

Pacific Islands Regional Office
National Marine Fisheries Service
National Oceanic and Atmospheric Administration
1601 Kapiolani Blvd., Suite 1110
Honolulu, HI 96814



Small Entity Compliance Guide

Bigeye Tuna Catch Limits in U.S. Longline Fisheries for 2009, 2010, and 2011

December 7, 2009 (updated November 14, 2011)

The National Marine Fisheries Service (NMFS) issued regulations under the authority of the Western and Central Pacific Fisheries Convention Implementation Act to implement catch limits for bigeye tuna (*Thunnus obesus*) in the western and central Pacific Ocean for U.S. longline fisheries. The regulations implement specific catch limits for bigeye tuna established by the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC) for each of the calendar years 2009, 2010, and 2011. The final regulations were published on December 7, 2009, in the *Federal Register* at 74 FR 63999, and were codified in Title 50 of the Code of Federal Regulations at 50 CFR Part 300.

This guide¹ provides a summary of how owners and operators of affected longline vessels, and other affected entities, can comply with the regulations. Regulations are subject to change, so this guide may become out of date. 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*.

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

Regional Administrator
NMFS Pacific Islands Regional Office
attn: International Program
1601 Kapiolani Boulevard, Suite 1110
Honolulu, HI 96814

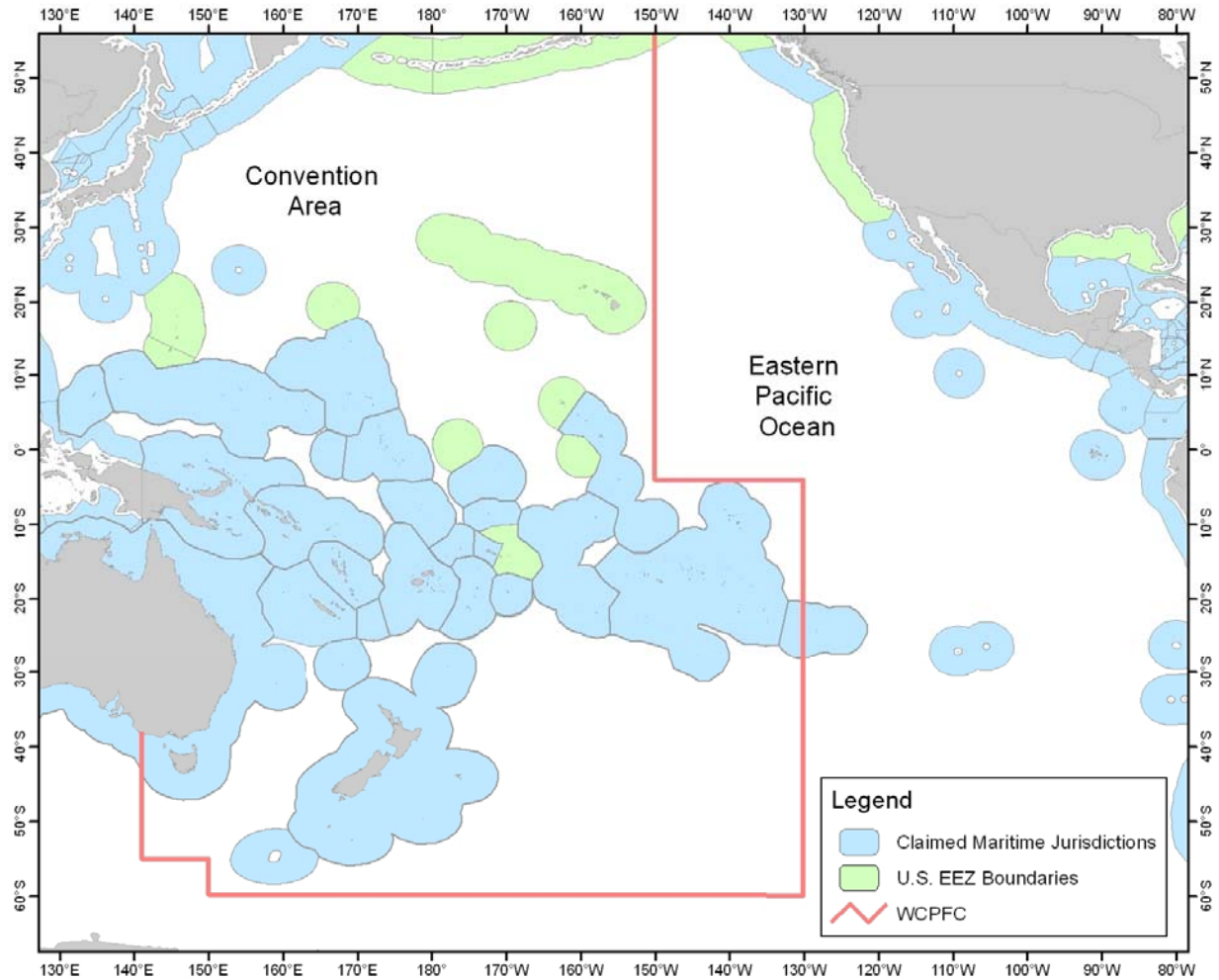
Tel: 808-944-2200
Fax: 808-973-2941
Email: pirohonolulu@noaa.gov

¹ This compliance guide is issued in accordance with Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996: Title II of Public Law 104-21.

Area of Effect

The calendar year bigeye tuna catch limits apply to 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). Certain prohibitions that will go into effect once the catch limit is reached in a given year also apply outside this area, as described below.

Figure 1. Convention Area: high seas (in white); areas under U.S. jurisdiction (in green); and foreign jurisdictions (“claimed maritime jurisdictions,” in blue)



Explanation of the Regulations

For each of the years 2009, 2010, and 2011, there is a limit of 3,763 metric tons of bigeye tuna that may be captured by longline gear and retained on board in the Convention Area by U.S. fishing vessels.

The Catch Limits

The annual catch limits apply on a calendar year basis (i.e., from January 1 through December 31 of each year). In a given calendar year, the following bigeye tuna will count against the catch limit:

(1) All bigeye tuna that is caught by U.S. vessels using longline gear in the U.S. Exclusive Economic Zone (EEZ) surrounding the Hawaiian Archipelago (this includes the main and northwestern Hawaiian Islands, including Midway Atoll).

(2) All bigeye tuna that is caught by U.S. vessels using longline gear in the Convention Area outside the U.S. EEZ surrounding the Hawaiian Archipelago, except that catch meeting one of the following criteria will not count against the limit:

(a) The bigeye tuna is landed in American Samoa, the Commonwealth of the Northern Mariana Islands (CNMI), or Guam by a U.S. fishing vessel operated in compliance with a permit required under the regulations implementing the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific Region (WP Pelagics FEP) or a permit required under the regulations implementing the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (West Coast HMS FMP), currently codified at 50 CFR 660.707 and 50 CFR 665.801 (formerly 665.21); or

(b) the bigeye tuna is caught outside the U.S. EEZ surrounding the Hawaiian Archipelago by a vessel registered for use under a valid American Samoa Longline Limited Access permit and landed by a U.S. fishing vessel operated in compliance with a permit required under the regulations implementing the WP Pelagics FEP or West Coast HMS FMP.

Prohibitions

Once NMFS has determined that the limit has been reached in a given calendar year and published a notice in the *Federal Register* announcing the effective date of the prohibitions, the following will apply:

Prohibition 1:

You may not use a U.S. fishing vessel to retain on board, transship, or land bigeye tuna caught after the effective date of the prohibitions in the U.S. EEZ surrounding the Hawaiian Archipelago by longline gear.

Prohibition 2:

Starting 14 days after the effective date of the prohibitions, you may not retain on board, transship, or land bigeye tuna caught prior to the effective date of the prohibitions by longline gear in the Convention Area, unless you have declared to NMFS pursuant to 50 CFR 665.803(a) (formerly 665.23(a)) that you are on a shallow-setting trip.

Prohibition 3:

You may not use a U.S. fishing vessel to retain on board, transship, or land bigeye tuna caught after the effective date of the prohibitions by longline gear in the Convention Area outside the U.S. EEZ surrounding the Hawaiian Archipelago unless one of the following conditions is met:

- (1) the bigeye tuna is landed in American Samoa, the CNMI, or Guam by a U.S. fishing vessel operated in compliance with a permit required under the regulations implementing the WP Pelagics FEP or West Coast HMS FMP; or
- (2) the bigeye tuna is caught by a vessel registered for use under a valid American Samoa Longline Limited Access permit and landed by a U.S. fishing vessel operated in compliance with a permit required under the regulations implementing the WP Pelagics FEP or West Coast HMS FMP.

Prohibition 4:

You may not use a U.S. fishing vessel to fish with longline gear both inside and outside the Convention Area on the same fishing trip. This prohibition will not apply if you meet one of the following conditions:

- (1) the vessel has declared to NMFS pursuant to 50 CFR 665.803(a) (formerly 665.23(a)) that the current trip type is shallow-setting;
- (2) the vessel's catch of bigeye tuna is landed in American Samoa, the CNMI, or Guam by a U.S. fishing vessel operated in compliance with a permit required under the regulations implementing the WP Pelagics FEP or West Coast HMS FMP, and its catch of bigeye tuna is not made in the U.S. EEZ surrounding the Hawaiian Archipelago;
- (3) the vessel is registered for use under a valid American Samoa Longline Limited Access permit, and its catch of bigeye tuna is not made in the U.S. EEZ surrounding the Hawaiian Archipelago and is landed by a U.S. fishing vessel operated in compliance with a permit required under the regulations implementing the WP Pelagics FEP or West Coast HMS FMP; or
- (4) the prohibitions go into effect during the trip in question. In this case, the catch of bigeye tuna must be landed within 14 days after the prohibitions go into effect.

Prohibition 5:

If you fish outside the Convention Area using longline gear, at all times while you are in the Convention Area on that same trip, you may not have your gear readily available for fishing. You must stow your gear while in the Convention Area so that the hooks, branch or dropper lines, and floats used to buoy the mainline are not available for immediate use, and any power-operated mainline hauler on deck is covered in such a manner that it is not readily available for use. This prohibition will not apply if you meet one of the following conditions:

- (1) the vessel has declared to NMFS pursuant to 50 CFR 665.803(a) (formerly 665.23(a)) that the current trip type is shallow-setting;
- (2) the vessel's catch of bigeye tuna is landed in American Samoa, the CNMI, or Guam by a U.S. fishing vessel operated in compliance with a permit required under the regulations implementing the WP Pelagics FEP or West Coast HMS FMP, and its catch of bigeye tuna is not made in the U.S. EEZ surrounding the Hawaiian Archipelago; or
- (3) the vessel is registered for use under a valid American Samoa Longline Limited Access permit and its catch of bigeye tuna is not made in the U.S. EEZ surrounding the Hawaiian Archipelago and is landed by a U.S. fishing vessel operated in compliance with a permit required under the regulations implementing the WP Pelagics FEP or West Coast HMS FMP.

Key Questions and Answers

Question 1: How will I find out when the limit is reached?

Answer: Once NMFS determines in any of the years 2009, 2010, or 2011 that the limit is expected to be reached by a specific future date in that year, NMFS will publish a notice in the *Federal Register* announcing the prohibitions that will be effective on that specific future date until the end of the calendar year. The notice will be published at least seven calendar days before the effective date of the prohibitions. NMFS' website at http://www.fpir.noaa.gov/SFD/SFD_regs_3.html provides information regarding catch to date.

Question 2: What types of longline fishing activities will be allowed in the Convention Area once the limit is reached and the prohibitions go into effect?

Answer: Vessels may continue to use longline gear for shallow-setting or for deep-setting for species other than bigeye tuna.

Question 3: What about bigeye tuna caught in the Convention Area that I have on board my vessel when the limit is reached? Do I have to throw them overboard?

Answer: No. Any bigeye tuna caught by longline gear in the Convention Area already on board a fishing vessel upon the effective date of the prohibitions may be retained on board, transshipped, and/or landed, provided they are landed within 14 days after the prohibitions become effective, except as described in the following question/answer.

Question 4: If I'm on a shallow-setting trip when the limit is reached, do I need to land the bigeye tuna caught in the Convention Area on board my vessel within 14 days?

Answer: No. If you are on a vessel that has declared to NMFS pursuant to 50 CFR 665.803(a) (formerly 665.23(a)) that the current trip type is shallow-setting, you do not have to land the bigeye tuna on board within 14 days after the prohibitions become effective.

Question 5: Can I still land bigeye tuna caught in the Convention Area in American Samoa, the CNMI, and Guam once the catch limit is reached?

Answer: Yes. As described above, after the catch limit is reached and the prohibitions go into effect, bigeye tuna caught in the Convention Area outside the U.S. EEZ surrounding the Hawaiian Archipelago may be landed in American Samoa, the CNMI, or Guam. However, the bigeye tuna must be landed by a U.S. fishing vessel operated in compliance with a permit required under the regulations implementing the WP Pelagics FEP or West Coast HMS FMP.

Question 6: Will any bigeye tuna caught by U.S. longline fishing vessels be allowed to be landed in Hawaii after the catch limit is reached?

Answer: Yes. Bigeye tuna caught outside the Convention Area by U.S. longline fishing vessels, such as bigeye tuna caught in the eastern Pacific Ocean, may be landed in Hawaii after the catch limit is reached and the prohibitions go into effect. Also, bigeye tuna caught by vessels that have both a valid Hawaii Longline Limited Access permit and a valid American Samoa Longline Limited Access permit may be landed in Hawaii after the prohibitions go into effect, since such bigeye tuna will be assigned to the American Samoa longline fishery regardless of where it is landed, both before and after the catch limit is reached. However, in order for these vessels with both permits to have their catch of bigeye tuna landed in Hawaii assigned to the American Samoa longline fishery, the bigeye tuna must not have been caught in the portion of the U.S. EEZ surrounding the Hawaiian Archipelago.

Question 7: Once the limit is reached, can U.S. longline fishing vessels fish with longline gear in the eastern Pacific Ocean and then fish for species other than bigeye tuna, such as yellowfin tuna (*Thunnus albacares*), in the Convention Area on the same trip?

Answer: As described above, once the prohibitions go into effect, only vessels that meet one of the following conditions will be allowed to continue fishing with longline gear both inside and outside the Convention Area on the same trip: (1) vessels that have declared to NMFS pursuant to 50 CFR 665.803(a) (formerly 665.23(a)) that the current trip type is shallow-setting; (2) vessels whose catch of bigeye tuna is landed in American Samoa, the CNMI, or Guam; (3) vessels that have a valid American Samoa Longline Limited Access permit; and (4) vessels that are on a trip when the prohibitions go into effect (this applies only during the trip when the prohibitions go into effect, and in this case, the catch of bigeye tuna must be landed within 14 days after the prohibitions go into effect). All other vessels will not be able to fish with longline gear both inside and outside the Convention Area during the same fishing trip.

Question 8: If the prohibitions go into effect less than 14 days before the end of the year, do I still need to land my catch of bigeye tuna from the Convention Area within 14 days?

Answer: No. All of the prohibitions and requirements specified in the rule will be effective from the date specified in the *Federal Register* notice until the end of the calendar year. At the beginning of each new calendar year, the prohibitions and requirements from the previous year will no longer be in effect.