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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Parts 216 and 300**

**[Docket No. 200728-0201]**

**RIN 0648-BJ23**

**International Fisheries; Pacific Tuna Fisheries; Fishing Restrictions for Silky Shark, Fish Aggregating Devices, and Observer Safety in the Eastern Pacific Ocean**

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

**ACTION:** Final rule; date of effectiveness for collection-of-information requirements.

**SUMMARY:** NMFS announces approval by the Office of Management and Budget (OMB) of collection-of-information requirements contained in regulations published in a final rule on May 18, 2020. The final rule implements three resolutions adopted by the Members of the Inter-American Tropical Tuna Commission (IATTC) in 2018 and 2019: Resolution C-19-01 (*Amendment to Resolution C-18-05 on the Collection and Analyses of Data on Fish-Aggregating Devices*); Resolution C-19-05 (*Amendment to the Resolution C-16-06 Conservation Measures for Shark Species, with Special Emphasis on the Silky Shark (Carcharhinus falciformis), for the Years 2020 and 2021*); and Resolution C-18-07 (*Resolution on Improving Observer Safety at Sea: Emergency Action Plan*). The final rule also implements a resolution adopted by Parties to the Agreement on the International Dolphin Conservation Program (AIDCP): Resolution A-18-03 (*On Improving Observer Safety At Sea: Emergency Action Plan*). The intent of this

final rule is to inform the public of the effectiveness of the collection-of information requirements associated with silky shark reporting, fish aggregating device (FAD) reporting, and observer reporting included in the final rule.

**DATES:** This final rule is effective [*insert date of publication in the FEDERAL REGISTER*]. The amendments to §§ 216.24, 300.22(a)(3)(i), 300.24(ff), (gg), (hh), 300.27(f), and 300.29 published at 85 FR 29666 (May 18, 2020) are effective on [*insert date of publication in the FEDERAL REGISTER*].

**ADDRESSES:** Copies of supporting documents are available via the Federal eRulemaking Portal: <http://www.regulations.gov>, docket NOAA-NMFS-2019-0149, or contact Rachael Wadsworth, NMFS WCR SFD, 7600 Sand Point Way NE, Building 1, Seattle, WA 98115, or [WCR.HMS@noaa.gov](mailto:WCR.HMS@noaa.gov).

**FOR FURTHER INFORMATION CONTACT:** Rachael Wadsworth, NMFS at 562-980-4036.

**SUPPLEMENTARY INFORMATION:** NMFS implemented decisions of the IATTC and AIDCP in the eastern Pacific Ocean under the authority of the Tuna Conventions Act (16 U.S.C. 951 *et seq.*) and the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*).

## **Background**

NMFS issued a final rule to implement three IATTC Resolutions and one AIDCP Resolution on silky shark, data collection for FADs, and observer safety. The rule applies to U.S. commercial fishing vessels that fish for tuna or tuna-like species in the IATTC Convention Area. The IATTC Convention Area is defined as waters of the eastern Pacific Ocean within the area bounded by the west coast of the Americas and by 50° N. latitude, 150° W. longitude, and 50° S. latitude.

The final rule was published in the Federal Register on May 18, 2020 (85 FR 29666), and associated regulations are found at 50 CFR parts 216 and 300. The requirements of that final rule related to the retention prohibition on silky shark caught on longline vessels became effective June 17, 2020, and the remaining amendments that included collection-of-information requirements were delayed. OMB approved the collection-of-information requirements for the remaining amendments contained in the final rule on June 12, 2020, under OMB Control Number 0648-0214 and 0648-0148. Accordingly, this final rule announces the approval and effective date of those remaining amendments related to FAD, silky shark, and observer safety collection-of-information requirements found in Subpart C of 50 CFR parts 216 and 300.

### **Classification**

#### *Administrative Procedure Act*

Pursuant to 5 U.S.C. 553(b)(B), there is good cause to waive prior notice and opportunity for public comment for this action because notice and comment would be unnecessary and contrary to the public interest. This action simply provides notice of OMB's approval of the reporting requirements at issue, which has already occurred, and renders those requirements effective. Thus, this action does not involve any further exercise of agency discretion by NMFS or OMB. Moreover, the public has had prior notice and the opportunity to comment on the collection-of-information requirements. NMFS published the proposed rule in the Federal Register (85 FR 4250; January 24, 2020), with comments accepted until February 24, 2020. NMFS received one comment during the comment period. This comment was outside the scope of the action and is not relevant to this rule. The final rule was published on May 18, 2020 (85 FR 29666), and

indicated that this final rule would be published announcing the effective date for the revised reporting requirements upon OMB approval.

There is good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effective date for the collection-of information requirements. This final rule relieves some of the reporting requirements for captains of purse seine vessels, allows NMFS to collect data related to silky shark regulations, and implements reporting requirements intended to improve observer safety at sea. In addition, the final rule is necessary for the United States to satisfy its obligations as a member of the IATTC and Party to the AIDCP. Accordingly, waiver of the 30-day delay in effective date is necessary to improve compliance with the requirements of the IATTC and AIDCP, the failure of which would be contrary to the public interest.

*Executive Order 12866*

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

*Paperwork Reduction Act*

This final rule contains collection of-information requirements subject to the Paperwork Reduction Act (PRA) and which OMB approved under OMB Control Number 0648-0214 and 0648-0148 on June 12, 2020.

Specifically, captains of U.S. purse seine vessels are only required to collect FAD data (OMB Control No. 0648-0148) when an observer is not onboard, and captains are still required to provide the observer with the FAD identification number. The public reporting burden for these requirements is estimated to average 1 minute per form. The requirement to report silky shark surrendered or donated is also estimated to average 1

minute per form, and the reporting related to observer safety on purses seine vessels is estimated to average 5 minutes per reporting incident. Public reporting burden for amendments to the supporting statement for the Pacific Islands Region Logbook Family of Forms (OMB Control No. 0648-0214) for reporting related to observer safety on longline vessels is estimated to average 5 minutes per reporting incident. These estimates include time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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.

**Authorities:** 16 U.S.C. 1361 *et seq.* and 16 U.S.C. 951 *et seq.*

Dated: July 28, 2020.

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