

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-Xxxx

International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species;
Capacity Limits in Purse Seine Fisheries

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

ACTION: Request for information.

SUMMARY: NMFS is requesting information about any individual's or company's plan or intent to seek authorization for a U.S. purse seine vessel to participate in the western and central Pacific Ocean (WCPO) purse seine fishery, as managed under the Western and Central Pacific Convention Implementation Act (WCPFC Implementation Act), the South Pacific Tuna Act of 1988 (SPTA) and other law, if it is not currently authorized to do so. NMFS will use this information to determine whether the vessel would replace one or more currently authorized vessels. These determinations will be used to help satisfy the obligations of the United States with respect to a recent decision of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Commission) that obligates Commission members to limit the capacities of their purse seine fleets.

DATES: Information must be submitted in writing by [Insert date 30 days after date of publication in the FEDERAL REGISTER] to be considered.

ADDRESSES: You may submit information by either of the following methods:

- Electronic Mail: Submit written information via email to: [email address].
- Mail: Submit written information by mail to: Michael D. Tosatto, Regional Administrator, NMFS, Pacific Islands Regional Office (PIRO), 1845 Wasp Blvd., Building 176, Honolulu, HI 96818.

Instructions: Information sent by any other method, to any other address or individual, or received after [Insert date 30 days after date of publication in the FEDERAL REGISTER], might not be considered by NMFS. All information received will be part of the public record. Please do not submit information of a confidential nature, such as sensitive personal information or proprietary information, as all submitted information will be made publicly available.

Attachments to electronic mail will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Tom Graham, NMFS PIRO, 808-725-5032.

SUPPLEMENTARY INFORMATION:

Background

The U.S. WCPO purse seine fishery is regulated under the authority of the SPTA (16 U.S.C. 973-973r) via implementing regulations at 50 CFR part 300, subpart D. The SPTA and its implementing regulations implement the terms of a treaty between the United States and 16 Members of the Pacific Islands Forum Fisheries Agency (Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America and its annexes, schedules, and implementing agreements, as amended; hereafter called

“the Treaty”). The Treaty generally governs the conduct of U.S. fishing vessel operations in the Treaty Area, which comprises much of the WCPO. The Treaty provides access by U.S. purse seine vessels to a large portion of the WCPO by authorizing, and regulating through a licensing system, U.S. purse seine vessel operations within all or portions of the exclusive economic zones of the 16 Pacific Island Parties to the Treaty (PIPs). License applications are first submitted to NMFS, which approves or disapproves them according to procedures established at 50 CFR 300.32. NMFS forwards approved applications to the Pacific Islands Forum Fisheries Agency (FFA, located in Solomon Islands), which acts as the Treaty administrator on behalf of the PIPs, and issues the licenses.

In addition to being governed by the Treaty and the SPTA, the U.S. WCPO purse seine fishery is subject to the authority of the WCPFC Implementation Act (16 U.S.C. 6901 *et seq.*), which authorizes the Secretary of Commerce to implement the provisions of the Western and Central Pacific Fisheries Convention (Convention) and the decisions of the Commission as they apply to the United States. The area of competence of the Commission, or the Convention Area, includes the majority of the Treaty Area. As a Party to the Convention and a Member of the Commission, the United States is obligated to implement the decisions of the Commission. The decisions of the Commission can be found on its web site (<http://www.wcpfc.int/>). Pursuant to the Convention and the decisions of the Commission, a U.S. fishing vessel must have a high seas fishing permit with a valid WCPFC Area Endorsement, issued by NMFS under 50 CFR 300.212, in order to be used for commercial fishing for highly migratory species on the high seas in the Convention Area.

The WCPO purse seine fishery is also subject to the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), particularly with respect to the operation of the fishery within the U.S. exclusive economic zone. The fishery is also subject

to the authority of the High Seas Fishing Compliance Act (16 U.S.C. 5501 et seq.), which governs the conduct of U.S. fishing vessels on the high seas.

Recent Decision of the Commission on the Numbers and Capacities of Vessels in Purse Seine Fleets

In December 2013, the Commission adopted a conservation and management for bigeye tuna, yellowfin tuna, and skipjack tuna (CMM 2013-01). Most of the CMM's provisions are in effect from February 4, 2014, through 2017. Among other provisions, the CMM obligates certain flag States, including the United States, to limit the number of their purse seine vessels more than 24 meters in length with freezing capacity that operate between the latitudes of 20° North and 20° South to the current level (paragraph 49 of CMM 2013-01). CMM 2013-01 also obligates certain flag States, including the United States, to ensure that purse seine vessels in their fleets are not replaced with vessels with greater carrying capacity or well volume, or that the catch and fishing effort of such vessels are not greater than those of the replaced vessels (paragraph 50 of CMM 2013-01). Notwithstanding this latter obligation, CMM 2013-01 provides for flag States to allow the replacement of purse seine vessels in their fleets with vessels for which building approval has been granted and the Commission has been notified of such approval before March 1, 2014 (paragraph 50 of CMM 2013-01; this allowance is referred to as "the paragraph 50 allowance" in the remainder of this document).

Solicitation of Information about Prospective Vessels Entering the WCPO Purse Seine Fishery

In order for the United States to comply with the paragraph 50 allowance, which allows purse seine vessels to be replaced with vessels with greater carrying capacity or well volume and for the replacement vessels to make greater catches and exert greater fishing effort than the replaced vessels if certain criteria are met, NMFS must be informed about any plan or intent to bring U.S. vessels into the WCPO purse seine fishery. CMM 2013-01 requires that "building

approval” for the replacement vessel must have been granted before March 1, 2014, and the Commission must have been notified of such approval before March 1, 2014, for such replacement. Although this date has passed, NMFS might implement the paragraph 50 allowance for certain vessels without regard to the deadline. NMFS has notified the Commission of this possibility, citing the exceptional timing requirements associated with the United States’ regulatory processes. CMM 2013-01 does not specify what is meant by “building approval,” how the approval is to be given, or who the approving authority would be. Thus, to implement the paragraph 50 allowance for any vessels, NMFS will need to interpret the meaning of “building approval.”

NMFS requests and encourages any individual or company that plans or intends to seek authorization for a purse seine vessel more than 24 meters in length with freezing capacity to participate in the WCPO purse seine fishery (that is not currently authorized to participate in the fishery) to notify NMFS of such plan or intent by providing the information listed below. “To participate in the WCPO purse seine fishery” should be construed to mean using a U.S.-flagged purse seine vessel to fish in the Convention Area, regardless of the vessel’s carrying capacity, well volume, or other characteristics. Specifically, NMFS requests that individuals and companies submit the following information to the NMFS Pacific Islands Regional Administrator (see ADDRESSES) about any prospective WCPO purse seine fishing vessel more than 24 meters in length with freezing capacity: (1) whether the vessel is already built, under construction, or not yet under construction; (2) if not yet under construction, whether an agreement has been reached with a builder concerning its construction, and if so, the date of the agreement; (3) the name of the vessel, if known; (4) the U.S. Coast Guard Certificate of Documentation number of the vessel, if assigned; (5) the international radio call sign of the vessel, if assigned; (6) the vessel’s length, if known; (7) the approximate date of fishing

authorization that will be sought, if known; (8) the name and contact information of the individual or company most likely to seek authorization for the vessel to participate in the WCPO purse seine fishery; and (9) the name(s) of the currently authorized purse seine vessel(s) that that person or company intends to remove from the WCPO purse seine fishery coincident with the entry of the subject vessel, if any.

NMFS intends to use the information collected to identify prospective WCPO purse seine fishing vessels, and to determine whether any such vessel would replace one or more vessels currently authorized to participate in the WCPO purse seine fishery.

Responding to this solicitation of information is not required to obtain the necessary authorizations from NMFS for a vessel to participate in the WCPO purse seine fishery. However, if NMFS does not receive a response for a plan or intent for a prospective purse seine vessel by [Insert date 30 days after date of publication in the FEDERAL REGISTER], NMFS' ability to implement the paragraph 50 allowance for that vessel might be effectively foreclosed.

This request for information is subject to the Paperwork Reduction Act. It is part of a collection-of-information that has been approved by the Office of Management and Budget (OMB) under control number 0648-0218, "South Pacific Tuna Act." A change to that collection-of-information to accommodate this request for information has been submitted to the OMB for approval.

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

Dated: