

## PART 177—CARRIAGE BY PUBLIC HIGHWAY

■ 22. The authority citation for part 177 continues to read as follows:

**Authority:** 49 U.S.C. 5101–5128; 49 CFR 1.53.

■ 23. In § 177.848, revise paragraph (c) to read as follows:

### § 177.848 Segregation of hazardous materials.

\* \* \* \* \*

(c) In addition to the provisions of paragraph (d) of this section and except as provided in § 173.12(e) of this subchapter, cyanides, cyanide mixtures or solutions may not be stored, loaded and transported with acids; Division 4.2 materials may not be stored, loaded and transported with Class 8 liquids; and Division 6.1 Packing Group I, Hazard Zone A material may not be stored, loaded and transported with Class 3 material, Class 8 liquids, and Division 4.1, 4.2, 4.3, 5.1 or 5.2 material.

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## PART 179—SPECIFICATIONS FOR TANK CARS

■ 24. The authority citation for part 179 continues to read as follows:

**Authority:** 49 U.S.C. 5101–5128; 49 CFR 1.53.

■ 25. Revise § 179.13 to read as follows:

### § 179.13 Tank car capacity and gross weight limitation.

Except as provided in this section, tank cars, built after November 30, 1970, or any existing tank cars that are converted, may not exceed 34,500 gallons (130,597 L) capacity or 263,000 pounds (119,295 kg) gross weight on rail.

(a) For other than tank cars containing poisonous-by-inhalation material, a tank car may be loaded to a gross weight on rail of up to 286,000 pounds (129,727 kg) upon approval by the Associate Administrator for Safety, Federal Railroad Administration (FRA). Tank cars must conform to the conditions of the approval and must be operated only under controlled interchange conditions agreed to by participating railroads.

(b) Tank cars containing poisonous-by-inhalation material meeting the applicable authorized tank car specifications listed in § 173.244(a)(2) or (3), or § 173.314(c) or (d) may have a gross weight on rail of up to 286,000 pounds (129,727 kg). Tank cars exceeding 263,000 pounds and up to 286,000 pounds gross weight on rail must meet the requirements of AAR Standard S–286, Free/Unrestricted

Interchange for 286,000 lb Gross Rail Load Cars (IBR; see § 171.7 of this subchapter). Any increase in weight above 263,000 pounds may not be used to increase the quantity of the contents of the tank car.

Issued in Washington, DC on May 7, 2010, under authority delegated in 49 CFR part 1.

**Cynthia L. Quarterman,**

*Administrator.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

[Docket No. 090130104–91027–02]

**RIN 0648–XW12**

### International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Fishing Restrictions and Observer Requirements in Purse Seine Fisheries for 2009–2011

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

**ACTION:** Rule; announcement of date of applicability.

**SUMMARY:** NMFS announces that the catch retention requirements for U.S. purse seine fishing vessels operating in the area of application of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention Area) will be applicable from 00:00 on June 14, 2010, Universal Coordinated Time (UTC). In accordance with regulations, the requirements will be applicable until 24:00 on December 31, 2011, UTC, or until nullified by a notification in the **Federal Register**. This action is being taken to implement, for U.S. fishing vessels, the catch retention measures adopted by the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC) at its regular annual session in December 2008. The action will have the effect of requiring that U.S. purse seine vessels do not discard any bigeye tuna, yellowfin tuna, or skipjack tuna at sea within the Convention Area, except in certain specified circumstances.

**DATES:** The date of applicability of 50 CFR 300.223(d) is 00:00 on June 14,

2010, UTC, and the requirements of that paragraph will be applicable until 24:00 on December 31, 2011, UTC, or until nullified by a notification in the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Tom Graham, NMFS Pacific Islands Regional Office, 808–944–2219.

#### SUPPLEMENTARY INFORMATION:

Regulations at 50 CFR 300.223(d)(1) provide for NMFS to publish a notification in the **Federal Register** announcing the “effective date” of the catch retention requirements set forth at 50 CFR 300.223(d)(3), which apply to U.S. fishing vessels equipped with purse seine gear operating in the Convention Area. The phrase “effective date” as used in 50 CFR 300.223(d) is synonymous with the “date of applicability” in this notice of the catch retention requirements. The term “date of applicability” is used here to clarify that the regulation, including 50 CFR 300.223(d)(1), became effective (but not yet applicable) on August 3, 2009. The regulations at 50 CFR 300.223(d) establish the catch retention requirements adopted by the WCPFC. The notification by NMFS is to be based on NMFS’ determination as to whether an adequate number of WCPFC observers is available for the purse seine vessels of all members of the WCPFC as necessary to ensure compliance by such vessels with the catch retention requirements established by the WCPFC. Based upon information provided by the WCPFC Secretariat, NMFS has determined that an adequate number of WCPFC observers is currently available for placement aboard purse seine vessels of all WCPFC members. Accordingly, NMFS announces through this document that the date of applicability of the catch retention requirements is 00:00 on June 14, 2010, UTC. In accordance with 50 CFR 300.223(d)(3), the requirements will be applicable until 24:00 on December 31, 2011, UTC, or until they are nullified by a notification in the **Federal Register** pursuant to 50 CFR 300.223(d)(2).

Further information about the Convention, the catch retention requirements established by the WCPFC, and the basis for the catch retention requirements for U.S. fishing vessels set forth at 50 CFR 300.223(d) can be found in the proposed and final rules to establish the requirements for U.S. fishing vessels (74 FR 26160, June 1, 2009; and 74 FR 38544, August 4, 2009; respectively).

**Classification**

This action is required by 50 CFR 300.223(d) and is exempt from review under Executive Order 12866.

Pursuant to 5 U.S.C. 553(b)(B), the NMFS Assistant Administrator for Fisheries finds good cause to waive the requirement to provide prior notice and an opportunity for public comment on this action, as such procedures would be unnecessary and contrary to the public interest. Such procedures would be unnecessary as NMFS provided prior notice and an opportunity for public comment on the regulations establishing the criteria for implementing the catch retention requirement (proposed rule published at 74 FR 26160, June 1, 2009, and final rule published at 74 FR 38544, August 4, 2009), and all that remains is to notify the public of the date of applicability of the requirement. In addition, prior notice and comment would be contrary to the public interest because it would unnecessarily delay implementation of the catch retention requirement, an international obligation of the United States under the Convention, after a determination that there is a sufficient number of observers for placement aboard purse seine vessels of WCPFC members.

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

Dated: May 7, 2010.

**Samuel D. Rauch III,**

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

[FR Doc. 2010-11348 Filed 5-13-10; 8:45 am]

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Parts 622, 635, 640, and 654**

[Docket No. 100510220-0221-01]

**RIN 0648-AY90**

**Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Emergency Fisheries Closures in the Southeast Region Due to the Deepwater Horizon Oil Spill; Amendment 2**

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

**ACTION:** Emergency rule; amendment; request for comments.

**SUMMARY:** NMFS issues this emergency rule to close portions of the Gulf of

Mexico (Gulf), South Atlantic, and Caribbean exclusive economic zones (Southeast EEZ) to all fishing as necessary when new information becomes available, to respond to the evolving nature of the Deepwater Horizon oil spill. The closed portions of the Southeast EEZ will be updated on a regular basis and announced to the public via NOAA Weather Radio, fishery bulletin, and NOAA Web site updates. The updated closed area may also be obtained by calling the NMFS Southeast Regional Office, Sustainable Fisheries Division at 727-824-5305. This rule replaces the existing closure rule, which became effective May 7, 2010, and will remain in effect until terminated by subsequent rulemaking, which will occur once the existing emergency conditions from the oil spill no longer exist. Fish and shellfish in oil affected waters may be contaminated with levels of hydrocarbons above baseline levels. The U.S. Food and Drug Administration (FDA) considers such seafood to be adulterated. The intent of this emergency rule is to prohibit the harvest of adulterated seafood and for public safety.

**DATES:** This rule is effective May 11, 2010. Comments may be submitted through June 10, 2010.

**ADDRESSES:** You may submit comments on this rule, identified by "0648-AY90" by any of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>.
- **Fax:** 727-824-5308; Attention: Anik Clemens.
- **Mail:** Anik Clemens, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

**Instructions:** No comments will be posted for public viewing until after the comment period. All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

To submit comments through the Federal e-Rulemaking Portal: <http://www.regulations.gov>, enter "NOAA-NMFS-2010-0103" in the keyword search, then select "Send a Comment or Submission." NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in

Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of the environmental assessment, which includes a finding of no significant impact, may be obtained from Cynthia Meyer, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701-5505; telephone: 727-824-5305; e-mail: [cynthia.meyer@noaa.gov](mailto:cynthia.meyer@noaa.gov).

**FOR FURTHER INFORMATION CONTACT:**

Anik Clemens, telephone: 727-824-5305, fax: 727-824-5308, e-mail: [anik.clemens@noaa.gov](mailto:anik.clemens@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) provides the legal authority for the promulgation of emergency regulations under section 305(c).

**Background**

NMFS responded to the April 20, 2010 Deepwater Horizon oil spill by closing a portion of the Gulf EEZ to all fishing through an emergency rule effective May 2, 2010 (75 FR 24822, May 6, 2010). The closure covered an area of the Gulf approximately 6,817 square miles (17,655 square km), or 3 percent of the total area of the Gulf EEZ. Oil continued to leak from the Deepwater Horizon incident at a rate of approximately 5,000 barrels (210,000 gallons, or 794,936.5 liters) per day. Due to the evolving nature of the oil spill, NMFS revised the closed area in a second emergency rule that became effective May 7, 2010 and will publish May 12, 2010. This second emergency rule closed an area of the Gulf approximately 10,807 square miles (27,989 square km), or 4.5 percent of the total area of the Gulf EEZ, therefore, 95.5 percent of the Gulf remains open.

**Need for This Emergency Rule**

The oil spill continues to shift locations in the Gulf of Mexico and could reach South Atlantic and/or Caribbean Federal waters. Wind speed and direction, currents, waves, and other weather patterns lead to changes in oil location. As the weather conditions controlling the movement of the oil change, the oil could move in directions not initially predicted. This emergency rule allows NMFS to make more timely revisions to the area closed to all fishing. This will become necessary as new information on the location of the Deepwater Horizon oil spill becomes available. Continuing to follow the process of revising the closed area through publication of successive emergency rules does not allow for timely modification of the closure and