



# NOAA FISHERIES

## Pacific Islands Regional Office

**For more information or to obtain additional copies of this guide please contact:**

Regional Administrator  
NMFS Pacific Islands Regional Office  
attn: International Fisheries Division  
1845 Wasp Blvd., Bldg. 176  
Honolulu, HI 96818

Tel: 808-725-5000  
Fax: 808-725-5215

Email: [pirohonolulu@noaa.gov](mailto:pirohonolulu@noaa.gov)  
Website: <http://www.fpir.noaa.gov/>

## Compliance Guide

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### Fishing Restrictions related to the Oceanic Whitetip Shark, the Silky Shark and the Whale Shark

2015

This guide provides information on how owners and operators of U.S. fishing vessels used for commercial fishing for highly migratory species (HMS) can comply with fishing regulations related to the oceanic whitetip shark (*Carcharhinus longimanus*) and the silky shark (*Carcharhinus falciformis*), and how owners and operators of U.S. purse seine vessels can comply with fishing regulations related to the whale shark (*Rhincodon typus*) when operating in the western and central Pacific Ocean (WCPO). The final regulations were published in the *Federal Register* on February 19, 2015 (80 FR 8807), and will be included in the *Code of Federal Regulations* at 50 CFR Part 300, Subpart O. The final rule and supporting documents are available on the Federal e-Rulemaking Portal, at [www.regulations.gov](http://www.regulations.gov) (search for Docket ID NOAA-NMFS-2014-0086).

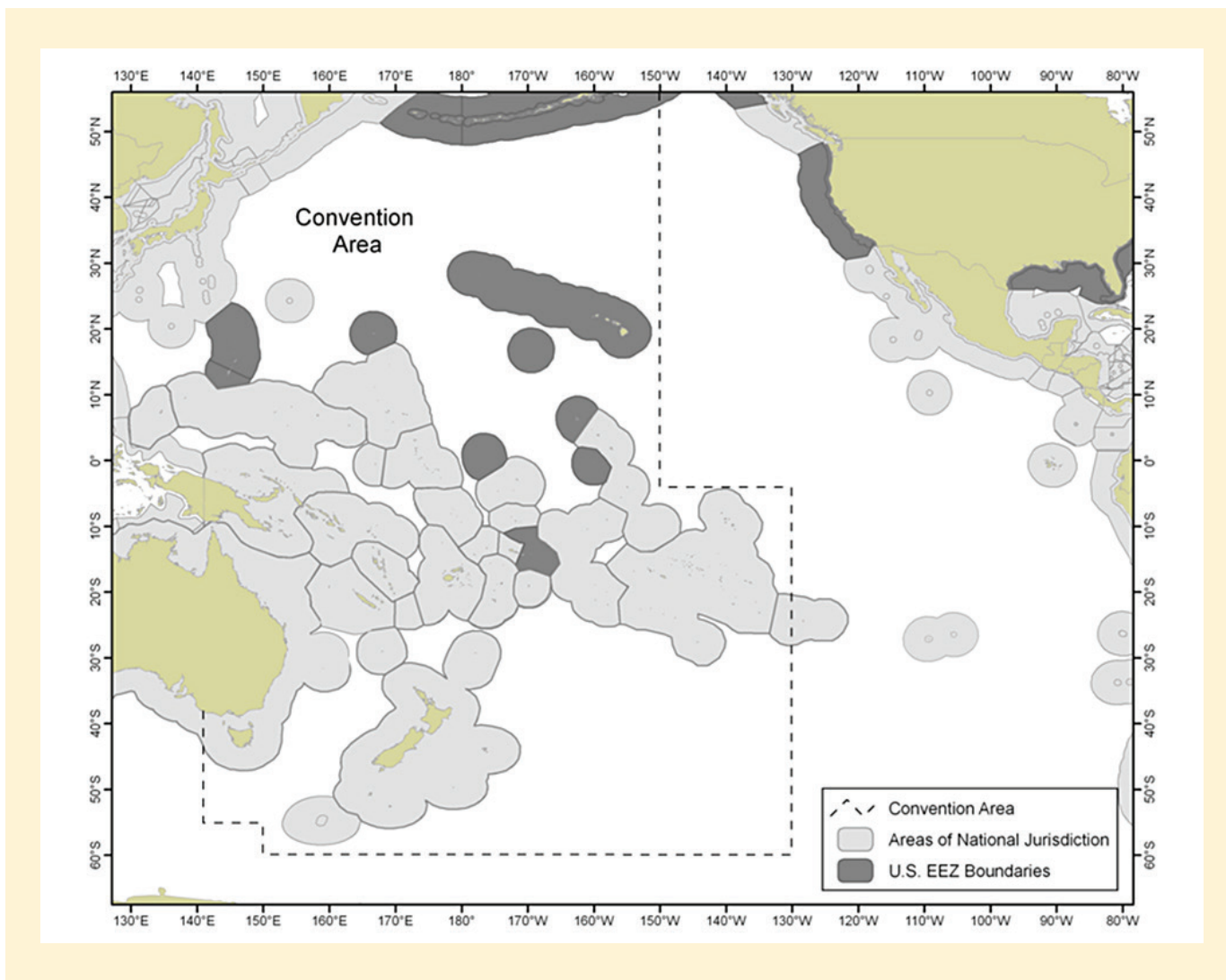
The National Marine Fisheries Service (NMFS) has issued these regulations to implement decisions of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC). The WCPFC's area of competence (or Convention Area) comprises the majority of the WCPO. The regulations include prohibitions on the retention of the oceanic whitetip shark and the silky shark, as well as requirements to release any oceanic whitetip or silky sharks caught, and are applicable to all U.S. fishing vessels used for commercial fishing for HMS in the Convention Area. For purse seine vessels, the regulations also prohibit setting or attempted setting on or around whale sharks, require the release of any encircled whale shark, and require submission of a report detailing any incidents in which a whale shark is encircled.

Any discrepancy between the contents of this guide and regulations will be resolved in favor of regulations published in the *Federal Register* and codified in the *Code of Federal Regulations*. This compliance guide is a "small entity compliance guide" issued in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996: Title II of Public Law 104-121.

# Area of Application

The requirements described in this guide apply to the Convention Area, as depicted in Figure 1, but see the requirements described below for the specific area of application of each requirement.

**Figure 1. The Convention Area: high seas (white); U.S. Exclusive Economic Zone (dark gray); and foreign claimed maritime jurisdictions (light gray).**



## Explanation of the Regulations

The regulations described in this guide fall into the following two categories:

1. Fishing Restrictions related to the Oceanic Whitetip Shark and the Silky Shark
2. Purse Seine Fishing Restrictions related to the Whale Shark

The requirements in each of these categories are described in detail below.

### Fishing Restrictions related to the Oceanic Whitetip Shark and the Silky Shark

#### 50 CFR 300.226 Oceanic whitetip shark and silky shark.

(a) The crew, operator, and owner of a fishing vessel of the United States used for commercial fishing for HMS cannot retain on board, transship, store, or land any part or whole carcass of an oceanic whitetip shark (*Carcharhinus longimanus*) or silky shark (*Carcharhinus falciformis*) that is caught in the Convention Area, unless subject to the provisions of paragraph (c) of this section.

(b) The crew, operator, and owner of a fishing vessel of the United States used for commercial fishing for HMS must release any oceanic whitetip shark or silky shark caught in the Convention Area as soon as possible after the shark is caught and brought alongside the vessel, and take reasonable steps for its safe release, without compromising the safety of any persons, unless subject to the provisions of paragraph (c) of this section.

(c) Paragraphs (a) and (b) of this section do not apply in the event that a WCPFC observer collects, or requests the assistance of the vessel crew, operator, or owner in the observer's collection of, samples of oceanic whitetip shark or silky shark in the Convention Area.

(d) The crew, operator, and owner of a fishing vessel of the United States used for commercial fishing for HMS in the Convention Area must allow and assist a WCPFC observer to collect samples of oceanic whitetip shark or silky shark in the Convention Area, if requested to do so by the WCPFC observer.

### Key Questions and Answers:

#### Question 1: To which vessels, exactly, do these restrictions apply?

**Answer:** The restrictions for the oceanic whitetip shark and the silky shark apply to all fishing vessels of the United States used for commercial fishing for HMS in the Convention Area, including purse seine, longline, troll, handline, and pole-and-line vessels.

#### Question 2: May the crew, operator or owner of a U.S. commercial HMS fishing vessel retain any part or a whole carcass of an oceanic whitetip shark or silky shark?

**Answer:** The crew, operators and owners of U.S. fishing vessels are prohibited from retaining any part or whole carcass of an oceanic whitetip shark or silky shark caught in the Convention Area unless requested to do so by a WCPFC observer.

#### Question 3: What should the crew, operator and owner of a U.S. commercial HMS fishing vessel do if an oceanic whitetip shark or a silky shark is caught?

**Answer:** If an oceanic whitetip shark or a silky shark is caught, the crew, operator and owner of the fishing vessel should release the shark as soon as it is caught and brought alongside the vessel, taking all reasonable steps for its safe release without compromising the safety of any persons. However, if there is a WCPFC observer on board and the observer requests the collection or assistance with collection of samples of oceanic whitetip shark or silky shark, then the crew, operator and owner of the fishing vessel must allow and assist the WCPFC observer in collection or assistance with collection of the samples of oceanic whitetip shark or silky shark.

**Question 4: What is a WCPFC observer?**

**Answer:** A WCPFC observer means a person authorized by the WCPFC in accordance with any procedures established by the WCPFC to undertake vessel observer duties as part of the WCPFC's Regional Observer Programme (ROP). As of the writing of this compliance guide, such observers include, among others, any observer deployed as part of a NMFS-administered observer program (e.g., the observers typically deployed on longline vessels), and any observer deployed as part of the observer program administered by the Pacific Islands Forum Fisheries Agency (FFA) (e.g., the observers typically deployed on purse seine vessels).

**Question 5: Are the regulations for the oceanic whitetip shark and the silky shark in the Convention Area similar to those in the Inter-American Tropical Tuna Commission (IATTC) area of competence (IATTC Area), and if so, how?**

**Answer:** The regulations for oceanic whitetip sharks in the Convention Area are similar to those in the IATTC Area. Crew, owners and operators of U.S. fishing vessels fishing for HMS in both the IATTC Area and the (WCPFC) Convention Area are prohibited from retaining any part or a whole carcass of an oceanic whitetip shark, and must release any oceanic whitetip sharks caught when brought alongside the vessel. In the IATTC Area, crew owners, and operators are also prohibited from selling or offering for sale any part or whole carcass of an oceanic whitetip shark, and there is no provision for accommodating requests from observers for the collection of samples. At the time of writing this guide, there are no regulations related to silky sharks in the IATTC Area. We note, however, there is a portion of the Convention Area that overlaps with the IATTC Area. The WCPFC regulations for oceanic whitetip sharks apply in that overlap area in the same manner, and to the same vessels, as they do throughout the Convention Area.

**Purse Seine Fishing Restrictions related to the Whale Shark****50 CFR 300.223 Purse seine fishing restrictions.**

(g) Owners, operators, and crew of fishing vessels of the United States used for commercial fishing for HMS in the Convention Area shall not set or attempt to set a purse seine in the Convention Area on or around a whale shark (*Rhincodon typus*) if the animal is sighted at any time prior to the commencement of the set or the attempted set. This paragraph does not apply to the territorial seas or archipelagic waters of any nation, as defined by the domestic laws and regulations of that nation and recognized by the United States, or to areas under the national jurisdiction of the Parties to the Nauru Agreement.

(h) The crew, operator, and owner of a fishing vessel of the United States used for commercial fishing for HMS in the Convention Area must release any whale shark that is encircled in a purse seine net in the Convention Area, and take reasonable steps for its safe release, without compromising the safety of any persons. This paragraph does not apply to the territorial seas or archipelagic waters of any nation, as defined by the domestic laws and regulations of that nation and recognized by the United States.

**50 CFR 300.218 Reporting and recordkeeping requirements.**

(h) Whale shark encirclement reports.

The owner and operator of a fishing vessel of the United States used for commercial fishing in the Convention Area that encircles a whale shark (*Rhincodon typus*) with a purse seine in the Convention Area shall ensure that the incident is recorded by the end of the day on the catch report forms maintained pursuant to § 300.34(c)(1), in the format specified by the Pacific Islands Regional Administrator. This paragraph does not apply to the territorial seas or archipelagic waters of any nation, as defined by the domestic laws and regulations of that nation and recognized by the United States.

## Key Questions and Answers:

### Question 1: Where do these regulations on whale sharks apply?

**Answer:** These regulations on encirclement, release and reporting apply throughout the Convention Area except in the territorial waters or archipelagic waters of any nation or in areas under the national jurisdiction of the Parties to the Nauru Agreement (i.e., the exclusive economic zones of the Parties to the Nauru Agreement).

### Question 2: Who are the Parties to the Nauru Agreement?

**Answer:** The Parties to the Nauru Agreement refers to the parties to the Nauru Agreement Concerning Cooperation in the Management of Fisheries of Common Interest, as specified on the website of the Parties to the Nauru Agreement at [www.pnatuna.com](http://www.pnatuna.com). Members include the Federated States of Micronesia, Kiribati, Marshall Islands, Nauru, Palau, Papua New Guinea, Solomon Islands and Tuvalu.

### Question 3: May I set a purse seine around a whale shark?

**Answer:** No, a purse seine cannot be set around a whale shark if the animal is sighted at any time prior to the start of a set or intended set.

### Question 4: What if I accidentally set around a whale shark?

**Answer:** If a whale shark is not sighted prior to the set, but is discovered in the net during the set, the crew, operator and owner of the purse seine vessel must release the whale shark, taking all reasonable steps for its safe release without jeopardizing the safety of anyone. The operator and owner of the vessel must also report the encirclement of the whale shark(s) on the vessel's logsheet (RPL).

### Question 5: How do I report an encirclement of a whale shark(s)?

**Answer:** Please see the last two pages of this guide for detailed instructions on reporting whale shark encirclements on your logsheet (RPL).

### Question 6: Are the regulations for the whale shark in the Convention Area similar to those in the IATTC Area, and if so, how?

**Answer:** The regulations for whale sharks in the Convention Area are similar to those in the IATTC Area. Crew, owners and operators of U.S. fishing vessels fishing for tuna in the IATTC Area are prohibited from setting or attempting to set a purse seine on or around a whale shark if the animal is sighted prior to commencement of the set or attempted set, and must release any whale shark that is encircled, taking all reasonable steps to ensure its safe release. Additionally, the requirements on reporting an encirclement of a whale shark in the IATTC Area are very similar to the whale shark reporting requirements for the Convention Area.





## Regional Purse-Seine Logsheet (RPL): Supplemental Instructions

### Whale Shark Encirclement Reporting

Pursuant to regulations implementing decisions of the Western and Central Pacific Fisheries Commission and the Inter-American Tropical Tuna Commission, in the event that one or more whale sharks are encircled by purse seine fishing operations, the following information must be recorded on the Regional Purse-Seine Logsheet (RPL) (see 50 CFR 300.218). This information must be recorded for *each set* in which an encirclement occurs:

1. The number of whale sharks encircled in the set:
  - Enter the information regarding the set in which the whale shark interaction occurred as you would for any other set
  - In the fields for DISCARDS, enter "whale shark" or "RHN" under "Name" and enter the number of individuals that were encircled under "Number"
2. A brief description of any conditions or circumstances that might have led to the encirclement:
  - On the blank line(s) directly below the line of information for that set, enter a brief description of any conditions or circumstances
  - *E-Log*: Add a comment for the set and enter the description
3. A brief description of the steps taken to ensure the safe release of the whale shark(s):
  - On the same line(s) used for the information in element 2, enter the steps taken to ensure the safe release of the whale shark(s)
  - *For E-Log*: Enter the steps taken to ensure the safe release of the whale shark(s) in the same comments section used for the information in element 2
4. Whether each of the animals was alive or dead upon release, to the best of your knowledge:
  - On the same line(s) used for the information in elements 2 and 3, enter an indication of whether the animal was alive or dead upon release
  - *For E-Log*: Enter the indication in the same comments section used for elements 2

