

collection requirements, applicants are free to request that materials or information submitted to the Commission be withheld from public inspection. (See 47 CFR 0.459).

Needs and Uses: On July 10, 2019, the Commission adopted a *Report and Order* in MB Docket Nos. 18–202 and 17–105, FCC 19–67, *In the Matter of Children’s Television Programming Rules; Modernization of Media Regulation Initiative*, which modernizes the children’s television programming rules in light of changes to the media landscape that have occurred since the rules were first adopted. The *Report and Order* revises the following information collection requirements:

Pursuant to 47 CFR 25.701(e)(3), DBS providers that air children’s programming must maintain records sufficient to verify compliance with this rule and make such records available to the public. Such records must be maintained for a period sufficient to cover the limitations period specified in 47 U.S.C. Section 503(b)(6)(B). In the *Report and Order*, the Commission revises the rules to permit DBS operators to file their certifications of compliance with the commercial limits in children’s programming annually rather than quarterly and to permit the filing of these certifications within 30 days after the end of the calendar year.

All other information collection requirements contained under 47 CFR 25.701 are still a part of the information collection and remain unchanged since last approved by OMB.

Federal Communications Commission.

Marlene Dortch,
Secretary.

[FR Doc. 2019–27390 Filed 12–19–19; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 216 and 300

[Docket No. 191203–0099]

RIN 0648–BH48

International Fisheries; Pacific Tuna Fisheries; Procedures for the Active and Inactive Vessel Register

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

ACTION: Final rule.

SUMMARY: NMFS is issuing regulations under the Tuna Conventions Act of

1950 (TCA), as amended, and Marine Mammal Protection Act (MMPA), as amended, to implement International Maritime Organization (IMO) requirements in Inter-American Tropical Tuna Commission (IATTC) Resolution C–18–06 (*Resolution (Amended) on a Regional Vessel Register*) and amendments to existing regulations governing inclusion on the IATTC Regional Vessel Register (Vessel Register) by purse seine vessels fishing in the eastern Pacific Ocean (EPO). This final rule would expand the IMO number requirements to include certain categories of smaller U.S. vessels fishing for tuna and tuna-like species in the EPO. This final rule would also relax the restrictions on retention of incidental catch by purse seine vessels. These revisions would provide more clarity and make U.S. regulations more consistent with the IATTC management framework, while allowing controlled operational flexibility for the U.S. industry.

DATES: The final rule is effective January 21, 2020, except for amendatory instructions 2 and 6, which are delayed. NMFS will publish a document in the **Federal Register** announcing the effective date.

ADDRESSES: Copies of supporting documents are available via the Federal eRulemaking Portal: <http://www.regulations.gov>, docket NOAA–NMFS–2018–0030, or by contacting Daniel Studt, NMFS West Coast Region, 501 W Ocean Blvd., Suite 4200, Long Beach, CA 90802, or emailing WCR.HMS@noaa.gov.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted to the NMFS West Coast Region Long Beach Office at the address listed above, by email to OIRA_Submission@omb.eop.gov, or by fax to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Daniel Studt, NMFS, West Coast Region, 562–980–4073.

SUPPLEMENTARY INFORMATION:

Background

On April 16, 2019, NMFS published a proposed rule in the **Federal Register** (84 FR 15556) to implement IMO requirements in IATTC Resolution C–18–06, amendments to existing regulations related to the Vessel Register, and prohibition and incidental catch provisions for purse seine vessels fishing in the EPO. The 30-day public comment period for the proposed rule closed on May 16, 2019. Two comments were received and are addressed below.

NMFS is finalizing the rule as proposed, except for minor revisions in response to comments, as described below. The preamble to the proposed rule contains additional background information, including information on the IATTC, the international obligations of the United States as an IATTC member, and the need for regulations.

This final rule is implemented under authority of the TCA (16 U.S.C. 951 *et seq.*) and MMPA (16 U.S.C. 1361 *et seq.*). The authority of the Secretary of Commerce to promulgate such regulations has been delegated to NMFS. This rule implements IMO requirements of IATTC Resolution C–18–06 and amends several regulations that govern listing of U.S. commercial fishing vessels on the IATTC Vessel Register for vessels that fish for tuna or tuna-like species in the IATTC Convention Area (Convention Area). The Convention Area is defined as waters of the EPO within the area bounded by the west coast of the Americas and by 50° N latitude, 150° W longitude, and 50° S latitude. NMFS notes that some of the requirements described below that include new or revised information collections (*i.e.*, those contained in amendatory sections 2 and 6) will become effective upon further publication of an effective date in the **Federal Register**.

New Requirements

IMO Numbers

This final rule requires that the owner of a fishing vessel of the United States engaging in fishing activities for tuna or tuna-like species in the Convention Area, and for which a high seas fishing permit under 50 CFR 300.333 is required, shall ensure that an IMO number has been issued for the vessel if the vessel’s total internal volume is less than 100 gross registered tons (GRT) or less than 100 gross tons (GT) but equal to or greater than 12 meters in overall length. Vessel measurements are based on the vessel’s Certificate of Documentation issued under 46 CFR part 67, or State documentation. Currently, IMO numbers are issued on behalf of the IMO by IHS Markit, formerly known as IHS Maritime, at no cost to the vessel owner (<https://imonumbers.lrfairplay.com/>). The instructions for requesting an exemption at 50 CFR 300.22(b)(3)(iv) also apply to the vessels subject to this requirement.

Purse Seine Well Volume Capacity Correction

This final rule makes a technical correction to the vessel capacity limit for the U.S. tuna purse seine fishery

operating in the EPO, to ensure the limit is consistent with the amount authorized by the IATTC. This adds 91 cubic meters to the current U.S. fleet capacity limit of 31,775 cubic meters, bringing the limit to 31,866 cubic meters. The additional 91 cubic meters of capacity is a result of an IATTC revision to the historical U.S. fleet capacity.

Inactive Vessels on the Vessel Register

This final rule updates the regulations to clarify that purse seine vessels listed as inactive or sunk on the Vessel Register count towards the United States' 31,866 cubic meter fleet-wide capacity limit.

Additionally, this final rule sets a time limit of 2 consecutive calendar years for vessels holding inactive or sunk status, after which a request by such a vessel to be listed on the Vessel Register would be subject to the prioritization hierarchy at 50 CFR 300.22(b)(4)(v) as added by this rule. Requests for listing on the Vessel Register for the following year received between August 1 and November 30 will be prioritized in the following order: Currently active, currently inactive, first-come first-served, and, lastly, those who made a frivolous request, as described below, or were listed as inactive or sunk for more than two consecutive calendar years. This revision is consistent with the intent of the inactive status provision (*i.e.*, to allow for vessel replacement or repair while not paying a full active vessel assessment fee), while preventing an indefinite hold on capacity.

This final rule allows an owner or managing owner of a purse seine vessel that has sunk but is listed as active on the Vessel Register to request the vessel be listed as sunk and categorized as inactive on the Vessel Register within 30 days of its sinking. Previous regulations required sunken vessels to be immediately removed from the Vessel Register. Under this final rule, if a request is not made to list the vessel as sunk within 30 days of its sinking, the vessel may be removed from the Vessel Register by the NMFS West Coast Regional Administrator.

Frivolous Request Requirements for Small Purse Seiner Vessels

A request for a small purse seine vessel (*i.e.*, vessel with a carrying capacity of 400 short tons (362.8 metric tons) or less) to be listed as active on the Vessel Register for the following year will be considered frivolous if both of the following conditions apply: (1) The vessel has been listed as active during current and previous calendar years;

and (2) the vessel has not landed tuna caught in the Convention Area in the calendar year prior to the request through November 15th of the year in which the request is made. For example, a request for active status made in 2019 to fish in 2020 for a small purse seine vessel that has already been on the active list of the Vessel Register for two calendar years or more would require one landing of tuna between January 1, 2018, and November 15, 2019, or the request would be considered frivolous. If a small purse seine vessel meets the two conditions described above and requests active status on the Vessel Register, the request is considered frivolous and subject to the prioritization hierarchy of requests under 50 CFR 300.22(b)(4)(v). This will prioritize inclusion on the Vessel Register of vessels that are actively fishing and landing tuna. The frivolous request provision for small purse seine vessels allows considerations of force majeure or other extraordinary circumstances that may have prevented a vessel from making a landing during the two year time period. Extraordinary circumstances may include lack of tuna availability, or other unique situations as determined by the Regional Administrator. If the Regional Administrator determines that extraordinary circumstances prevented a vessel from making a landing, the frivolous request provision would not apply and the vessel may be listed on the Vessel Register.

Revisions to Regulations on Bycatch

This final rule revises the regulatory text at 50 CFR 300.24(f) and (g) and 300.27(b) to be more consistent with IATTC Resolution C-04-05. For example, in 50 CFR 300.24(f) and 300.27(b), this final rule amends the release requirements so that they no longer apply to tuna-like species. Exempting tuna-like species from the release requirement allows purse seine vessels to retain tuna-like species, such as Pacific bonito and black skipjack, while remaining consistent with the goal of the Resolution to conserve non-target species. The prohibition on landing non-tuna species is also removed from 50 CFR 300.24(g) to allow for the landing of tuna-like species. Purse seine vessels are still prohibited from landing non-tuna species, other than tuna-like species, because the prohibition on failing to release any non-tuna species other than tuna-like species remains in 50 CFR 300.24(f) and 50 CFR 300.27(b). The continued requirement to release fish other than tuna and tuna-like species, and those retained for consumption on board the

vessel, is necessary to comply with the Resolution and to promote the conservation of such species.

Advance Notice of Vessel Departure

This final rule amends the 5-day advance notice of vessel departure requirement under 50 CFR 216.24(b)(8)(iv)(A) for purposes of facilitating use of the EPO tuna fleet capacity. If a vessel would like to use an IATTC and Western and Central Pacific Fisheries Commission (WCPFC) cross-endorsed observer when fishing in the IATTC Convention Area, the notification must also include a request for the placement of a cross-endorsed observer pursuant to the Memorandum of Cooperation between the IATTC and WCPFC.

Vessel Assessment Fees, Notifications to NMFS, and Housekeeping Revisions

This final rule amends regulatory text at 50 CFR 300.22(b)(4)(i), 300.22(b)(4)(iii), 216.24(b)(6)(iii) and 216.24(b)(8) to clarify that vessel owners must coordinate with NMFS to pay the vessel assessment fee directly to the IATTC, and not to NMFS. As established by the IATTC and implemented in existing regulations, the vessel assessment fee supports maintenance of the observer program and the placement of observers on tuna purse seine vessels.

This final rule also amends notification requirements to facilitate requests for active and inactive status on the Vessel Register. A business email address is now required, to assist in communications between NMFS and vessel owners. NMFS does not specify which notification method to use in sending requests for active status, or requests under the aging fleet provision, to the NMFS West Coast Regional Administrator. Written notifications not related to payment of the vessel assessment fee or permit applications are directed to the Highly Migratory Species (HMS) Branch of the NMFS West Coast Region to facilitate communication. The HMS Branch definition in 50 CFR 300.21 is amended to include the branch email address, wcr.hms@noaa.gov.

Regulations at 50 CFR 216.24(b)(4) will now specify that applicants have the option of submitting eastern tropical Pacific Ocean (ETP) vessel permit applications to NMFS by either fax, email, or via an online application including online payment by credit card as described below.

This final rule amends text in 50 CFR 300.22(b)(7) to clarify that the carrying capacity of inactive purse seine vessels is counted towards the U.S. fleet

capacity limit, for reasons explained above. Text in 50 CFR 300.22(b)(1) is also amended to clarify that the vessel carrying capacity of a purse seine vessel that is permitted and authorized under an alternative international tuna purse seine fisheries management regime in the Pacific Ocean and authorized to exercise an option to fish with purse seine gear to target tuna in the Convention Area is not counted towards the U.S. carrying capacity limit. This rule further clarifies that any vessel exercising this single trip exception must follow the procedures described in 50 CFR 300.22(b)(4), where applicable.

The regulatory text of the proposed rule included a revision to the definition of *tuna* at 50 CFR 300.21, which is currently defined as any fish of the genus *Thunnus* and the species *Euthynnus (Katsuwonus) pelamis*. NMFS did not explain this proposed revision in the preamble to the proposed rule, which was an oversight. NMFS is revising the definition of *tuna* to any fish of the genus *Thunnus* and the species *Katsuwonus pelamis*, removing the reference to *Euthynnus* because *Euthynnus* is no longer commonly used by taxonomers. The revision to the definition is a technical correction, and has no effect on the regulated community or fishery resources.

This final rule also removes the phrase “Eastern Pacific Fisheries” from the section headings for 50 CFR 300.22 and 50 CFR 300.23, because the heading for 50 CFR part 300, subpart C, clearly identifies that the entire subpart deals with “Eastern Pacific Tuna Fisheries.”

This final rule also reorganizes, and amends, 50 CFR 300.22(b)(4) and 50 CFR 300.22(b)(7) to implement changes to purse seine Vessel Register listings and procedures for replacing purse seine vessels removed from the Vessel Register, as described above.

Public Comments and Responses

NMFS received comments from two entities during the 30-day comment period of the proposed rule. The summarized comments from both entities and NMFS’ responses are below. Changes made to the proposed regulatory text in response to these comments may be found in the following section.

Comment 1: One commenter expressed concern that the aging fleet provision does not address a situation where the replacement vessel has a greater carrying capacity than the vessel it is replacing, and noted that vessel owners may wish to replace with a larger vessel. The commenter suggested that the replacement vessel should be granted priority for the same capacity

that the existing vessel had on the Vessel Register, but noted that if there was available capacity, the replacement vessel should be eligible to request the use of this capacity. The commenter further noted that a replacement vessel could seal off wells to reduce the carrying capacity of the vessel, as permitted by the IATTC, until there was enough carrying capacity available to accommodate opening of those wells.

Response: NMFS understands that vessel owners may wish to purchase larger replacement vessels and agrees that any replacement vessels should only be granted priority use of the capacity that the existing vessel previously held. NMFS has changed the proposed regulatory text such that the regulatory text would now state that replacement vessels may have a carrying capacity greater than the vessel being replaced, but that the replacement vessel must have wells sealed in accordance with the protocol adopted by the IATTC, prior to being granted active status, such that the carrying capacity is equal to or less than that granted to the vessel it is replacing. The current IATTC protocol for sealing wells is described in IATTC Resolution C–12–08 (*Protocol for sealing wells on purse-seine vessels*). If additional carrying capacity becomes available, the replacement vessel may request additional carrying capacity subject to the prioritization hierarchy of requests as described in 50 CFR 300.22(b)(4)(v). NMFS notes that the vessel assessment required for listing a vessel as active or inactive on the Vessel Register may be based on the volume of both sealed and non-sealed vessel wells.

Comment 2: The second commenter suggested that vessel owners should not have to commit to fishing in the Convention Area before leaving port in response to the advanced notice of vessel departure requirement revision.

Response: An advanced notice of a vessel’s departure to fish in the Convention Area has been a requirement since 2004 (69 FR 55288, September 13, 2004) and the rationale for this notice remains unchanged. Large purse seine vessels (*i.e.*, vessels with a carrying capacity of more than 400 short tons (362.8 metric tons)), and certain other vessels fishing in the Convention Area are obligated to carry an approved observer, and the advanced notice of departure facilitates the placement of an approved observer onboard the vessel. If an advanced notice of departure is not received, then the placement of an IATTC-approved observer could not occur. The new requirement to supplement the vessel departure notification with the request

for a cross-endorsed observer if the vessel intends to also fish in both the IATTC and Western and Central Pacific Fisheries Commission (WCPFC) Convention Areas during the same trip further facilitates the placement of such an approved observer. There are a limited number of cross-endorsed observers (those approved to observe in both the IATTC and WCPFC Convention Areas) and it benefits the fleet to coordinate placement of such observers on vessels fully authorized and intending to fish in both Convention areas, so as not to require the placement of two approved observers (*i.e.*, one for each Convention Area).

Comment 3: The second commenter also requested the ability to apply for an eastern tropical Pacific Ocean (ETP) vessel permit online and for the ability to pay for the permit with a credit card.

Response: NMFS agrees and has modified the regulatory text at 216.24(b)(4) to allow applicants the option of submitting ETP vessel permit applications to NMFS by either fax, email, or via an online application including online payment by credit card. To apply for an ETP vessel permit online, the applicant must first email a request to wcr.hms@noaa.gov. Depending on the availability of permits, detailed instructions for applying online will then be supplied to the applicant.

Changes From the Proposed Rule

Aging Fleet Provision

NMFS agrees with comment 1, above, that the proposed aging fleet provision did not address a situation in which a vessel is to be replaced by one with a greater carrying capacity, therefore NMFS has changed the text from the proposed rule to take into account such a situation. In instances where the replacement vessel has a greater carrying capacity than that of the vessel being replaced, the replacement vessel will be eligible to be listed as active on the Vessel Register at the same or lesser carrying capacity as that of the vessel it is replacing. If the replacement vessel has a carrying capacity greater than the vessel being replaced, the vessel owner or managing owner may request additional carrying capacity be allocated to the vessel in accordance with the listing hierarchy for vessels on a first-come, first-served basis, under 50 CFR 300.22(b)(4)(v)(D). If additional carrying capacity is not available at the time the request to be listed as active on the Vessel Register is received by the Regional Administrator, the replacement vessel must reduce its carrying capacity to no more than the

previously authorized carrying capacity of the vessel being replaced, by complying with the protocol for sealing wells adopted by the IATTC, prior to it being listed as active on the Vessel Register. Such a vessel may apply for additional carrying capacity as it becomes available, under the procedures described in 50 CFR 300.22(b)(4)(v)(D). Other processes of the aging fleet provision described in the preamble of the proposed rule remain unchanged.

ETP Vessel Permit Application

As described above, in response to comment 3, through this final rule NMFS is modifying the regulatory text at 216.24(b)(4) to allow ETP vessel permit applications to be submitted by email to NMFS at wcr.hms@noaa.gov, or through an online permit system. Previously, only faxed applications were allowed. The online application option would require payment of permit fees by credit card. Applications by fax or email require payment by check or money order. To apply for an ETP vessel permit online, the applicant must first email a request to wcr.hms@noaa.gov. Directions for applying online will then be supplied to the applicant. First contacting NMFS to request application online is necessary to ensure that there is enough capacity to accommodate the vessel on the Vessel Register prior to processing of a credit card payment for a permit.

Classification

The NMFS Assistant Administrator, in consultation with the Department of State and the U.S. Coast Guard, has determined that this final rule is consistent with the TCA and other applicable laws.

This final rule has been determined to be not significant for purposes of Executive Order 12866. This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

This final rule contains revised collection-of-information requirements subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) under control number 0648-0387. A request for revision to account for the additional information and updated notification requirements that would be required pursuant to this rule is under OMB review. Public reporting burden for obtaining an IMO number (50 CFR 300.22(b)(3)(iii)), for making an IMO exemption request (50 CFR 300.22(b)(3)(iv)), for making a sunk status request (50 CFR

300.22(b)(4)(iii)(D)), and for making an aging fleet provision request (50 CFR 300.22(b)(9)(iii)), are each estimated to average 30 minutes per response. This includes time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Public reporting burden for requesting utilization of a cross-endorsed observer at 50 CFR 216.24(b)(8)(iv)(A) is estimated to add 2 minutes to the vessel departure notification requirement, which is estimated to average 10 minutes per response. Additionally, revisions to 50 CFR 216.24(b)(4) requiring an email notification to NMFS to request an online ETP vessel permit application is expected to add 1 minute per response. Revisions made to the vessel register annual notification and vessel permit application fees at 50 CFR 216.24(b)(6)(iii) and 216.24(b)(6)(8)(iv) are not expected to change the public reporting burden.

Comments regarding these burden estimates, or any other aspects of the collection of information should be sent to the NMFS West Coast Region Long Beach office at the addresses above, by email to OIRA_Submission@omb.eop.gov, or by fax to (202) 395-5806. All currently approved NOAA collections of information may be viewed at: http://www.cio.noaa.gov/services_programs/prasubs.html.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that, for purposes of the Regulatory Flexibility Act, this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received about the certification. As such, no information received during the public comment period changes NMFS' analysis. Therefore, the initial certification published with the proposed rule—that this rule is not expected to have a significant economic impact on a substantial number of small entities—remains unchanged. As a result, a regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR Parts 216 and 300

Fish, Fisheries, Fishing, Fishing vessels, Reporting and recordkeeping requirements.

Dated: December 3, 2019.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR parts 216 and 300 are amended as follows:

PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS

■ 1. The authority citation for part 216 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

■ 2. In § 216.24, revise paragraphs (b)(4), (b)(6)(iii)(A) through (D), (b)(6)(iii)(F), and (b)(8)(iv)(A) to read as follows:

§ 216.24 Taking and related acts in commercial fishing operations including tuna purse seine vessels in the eastern tropical Pacific Ocean.

* * * * *

(b) * * *

(4) *Application for vessel permit.* ETP tuna purse seine vessel permit application forms and instructions for their completion are available from NMFS. To apply for an ETP vessel permit, a vessel owner or managing owner must complete, sign, and submit the appropriate form via fax to (562) 980-4047, by email to wcr.hms@noaa.gov, or through an online permit system, allowing at least 15 days for processing. To submit an ETP vessel permit application online, a request must first be made to wcr.hms@noaa.gov, and NMFS will give instructions about whether and how an online application can be made. To request that a vessel in excess of 400 st (362.8 mt) carrying capacity be categorized as active on the Vessel Register under § 300.22(b)(4)(ii) of this title in the following calendar year, the owner or managing owner must submit the vessel permit application, payment of the vessel permit application fee, and payment of the vessel assessment fee no later than September 15 for vessels for which a DML is requested for the following year, and no later than November 30 for vessels for which a DML is not requested for the following year.

* * * * *

(6) * * *

(iii) * * *

(A) The owner or managing owner of a purse seine vessel for which a DML has been requested must submit the vessel assessment fee to the IATTC, no later than September 15 of the year prior to the calendar year for which the DML is requested. Payment of the vessel

assessment fee must be consistent with the fee for active status on the Vessel Register under § 300.22(b)(4) of this title.

(B) The owner or managing owner of a purse seine vessel for which active or inactive status on the Vessel Register, as defined in § 300.21 of this title, has been requested, but for which a DML has not been requested, must submit payment of the vessel assessment fee to the IATTC, no later than November 30 of the year prior to the calendar year in which the vessel will be listed on the Vessel Register. Payment of the vessel assessment fee is required only if the vessel is listed as active and is required to carry an observer, or if the vessel is listed as inactive and exceeds 400 st (362.8 mt) in carrying capacity. Payment of the vessel assessment fee must be consistent with the vessel's status, either active or inactive, on the Vessel Register in § 300.22(b)(4) of this title.

(C) The owner or managing owner of a purse seine vessel that is permitted and authorized under an alternative international tuna purse seine fisheries management regime in the Pacific Ocean must submit the vessel assessment fee to the IATTC, prior to obtaining an observer and entering the ETP to fish. Consistent with § 300.22(b)(1) of this title, this class of purse seine vessels is not required to be listed on the Vessel Register under § 300.22(b)(4) of this title in order to purse seine for tuna in the ETP during a single fishing trip per calendar year of 90 days or less. Payment of the vessel assessment fee must be consistent with the fee for active status on the Vessel Register under § 300.22(b)(4)(ii) of this title.

(D) The owner or managing owner of a purse seine vessel listed as inactive on the Vessel Register at the beginning of the calendar year and who requests active status on the Vessel Register under § 300.22(b)(4) of this title during the year, must pay the vessel assessment fee associated with active status, less the vessel assessment fee associated with inactive status that was already paid, before NMFS will request the IATTC Director change the status of the vessel from inactive to active. Payment of the vessel assessment fee is required only if the vessel is required to carry an observer.

* * * * *

(F) Payments will be subject to a 10 percent surcharge if received under paragraph (b)(6)(iii)(E) of this section for vessels that were listed as active on the Vessel Register in the calendar year prior to the year for which active status was requested; or if received after the

dates specified in paragraph (b)(6)(iii)(A) or (B) of this section for vessels for which active status is requested if the vessel was listed as active during the year the request was made. Payments will not be subject to a 10 percent surcharge if received under paragraph (b)(6)(iii)(C) or (D) of this section, or if received under paragraph (b)(6)(iii)(E) of this section for vessels that were not listed as active on the Vessel Register in the calendar year prior to the year for which active status was requested. Payments will also not be subject to a 10 percent surcharge if received after the date specified in paragraph (b)(6)(iii)(B) of this section for vessels for which inactive status is requested, or for vessels for which active status is requested if the vessel was not listed as active during the year the request was made. Payment of all vessel assessment fees described in this section must be made to the IATTC.

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(8) * * *

(iv) * * *

(A) The vessel permit holder of each permitted vessel must notify the Administrator, West Coast Region, or the IATTC contact designated by the Administrator, West Coast Region, at least 5 days in advance of the vessel's departure on a fishing trip to allow for observer placement on every trip. If the vessel permit holder would like to use an IATTC and Western and Central Pacific Fisheries Commission (WCPFC) cross-endorsed observer when fishing in the IATTC Convention Area, the notification must also include a request for the placement of a cross-endorsed observer pursuant to the Memorandum of Cooperation between the IATTC and WCPFC.

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PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart C—Eastern Pacific Tuna Fisheries

■ 3. The authority citation for part 300, subpart C, continues to read as follows:

Authority: 16 U.S.C. 951 *et seq.*

■ 4. In § 300.21, revise the definitions of “Highly Migratory Species (HMS) Branch” and “Tuna” to read as follows:

§ 300.21 Definitions.

* * * * *

Highly Migratory Species (HMS) Branch means the Chief of the HMS Branch of the Sustainable Fisheries Division, National Marine Fisheries Service West Coast Region, Suite 4200,

501 W Ocean Blvd., Long Beach, CA 90802, and *wcr.hms@noaa.gov*.

* * * * *

Tuna means any fish of the genus *Thunnus* and the species *Katsuwonus pelamis*.

* * * * *

■ 5. In § 300.22:

■ a. Revise paragraphs (b)(1) and (2), (b)(3)(v), (b)(4), and (b)(5)(ii) through (viii);

■ b. Add paragraph (b)(5)(ix);

■ c. Revise paragraphs (b)(7) and (8); and

■ d. Add paragraph (b)(9).

The revisions and addition read as follows:

§ 300.22 Recordkeeping and reporting requirements.

* * * * *

(b) * * *

(1) *Exception.* Once per year, a vessel that is permitted and authorized under an alternative international tuna purse seine fisheries management regime in the Pacific Ocean may exercise an option to fish with purse seine gear to target tuna in the Convention Area without the vessel's capacity counted towards the cumulative carrying capacity described under paragraph (b)(4)(i)(A) of this section. This exception is for a single fishing trip that does not exceed 90 days in duration. At any time during the calendar year, a vessel exercising this exception shall follow the procedures, where applicable, described in paragraphs (b)(4) of this section. No more than 32 of such trips are allowed each calendar year. After the commencement of the 32nd such trip, the Regional Administrator shall announce, in the **Federal Register** and by other appropriate means, that no more such trips are allowed for the remainder of the calendar year. Under § 216.24(b)(6)(iii)(C) of this title, vessel assessment fees must be paid for vessels exercising this option.

(2) *Requirements for inclusion of purse seine vessels on the Vessel Register.* The tuna purse seine portion of the Vessel Register shall include, consistent with resolutions of the IATTC, only vessels that fished in the Convention Area prior to June 28, 2002. Inclusion on the tuna purse seine portion of the Vessel Register is valid through December 31 of each year. New tuna purse seine vessels may be added to the Vessel Register at any time to replace those previously removed by the Regional Administrator, provided that the total capacity of the replacement vessel or vessels does not exceed that of the tuna purse seine vessel or vessels being replaced.

(3) * * *

(v) *Exemption process.* Upon receipt of a request for an exemption under paragraph (b)(3)(iv) of this section, the Regional Administrator will, to the extent he or she determines appropriate, assist the fishing vessel owner in requesting an IMO number. If the Regional Administrator determines that the fishing vessel owner has followed all appropriate procedures and yet is unable to obtain an IMO number for the fishing vessel, he or she will issue an exemption from the requirements of paragraph (b)(3)(iii) of this section for the vessel and its owner and notify the owner of the exemption. The Regional Administrator may limit the duration of the exemption. The 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 (b)(3)(iii) 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.

(4) *Purse seine Vessel Register listing.* For a tuna purse seine vessel to be listed on the Vessel Register and to be categorized as either “active” or “inactive” in the following calendar year, the vessel owner or managing owner must submit to the Regional Administrator the required permit applications, written notifications, and fees as described under § 216.24(b) of this title and under paragraphs (b)(4)(ii) and (iii) of this section as well as payment of the vessel assessment fee, where applicable, to the IATTC.

(i) *Restrictions.* The following restrictions apply:

(A) The cumulative carrying capacity of all tuna purse seine vessels on the Vessel Register may not exceed 31,866 cubic meters in a given year; and

(B) A purse seine vessel in excess of 400 st (362.8 mt) carrying capacity may not be added to active status on the Vessel Register unless the captain of the vessel has obtained a valid operator permit under § 216.24(b)(2) of this title.

(ii) *Active status.* As early as August 1 of each year, vessel owners or managing owners may request that a purse seine vessel qualified to be listed on the Vessel Register under paragraph (b)(2) of this section be categorized as active for the following calendar year. To request a purse seine vessel in excess of 400 st (362.8 mt) carrying capacity be listed on the Vessel Register and be categorized as active, the vessel owner or managing owner must submit to the Regional Administrator the vessel permit application and payment of the

permit application fee and submit to the IATTC payment of the vessel assessment fee.

(A) To request a purse seine vessel of 400 st (362.8 mt) carrying capacity or less be listed on the Vessel Register and be categorized as active, the vessel owner or managing owner must submit to the HMS Branch written notification including, but not limited to, a vessel photograph, the vessel information as described under paragraph (b)(3) of this section, and the owner or managing owner's signature, business email address, and business telephone and fax numbers. If a purse seine vessel of 400 st (362.8 mt) carrying capacity or less is required by the Agreement on the IDCP to carry an observer, the vessel owner or managing owner must also submit payment of the vessel assessment fee to the IATTC.

(B) The Regional Administrator must receive the vessel permit application or written notification and payment of the permit application fee and payment confirmation of the vessel assessment fee no later than September 15 for vessels for which a DML was requested for the following year and no later than November 30 for vessels for which a DML was not requested for the following year. Submission of the vessel permit application or written notification and payment of the vessel assessment fee and permit application fee will be interpreted by the Regional Administrator as a request for a vessel to be categorized as active.

(iii) *Inactive status.* (A) From August 1 through November 30 of each year, vessel owners or managing owners may request that purse seine vessels qualified to be listed on the Vessel Register under paragraph (b)(2) of this section be categorized as inactive for the following calendar year. To request a purse seine vessel in excess of 400 st (362.8 mt) carrying capacity be listed on the Vessel Register and categorized as inactive for the following calendar year, the vessel owner or managing owner must submit to the IATTC payment of the associated vessel assessment fee. Payment of the vessel assessment fee consistent with inactive status will be interpreted by the Regional Administrator as a request for the vessel to be categorized as inactive.

(B) To request a tuna purse seine vessel of 400 st (362.8 mt) carrying capacity or less be listed on the Vessel Register and categorized as inactive for the following calendar year, the vessel owner or managing owner must submit to the HMS Branch a written notification including, but not limited to, the vessel name and registration number and the vessel owner or

managing owner's name, signature, business address, business email address, and business telephone and fax numbers. Payment of the vessel assessment fee is not required for vessels of 400 st (362.8 mt) carrying capacity or less to be categorized as inactive.

(C) At any time during the year, a vessel owner or managing owner may request that a tuna purse seine vessel qualified to be listed on the Vessel Register under paragraph (b)(2) of this section be categorized as inactive for the remainder of the calendar year, provided the cumulative carrying capacity described in (b)(4)(i)(A) of this section is not exceeded. To request a purse seine vessel in excess of 400 st (362.8 mt) carrying capacity be listed on the Vessel Register and categorized as inactive for the remainder of the calendar year, the vessel owner or managing owner must submit to the IATTC payment of the associated vessel assessment fee. To request a tuna purse seine vessel of 400 st (362.8 mt) carrying capacity or less be listed on the Vessel Register and categorized as inactive for the remainder of the calendar year, the vessel owner or managing owner must submit to the HMS Branch written notification as described in (b)(4)(iii)(A) of this section. Payment of the vessel assessment fee is not required for such vessels.

(D) [Reserved]

(E) A vessel listed as inactive or sunk on the Vessel Register for more than two consecutive calendar years after January 21, 2020 requesting active status will be prioritized according to the hierarchy under paragraph (b)(4)(v) of this section. A vessel listed as inactive or sunk on the Vessel Register for more than two consecutive calendar years after January 21, 2020 will be removed from the Vessel Register as described in paragraph (b)(5)(ix) of this section.

(iv) *Frivolous requests.* (A) Except as described under paragraph (b)(4)(iv)(B) of this section, requests for active status under paragraph (b)(4)(ii) of this section will be considered frivolous if, for a vessel categorized as active on the Vessel Register in a given calendar year:

(1) Less than 20 percent of the vessel's total landings, by weight, in that same year is comprised of tuna harvested by purse seine in the Convention Area; or

(2) The vessel did not fish for tuna at all in the Convention Area in that same year.

(B) Requests described under paragraph (b)(4)(iv)(A) of this section will not be considered frivolous requests if:

(1) The vessel's catch pattern fell within the criteria described in

paragraph (b)(4)(iv)(A) of this section as a result of force majeure or other extraordinary circumstances as determined by the Regional Administrator; or

(2) The vessel's carrying capacity is 400 st (362.8 mt) or less and there was at least one documented landing of tuna caught by the vessel in the Convention Area in the calendar year prior to the year in which the request is made and through November 15 of the year of the request, unless the vessel was not able to make a landing as a result of force majeure or other extraordinary circumstances as determined by the Regional Administrator.

(3) The vessel was listed as inactive before January 21, 2020 and has not been listed as inactive for more than two consecutive calendar years since January 21, 2020.

(v) *Listing hierarchy.* Requests for active status and inactive status will be prioritized according to the following hierarchy:

(A) Requests received for replacement vessels with a carrying capacity equal to or less than a vessel removed from the Vessel Register under a request described in paragraph (b)(9) of this section;

(B) Requests received for vessels that were categorized as active in the previous year, unless the request was determined to be frivolous by the Regional Administrator under paragraph (b)(4)(ii) of this section;

(C) Requests received for vessels that were categorized as inactive under paragraph (b)(4)(iii) of this section in the previous year, unless that vessel has been listed as inactive or sunk under paragraph (b)(4)(iii) of this section for more than 2 consecutive calendar years after January 21, 2020;

(D) Requests for vessels not described in paragraphs (b)(4)(v)(A) through (C) of this section, and requests, if applicable, by replacement vessels for the portion of the carrying capacity greater than the amount authorized to the vessel that was replaced under paragraph (b)(9) of this section, will be prioritized on a first-come, first-served basis according to the date and time of receipt, provided that the associated vessel assessment fee is paid by the applicable deadline described in § 216.24(b)(6)(iii) of this title; and

(E) Requests received from owners or managing owners of vessels that were determined by the Regional Administrator to have made a frivolous request for active status under paragraph (b)(4)(iv) of this section or that have been listed as inactive or sunk as described in paragraph (b)(4)(iii) of this section for more than two

consecutive calendar years after January 21, 2020.

(5) * * *

(ii) Upon written request by the vessel's owner or managing owner;

(iii) Following a final agency action on a permit sanction for a violation; and

(iv) For failure to pay a penalty or for default on a penalty payment agreement resulting from a final agency action for a violation.

(v) If the U.S. Maritime Administration or the U.S. Coast Guard notifies NMFS that:

(A) The owner has submitted an application for transfer of the vessel to foreign registry and flag; or

(B) The documentation for the vessel will be or has been deleted for any reason.

(vi) If the vessel does not have a valid state registration or U.S. Coast Guard certificate of documentation;

(vii) For tuna purse seine vessels, upon receipt of written notification from the owner or managing owner of the intent to transfer the vessel to foreign registry and flag, as described in paragraph (b)(8) of this section; or

(viii) For tuna purse seine vessels, if the request for active status on the Vessel Register has been determined to be a frivolous request; or

(ix) If the vessel has been listed as inactive or sunk on the Vessel Register for more than two consecutive calendar years after January 21, 2020.

* * * * *

(7) *Procedures for replacing purse seine vessels removed from the Vessel Register.*

(i) A purse seine vessel that was previously listed on the Vessel Register, but not included for a given year or years, may be added back to the Vessel Register and categorized as inactive at any time during the year, provided the cumulative carrying capacity described in (b)(4)(i)(A) of this section is not exceeded. The owner or managing owner of a purse seine vessel of more than 400 st (362.8 mt) carrying capacity must pay the vessel assessment fee associated with inactive status. The owner or managing owner of a purse seine vessel of 400 st (362.8 mt) carrying capacity or less must submit written notification as described in paragraph (b)(4)(iii) of this section.

(ii) A purse seine vessel may be added to the Vessel Register and categorized as active in order to replace a vessel or vessels removed from active or inactive status under paragraph (b)(5) of this section, provided the total carrying capacity described in (b)(4)(i)(A) of this section is not exceeded and the owner submits a complete request under paragraph (b)(7)(iv) or (v) of this section.

(iii) Notification of available capacity after a purse seine vessel has been removed from the Vessel Register will be conducted as follows:

(A) After a purse seine vessel categorized as active or inactive is removed from the Vessel Register, the Regional Administrator will notify owners or managing owners of vessels eligible for, but not included on, the Vessel Register that replacement capacity is available on the active or inactive list of the Vessel Register.

(B) When a purse seine vessel categorized as active or inactive on the Vessel Register has been removed from the Vessel Register under the procedures described in (b)(9) of this section, the Regional Administrator will not make available the capacity of the vessel removed from the Vessel Register, and will reserve that capacity for a replacement vessel for a period of 2 years from the date of notification described in (b)(9)(iv) of this section. The replacement vessel will be eligible to be listed as active on the Vessel Register at the same carrying capacity or less as that of the vessel it is replacing. If the replacement vessel has a carrying capacity greater than the vessel being replaced, the vessel owner or managing owner may request additional carrying capacity allocated to the vessel in accordance with paragraph (b)(4)(v)(D) of this section. If additional carrying capacity is not available, the replacement vessel must reduce its carrying capacity to no more than the previously authorized carrying capacity amount for the vessel being replaced by complying with the protocol for sealing wells adopted by the IATTC, prior to it being listed as active on the Vessel Register. Such a vessel may apply for additional carrying capacity as it becomes available under the procedures described in (b)(4)(v)(D) of this section.

(iv) Vessel owners or managing owners may request a purse seine vessel of 400 st (362.8 mt) carrying capacity or less be categorized as active to replace a vessel or vessels removed from the Vessel Register by submitting to the HMS Branch written notification as described in paragraph (b)(4)(ii) of this section and, only if the vessel is required by the Agreement on the IDCP to carry an observer, payment of the vessel assessment fee to the IATTC within 10 business days after submission of the written notification. The replacement vessel will be eligible to be categorized as active on the Vessel Register at the same carrying capacity or less as that of the vessel or vessels it is replacing. If the replacement vessel has a carrying capacity greater than the vessel being replaced, the vessel owner

or managing owner may request additional carrying capacity allocated to the vessel in accordance with paragraph (b)(4)(v)(D) of this section. If additional carrying capacity is not available, the replacement vessel must reduce its capacity to no more than the previously authorized carrying capacity for the vessel or vessels being replaced by complying with the protocol for sealing wells adopted by the IATTC, prior to it being listed as active on the Vessel Register. Such a vessel may apply for additional carrying capacity as it becomes available. Payments received will be subject to a 10 percent surcharge for vessels that were listed as active on the Vessel Register in the previous calendar year, but not listed as inactive at the beginning of the calendar year for which active status was requested.

(v) Vessel owners or managing owners may request a purse seine vessel in excess of 400 st (362.8 mt) carrying capacity be categorized as active to replace a vessel or vessels removed from the Vessel Register by submitting to the Regional Administrator the vessel permit application as described under § 216.24(b) of this title and payment of the vessel assessment fee to the IATTC and payment of the permit application fee to the Regional Administrator within 10 business days after submission of the vessel permit application for the replacement vessel. The replacement vessel will be eligible to be categorized as active on the Vessel Register at the same carrying capacity as that of the vessel or vessels it is replacing. If the replacement vessel has a carrying capacity greater than the vessel being replaced, the vessel owner or managing owner may request additional carrying capacity allocated to the vessel in accordance with paragraph (b)(4)(v)(D) of this section. If additional carrying capacity is not available, the replacement vessel must reduce its carrying capacity to no more than the previously authorized carrying capacity for the vessel or vessels being replaced by complying with the protocol for sealing wells adopted by the IATTC, prior to it being listed as active on the Vessel Register. Such a vessel may apply for additional carrying capacity as it becomes available. The replacement vessel will also only be eligible to be categorized as active on the Vessel Register if the captain of the replacement vessel possesses an operator permit under § 216.24(b) of this title. Payments received will be subject to a 10 percent surcharge for vessels that were listed as active on the Vessel Register in the previous calendar year, but not listed as inactive at the

beginning of the calendar year for which active status was requested.

(vi) The Regional Administrator will forward requests to replace vessels removed from the Vessel Register within 15 days of receiving each request.

(8) *Transfers to a foreign registry and flag.* The owner or managing owner of a purse seine vessel listed on the Vessel Register must provide written notification to the Regional Administrator prior to submitting an application for transfer of the vessel to foreign registry and flag. Written notification must be submitted to the Regional Administrator at least 10 business days prior to submission of the application for transfer. The written notification must include the vessel name and registration number; the expected date that the application for transfer will be submitted; and the vessel owner or managing owner's name and signature. Vessels that require approval by the U.S. Maritime Administration prior to transfer of the vessel to foreign registry and flag will not be subject to the notification requirement described in this paragraph.

(9) *Aging fleet provision.* (i) The vessel owner or managing owner of a purse seine vessel listed as active or inactive on the Vessel Register may request to replace the current vessel with a new or used vessel without losing the vessel's placement in the hierarchy of requests for active status as described in paragraph (b)(4)(v) of this section. The replacement vessel will be eligible to be listed as active on the Vessel Register at the same carrying capacity or less as that of the vessel it is replacing. If the replacement vessel has a carrying capacity greater than the vessel being replaced, the vessel owner or managing owner may request additional carrying capacity be allocated to the vessel in accordance with paragraph (b)(4)(v)(D) of this section. If additional carrying capacity is not available at the time the request to be listed as active on the Vessel Register is received by the Regional Administrator, the replacement vessel must reduce its carrying capacity to no more than the previously authorized carrying capacity of the vessel being replaced by complying with the protocol for sealing wells adopted by the IATTC, prior to it being listed as active on the Vessel Register. Such a vessel may apply for additional carrying capacity as it becomes available under the procedures described in paragraph (b)(4)(v)(D) of this section. This aging fleet provision may be used only once per vessel by the vessel owner or managing owner.

(ii) A request made under this provision may include a request to remove the vessel from the Vessel Register. The Regional Administrator will ensure the amount of carrying capacity equal to or less of the vessel being replaced will be available for the replacement vessel for up to 2 years from the date of notification described in paragraph (b)(9)(iv) of this section.

■ 6. Section 300.22 is further amended by revising paragraphs (b)(3)(iii) and (iv) and adding paragraphs (b)(4)(iii)(D), (b)(5)(i), and (b)(9)(iii) and (iv) to read as follows:

§ 300.22 Recordkeeping and reporting requirements.

* * * * *

(b) * * *

(3) * * *

(iii) *Requirements for IMO numbers.*

The owner of a fishing vessel of the United States used for commercial fishing for tuna and tuna-like species in the IATTC Convention Area shall ensure that an IMO number has been issued for the vessel if the vessel's Certificate of Documentation issued under 46 CFR part 67 indicates that the vessel's total internal volume is 100 gross register tons or greater or 100 gross tonnage or greater. In addition, the owner of a fishing vessel of the United States engaging in fishing activities for tuna or tuna-like species in the IATTC Convention Area, and for which a high seas fishing permit under § 300.333 is required, shall ensure that an IMO number has been issued for the vessel if the vessel's total internal volume is less than 100 gross registered tons or less than 100 gross tons, but equal to or greater than 12 meters in overall length, as indicated in the vessel's Certificate of Documentation issued under 46 CFR part 67 or State documentation. A vessel owner may request that an IMO number be issued 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 website of IHS Markit, <https://imonumbers.lrfairplay.com/>.

(iv) *Request for exemption.* In the event that a fishing vessel owner, after following the instructions given by the designated manager of the IMO ship identification number scheme, is unable to ensure that an IMO number is issued for the fishing vessel, the fishing vessel owner may request an exemption from the requirement from the Regional Administrator. The request must be sent by mail to NMFS HMS Branch, West Coast Region, 501 W Ocean Blvd., Suite 4200, Long Beach, CA 90802, or by email to wcr.hms@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) * * *

(iii) * * *

(D) The vessel owner or managing owner of a purse seine vessel listed as active on the Vessel Register that has sunk may request the vessel be listed as sunk and categorized as inactive on the Vessel Register. To request the vessel be listed as sunk and categorized as inactive on the Vessel Register, the vessel owner or managing owner must submit to the HMS Branch written notification within 30 days of the vessel's sinking. Written notification shall include, but is not limited to, the vessel name, date of sinking, registration number, the vessel owner or managing owner's name, signature, business address, business email address, and business telephone and fax numbers. For subsequent calendar years, vessel assessment fee payment shall be made as described in paragraph (b)(4)(iii) of this section.

* * * * *

(5) * * *

(i) If the vessel has sunk, and the vessel owner or managing owner has not submitted written notification as described in paragraph (b)(4)(iii)(D) of this section;

(9) * * *

(iii) To request a vessel be replaced under this provision, the vessel owner or managing owner must submit to the HMS Branch written notification including, but not limited to, the vessel name and registration number, the vessel owner or managing owner's name, signature, business address, business email address, and business telephone and fax numbers, and the expected month and year the replacement vessel will be ready to fish in the Convention Area.

(iv) Within 30 days of receiving each request described in (b)(9)(iii) of this section, the Regional Administrator shall notify the vessel owner or managing owner in writing whether the request has been accepted or denied, and the reasons therefore.

* * * * *

■ 7. In § 300.23, revise the section heading to read as follows:

§ 300.23 Persons and vessels exempted.

* * * * *

■ 8. In § 300.24, revise paragraph (f) and remove and reserve paragraph (g).

The revision reads as follows:

§ 300.24 Prohibitions.

* * * * *

(f) When using purse seine gear to fish for tuna in the Convention Area, fail to release any fish species (excluding mobulid rays, tuna, tuna-like species, and those being retained for consumption aboard the vessel) as soon as practicable after being identified on board the vessel during the brailing operation as required in § 300.27(b).

* * * * *

■ 9. In § 300.27, revise paragraph (b) to read as follows:

§ 300.27 Incidental catch and tuna retention requirements.

* * * * *

(b) *Release requirements for fish species on purse seine vessels.* All purse seine vessels must release, as soon as practicable after being identified on board the vessel during the brailing operation, all billfish, rays (not including mobulid rays, which are subject to paragraph (i) of this section), dorado (*Coryphaena hippurus*), and other fish species. This requirement does not apply to tuna or tuna-like species, or to other fish retained for consumption aboard the vessel. Sharks caught in the IATTC Convention Area and that are not retained for consumption aboard the vessel must be released according to the requirements in paragraph (k) of this section. Tuna caught in the IATTC Convention Area are subject to the retention requirements in paragraph (a) of this section.

* * * * *

[FR Doc. 2019-26394 Filed 12-19-19; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223

[Docket No. 161109999-8845-02]

RIN 0648-BG45

Sea Turtle Conservation; Shrimp Trawling Requirements

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

ACTION: Final rule.

SUMMARY: We, the NMFS, are issuing a final rule to amend the alternative tow time restriction to require all skimmer trawl vessels 40 feet and greater in length to use turtle excluder devices (TEDs) designed to exclude small sea

turtles in their nets. The purpose of this rule is to reduce incidental bycatch and mortality of sea turtles in the southeastern U.S. shrimp fisheries, and to aid in the protection and recovery of listed sea turtle populations. We are also amending the definition of tow time to better clarify the intent and purpose of tow times to reduce sea turtle mortality, and we are refining additional portions of the TED requirements to avoid potential confusion.

DATES: This final rule is effective on April 1, 2021.

ADDRESSES: Public comments and other supporting materials are available at www.regulations.gov identified by docket number NOAA-NMFS-2016-0151, or by submitting a request to Michael Barnette, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

FOR FURTHER INFORMATION CONTACT: Michael Barnette, 727-551-5794, michael.barnette@noaa.gov.

SUPPLEMENTARY INFORMATION:

Background

Under the Endangered Species Act (ESA) and its implementing regulations, taking (e.g., harassing, injuring or killing) sea turtles is prohibited, except as identified in 50 CFR 223.206 in compliance with the terms and conditions of a biological opinion issued under section 7 of the ESA, or in accordance with an incidental take permit issued under section 10 of the ESA. Incidental takes of threatened and endangered sea turtles during shrimp trawling are exempt from the taking prohibition of section 9 of the ESA so long as the conservation measures specified in the sea turtle conservation regulations (50 CFR 223.206; 50 CFR 224.104) are followed.

On March 15, 2016 (81 FR 13772), we published a notice of intent to prepare an environmental impact statement to analyze potential revisions to the sea turtle conservation regulations, and conducted five scoping meetings in April 2016. We then incorporated the information and public comments gathered during that process into a draft environmental impact statement (DEIS), the notice of availability of which was published on December 16, 2016 (EIS No. 20160294; 81 FR 91169). The analysis included in this DEIS demonstrated that withdrawing the alternative tow time restriction and requiring TEDs in all skimmer trawls, pusher-head trawls, and wing nets (butterfly trawls) rigged for fishing, with the exception of vessels participating in the Biscayne Bay wing net fishery prosecuted in Miami-Dade County,