

§ 300.205

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to Congress. The Secretary of Commerce shall take the results of such consultations into consideration when making a subsequent certification determination for such nation.

§ 300.205 Denial of port privileges and import restrictions on fish or fish products.

(a) *Scope of Applicability* (1) If a nation identified in the biennial report under §300.202(a) or §300.203(a) is not positively certified by the Secretary of Commerce, and fishing vessels of the nation are allowed entry to any place in the United States and to the navigable waters of the United States under this subpart, those vessels will be subject to inspection and may be prohibited from landing, processing, or transshipping fish and fish products. Services, including the refueling and re-supplying of such fishing vessels, may be prohibited, with the exception of services essential to the safety, health, and welfare of the crew. Fishing vessels will not be denied port access or services in cases of force majeure or distress.

(2) For nations identified in the biennial report under §300.202(a) that are not positively certified, the Secretary of Commerce shall recommend import prohibitions with respect to fish or fish products from those nations. Such recommendations on import prohibitions would not apply to fish or fish products not managed under an applicable international fishery agreement, or if there is no applicable international fishery agreement, to the extent that such provisions would apply to fish or fish products caught by vessels not engaged in illegal, unreported, or unregulated fishing. For nations identified under §300.203(a) that are not positively certified, the Secretary of Commerce shall also recommend import prohibitions; such prohibitions shall not apply to fish or fish products not caught by the vessels engaged in the relevant activity for which the nation was identified.

(3) Any action recommended under this paragraph (a)(3) shall be consistent with international obligations, including the WTO Agreement.

(b) *Imposition of import restrictions*—(1) *Notification*. Where the Secretary of Commerce cannot make positive cer-

tifications for identified nations, and the President determines that certain fish and fish products from such nations are ineligible for entry into the United States and U.S. territories, the Secretary of Commerce, with the concurrence of the Secretary of State and in cooperation with the Secretary of Treasury, will file a notice with the Office of the Federal Register.

(2) *Documentation of admissibility*. If certain fish or fish products are subject to import prohibitions, NMFS may publish in the FEDERAL REGISTER the requirement that other fish or fish products from the relevant nation that are not subject to the prohibitions be accompanied by documentation of admissibility. The documentation of admissibility must be executed by a duly authorized official of the identified nation and validated by a responsible official(s) designated by NMFS. The documentation must be executed and submitted in a format (electronic facsimile (fax), the Internet, *etc.*) specified by NMFS.

(3) *Effective date of import restrictions*. Effective upon the date of publication of such finding, shipments of fish or fish products found to be ineligible will be denied entry to the United States. Entry will not be denied for any such shipment that, on the date of publication, was in transit to the United States.

(4) *Removal of negative certifications and import restrictions*. Upon a determination by the Secretary of Commerce that an identified nation that was not certified positively has satisfactorily met the conditions in this subpart and that nation has been positively certified, the provisions of §300.205 shall no longer apply. The Secretary of Commerce, with the concurrence of the Secretary of State and in cooperation with the Secretary of Treasury, will notify such nations and will file with the Office of the Federal Register for publication notification of the removal of the import restrictions effective on the date of publication.

EFFECTIVE DATE NOTE: At 76 FR 2024, Jan. 12, 2011, §302.205 was added. This section contains information collection and record-keeping requirements in paragraph (b)(2)

Int'l. Fishing and Related Activities

§ 300.207

which will not become effective until approval has been given by the Office of Management and Budget.

§ 300.206 Alternative procedures for IUU fishing activities.

(a) These certification procedures may be applied to fish or fish products from a vessel of a harvesting nation that has been identified under § 300.202 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 or 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 or fish products on a shipment-by-shipment, shipper-by-shipper, or other basis if the Secretary determines that:

(1) The vessel has not engaged in IUU fishing under an international fishery management agreement to which the U.S. is a party; or

(2) The vessel is not identified by an international fishery management organization as participating in IUU fishing activities.

(c) Fish or fish products offered for entry under this paragraph (c) must be accompanied by a completed documentation of admissibility available from NMFS. The documentation of admissibility must be executed by a duly authorized official of the identified nation and must be validated by a responsible official(s) designated by NMFS. The documentation must be executed and submitted in a format (electronic facsimile (fax), the Internet, etc.) specified by NMFS.

EFFECTIVE DATE NOTE: At 76 FR 2024, Jan. 12, 2011, § 302.206 was added. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

§ 300.207 Alternative procedures for bycatch of PLMRs.

(a) These certification procedures may be applied to fish or fish products from a vessel of a harvesting nation that has been identified under § 300.203 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 or 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 or fish products on a shipment-by-shipment, shipper-by-shipper, or other basis if the Secretary determines that imports were harvested by practices that do not result in bycatch of a protected marine species, or were harvested by practices that—

(1) Are comparable to those of the United States, taking into account different conditions, and which, in the case of pelagic longline fisheries, the regulatory program of an identified nation includes mandatory use of circle hooks, careful handling and release equipment, and training and observer programs; and

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

(c) Fish or fish products offered for entry under this section must be accompanied by a completed documentation of admissibility available from NMFS. The documentation of admissibility must be executed by a duly authorized official of the identified nation and validated by a responsible official(s) designated by NMFS. The documentation must be executed and submitted in a format (electronic facsimile (fax), the Internet, etc.) specified by NMFS.

EFFECTIVE DATE NOTE: At 76 FR 2024, Jan. 12, 2011, § 302.207 was added. This section contains information collection and record-keeping requirements and will not become effective until approval has been given by the Office of Management and Budget.

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

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