from the provisions of paragraph (c)(1) of this section.

(ii) NMFS employees responsible for the collection, processing, and storage of the information or performing research that requires access to confidential information. Such persons are exempt from the provisions of paragraph (c)(1) of this section.

(iii) Other NOAA employees on a demonstrable need-to-know basis.

(iv) Persons that need access to confidential information to perform functions authorized under a Federal contract, cooperative agreement, or grant awarded by NOAA/NMFS.

(3) *Commission.* (i) Confidential information will be subject to disclosure to the Commission, but only if:

(A) The information is required to be submitted to the Commission under the requirements of the WCPF Convention or the decisions of the Commission;

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(B) The provision of such information is in accord with the requirements of the Act, the WCPF Convention, and the decisions of the Commission, including any procedures, policies, or practices adopted by the Commission relating to the receipt, maintenance, protection or dissemination of information by the Commission; and

(C) The provision of such information is in accord with any agreement between the United States and the Commission that includes provisions to prevent public disclosure of the identity or business of any person.

(ii) The provisions of paragraph (c)(1) of this section do not apply to the release of confidential information to the Commission.

(4) *State employees.* Confidential information may be made accessible to a State employee only by written request and only upon the determination by NMFS that at least one of the following conditions is met:

(i) The employee has a need for confidential information to further the Department of Commerce's mission, and the State has entered into a written agreement between the Assistant Administrator and the head of the State's agency that manages marine and/or anadromous fisheries. The agreement shall contain a finding by the Assistant Administrator that the State has confidentiality protection authority comparable to the Act and that the State will exercise this authority to prohibit public disclosure of the identity or business of any person.

(ii) The employee enforces the Act or fishery management plans prepared under the authority of the Magnuson-Stevens Conservation and Management Act, and the State for which the employee works has entered into a fishery enforcement agreement with the Secretary and the agreement is in effect.

(5) *Marine Fisheries Commission employees.* Confidential information may be made accessible to Marine Fisheries Commission employees only upon written request of the Marine Fisheries Commission and only if the request demonstrates a need for confidential information to further the Department of Commerce's mission, and the executive director of the Marine Fisheries Commission has entered into a written

agreement with the Assistant Administrator. The agreement shall contain a finding by the Assistant Administrator that the Marine Fisheries Commission has confidentiality protection policies and procedures to protect from public disclosure information that would reveal the identity or business of any person.

(6) *Homeland and national security activities.* Confidential information may be made accessible to Federal employees for purposes of promoting homeland security or national security at the request of another Federal agency only if:

(i) Providing the information promotes homeland security or national security purposes including the USCG's homeland security missions as defined in section 888(a)(2) of the Homeland Security Act of 2002 (6 U.S.C. 468(a)(2)); and

(ii) The requesting agency has entered into a written agreement with the Assistant Administrator. The agreement shall contain a finding by the Assistant Administrator that the requesting agency has confidentiality policies and procedures to protect the information from public disclosure.

(7) *Observer and observer employer/observer provider.* Confidential information used for purposes other than those contained in this subpart or in part 600 of this title may only be used by observers and observer employers/observer providers in order:

(i) To adjudicate observer certifications;

(ii) To allow the sharing of observer information among the observers and between observers and observer employers/observer providers as necessary to train and prepare observers for deployments on specific vessels; or

(iii) To validate the accuracy of the observer information collected.

(8) Persons having access to confidential information may be subject to criminal and civil penalties for unauthorized use or disclosure of confidential information. See 18 U.S.C. 1905, 16 U.S.C. 1857, and NOAA/NMFS internal procedures, including NAO 216-100.

(d) *Control system.* (1) The Assistant Administrator maintains a control system to protect the identity or business of any person who submits information

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in compliance with any requirement or regulation under the Act. The control system:

- (i) Identifies those persons who have access to the information;
- (ii) Contains procedures to limit access to confidential information to authorized users; and
- (iii) Provides handling and physical storage protocols for safeguarding of the information.

(2) This system requires that all persons who have authorized access to the information be informed of the confidentiality of the information. These persons, with the exception of employees and contractors of the Commission, are required to sign a statement that they:

- (i) Have been informed that the information is confidential; and
- (ii) Have reviewed and are familiar with the procedures to protect confidential information.

(e) *Release of information.* (1) The Assistant Administrator will not disclose to the public any confidential information, except:

(i) When the Secretary has obtained from the person who submitted the information an authorization to release the information to persons for reasons not otherwise provided for in this subpart. In situations where a person provides information through a second party, both parties are considered joint submitters of information and either party may request a release. The authorization to release such information will require:

(A) A written statement from the person(s) who submitted the information authorizing the release of the submitted information; and

(B) A finding by the Secretary that such release does not violate other requirements of the Act or other applicable laws.

(ii) Observer information as authorized by a fishery management plan (prepared under the authority of the Magnuson-Stevens Fishery Conservation and Management Act) or regulations under the authority of the North Pacific Council to allow disclosure of observer information to the public of weekly summary bycatch information identified by vessel or for haul-specific

bycatch information without vessel identification.

(iii) When such information is required to be submitted for any determination under a limited access program.

(iv) When required by a court order.

(2) All requests from the public for confidential information will be processed in accordance with the requirements of 5 U.S.C. 552a, 15 CFR parts 4 and 903, NAO 205-14, and Department of Commerce Administrative Orders DAO 205-12 and DAO 205-14. Nothing in this section is intended to confer any right, claim, or entitlement to obtain access to confidential information not already established by law.

(3) NMFS does not release or allow access to confidential information in its possession to members of advisory groups of the Regional Fishery Management Councils established under the Magnuson-Stevens Fishery Conservation and Management Act, except as provided by law.

[75 FR 3352, Jan. 21, 2010]

§ 300.221 Facilitation of enforcement and inspection.

In addition to the facilitation of enforcement provisions of § 300.5, the following requirements apply to this subpart.

(a) A fishing vessel of the United States with a WCPFC Area Endorsement or for which a WCPFC Area Endorsement is required, including the vessel's operator and each member of the vessel's crew shall, when in the Convention Area, be subject to the following requirements:

(1) The Federal Certificate of Documentation or State or other documentation for the vessel, or a copy thereof, shall be carried on board the vessel. Any license, permit or other authorization to use the vessel to fish, retain fish, transship fish, or land fish issued by a nation or political entity other than the United States, or a copy thereof, shall be carried on board the vessel. These documents shall be made available for inspection by any authorized officer. If the vessel is on the high seas, the above-mentioned licenses, permits, and authorizations shall also be made available for inspection by any WCPFC inspector. If the vessel is

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in an area under the jurisdiction of a member of the Commission other than the United States, they shall be made available for inspection by any authorized enforcement official of that member.

(2) For the purpose of facilitating communication with the fisheries management, surveillance and enforcement authorities of the members of the Commission, the operator shall ensure the continuous monitoring of the international safety and calling radio frequency 156.8 MHz (Channel 16, VHF-FM) and, if the vessel is equipped to do so, the international distress and calling radio frequency 2.182 MHz (HF).

(3) The operator shall ensure that an up-to-date copy of the International Code of Signals (INTERCO) is on board and accessible at all times.

(4) When engaged in transshipment on the high seas or in an area under the jurisdiction of a member of the Commission other than the United States, the operator and crew shall:

(i) Provide any WCPFC transshipment monitor with full access to, and use of, facilities and equipment which such authorized person may determine is necessary to carry out his or her duties to monitor transshipment activities, including full access to the bridge, fish on board, and all areas which may be used to hold, process, weigh and store fish, and full access to the vessel's records, including its log and documentation for the purpose of inspection and photocopying;

(ii) Allow and assist any WCPFC transshipment monitor to collect and remove samples and gather any other information required to fully monitor transshipment activities.

(iii) Not assault, obstruct, resist, delay, refuse boarding to, intimidate, harass, interfere with, unduly obstruct or delay any WCPFC transshipment monitor in the performance of such person's duties, or attempt to do any of the same.

(b) The operator and crew of a fishing vessel of the United States, when on the high seas in the Convention Area, shall be subject to the following requirements:

(1) The operator and crew shall immediately comply with instructions given by an officer on board a WCPFC

inspection vessel to move the vessel to a safe location and/or to stop the vessel, provided that the officer has, prior to the issuance of such instructions:

(i) Provided information identifying his or her vessel as a WCPFC inspection vessel, including its name, registration number, IRCS and contact frequency; and

(ii) Communicated to the vessel operator his or her intention to board and inspect the vessel under the authority of the Commission and pursuant to the boarding and inspection procedures adopted by the Commission.

(2) The operator and crew shall accept and facilitate prompt and safe boarding by any WCPFC inspector, provided that an officer on board the WCPFC inspection vessel has, prior to such boarding:

(i) Provided information identifying his or her vessel as a WCPFC inspection vessel, including its name, registration number, IRCS and contact frequency; and

(ii) Communicated to the vessel operator an intention to board and inspect the vessel under the authority of the Commission and pursuant to the boarding and inspection procedures adopted by the Commission.

(3) Provided that the WCPFC inspector has presented to the vessel operator his or her identity card identifying him or her as an inspector authorized to carry out boarding and inspection procedures under the auspices of the Commission, and a copy of the text of the relevant conservation and management measures in force pursuant to the WCPFC Convention in the relevant area of the high seas, the operator and crew shall:

(i) Cooperate with and assist any WCPFC inspector in the inspection of the vessel, including its authorizations to fish, gear, equipment, records, facilities, fish and fish products and any relevant documents necessary to verify compliance with the conservation and management measures in force pursuant to the WCPFC Convention;

(ii) Allow any WCPFC inspector to communicate with the crew of the WCPFC inspection vessel, the authorities of the WCPFC inspection vessel and the authorities of the vessel being inspected;

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(iii) Provide any WCPFC inspector with reasonable facilities, including, where appropriate, food and accommodation; and

(iv) Facilitate safe disembarkation by any WCPFC inspector.

(4) If the operator or crew refuses to allow a WCPFC inspector to board and inspect the vessel in the manner described in this paragraph, they shall offer to the WCPFC inspector an explanation of the reason for such refusal.

(5) The operator and crew shall not assault, obstruct, resist, delay, refuse boarding to, intimidate, harass, interfere with, unduly obstruct or delay any WCPFC inspector in the performance of such person's duties, or attempt to do any of the same.

(c) When a fishing vessel of the United States that is used for commercial fishing for HMS is in the Convention Area and is either on the high seas without a valid WCPFC Area Endorsement or is in an area under the jurisdiction of a nation other than the United States without an authorization by that nation to fish in that area, all the fishing gear and fishing equipment on the fishing vessel shall be stowed in a manner so as not to be readily available for fishing, specifically:

(1) If the fishing vessel is used for purse seining and equipped with purse seine gear, the boom must be lowered as far as possible so that the vessel cannot be used for fishing but so that the skiff is accessible for use in emergency situations; the helicopter, if any, must be tied down; and the launches must be secured.

(2) If the fishing vessel is used for longlining and equipped with longline gear, the 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.

(3) If the fishing vessel is used for trolling and equipped with troll gear, no lines or hooks may be placed in the water; if outriggers are present on the vessel, they must be secured in a vertical position; if any power-operated haulers are located on deck they must

be covered in such a manner that they are not readily available for use.

(4) If the fishing vessel is used for pole-and-line fishing and equipped with pole-and-line gear, any poles rigged with lines and hooks must be stowed in such a manner that they are not readily available for use.

(5) For any other type of fishing vessel, all the fishing gear and equipment on the vessel must be stowed in a manner so as not to be readily available for use.

(d) For the purpose of this section, the meaning of transshipment does not include transfers that exclusively involve fish that have been previously landed and processed.

[75 FR 3354, Jan. 21, 2010]

§ 300.222 Prohibitions.

In addition to the prohibitions in § 300.4, it is unlawful for any person to:

(a) Fail to obtain and have on board a fishing vessel a valid WCPFC Area Endorsement as required in § 300.212.

(b) Fail to report a change in the information required in an application for a WCPFC Area Endorsement as required in § 300.212(g).

(c) Fail to provide information on vessels and fishing authorizations or fail to report changes in such information as required in § 300.213.

(d) Fish for, retain on board, or land fish, including HMS, in areas under the jurisdiction of a nation other than the United States without authorization by such nation to do so, as provided in § 300.214(a)(1) and (b)(1).

(e) Operate a fishing vessel in violation of, or fail to ensure the vessel crew complies with, the applicable national laws of a member of the Commission other than the United States, including any laws related to carrying vessel observers or the operation of VMS units, as provided in § 300.214(a)(2) and (b)(2).

(f) Fail to carry, allow on board, or assist a WCPFC observer as required in § 300.215.

(g) Assault, obstruct, resist, delay, refuse boarding to, intimidate, harass, or interfere with a WCPFC observer, or attempt to do any of the same, or fail to provide a WCPFC observer with food, accommodation or medical facilities, as required in § 300.215.

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(h) Offload, receive, or load fish from a purse seine vessel at sea in the Convention Area, in contravention of § 300.216.

(i) Fail to mark a fishing vessel or a boat, skiff, or other watercraft on board the fishing vessel as required in § 300.217, or remove, obscure, or obstruct such markings, or attempt to do so.

(j) Fail to maintain and report catch and effort information or transshipment information as required in § 300.218.

(k) Fail to install, activate, or operate a VMS unit as required in § 300.219(c).

(l) In the event of VMS unit failure or interruption, fail to repair or replace a VMS unit, fail to notify the SAC and follow the instructions provided, or otherwise fail to act as provided in § 300.219(c)(4).

(m) Disable, destroy, damage or operate improperly a VMS unit installed under § 300.219, or attempt to do any of the same, or fail to ensure that its operation is not impeded or interfered with, as provided in § 300.219(e).

(n) Fail to make a VMS unit installed under § 300.219 or the position data obtained from it available for inspection, as provided in § 300.219(f) and (g).

(o) Fail to carry on board and monitor communication devices as required in § 300.219(h).

(p) Fail to carry on board and make available the required vessel documentation and authorizations as required in § 300.221(a)(1).

(q) Fail to continuously monitor the specified radio frequencies as required in § 300.221(a)(2).

(r) Fail to carry on board, and keep accessible, an up-to-date copy of the International Code of Signals as required in § 300.221(a)(3).

(s) Fail to provide access to, or fail to allow and assist, a WCPFC transshipment monitor as required in § 300.221(a)(4).

(t) Fail to comply with the instructions of, or fail to accept and facilitate prompt and safe boarding by, a WCPFC inspector, or fail to cooperate and assist a WCPFC inspector in the inspection of a fishing vessel, as provided in § 300.221(b).

(u) Fail to stow fishing gear or fishing equipment as required in § 300.221(c).

(v) Use a fishing vessel equipped with purse seine gear to fish in an area closed to purse seine fishing under § 300.223(a).

(w) Set a purse seine around, near or in association with a FAD or a vessel, deploy, activate, or service a FAD, or use lights in contravention of § 300.223(b).

(x) Discard fish at sea in the Convention Area in contravention of § 300.223(d).

(y) Fail to comply with the sea turtle mitigation gear and handling requirements of § 300.223(f).

(z) Use a fishing vessel to retain on board, transship, or land bigeye tuna captured by longline gear in the Convention Area or to fish in contravention of § 300.224(f)(1) or (f)(2).

(aa) Use a fishing vessel to fish in the Pacific Ocean using longline gear both inside and outside the Convention Area on the same fishing trip in contravention of § 300.224(f)(3).

(bb) Fail to stow longline gear as required in § 300.224(f)(4).

(cc) Fail to carry on board a WCPFC observer during a transshipment at sea, as required in § 300.215(d).

(dd) Offload, receive, or load fish caught in the Convention Area from a purse seine vessel at sea in contravention of § 300.216.

(ee) Fail to ensure that a WCPFC observer is on board at least one of the vessels involved in the transshipment for the duration of the transshipment in contravention of § 300.216(b)(2)(i), except as specified at § 300.216(b)(4).

(ff) Receive transshipments from more than one fishing vessel at a time in contravention of § 300.216(b)(2)(ii), except as specified at § 300.216(b)(4).

(gg) Transship to or from another vessel, in contravention of § 300.216(b)(3)(i), except as specified at § 300.216(b)(4).

(hh) Provide bunkering, receive bunkering, or exchange supplies or provisions with another vessel, in contravention of § 300.216(b)(3)(ii).

(ii) Engage in net sharing except as specified under § 300.216(c).

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(jj) Fail to submit, or ensure submission of, a transshipment report as required in § 300.218(b), except as specified under § 300.218(c).

(kk) Fail to submit, or ensure submission of, a transshipment notice as required in § 300.218(d).

(ll) Transship more than 24 nautical miles from the location indicated in the transshipment notice, in contravention of § 300.218(d)(3).

(mm) Fail to submit, or ensure submission of, a discard report as required in § 300.218(e).

(nn) Fail to submit, or ensure submission of, a net sharing report as required in § 300.218(f).

(oo) Transship in the Eastern High Seas Special Management Area in contravention of § 300.225.

(pp) Fail to submit, or ensure submission of, a daily purse seine fishing effort report as required in § 300.218(g).

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

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

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

(tt) 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).

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

(vv) Fail to obtain an IMO number for a fishing vessel as required in § 300.217(c).

(ww) Fail to carry an observer as required in § 300.223(e).

(xx) Fail to comply with any of the limits, restrictions, prohibitions, or requirements specified under § 300.227.

(yy) Fail to comply with the requirements of any temporary specification issued under § 300.228.

(zz) Fail to comply with the observer safety requirements in § 300.215(f).

(aaa) Fail to provide pre-trip notification per requirements in § 300.215(b).

[74 FR 38554, Aug. 4, 2009, as amended at 74 FR 64010, Dec. 7, 2009; 75 FR 3355, Jan. 21, 2010; 77 FR 51714, Aug. 27, 2012; 77 FR 71512, Dec. 3, 2012; 79 FR 71331, Dec. 2, 2014; 80 FR 8815, Feb. 19, 2015; 80 FR 59048, Oct. 1, 2015; 81 FR 41250, June 24, 2016; 83 FR 33869, July 18, 2018; 86 FR 31181, June 11, 2021; 86 FR 35659, July 7, 2021]

§ 300.223 Purse seine fishing restrictions.

None of the requirements of this section apply in the territorial seas or archipelagic waters of the United States or any other nation, as defined by the domestic laws and regulations of that nation and recognized by the United States, or within the Overlap Area. All dates used in this section are in Universal Coordinated Time, also known as UTC; for example: The year 2013 starts at 00:00 on January 1, 2013 UTC and ends at 24:00 on December 31, 2013 UTC; and July 1, 2013, begins at 00:00 UTC and ends at 24:00 UTC.

(a) *Fishing effort limits.* This paragraph establishes limits on the number of fishing days that fishing vessels of the United States equipped with purse seine gear may operate in the Convention Area in the area between 20° N latitude and 20° S latitude in a calendar year.

(1) For calendar year 2019, there is a limit of 1,616 fishing days in the ELAPS.

(2) Beginning in 2020, there is a limit of 1,828 fishing days in the ELAPS per calendar year.

(3) NMFS will determine the number of fishing days spent in the ELAPS in each calendar year using data submitted in logbooks and other available information. After NMFS determines that a limit in a calendar year is expected to be reached by a specific future date, and at least seven calendar days in advance of the closure date, NMFS will publish a document in the FEDERAL REGISTER announcing that the purse seine fishery in the area where the limit is expected to be reached will be closed starting on that specific future date and will remain closed until the end of the calendar year.

(4) Once a fishery closure is announced pursuant to paragraph (a)(3) of

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this section, fishing vessels of the United States equipped with purse seine gear may not be used to fish in the closed area during the period specified in the FEDERAL REGISTER document, except that such vessels are not prohibited from bunkering during a fishery closure.

(b) *Use of fish aggregating devices.* (1) During the periods and in the areas specified in paragraph (b)(2) of this section, owners, operators, and crew of fishing vessels of the United States equipped with purse seine gear shall not do any of the activities described below in the Convention Area in the area between 20° N latitude and 20° S latitude:

(i) Set a purse seine around a FAD or within one nautical mile of a FAD.

(ii) Set a purse seine in a manner intended to capture fish that have aggregated in association with a FAD or a vessel, such as by setting the purse seine in an area from which a FAD or a vessel has been moved or removed within the previous eight hours, or setting the purse seine in an area in which a FAD has been inspected or handled within the previous eight hours, or setting the purse seine in an area into which fish were drawn by a vessel from the vicinity of a FAD or a vessel.

(iii) Deploy a FAD into the water.

(iv) Repair, clean, maintain, or otherwise service a FAD, including any electronic equipment used in association with a FAD, in the water or on a vessel while at sea, except that:

(A) A FAD may be inspected and handled as needed to identify the FAD, identify and release incidentally captured animals, un-foul fishing gear, or prevent damage to property or risk to human safety; and

(B) A FAD may be removed from the water and if removed may be repaired, cleaned, maintained, or otherwise serviced, provided that it is not returned to the water.

(v) From a purse seine vessel or any associated skiffs, other watercraft or equipment, do any of the following, except in emergencies as needed to prevent human injury or the loss of human life, the loss of the purse seine vessel, skiffs, watercraft or aircraft, or environmental damage:

(A) Submerge lights under water;

(B) Suspend or hang lights over the side of the purse seine vessel, skiff, watercraft or equipment, or;

(C) Direct or use lights in a manner other than as needed to illuminate the deck of the purse seine vessel or associated skiffs, watercraft or equipment, to comply with navigational requirements, and to ensure the health and safety of the crew.

(2) The requirements of paragraph (b)(1) of this section shall apply:

(i) From July 1 through September 30, in each calendar year;

(ii) In any area of high seas, from November 1 through December 31, in each calendar year.

(3)(i) *Activating FADs for purse seine vessels.* A vessel owner, operator, or crew of a fishing vessel of the United States equipped with purse seine gear shall turn on the tracking equipment of an active FAD while the FAD is onboard the vessel and before it is deployed in the water.

(ii) *Restrictions on Active FADs for purse seine vessels.* U.S. vessel owners and operators of a fishing vessel of the United States equipped with purse seine gear shall not have more than 350 drifting active FADs per vessel in the Convention Area at any one time.

(c) [Reserved]

(d) *Catch retention.* An owner and operator of a fishing vessel of the United States equipped with purse seine gear must ensure the retention on board at all times while at sea within the Convention Area any bigeye tuna (*Thunnus obesus*), yellowfin tuna (*Thunnus albacares*), or skipjack tuna (*Katsuwonus pelamis*), except in the following circumstances and with the following conditions:

(1) Fish that are unfit for human consumption, including but not limited to fish that are spoiled, pulverized, severed, or partially consumed at the time they are brought on board, may be discarded.

(2) If at the end of a fishing trip there is insufficient well space to accommodate all the fish captured in a given purse seine set, fish captured in that set may be discarded, provided that no additional purse seine sets are made during the fishing trip.

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(3) If a serious malfunction of equipment occurs that necessitates that fish be discarded.

(e) *Observer coverage.* (1) A fishing vessel of the United States may not be used to fish with purse seine gear in the Convention Area without a WCPFC observer on board. The requirement in the preceding sentence does not apply to fishing trips that meet one of the following conditions:

(i) The portion of the fishing trip within the Convention Area takes place entirely within areas under the jurisdiction of a single nation other than the United States; or,

(ii) No fishing takes place during the fishing trip in the Convention Area in the area between 20° N latitude and 20° S latitude; or

(iii) The Pacific Islands Regional Administrator has by temporary specification published in the FEDERAL REGISTER modified or suspended the requirement to carry an observer in accordance with §300.228.

(2) Owners, operators, and crew of fishing vessels subject to paragraph (e)(1) of this section must accommodate WCPFC observers in accordance with the provisions of §300.215(c).

(3) Meeting either of the conditions in paragraphs (e)(1)(i) and (ii) of this section does not exempt a fishing vessel from having to carry and accommodate a WCPFC observer pursuant to §300.215 or other applicable regulations.

(f) *Sea turtle take mitigation measures.* (1) Possession and use of required mitigation gear. Any owner or operator of a fishing vessel of the United States equipped with purse seine gear that is used to fish in the Convention Area must carry aboard the vessel the following gear:

(i) *Dip net.* A dip net is intended to facilitate safe handling of sea turtles and access to sea turtles for purposes of removing sea turtles from fishing gear, bringing sea turtles aboard the vessel when appropriate, and releasing sea turtles from the vessel. The minimum design standards for dip nets that meet the requirements of this section are:

(A) *An extended reach handle.* The dip net must have an extended reach handle with a minimum length of 150 percent of the freeboard height. The ex-

tended reach handle must be made of wood or other rigid material able to support a minimum of 100 lb (34.1 kg) without breaking or significant bending or distortion.

(B) *Size of dip net.* The dip net must have a net hoop of at least 31 inches (78.74 cm) inside diameter and a bag depth of at least 38 inches (96.52 cm). The bag mesh openings may be no more than 3 inches 3 inches (7.62 cm 7.62 cm) in size.

(ii) *Optional turtle hoist.* A turtle hoist is used for the same purpose as a dip net. It is not a required piece of gear, but a turtle hoist may be carried on board and used instead of the dip net to handle sea turtles as required in paragraph (f)(2) of this section. The minimum design standards for turtle hoists that are used instead of dip nets to meet the requirements of this section are:

(A) *Frame and net.* The turtle hoist must consist of one or more rigid frames to which a bag of mesh netting is securely attached. The frame or smallest of the frames must have a minimum opening (e.g., inside diameter, if circular in shape) of 31 inches (78.74 cm) and be capable of supporting a minimum of 100 lb (34.1 kg). The frame or frames may be hinged or otherwise designed so they can be folded for ease of storage, provided that they have no sharp edges and can be quickly reassembled. The bag mesh openings may be no more than 3 inches × 3 inches (7.62 cm × 7.62 cm) in size.

(B) *Lines.* Lines used to lower and raise the frame and net must be securely attached to the frame in multiple places such that the frame remains stable when lowered and raised.

(2) *Handling requirements.* Any owner or operator of a fishing vessel of the United States equipped with purse seine gear that is used to fish in the Convention Area must, if a sea turtle is observed to be enclosed or entangled in a purse seine, a FAD, or other fishing gear, comply with these handling requirements, including using the required mitigation gear specified in paragraph (f)(1) of this section as prescribed in these handling requirements. Any captured or entangled sea turtle must be handled in a manner to minimize injury and promote survival.

(i) *Sea turtles enclosed in purse seines.* If the sea turtle is observed enclosed in a purse seine but not entangled, it must be released immediately from the purse seine with the dip net or turtle hoist.

(ii) *Sea turtles entangled in purse seines.* If the sea turtle is observed entangled in a purse seine, the net roll must be stopped as soon as the sea turtle comes out of the water, and must not start again until the turtle has been disentangled and released. The sea turtle must be handled and released in accordance with paragraphs (f)(2)(iv), (f)(2)(v), (f)(2)(vi), and (f)(2)(vii) of this section.

(iii) *Sea turtles entangled in FADs.* If the sea turtle is observed entangled in a FAD, it must be disentangled or the FAD must be cut immediately so as to remove the sea turtle. The sea turtle must be handled and released in accordance with paragraphs (f)(2)(iv), (f)(2)(v), (f)(2)(vi), and (f)(2)(vii) of this section.

(iv) *Disentangled sea turtles that cannot be brought aboard.* After disentanglement, if the sea turtle is not already on board the vessel and it is too large to be brought aboard or cannot be brought aboard without sustaining further injury, it shall be left where it is in the water, or gently moved, using the dip net or turtle hoist if necessary, to an area away from the fishing gear and away from the propeller.

(v) *Disentangled sea turtles that can be brought aboard.* After disentanglement, if the sea turtle is not too large to be brought aboard and can be brought aboard without sustaining further injury, the following actions shall be taken:

(A) Using the dip net or a turtle hoist, the sea turtle must be brought aboard immediately; and

(B) The sea turtle must be handled in accordance with the procedures in paragraphs (f)(2)(vi) and (f)(2)(vii) of this section.

(vi) *Sea turtle resuscitation.* If a sea turtle brought aboard appears dead or comatose, the following actions must be taken:

(A) The sea turtle must be placed on its belly (on the bottom shell or plastron) so that it is right side up and its

hindquarters elevated at least 6 inches (15.24 cm) for a period of no less than 4 hours and no more than 24 hours. The amount of the elevation varies with the size of the sea turtle; greater elevations are needed for larger sea turtles;

(B) A reflex test must be administered at least once every 3 hours. The test is to be performed by gently touching the eye and pinching the tail of a sea turtle to determine if the sea turtle is responsive;

(C) The sea turtle must be kept shaded and damp or moist (but under no circumstances place the sea turtle into a container holding water). A water-soaked towel placed over the eyes (not covering the nostrils), carapace and flippers is the most effective method of keeping a sea turtle moist; and

(D) If the sea turtle revives and becomes active, it must be returned to the sea in the manner described in paragraph (f)(2)(vii) of this section. Sea turtles that fail to revive within the 24-hour period must also be returned to the sea in the manner described in paragraph (f)(2)(vii) of this section, unless NMFS requests that the turtle or part thereof be kept on board and delivered to NMFS for research purposes.

(vii) *Sea turtle release.* After handling a sea turtle in accordance with the requirements of paragraphs (f)(2)(v) and (f)(2)(vi) of this section, the sea turtle must be returned to the ocean after identification unless NMFS requests the retention of a dead sea turtle for research. In releasing a sea turtle the vessel owner or operator must:

(A) Place the vessel engine in neutral gear so that the propeller is disengaged and the vessel is stopped;

(B) Using the dip net or a turtle hoist to release the sea turtle with little impact, gently release the sea turtle away from any deployed gear; and

(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, transhipped or kept below deck only if NMFS requests

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the retention of a dead sea turtle or a part thereof for research.

(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.

[74 FR 38554, Aug. 4, 2009, as amended at 76 FR 82183, Dec. 30, 2011; 77 FR 71513, Dec. 3, 2012; 78 FR 30778, May 23, 2013; 80 FR 8815, Feb. 19, 2015; 80 FR 29223, May 21, 2015; 80 FR 51480, Aug. 25, 2015; 80 FR 59048, Oct. 1, 2015; 81 FR 41250, June 24, 2016; 83 FR 33869, July 18, 2018; 84 FR 37148, July 31, 2019; 85 FR 37390, June 22, 2020; 86 FR 31181, June 11, 2021]

§ 300.224 Longline fishing restrictions.

None of the requirements of this section apply in the Overlap Area.

(a) *Establishment of bigeye tuna catch limits.* (1) There is a limit of 3,554 metric tons of bigeye tuna per calendar year that may be captured in the Convention Area by longline gear and retained on board by fishing vessels of the United States.

(2) [Reserved]

(b) *Exception for bigeye tuna landed in territories.* Except as provided in paragraphs (c) and (d), 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.* Except as provided in paragraph (d), 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 specified fishing agreements under § 665.819(c) of this title.* Bigeye tuna caught by a vessel that is included in a specified fishing agreement under § 665.819(c) of this title will be attributed to the longline fishery of American Samoa, Guam, or the Northern Mariana Islands, according to the terms of the agreement to the extent the agreement is consistent with § 665.819(c) of this title and other applicable laws, and will not be counted against the limit, provided that:

(1) The start date specified in § 665.819(c)(9)(i) of this title has occurred or passed; and

(2) NMFS has not made a determination under § 665.819(c)(9)(iii) of this title that the catch of bigeye tuna exceeds the limit allocated to the territory that is a party to the agreement.

(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 of that calendar year.

(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 caught by longline gear may be retained on board, transshipped, and/or landed if they were caught by a vessel that is included in a specified fishing agreement under § 665.819(c) of this title, if the agreement provides for bigeye tuna to be attributed to the longline fishery of American Samoa, Guam, or the Northern Mariana Islands, provided that:

(A) The start date specified in § 665.819(c)(9)(i) of this title has occurred or passed; and

(B) NMFS has not made a determination under § 665.819(c)(9)(iii) of this title that the catch of bigeye tuna exceeds the limit allocated to the territory that is a party to the agreement.

(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 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. This prohibition does not apply to a vessel that catches bigeye tuna 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 to a

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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.

(4) If a fishing vessel of the United States, other than a vessel that catches bigeye tuna 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), 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 it is 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.

[78 FR 58246, Sept. 23, 2013, as amended at 79 FR 64111, Oct. 28, 2014; 80 FR 43636, July 23, 2015; 81 FR 41251, June 24, 2016; 83 FR 33870, July 18, 2018; 85 FR 37390, June 22, 2020]

§ 300.225 Eastern High Seas Special Management Area.

The owner and operator of a fishing vessel of the United States used for commercial fishing for HMS is prohibited from engaging in transshipment in the Eastern High Seas Special Management Area.

[83 FR 33870, July 18, 2018]

§ 300.226 Oceanic whitetip shark and silky shark.

None of the requirements of this section apply in the Overlap Area.

(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.

[80 FR 8816, Feb. 19, 2015, as amended at 85 FR 37390, June 22, 2020]

§ 300.227 Framework for catch and fishing effort limits.

(a) *General.* To implement conservation and management measures adopted by the Commission, the Pacific Islands Regional Administrator may specify limits on catch or fishing effort by fishing vessels of the United States in the Convention Area, and other fishing-related restrictions and requirements (collectively called "limits"). The limits will be specified as may be necessary to carry out the international obligations of the United States under the WCPF Convention and the Act, and will be designed to implement particular provisions of Commission-adopted conservation and management measures. For each specified limit, the Pacific Islands Regional Administrator will specify the area and period in which it applies, and as appropriate, the vessel types, gear types, species, fish sizes, and any other relevant attributes to which it applies. In

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addition to quantitative limits on catches and fishing effort, the Pacific Islands Regional Administrator may specify areas or periods in which particular fishing activities are restricted or prohibited, and other fishing-related requirements. For each specified quantitative limit, the Pacific Islands Regional Administrator will also specify the prohibitions and requirements that would go into effect after the limit is reached and the applicable dates of those prohibitions.

(b) *Application in territorial seas and archipelagic waters.* Unless stated otherwise in particular specifications, the limits specified under the framework shall not apply in the territorial seas or archipelagic waters of the United States or any other nation, as defined by the domestic laws and regulations of that nation and recognized by the United States.

(c) *Types of limits.* The types of limits that may be specified under this section include, but are not limited to:

(1) Limits on the weight or number of fish or other living marine resources of specific types and/or sizes that may be caught, retained, transshipped, landed, and/or sold;

(2) Limits on the amount of fishing effort that may be expended, such as the amount of time vessels spend at sea (e.g., days at sea) or engaged in fishing (e.g., fishing days), the amount of time vessels spend engaged in particular fishing activities (e.g., trolling hours), and the quantity of specific fishing activities (e.g., number of hooks set; number of longline sets or purse seine sets; number of purse seine sets made on FADs; number of FADs deployed); and

(3) Areas or periods in which particular activities are restricted or prohibited, such as periods during which it is prohibited to set purse seines on FADs or to use FADs in specific other ways.

(d) [Reserved]

(e) *Allocation of limits among sectors or vessels.* (1) The Pacific Islands Regional Administrator may allocate a Commission-adopted limit among particular sectors or groups of fishing vessels of the United States, such as for vessels that use different types of fishing gear. In other words, the Pacific Islands Re-

gional Administrator may specify separate limits for different sectors or groups of fishing vessels even when not required to do so under the Commission's conservation and management measures.

(2) The Pacific Islands Regional Administrator may not, under this framework, allocate a Commission-adopted limit among individual fishing vessels of the United States. In other words, the Pacific Islands Regional Administrator may not, under this framework, specify limits for individual fishing vessels of the United States, except in the case where there is only one fishing vessel in a sector or group of fishing vessels that is subject to the limit. This does not preclude NMFS from allocating Commission-adopted limits among individual fishing vessels through other regulations.

(f) *Procedures for specifying limits.* (1) For each specified limit, the Pacific Islands Regional Administrator will publish in the FEDERAL REGISTER a notice of the proposed catch or fishing effort limit specification and a request for public comment on the proposed specification, unless exempted under the Administrative Procedure Act, 5 U.S.C. 553. The specification will include the characteristics of the limit and the restrictions that will go into effect if the limit is reached.

(2) For each specified limit that is subject to prior notice and public comment, the Pacific Islands Regional Administrator will consider any public comment received on the proposed specification, and publish in the FEDERAL REGISTER a notice of the final catch or fishing effort limit specification, if appropriate.

(g) *Notification of limits being reached.* For quantitative limits, NMFS will monitor catch or fishing effort with respect to the specified limit using data submitted in vessel logbooks and other available information. When NMFS estimates or projects that the specified limit has or will be reached, the Pacific Islands Regional Administrator will publish notification to that effect in the FEDERAL REGISTER.

(h) *Prohibitions after limit is reached.* For quantitative limits, the FEDERAL REGISTER notice published under paragraph (g) of this section will include an

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advisement that specific activities will be prohibited during a specific period. The notice will specify the prohibitions and their start and end dates. The start date of the prohibitions may not be earlier than 7 days after the date of filing for public inspection at the Office of the Federal Register the notice to be published under paragraph (g) of this section. The prohibited activities may include, but are not limited to, possessing, retaining on board, transshipping, landing, or selling specific types and/or sizes of fish or other living marine resources, and fishing with specified gear types or methods in specified areas. The Pacific Islands Regional Administrator may, based on revised estimates or projections of catch or fishing effort with respect to specified limits, rescind or modify the prohibitions specified under this section. The Pacific Islands Regional Administrator will publish notice of any such rescissions or modifications in the FEDERAL REGISTER.

[80 FR 59048, Oct. 1, 2015]

§ 300.228 Framework to implement emergency decisions.

(a) *General.* To implement short-notice Commission decisions, including intersessional decisions, that address relevant global or regional health, safety, and security concerns, as well as other international emergencies and crises, the Pacific Islands Regional Administrator may, by temporary specification, modify or suspend regulations in this subpart for a period less than one year. A temporary specification under this paragraph (a) will remain in effect no longer than 30 days after the expiration of the underlying Commission decision.

(b) *Procedures for regulatory modifications or suspensions.* The Pacific Islands Regional Administrator will publish in the FEDERAL REGISTER each temporary specification issued under paragraph (a) of this section. The temporary specification will identify the basis for the modification or suspension (*i.e.*, a description of the Commission decision), the changes to the regulations, and the duration of the changes.

(c) *Procedures for revoking regulatory modifications or suspensions.* The Pacific Islands Regional Administrator may

revoke any temporary specification issued under paragraph (a) of this section by notification published in the FEDERAL REGISTER.

(d) *Limitations on regulatory modifications or suspensions.* Temporary specifications issued under paragraph (a) of this section shall be limited to the following:

(1) Modifications or suspensions of the purse seine observer coverage requirements at §300.223(e), including the Pacific Islands Regional Administrator's suspension of some or all of the requirements on a fleet-wide or individual vessel basis, requiring the carrying of observers other than WCPFC observers, requirements to carry electronic monitoring devices in lieu of observers, and requirements to collect and submit photographic or written information;

(2) Modifications or suspensions of the regulations at §300.216(b)(1) prohibiting at-sea transshipment for purse seine vessels, including suspensions of some or all of the prohibitions, prior notification to an address specified by the Pacific Islands Regional Administrator for an at-sea transshipment, and authority of the Pacific Islands Regional Administrator to suspend the prohibitions for particular transshipments; and

(3) Modifications or suspensions of the regulations at §§300.215(d) and 300.216(b)(2) regarding at-sea transshipment observer requirements, including suspensions of some or all of the requirements, the Pacific Islands Regional Administrator's authorization to suspend some or all of the requirements for particular transshipments, requiring the carrying of observers other than WCPFC observers, requirements to carry electronic monitoring devices in lieu of observers, and requirements to collect and submit photographic or written information.

(e) *Covid-19-related actions.* Notwithstanding paragraph (a) of this section, a temporary specification to modify or suspend regulations related to the COVID-19 pandemic may be continued, as appropriate, until December 31, 2023,

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after which time such temporary specifications shall be effective for a period of less than one year.

[86 FR 31181, June 11, 2021, at amended at 87 FR 34586, June 7, 2022]

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.

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