

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 300**

[Docket No. 090130102-91386-02]

RIN 0648-XA780

Western and Central Pacific Fisheries for Highly Migratory Species; 2011 Bigeye Tuna Longline Fishery Closure

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

ACTION: Temporary rule; fishery closure.

SUMMARY: NMFS is closing the U.S. pelagic longline fishery for bigeye tuna in the western and central Pacific Ocean as a result of the fishery reaching the 2011 catch limit.

DATES: Effective November 27, 2011, through December 31, 2011.

FOR FURTHER INFORMATION CONTACT: Tom Graham, NMFS Pacific Islands Region, (808) 944-2219.

SUPPLEMENTARY INFORMATION: Pelagic longline fishing in the western and central Pacific Ocean is managed, in part, under the Western and Central Pacific Fisheries Convention Implementation Act (Act). Regulations governing fishing by U.S. vessels in accordance with the Act appear at 50 CFR part 300, subpart O.

NMFS established a limit (74 FR 63999, December 7, 2009, and codified at 50 CFR 300.224) for calendar year 2011 of 3,763 metric tons (mt) of bigeye tuna (*Thunnus obesus*) that may be caught and retained in the U.S. pelagic longline fishery 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). NMFS monitored the retained catches of bigeye tuna using logbook data submitted by vessel captains. NMFS used those data and other available information to determine that the 2011 catch limit is expected to be reached on November 27, 2011. In accordance with § 300.224(d), this rule serves as advance notification to fishermen, the fishing industry, and the general public that the U.S. pelagic longline fishery for bigeye tuna in the Convention Area will be closed starting on November 27, 2011, through the end of the 2011 calendar year. The 2012 fishing year is scheduled to open on January 1, 2012. This rule does not apply to the pelagic longline fisheries of American Samoa, Guam, or the

Commonwealth of the Northern Mariana Islands (CNMI), as described below.

During the closure, a U.S. fishing vessel may not retain on board, transship, or land bigeye tuna captured by longline gear in the Convention Area, except that any bigeye tuna already on board a fishing vessel upon the effective date of the restrictions may be retained on board, transshipped, and landed, provided that they are landed within 14 days of the start of the closure, that is, by the end of the day on December 10, 2011. This 14-day landing requirement does not apply to a vessel that has declared to NMFS, pursuant to 50 CFR 665.803(a), that the current trip type is shallow-setting.

Furthermore, bigeye tuna caught by longline gear may be retained on board, transshipped, and landed if the fish are caught by a vessel registered for use under a valid NMFS-issued American Samoa Longline Limited Access Permit, or if they are landed in American Samoa, Guam, or the CNMI. In either of these two cases, however, the following conditions must be met:

(1) The bigeye tuna are not caught in the portion of the U.S. Exclusive Economic Zone (EEZ) around the Hawaiian Archipelago;

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

(3) The bigeye tuna are landed by a U.S. fishing vessel operated in compliance with a valid permit issued under 50 CFR 660.707 or 665.801.

During the closure, a U.S. vessel is also prohibited from transshipping bigeye tuna caught in the Convention Area by longline gear to any vessel other than a U.S. fishing vessel operated with a valid permit issued under 50 CFR 660.707 or 665.801.

The catch limit and this closure do not apply to bigeye tuna caught by longline gear outside the Convention Area, such as in the eastern Pacific Ocean. To ensure compliance with the restrictions related to bigeye tuna caught by longline gear in the Convention Area, however, the following requirements apply during the closure period:

(1) A U.S. fishing vessel may not be used to fish with longline gear both inside and outside the Convention Area during the same fishing trip, with the exception of a fishing trip that is in progress on November 27, 2011. In that case, the catch of bigeye tuna must be landed by the end of the day on December 10, 2011; and

(2) If a U.S. vessel is used to fish 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 be stowed in a manner so as not to be readily available for fishing while the vessel is in the Convention Area. 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.

The above two additional prohibitions do not apply to the following vessels:

(1) Vessels on declared shallow-setting trips pursuant to 50 CFR 665.803(a); and

(2) Vessels registered for use under valid American Samoa Longline Limited Access Permits and vessels landing their bigeye tuna catch in American Samoa, Guam, or the CNMI, so long as these vessels conduct fishing activities in accordance with the conditions described above, that is, the bigeye tuna were not caught in the EEZ around the Hawaiian Archipelago, the retention, transshipment, and/or landing is in compliance with applicable laws and regulations, and the bigeye tuna are landed by a vessel that has a valid permit issued under 50 CFR 660.707 or 665.801.

Classification

There is good cause to waive prior notice and opportunity for public comment pursuant to 5 U.S.C. 553(b)(B). This action is based on the best available information and is necessary for the conservation and management of bigeye tuna. Compliance with the notice and comment requirement would be impracticable and contrary to the public interest, since NMFS would be unable to ensure that the 2011 bigeye tuna catch limit is not exceeded. The annual catch limit is an important mechanism to ensure that the U.S.A. complies with its international obligations in preventing overfishing and managing the fishery at optimum yield. Moreover, NMFS previously solicited public comments on the rule that established the catch limit (74 FR 63999, December 7, 2009). For the same reasons, there is good cause to establish an effective date less than 30 days after date of publication of this notice.

This action is required by § 300.224(d) and is exempt from review under Executive Order 12866.

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

Dated: November 14, 2011.

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National Marine Fisheries Service.

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