

aerosols of these compounds as was done for previous assessments. Since inhalation exposure to bystanders will be only to vapor phase chlorpyrifos rather than aerosols due to spray drift restrictions, use of these data to assess inhalation risk of cholinesterase inhibition to bystanders is appropriate. In these vapor-phase toxicity studies, test animals were exposed in atmospheres containing saturation concentrations of chlorpyrifos and its oxon, the maximum potential level of the compounds in air. No cholinesterase inhibition was observed, and the studies were determined to have been conducted properly using saturation concentrations of the compounds and controls appropriate for these types of studies, *i.e.*, animals receiving no pesticide exposure, as further explained in “*Chlorpyrifos: Reevaluation of the Potential Risks from Volatilization in Consideration of Chlorpyrifos Parent and Oxon Vapor Inhalation Toxicity Studies*, W. Britton, W. Irwin, 6/25/14.”

EPA has also done a comprehensive review of chlorpyrifos incidents and found that most were due to accidents and misuse as specified in EPA’s most recent final incident review “*Chlorpyrifos: Tier II Incident Report*, S. Recore and K. Oo, 7/27/11.” The agency is aware of the referenced Kern County chlorpyrifos incident that occurred in 2017 in which the pesticide appears to have been applied in a manner in which direct drift onto bystanders occurred, a case of misuse. Spray drift buffers address exposure to bystanders when chlorpyrifos is applied as required by the pesticide label. In addition, it should be noted that EPA’s 2000 cancellation of homeowner products and many indoor and outdoor non-residential uses (*e.g.*, schools and parks where children may be exposed) has led, according to data from 2002–2010, to a 95% decrease in the number of incidents reported in residential areas. In sum, EPA does not believe available incident data suggests that there exists a widespread and commonly recognized practice of misusing chlorpyrifos and EPA therefore believes it is appropriate to use the enforceable label instructions as the basis for evaluating the potential for inhalation exposure from spray drift and volatilization.

#### VIII. Regulatory Assessment Requirements

As indicated previously, this action announces the Agency’s order denying objections filed under FFDCA section 408. As such, this action is an adjudication and not a rule. The regulatory assessment requirements

imposed on rulemaking do not, therefore, apply to this action.

#### IX. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, does not apply because this action is not a rule for purposes of 5 U.S.C. 804(3).

#### X. References

The following is a listing of the documents that are specifically referenced in this document. The docket includes these documents and other information considered by EPA, including documents that are referenced within the documents that are included in the docket, even if the referenced document is not physically located in the docket. For assistance in locating these other documents, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

1. The Petition from NRDC and PANNA and EPA’s various responses to it are available in docket number EPA–HQ–OPP–2007–1005 available at <http://www.regulations.gov>.
2. The objections submitted on the Petition Denial are available in docket number EPA–HQ–OPP–2007–1005 available at <http://www.regulations.gov>.
3. For additional information on the organophosphate cumulative risk assessment, see [http://www.epa.gov/pesticides/cumulative/2006-op/op\\_cra\\_main.pdf](http://www.epa.gov/pesticides/cumulative/2006-op/op_cra_main.pdf).
4. FIFRA Scientific Advisory Panel (2016). “Chlorpyrifos: Analysis of Biomonitoring Data”. Available at: <https://www.epa.gov/sap/meeting-materials-april-19-21-2016-scientific-advisory-panel>.
5. For additional information on the 2000 chlorpyrifos IRED and 2006 chlorpyrifos RED, see [https://www3.epa.gov/pesticides/chem\\_search/reg\\_actions/reregistration/red\\_PC-059101\\_1-Jul-06.pdf](https://www3.epa.gov/pesticides/chem_search/reg_actions/reregistration/red_PC-059101_1-Jul-06.pdf).
6. FIFRA Scientific Advisory Panel (2008). “Scientific Issues Associated with Chlorpyrifos and PON1”. Available in docket number EPA–HQ–OPP–2008–0274 available at <http://www.regulations.gov>.
7. EPA, 2012. “Guidance for Considering and Using Open Literature Toxicity Studies to Support Human Health Risk Assessment” as well as its “Framework for Incorporating Human Epidemiologic & Incident Data in Health Risk Assessment.” Available at <https://www.epa.gov/sites/production/files/2015-07/documents/lit-studies.pdf>.
8. EPA, 2016. Record of Correspondence. Available in docket number EPA–HQ–OPP–2015–0653.

#### List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides

and pests, Reporting and recordkeeping requirements.

Dated: July 18, 2019.

**Alexandra Dapolito Dunn,**

*Assistant Administrator, Office of Chemical Safety and Pollution Prevention.*

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**BILLING CODE 6560–50–P**

#### DEPARTMENT OF COMMERCE

#### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

[Docket No. 190325272–9537–02]

RIN 0648–XP002

#### Western and Central Pacific Fisheries for Highly Migratory Species; 2019 Bigeye Tuna Longline Fishery Closure

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

**ACTION:** Temporary rule; fishery closure.

**SUMMARY:** NMFS is closing the U.S. pelagic longline fishery for bigeye tuna in the western and central Pacific Ocean because the fishery has reached the 2019 catch limit. This action is necessary to ensure compliance with NMFS regulations that implement decisions of the Western and Central Pacific Fisheries Commission (WCPFC). **DATES:** Effective 12:01 a.m. local time July 27, 2019, through December 31, 2019.

**ADDRESSES:** NMFS prepared a plain language guide and frequently asked questions that explain how to comply with this rule; both are available at <https://www.regulations.gov/docket?D=NOAA-NMFS-2019-0085>.

**FOR FURTHER INFORMATION CONTACT:** Rebecca Walker, NMFS Pacific Islands Region, 808–725–5184.

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

NMFS established a calendar year 2019 limit of 3,554 metric tons (t) of bigeye tuna (*Thunnus obesus*) that may be caught and retained in the U.S. pelagic longline fishery in the area of application of the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the

Western and Central Pacific Ocean (Convention Area) (83 FR 33851, July 18, 2018). NMFS monitored the retained catches of bigeye tuna using logbook data submitted by vessel captains and other available information, and determined that the fishery will reach the 2019 catch limit by July 27, 2019.

In accordance with 50 CFR 300.224(e), this rule serves as notification to fishermen, the fishing industry, and the public that the U.S. longline fishery for bigeye tuna in the Convention Area will be closed during the dates provided in the **DATES** heading. The fishery is scheduled to reopen on January 1, 2020. This rule does not apply to the longline fisheries of American Samoa, Guam, or the Northern Mariana Islands, collectively “the territories,” as described below.

During the closure, a U.S. fishing vessel may not retain on board, transship, or land bigeye tuna caught by longline gear in the Convention Area, except that any bigeye tuna already on board a fishing vessel upon the effective date of the restrictions may be retained on board, transshipped, and landed, provided that they are landed within 14 days of the start of the closure, that is, by August 10, 2019.

During the effective period of the restrictions, longline-caught bigeye tuna may be retained on board, transshipped, and landed if either of these conditions is met:

(1) The fish are caught by a vessel with a valid American Samoa longline permit; or

(2) The fish are landed in the territories.

In either case, the following conditions must be met:

(1) The fish are not caught in the U.S. Exclusive Economic Zone (EEZ) around Hawaii;

(2) Other applicable laws and regulations are followed; and

(3) The vessel has a valid permit issued under 50 CFR 660.707 or 665.801.

Bigeye tuna caught by longline gear during the closure may also be retained on board, transshipped, and/or landed if they are caught by a vessel that is included in a valid specified fishing agreement under 50 CFR 665.819(c), in accordance with 50 CFR

300.224(f)(1)(iv). Bigeye tuna caught under a specified fishing agreement shall be attributed to the territory that is party to that agreement.

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

The catch limit and this closure do not apply to bigeye tuna caught by longline gear outside the Convention Area, such as in the eastern Pacific Ocean. To ensure compliance with the restrictions related to bigeye tuna caught by longline gear in the Convention Area, however, the following requirements apply during the closure period (see 50 CFR 300.224):

(1) Longline fishing both inside and outside the Convention Area is not allowed during the same fishing trip. An exception would be a fishing trip that is in progress on July 27, 2019. In that case, the catch of bigeye tuna must be landed by August 10, 2019; and

(2) If a longline vessel fishes outside the Convention Area and the vessel then enters the Convention Area during the same fishing trip, the fishing gear must be stowed and not readily available for fishing in the Convention Area.

Specifically, hooks, branch lines, and floats must be stowed and the mainline hauler must be covered.

The above two additional prohibitions do not apply to vessels operating in the longline fisheries of the territories. This includes vessels included in a valid specified fishing agreement under 50 CFR 665.819(c), in accordance with 50 CFR 300.224(f)(1)(iv). This group also includes vessels with valid American Samoa longline permits and vessels landing bigeye tuna in one of the territories, as long as the bigeye tuna were not caught in the EEZ around Hawaii, the fishing was compliant with all applicable laws, and the vessel has a valid permit issued under 50 CFR 660.707 or 665.801.

#### Classification

There is good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment on this action, because it would be unnecessary and contrary to the public interest. This

rule closes the U.S. longline fishery for bigeye tuna in the Convention Area as a result of reaching the applicable bigeye tuna catch limit. The limit was established after opportunity for public comment (83 FR 33851, July 18, 2018), and is codified in Federal regulations based on agreed limits established by the Western and Central Pacific Fisheries Commission. 50 CFR 300.224(e) notifies the public that fishing prohibitions will be placed in effect when the limit is reached. NMFS forecasts that the fishery will reach the 2019 limit by July 27, 2019. Longline fishermen have been subject to longline bigeye tuna limits in the western and central Pacific since 2009. They have received ongoing, updated information about the 2019 catch and progress of the fishery in reaching the Convention Area limit via the NMFS website, social media, and other means. This constitutes adequate advance notice of this fishery closure. Additionally, the publication timing of this rule provides longline fishermen with seven days advance notice of the closure date, and allows two weeks to return to port and land their catch of bigeye tuna.

For the reasons stated above, there is also good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for this temporary rule. NMFS must close the fishery as soon as possible to ensure that fishery does not exceed the catch limit. NMFS implemented the catch limit to satisfy the obligations of the United States under the Convention on the Conservation and Management of Highly Migratory Fish stocks in the Western and Central Pacific Ocean, to which it is a contracting party. Failure to close the fishery immediately would result in violation of regulations that implement WCPFC decisions.

This action is required by 50 CFR 300.224 and is exempt from review under Executive Order 12866.

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

Dated: July 19, 2019.

**Jennifer M. Wallace,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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