DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 190220141–9141–01]

RIN 0648-XP004

International Fisheries; Western and Central Pacific Fisheries for Highly Migratory

Species; Reopening and Closing of the Purse Seine Fishery in the ELAPS in 2019

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; fishery reopening; fishery closure.

SUMMARY: NMFS is temporarily reopening the U.S. purse seine fishery in the Effort

Limit Area for Purse Seine, or ELAPS, for ten calendar days because part of the fishing

effort limit remains after NMFS closed the fishery effective October 9, 2019 (see 84 FR

52035; October 1, 2019). This action will allow U.S. purse seine vessels to access the

remainder of the fishing effort limit specified by the Commission for the Conservation

and Management of Highly Migratory Fish Stocks in the Western and Central Pacific

Ocean (WCPFC or Commission) in Conservation and Management Measure (CMM)

2018-01, "Conservation and Management Measure for Bigeye, Yellowfin, and Skipjack

Tuna in the Western and Central Pacific Ocean."

DATES: The reopening is effective 00:00 on November 29, 2019, Universal Coordinated

Time (UTC), until 24:00 on December 9, 2019, UTC.

FOR FURTHER INFORMATION CONTACT: Rini Ghosh, NMFS Pacific Islands Regional Office, 808-725-5033.

SUPPLEMENTARY INFORMATION: U.S. purse seine fishing 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), or Convention Area, is managed, in part, under the Western and Central Pacific Fisheries Convention Implementation Act, 16 U.S.C. 6901 *et seq.* (Act). Regulations implementing the Act are at 50 CFR part 300, subpart O. On behalf of the Secretary of Commerce, NMFS promulgates regulations under the Act as may be necessary to carry out the obligations of the United States under the Convention, to which it is a Contracting Party, including implementation of the decisions of the Commission.

Pursuant to WCPFC CMM 2018-01, NMFS issued regulations that established a limit of 1,616 fishing days that may be used by U.S. purse seine fishing vessels in the ELAPS in calendar year 2019 (see interim rule at 84 FR 37145, published July 31, 2019, codified at 50 CFR 300.223). The ELAPS consists of the areas of the U.S. Exclusive Economic Zone and the high seas that are in the Convention Area between the latitudes of 20° N. and 20° S. (see definition at 50 CFR 300.211). A fishing day means any day in which a fishing vessel of the United States equipped with purse seine gear searches for fish, deploys a fish aggregating device (FAD), services a FAD, or sets a purse seine, with the exception of setting a purse seine solely for the purpose of testing or cleaning the gear and resulting in no catch (see definition at 50 CFR 300.211).

Based on data submitted in logbooks and other available information, NMFS expected that the 2019 limit of 1,616 fishing days in the ELAPS would be reached and, in

accordance with the procedures established at 50 CFR 300.223(a), closed the purse seine fishery in the ELAPS through a temporary rule effective 00:00 on October 9, 2019 UTC through December 31, 2019 (84 FR 52035; October 1, 2019). After the closure went into effect and the data for the days leading up to the closure were obtained, NMFS determined that 64 fishing days of the 2019 calendar year limit remain. Therefore, NMFS is publishing this temporary rule to reopen the purse seine fishery in the ELAPS for a limited period of time so that the remainder of the limit may be used. All fishing under the remaining limit must be done in accordance with the regulations at 50 CFR 300.223 and any other applicable regulations.

To determine the number of calendar days to reopen the fishery, NMFS used the fishing rate (*i.e.*, the number of fishing days used by the entire U.S. purse seine fleet per calendar day) in the period just prior to the October 9, 2019, closure, modified to account for changes in fleet size. In the 14 days prior to the closure, the fishing rate in the ELAPS was 8.0 fishing days used by the entire U.S. purse seine fleet per calendar day. However, the U.S. purse seine fleet has since been reduced in size by three vessels, and there is potential for additional U.S. purse seine vessels to leave the fleet prior to the ELAPS being reopened. Assuming a 20 percent reduction in the fishing rate in the ELAPS due to the reductions in fleet size, NMFS estimates 6.4 fishing days will be used by the entire U.S. purse seine fleet per calendar day during the reopening of the ELAPS (*i.e.*, 8.0 fishing days per calendar day reduced by 20 percent is 6.4 fishing days per calendar day, and 64 fishing days divided by 6.4 fishing days per calendar day is 10 calendar days). Based on this analysis, NMFS is reopening the fishery for 10 calendar days.

Classification

There is good cause under 5 U.S.C. 553(b)(B) to waive prior notice and opportunity for public comment on this action. Compliance with the notice and comment requirement would be impracticable, unnecessary, and contrary to the public interest because this action is simply a correction to a premature closure and is a benefit to fishermen since they cannot currently access the fishery. NMFS solicited public comments on the interim final rule establishing the 2019 limit of 1,616 fishing days in the ELAPS and will be responding to those comments in a subsequent final rule. For the same reasons, there is good cause under 5 U.S.C. 553(d)(3) to establish an effective date less than 30 days after the date of publication of this notice.

This action is taken under 50 CFR 300.223(a) is exempt from review under Executive Order 12866.

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

Dated: November 22, 2019.

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Jennifer M. Wallace,

Acting Director,

Office of Sustainable Fisheries,

National Marine Fisheries Service.

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