

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

[Docket No. 240624–0174]

RIN 0648–BM67

International Fisheries; Pacific Tuna Fisheries; Safe Handling and Release Practices for Sharks on Longline Vessels and Revision to Vessel Monitoring System Requirements in the Eastern Pacific Ocean

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 (TCA) of 1950, as amended, to implement Resolutions C–23–07 (*Conservation Measures for the Protection and Sustainable Management of Sharks*) and C–23–11 (*On the Establishment of a Vessel Monitoring System*) adopted by the Inter-American Tropical Tuna Commission (IATTC) at its meeting in August 2023 in Victoria, Canada. This final rule implements provisions of these Resolutions and requires U.S. longline vessels fishing for tuna or tuna-like species in the eastern Pacific Ocean (EPO) to release incidentally caught sharks by leaving them in the water and cutting the branchline so that less than 1 meter remains on each animal. The final rule also requires large vessels fishing for tuna or tuna-like species in the EPO to make manual reports every six hours in the event of a malfunctioning vessel monitoring system (VMS) unit. This action is necessary for the United States to satisfy its obligations as a member of the IATTC.

DATES: This rule is effective August 1, 2024.

ADDRESSES: Copies of supporting documents that were prepared for the proposed rule, including the Regulatory Impact Review, are available via the Federal e-Rulemaking Portal: <https://www.regulations.gov>, docket NOAA–NMFS–2024–0041.

FOR FURTHER INFORMATION CONTACT: Amanda Munro, NMFS, (619) 407–9284.

SUPPLEMENTARY INFORMATION:**Background on the IATTC**

On April 25, 2024, NMFS published a proposed rule in the **Federal Register** (89 FR 31708) to implement Resolutions

C–23–07 (*Conservation Measures for the Protection and Sustainable Management of Sharks*) and C–23–11 (*On the Establishment of a Vessel Monitoring System*). These Resolutions were adopted at the 101st Meeting of the IATTC in August 2023. The proposed rule contains additional background information, including information on the IATTC and its Convention Area, the international obligations of the United States as an IATTC member, and the need for regulations. The 30-day public comment period for the proposed rule closed on May 28, 2024.

The final rule is implemented under the TCA (16 U.S.C. 951 *et seq.*). This final rule applies to U.S. longline vessels of any size and all U.S. vessels longer than 24 meters (78.74 feet) fishing for tuna or tuna-like species in the IATTC Convention Area. The IATTC 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.

IATTC Resolutions on Sharks and VMS

The IATTC held its 101st Meeting in August 2023 in Victoria, Canada. During this meeting, the IATTC adopted several resolutions, including the two implemented by this final rule—IATTC Resolutions C–23–07 (*Conservation Measures for the Protection and Sustainable Management of Sharks*) and C–23–11 (*On the Establishment of a Vessel Monitoring System*).

IATTC Resolution C–23–07 includes new requirements regarding safe handling and release procedures for sharks caught by longline vessels. Paragraph 11(f) of the Resolution includes the requirements to “leave the shark in the water, where possible” and “use a line cutter to cut the branchline as close to the hook as possible, and so that less than 1 meter remains on the animal, to the extent practicable.” It also includes provisions applicable to all vessels prohibiting shark finning and requiring sharks be landed with fins naturally attached, which are already required in the United States by the Shark Conservation Act of 2010.

To ensure that vessel locations and identification numbers remain available to relevant authorities at a consistent interval even in the event of a technical failure, IATTC Resolution C–23–11 specifies a manual reporting requirement in the event of a malfunctioning VMS unit for vessels above 24 meters (78.74 feet) in length. The Resolution states in paragraph 4 that “a fishing vessel with a defective satellite tracking device shall communicate to the . . . relevant

competent authority at a minimum every 6 hours, reports containing [vessel identification number, location, date, time, speed, and course] by appropriate telecommunication means (e.g., radio, web-based reporting, electronic mail, telefax or telex).”

Final Regulations for Sharks

This final rule amends part 300, subpart C of title 50 of the Code of Federal Regulations (CFR) to include shark handling and release requirements for longline vessels. Specifically, the rule requires U.S. longline vessel owners and operators to leave live, unretained sharks in the water and cut the branchline so that less than 1 meter of trailing gear remains on the animal. If this procedure is not possible without compromising the safety of any persons, the vessel owner or operator is required to cut the branchline as close to the hook as possible.

To facilitate the trimming of the branchline to the appropriate length, longline vessel owners or operators must carry a line clipper meeting minimum design standards onboard the vessel and use it to cut the branchline. The standards for this line clipper are the same as those already required for Hawaii-based longline vessels (see 50 CFR 665.812(a)(5)), which make up the majority of longline vessels fishing in the EPO. The standards for the line clipper include a protected cutting blade with an edge capable of cutting monofilament line or braided mainline that is securely fastened to an extended reach holder of at least 6 feet.

Shark finning (*i.e.*, the practice of removing any fin from the body of a shark at sea) is prohibited in the United States by the Shark Conservation Act of 2010, which was implemented by regulations at 50 CFR part 600, subpart N. The statute and regulations also prohibit the possession, transfer, and landing of any shark fin that is not naturally attached (*i.e.*, attached to the corresponding shark carcass through some portion of uncut skin). As part of this rulemaking, NMFS is including a cross-reference to these regulations in the regulations governing EPO tuna fisheries, which are found in 50 CFR part 300, subpart C. The cross-reference is intended to make clear the regulations in 50 CFR part 600, subpart N apply to vessel owners and operators fishing for tuna and tuna-like species in the IATTC Convention Area.

Final Regulations for VMS

Any U.S. commercial fishing vessel that is 24 meters or more in overall length and engaging in fishing activities for tuna or tuna-like species in the

IATTC Convention Area is already required to have a VMS unit installed, per regulations at 50 CFR 300.26(b). In the rare event of a technical failure of a VMS unit while the vessel is at sea, vessel operators are required to notify NOAA Office of Law Enforcement (OLE) and follow OLE's instructions (see 50 CFR 300.26(c)(4)(ii)).

This final rule adds the requirement of manual reporting in the event of a malfunctioning VMS unit. Specifically, vessel owners and operators must provide manual reports to OLE with specific information every 6 hours by appropriate telecommunication means such as radio, email, or telephone. The manual reports must include: the vessel's identification, the vessel's geographical position (latitude and longitude) accurate to within 100 meters, the date and time of the fixing of the vessel's position, and the vessel's speed and course. These reports must continue until the VMS unit issue is resolved or the vessel is back in port.

Public Comments and Responses

NMFS received four comments from individual members of the public during the 30-day comment period on the proposed rule, which closed on May 28, 2024. One comment was outside the scope of the proposed rule and is not addressed. Two comments expressed support for the regulations as proposed, and one comment expressed concerns. These comments are detailed below with responses from NMFS.

Comment 1: One individual commenter expressed support for the safe handling and release procedures for sharks, noting the vulnerability of many shark species.

Response: NMFS thanks the commenter for the support for safe handling and release practices for sharks on longline vessels as included in the Resolution and rule.

Comment 2: One individual commenter expressed support for the safe handling and release procedures for sharks, applauding NMFS' efforts to promote consistency across fisheries. The commenter noted the importance of sharks to the ecosystem and emphasized the importance of best handling practices to improve survival of sharks interacting with fishing vessels. The commenter also suggested that NMFS encourage fishers to remove the hook from sharks rather than simply cut the branchline, as this may decrease the chances of infection and mortality.

Response: NMFS thanks the commenter for the support for safe handling and release practices for sharks on longline vessels, and agrees that sharks are important for the health

of the marine ecosystem. Post-release survival data are limited, but current scientific data from NOAA Pacific Islands Fisheries Science Center suggest that cutting the line to less than one meter can improve shark survivorship by as much as 40 percent over 360 days. Cutting the branchline is also a relatively simple procedure that does not require additional burdens for vessel owners and operators.

Hook removal may also be helpful for shark survival, but few studies compare the difference in survival rates between cutting the line and removing the hook. Depending on the species and size of the shark, removing hooks can also be difficult to accomplish and may require bringing the shark on board, resulting in additional stress to the animal and risk to the crew. NMFS will continue to consider additional best handling practices for sharks as more research becomes available.

Comment 3: The third individual commenter asked if extra safety precautions were considered when requiring fishers to cut the branchline close to the hook. This commenter also asked how these regulations would be implemented internationally.

Response: NMFS recognizes that cutting the branchline closer to the mouth of a shark may pose a risk to crew members, which is why the regulation requires the use of a line clipper with an extended reach of at least 6 feet. The regulation also states that if it is not possible to cut the branchline to less than 1 meter without compromising the safety of any persons, the requirement is to cut the branchline as close to the hook as possible.

Regarding international implementation, other members of the IATTC are required to implement IATTC resolutions in their own domestic regulations.

Changes From the Proposed Rule

In the proposed rule, the manual VMS reports would have included "the vessel's geographical position (latitude and longitude) with an error of less than 100 meters at a confidence level of 98 percent." This language mirrored IATTC language from Resolution C-23-11. However, that language comes from the accuracy specifications for actual VMS positions, not for manual reports. In the event of a VMS unit failure, vessel owners/operators would be relying on other navigation equipment to determine the vessel's position, in which case this level of accuracy would likely be unavailable. Therefore, the language referring to error and confidence level has been removed. The new text now reads that vessel owners/

operators must report "the vessel's geographical position (latitude and longitude) accurate to within 100 meters."

Classification

The NMFS Assistant Administrator has determined that this rule is consistent with the Tuna Conventions Act and other applicable laws.

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866.

Paperwork Reduction Act

The VMS section of this rule contains a revision to a collection-of-information requirement for purposes of the Paperwork Reduction Act of 1995 (PRA) and amendments to Office of Management and Business (OMB) Control Number 0648-0498 have been submitted to OMB for review and approval with regard to the changes identified in this final rule. NMFS is amending the supporting statement for the *West Coast Region Vessel Monitoring System and Pre-Trip Reporting System Requirements*, OMB Control Number(s): 0648-0498, to include the manual reporting requirement in the event of a technical VMS unit failure. All VMS and pre-trip reporting requirements under that collection-of-information continue to apply.

Send comments on these or any other aspects of the collection of information to the **ADDRESSES** above, and by email to OIRA_Submission@omb.eop.gov, or fax to (202) 395-5806. Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number. All currently approved NOAA collections of information may be viewed at: <https://www.reginfo.gov/public/do/PRAMain>.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (RFA), 5 U.S.C. 605(b), 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 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 (89 FR 31708, April 25, 2024) and is not repeated here. No

comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources, Reporting and recordkeeping requirements, Treaties.

Dated: June 26, 2024.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, NMFS amends 50 CFR part 300 as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart C—Eastern Pacific Tuna Fisheries

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

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

- 2. In § 300.24, revise paragraph (z) to read as follows:

§ 300.24 Prohibitions.

* * * * *

(z) In the event of VMS unit failure or interruption: fail to repair or replace a VMS unit; fail to notify the Assistant Director, NOAA Office of Law Enforcement, Pacific Islands Division (or designee) and follow the instructions provided; fail to manually report as required in § 300.26(c)(4)(ii); or otherwise fail to act as provided in § 300.26(c)(4).

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- 3. In § 300.26, revise paragraph (c)(4)(ii) to read as follows:

§ 300.26 Vessel monitoring system (VMS).

* * * * *

(c) * * *

(4) * * *

(ii) If the vessel is at sea: The vessel owner, operator, or designee must contact the Assistant Director (AD) of NOAA Office of Law Enforcement (OLE) by telephone, facsimile, or email at the earliest opportunity during the AD's business hours and identify the caller and vessel. The vessel operator must follow the instructions provided by the AD which could include, but may not

be limited to, ceasing fishing, stowing fishing gear, and/or returning to port. The vessel operator must also manually report to OLE every 6 hours by appropriate telecommunication means reports containing: the vessel's identification, the vessel's geographical position (latitude and longitude) accurate to within 100 meters, the date and time (UTC) of the fixing of the vessel's position, and the vessel's speed and course. These reports must continue until the vessel returns to port or the VMS unit is once again functioning normally. The vessel operator must repair or replace the VMS unit and ensure it is operable before starting the next trip.

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- 4. In § 300.27, revise paragraph (k) and add paragraphs (m) and (n) to read as follows:

§ 300.27 Incidental catch and tuna retention requirements.

* * * * *

(k) *Shark handling and release requirements.* (1) For purse seine vessels: the crew, operator, or owner of a U.S. commercial purse seine fishing vessel must promptly release unharmed, to the extent practicable, any shark (whether live or dead) caught in the IATTC Convention Area, as soon as it is seen in the net or on the deck, without compromising the safety of any persons. If a shark is live when caught, the crew, operator, or owner must follow these release procedures:

(i) Sharks must be released out of the purse seine net by directly releasing the shark from the brailer into the ocean. Sharks that cannot be released without compromising the safety of persons or the sharks before being landed on deck must be returned to the water as soon as possible, either utilizing a ramp from the deck connecting to an opening on the side of the boat or through escape hatches. If ramps or escape hatches are not available, the sharks must be lowered with a sling or cargo net, using a crane or similar equipment, if available.

(ii) No shark may be gaffed or hooked, lifted by the head, tail, gill slits or spiracles, or lifted by using bind wire against or inserted through the body, and no holes may be punched through the bodies of sharks (*e.g.*, to pass a cable through for lifting the shark).

(2) For longline vessels: the crew, operator, or owner of a U.S. commercial longline fishing vessel must promptly release unharmed, to the extent practicable, any shark (whether live or dead) caught in the IATTC Convention Area that is not retained, as soon as it is seen on the line, without compromising the safety of any persons. If a shark is live when seen on the line, the crew, operator, or owner must follow these release procedures:

(i) Leave the shark in the water.

(ii) Use a line clipper meeting the minimum design standards in paragraph (m) of this section to cut the branchline so that less than 1 meter (or 3.3 ft) of line remains on the animal. If this is not possible without compromising the safety of any persons, cut the branchline as close to the hook as possible.

* * * * *

(m) *Possession and use of required mitigation gear.* (1) NMFS has established minimum design standards for line clippers. At least one line clipper meeting these design standards must be present onboard any longline vessel fishing in the IATTC Convention Area. The minimum design standards are as follows:

(i) The line clipper must have a protected cutting blade. The cutting blade must be curved, recessed, contained in a holder, or otherwise afforded some protection to minimize direct contact of the cutting surface with animals or users of the cutting blade.

(ii) The cutting blade edge must be capable of cutting 2.0–2.1 mm monofilament line and nylon or polypropylene multi-strand material commonly known as braided mainline or tarred mainline.

(iii) The line clipper must have an extended reach handle or pole of at least 6 ft (1.82 m) for the cutting blade.

(iv) The cutting blade must be securely fastened to the extended reach handle or pole to ensure effective deployment and use.

(2) [Reserved]

(n) *Prohibition on shark finning.* Vessel owners and operators must comply with regulations governing the harvest, possession, landing, purchase, and sale of shark fins found at 50 CFR part 600, subpart N.

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