

NOAA FISHERIES

Pacific Islands
Regional Office

Compliance
Guide

Compliance Guide

Bigeye Tuna Catch Limit in U.S. Longline Fisheries for 2012

September 21, 2012

This guide provides information on how permit holders, owners, and operators of U.S. longline vessels, and other affected entities can comply with the regulations implementing the 2012 bigeye tuna (*Thunnus obesus*) catch limit for U.S. longline fisheries operating in the western and central Pacific Ocean (WCPO). Regulations are subject to change. Any discrepancy between the contents of this guide and regulations will be resolved in favor of regulations published in the *Federal Register* and the *Code of Federal Regulations*.



Key Facts

- National Marine Fisheries Service (NMFS) has established a 2012 calendar year catch limit of 3,763 metric tons (mt) for bigeye tuna caught in the WCPO by U.S. longline vessels (see the interim final rule published in the *Federal Register* August 27, 2012; volume 77, page 51709).
- The catch limit is based on a decision of the Western and Central Pacific Fisheries Commission (WCPFC), an international organization that manages fish stocks in the WCPO.
- The regulations implementing the catch limit are effective from September 26, 2012, through December 31, 2012.
- Certain fishing prohibitions will go into effect if and when the catch limit is reached in 2012.
- The catch limit and the majority of the associated fishing prohibitions do not apply to U.S. longline fishing vessels operating as part of the longline fisheries of American Samoa, the Commonwealth of the Northern Mariana Islands (CNMI), or Guam. The 2012 catch limit and associated prohibitions are similar, but not identical, to the 2009-2011 bigeye tuna catch limits and associated prohibitions.
- The new provisions for 2012 are related to vessels included in arrangements with American Samoa, the CNMI, or Guam under Section 113(a) of the Consolidated and Further Continuing Appropriations Act, 2012 (Pub. L. 112-55, 125 Stat. 552 *et seq.*; hereafter, CFCAA), which became a new law on November 18, 2011. Under certain circumstances, vessels included in such arrangements are treated as part of the longline fisheries of American Samoa, the CNMI, or Guam and are therefore not subject to the catch limit or the majority of the associated prohibitions. Whether and precisely when such a vessel is treated as part of the longline fisheries of American Samoa, the CNMI, or Guam depends on the outcome of a particular process (see the next two pages for a description of the process).



Process for Arrangements under Section 113(a) of the CFCAA

- Section 113(a) of the CFCAA allows American Samoa, the CNMI, and Guam to enter into arrangements with U.S. fishing vessels for the 2012 catch limit for bigeye tuna in the WCPO.
- NMFS has established a specific process for attributing bigeye tuna catch to the longline fisheries of American Samoa, the CNMI, and Guam under Section 113(a) arrangements for the calendar year 2012. Bigeye tuna catch attributed to any of the three territories through this process will not be counted toward the 3,763 mt catch limit.
- The process for attributing bigeye tuna catch to the longline fisheries of American Samoa, the CNMI and Guam under the terms of Section 113(a) arrangements is as follows:

Step 1

During 2012, NMFS will periodically forecast the date the catch limit is likely to be reached. NMFS will make these forecasts publicly available through 2012 or until the limit is reached (see http://www.fpir.noaa.gov/SFD/SFD_regs_3.html).

Step 2

One of the periodic forecast dates will be established by NMFS as the “**pre-Section 113(a) attribution forecast date.**” It will be the first forecast date that is less than 28 days after the date the forecast is prepared.

Step 3

If NMFS has received any Section 113(a) arrangements, NMFS will use the following criteria to evaluate each arrangement and determine whether it is eligible under Section 113(a):

- a. Vessels included in the arrangement must be registered for use with valid permits under the Fishery Ecosystem Plan for Pacific Pelagic Fisheries of the Western Pacific Region (Pelagics FEP);
- b. The arrangement must not impose any requirements regarding where the vessels fish or land their catch;
- c. The arrangement must be signed by the owners of all the vessels or their designated representative(s);
- d. The arrangement must be signed by an authorized official of American Samoa, the CNMI, or Guam or his or her designated representative(s); and
- e. The arrangement must be funded by deposits to the Western Pacific Sustainable Fisheries Fund in support of fisheries development projects identified in the Marine Conservation Plan of American Samoa, the CNMI, or Guam.



Step 4

NMFS will determine the “**start date**” for attribution of bigeye tuna catches to the longline fisheries of American Samoa, the CNMI, or Guam for each eligible Section 113(a) arrangement using the formula below:

- a. If NMFS receives the arrangement on or before the date it has established the “pre-Section 113(a) attribution forecast date”, the “start date” will be **seven days before** the “pre-Section 113(a) attribution forecast date”; or
- b. If NMFS receives the arrangement after the date it determines the “pre-Section 113(a) attribution forecast date”, the “start date” will be **14 days after the date that NMFS receives the arrangement or seven days before** the “pre-Section 113(a) attribution forecast date”, whichever date is later.

Step 5

NMFS will begin attributing the bigeye tuna catches of vessels included in each eligible Section 113(a) arrangement to the longline fishery of American Samoa, the CNMI, or Guam on the “start date”, as specified in Step 4 (above), so long as:

- a. NMFS has received the Section 113(a) arrangement from the vessel owner or a designated representative at least 14 days prior to the date the bigeye tuna was caught. An arrangement submitted to NMFS before September 26, 2012, does not need to be resubmitted to NMFS.
- b. The bigeye tuna was caught on or after the “**start date**”.
- c. The arrangement is eligible under Section 113(a), as described in Step 3 (above). If NMFS determines that the arrangement is not eligible, NMFS will notify the parties to the arrangement or their representatives within 14 days of receiving the arrangement.

Step 6

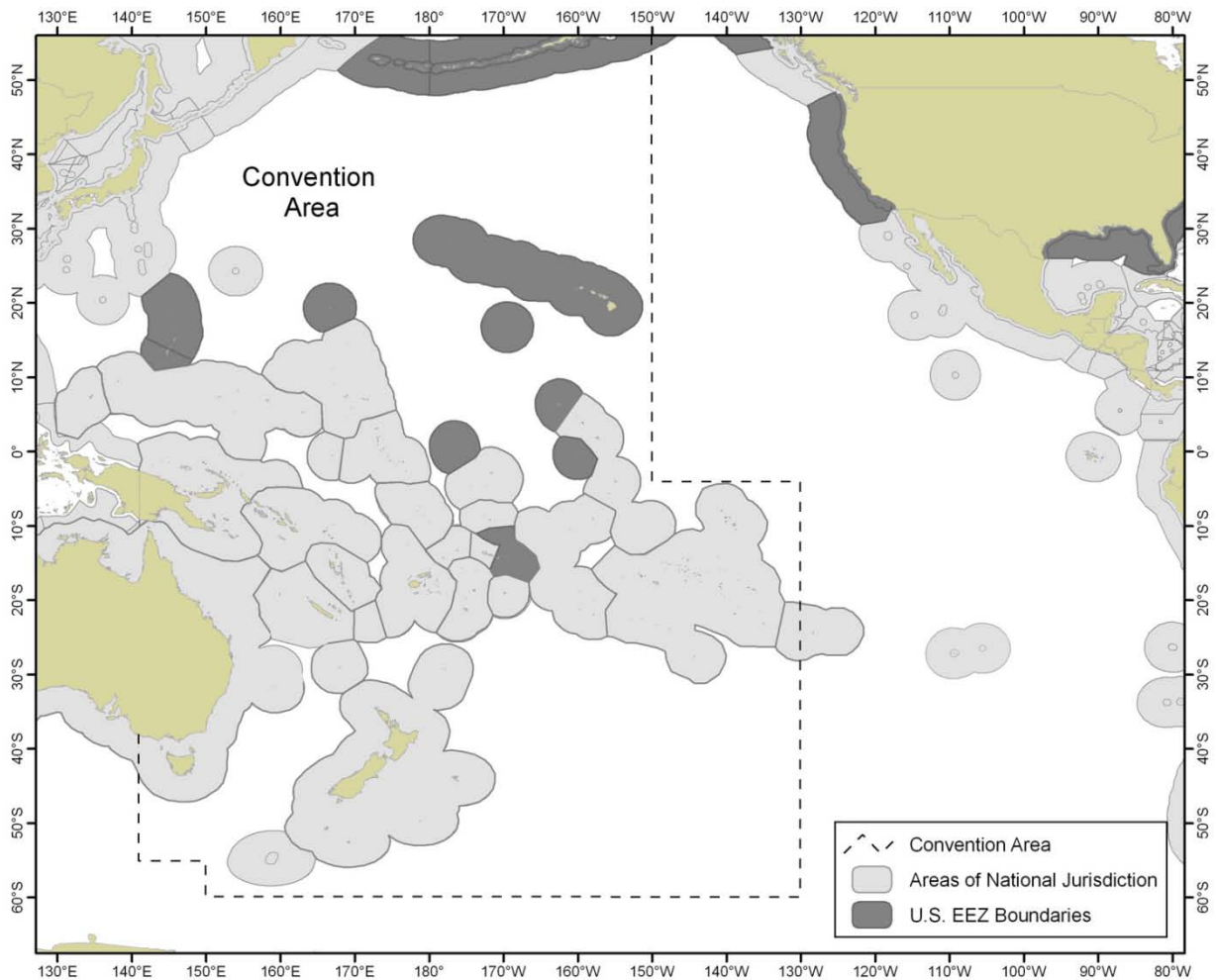
Once NMFS starts attributing bigeye tuna catches to American Samoa, the CNMI, or Guam under any eligible Section 113(a) arrangements, NMFS will make publicly available a new forecast date – the “**post-Section 113(a) attribution forecast date**” – and will update that forecast date as appropriate throughout 2012 or until the limit is reached (see http://www.fpir.noaa.gov/SFD/SFD_regs_3.html).



Map of the Convention Area

The 2012 bigeye tuna catch limit applies to the area that the WCPFC manages under its Convention (see map below).

The Convention Area: high seas (white); U.S. Exclusive Economic Zone (dark gray); and foreign claimed maritime jurisdictions (light gray)



Counting Catches against the 2012 U.S. Bigeye Tuna Catch Limit

The 2012 catch limit applies to calendar year 2012. The following bigeye tuna will count against the catch limit:

(1) All bigeye tuna caught in 2012 by U.S. fishing vessels using longline gear in the U.S. Exclusive Economic Zone (EEZ) surrounding the Hawaiian Archipelago (including the main and northwestern Hawaiian Islands, including Midway Atoll), except bigeye tuna attributed to the longline fishery of American Samoa, the CNMI or Guam under an eligible Section 113(a) arrangement, in accordance with the process described above.

(2) All bigeye tuna caught in 2012 by U.S. fishing vessels using longline gear in the Convention Area outside the U.S. EEZ surrounding the Hawaiian Archipelago, except that bigeye tuna meeting at least one of the following criteria will not count against the limit:

(a) The bigeye tuna is landed in American Samoa, the CNMI, or Guam by a vessel with a valid permit under the Pelagics FEP or the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (West Coast HMS FMP); or

(b) The bigeye tuna is caught by a vessel with a valid American Samoa Longline Limited Access permit and landed by a vessel with a permit under the Pelagics FEP or West Coast HMS FMP; or

(c) The bigeye tuna is attributed to the longline fishery of American Samoa, the CNMI or Guam under an eligible Section 113(a) arrangement, in accordance with the process described above.



Prohibitions

Once NMFS has determined that the catch limit has been reached for 2012, and published a notice in the *Federal Register* announcing the effective date of the prohibitions, the following prohibitions will apply starting on that effective date:

Prohibition 1:

You may not retain on board, transship, or land bigeye tuna caught by longline gear in the U.S. EEZ surrounding the Hawaiian Archipelago **starting on** the effective date of the prohibitions, **unless** your vessel is included in an eligible Section 113(a) arrangement and the bigeye tuna are to be attributed to the longline fishery of American Samoa, the CNMI, or Guam in accordance with the process described above.

Prohibition 2:

Starting 14 days after the effective date of the prohibitions, you may not retain on board, transship, or land bigeye tuna caught by longline gear in the Convention Area **prior to** the effective date of the prohibitions, **unless** at least one of the following conditions is met:

- (1) Your vessel is on a declared shallow-set trip (see 50 CFR 665.803(a)).
- (2) The bigeye tuna are landed in American Samoa, the CNMI, or Guam by a vessel with a valid permit under the Pelagics FEP or West Coast HMS FMP, and are not caught in the U.S. EEZ surrounding the Hawaiian Archipelago.
- (3) The bigeye tuna are caught by a vessel with a valid American Samoa Longline Limited Access permit and landed by a vessel with a valid permit under the Pelagics FEP or West Coast HMS FMP, and are not caught in the U.S. EEZ surrounding the Hawaiian Archipelago.
- (4) The bigeye tuna are caught by a vessel included in an eligible Section 113(a) arrangement and are to be attributed to the longline fishery of American Samoa, the CNMI, or Guam in accordance with the process described above.

Prohibition 3:

You may not retain on board, transship, or land bigeye tuna caught by longline gear in the Convention Area outside the U.S. EEZ surrounding the Hawaiian Archipelago **starting on** the effective date of the prohibitions **unless** at least one of the following conditions is met:

- (1) The bigeye tuna are landed in American Samoa, the CNMI, or Guam by a vessel with a valid permit under the Pelagics FEP or West Coast HMS FMP.
- (2) The bigeye tuna are caught by a vessel with a valid American Samoa Longline Limited Access permit and are landed by a vessel with a valid permit under the Pelagics FEP or West Coast HMS FMP.
- (3) The bigeye tuna are caught by a vessel included in an eligible Section 113(a) arrangement and are to be attributed to the longline fishery of American Samoa, the CNMI, or Guam in accordance with the process described above.



Prohibition 4:

You may not fish with longline gear both inside and outside the Convention Area on the same fishing trip. This prohibition will not apply if you meet at least one of the following conditions:

- (1) Your vessel is on a declared shallow-set trip (see 50 CFR 665.803(a)).
- (2) The vessel's catch of bigeye tuna is landed in American Samoa, the CNMI, or Guam by a vessel with a valid permit under the Pelagics FEP or West Coast HMS FMP, and the bigeye tuna were not caught in the U.S. EEZ surrounding the Hawaiian Archipelago.
- (3) The vessel has a valid American Samoa Longline Limited Access permit, its catch of bigeye tuna is not made in the U.S. EEZ surrounding the Hawaiian Archipelago, and the bigeye tuna catch is landed by a vessel with a valid permit under the Pelagics FEP or West Coast HMS FMP.
- (4) The vessel is included in an eligible Section 113(a) arrangement and its catch of bigeye tuna is to be attributed to the longline fishery of American Samoa, the CNMI, or Guam in accordance with the process described above.
- (5) The prohibitions go into effect during the trip in question. In this case, you must land the bigeye tuna within 14 days of the date the prohibitions go into effect.

Prohibition 5:

If you fish outside the Convention Area using longline gear, you may not have your gear readily available for fishing at any time while you are in the Convention Area on that same trip. That is, you must stow the gear while in the Convention Area so that the hooks, branch lines, and floats are not available for immediate use, and any mainline hauler on deck is covered so that it is not readily available for use. This prohibition will not apply if you meet one of the following conditions:

- (1) Your vessel is on a declared shallow-setting trip (see 50 CFR 665.803(a)).
- (2) The vessel's catch of bigeye tuna is landed in American Samoa, the CNMI, or Guam by a vessel with a valid permit under the Pelagics FEP or West Coast HMS FMP, and the bigeye tuna were not caught in the U.S. EEZ surrounding the Hawaiian Archipelago.
- (3) The vessel has 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 vessel with a valid permit under the Pelagics FEP or West Coast HMS FMP.
- (4) The vessel is included in an eligible Section 113(a) arrangement and its catch of bigeye tuna is to be attributed to the longline fishery of American Samoa, the CNMI, or Guam in accordance with the process described above.

Prohibition 6:

You may not transship bigeye tuna caught by longline fishing gear in the Convention Area to another fishing vessel unless that vessel has a valid permit under the Pelagics FEP or West Coast HMS FMP.



Key Questions and Answers

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

Answer: Once NMFS determines that the limit is expected to be reached by a specific future date in 2012, 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 forecasts of the date the limit is expected to be reached.

Question 2: What are the prohibitions?

Answer: Generally, you may not keep on board, transship, or land any bigeye tuna caught by longline gear in the Convention Area, unless the prohibitions do not apply to you.

Question 3: How do I know which prohibitions do not apply to me?

Answer: There are three situations in which the main prohibitions do not apply to you:

First, if you are operating under an eligible Section 113(a) arrangement, you may continue to fish for bigeye tuna throughout the Convention Area and land the bigeye tuna in Hawaii or elsewhere, provided that the bigeye tuna are to be attributed to the longline fishery of American Samoa, the CNMI, or Guam in accordance with the process described above. However, there is one prohibition that does apply to you in this situation: You cannot transship bigeye tuna caught in the Convention Area to another fishing vessel unless that fishing vessel has a valid permit under the Pelagics FEP or West Coast HMS FMP.

Second, you may retain on board, transship, and land bigeye tuna that is caught outside the U.S. EEZ surrounding the Hawaiian Archipelago, so long as the bigeye tuna are landed in American Samoa, the CNMI, or Guam by a vessel with a valid permit under the Pelagics FEP or West Coast HMS FMP or transshipped to a vessel with a valid permit under the Pelagics FEP or West Coast HMS FMP.

Third, you may retain, transship, and land bigeye tuna caught by longline gear in the Convention Area if you have a valid American Samoa Longline Limited Access permit. However, in this situation, even if your vessel is "dual-permitted" with both Hawaii and American Samoa longline permits, you may not keep bigeye tuna that are caught in the U.S. EEZ surrounding the Hawaiian Archipelago after the prohibitions go into effect, and the bigeye tuna must be landed by or transshipped to a vessel with a valid permit under the Pelagics FEP or West Coast HMS FMP.



Question 4: If the prohibitions apply to me and I have bigeye tuna on board my vessel when the limit is reached, may I keep them?

Answer: Yes, but only for a certain amount of time. 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. However, this 14-day landing limitation does not apply to you if your vessel is on a declared shallow-set trip when the limit is reached (see 50 CFR 665.803(a)).

Question 5: May I 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 with a valid permit under the Pelagics FEP or West Coast HMS FMP.

Question 6: May bigeye tuna caught by U.S. longline vessels be landed in Hawaii after the catch limit is reached?

Answer: Yes, in certain situations. First, bigeye tuna caught by vessels operating under eligible Section 113(a) arrangements may be landed in Hawaii after the catch limit is reached, provided that the bigeye tuna are to be attributed to the longline fishery of American Samoa, the CNMI, or Guam in accordance with the process described above. Second, 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. Third, bigeye tuna caught by vessels that are “dual-permitted” with 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, provided that the fish were not caught in the portion of the U.S. EEZ surrounding the Hawaiian Archipelago.

Question 7: Once the catch limit is reached, may 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, in the Convention Area on the same trip?

Answer: As described above, once the prohibitions go into effect, a vessel must meet at least one of the following conditions to continue fishing with longline gear both inside and outside the Convention Area on the same trip. The vessel must:

1. Have declared to NMFS that the current trip type is shallow-setting;
2. Land its catch of bigeye tuna in American Samoa, the CNMI, or Guam;
3. Have a valid American Samoa Longline Limited Access permit;



4. Be operating under an eligible Section 113(a) arrangement, provided that the bigeye tuna are to be attributed to the longline fishery of American Samoa, the CNMI, or Guam in accordance with the process described above ; or
5. Be on a fishing trip at the time 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 fewer 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. The prohibitions and requirements specified in the rule will be effective from the date specified in the *Federal Register* notice until the end of 2012. At the beginning of 2013, the prohibitions and requirements will no longer be in effect.

Question 9: When the prohibitions go into effect, do I have to stop fishing and remove all my gear from the water at the very start of the date the prohibitions go into effect (i.e., at midnight), or may I finish hauling even after midnight?

Answer: You do not have to stop fishing or remove gear from the water, but you may not keep any bigeye tuna caught on or after the very start of the date the prohibitions go into effect (i.e., midnight). You may continue to use longline gear in the Convention Area and may continue to retain, transship, and land all fish, except bigeye tuna, in the Convention Area during the effective period of the prohibitions.

Question 10: After the prohibitions go into effect, may I catch bigeye tuna in the eastern Pacific Ocean and land those fish in Hawaii?

Answer: Yes, you may land bigeye tuna caught outside the Convention Area in Hawaii at any time.

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