

### § 300.30

human consumption for other than reason of size. This requirement shall not apply to the last set of a trip if the available well capacity is insufficient to accommodate the entire fish catch brought on board.

(2) All purse seine vessels must release all sharks, billfishes, rays, mahimahi (*dorado*), and other non-tuna fish species, except those being retained for consumption aboard the vessel, as soon as practicable after being identified on board the vessel during the brailing operation.

(3) All purse seine vessels must apply special sea turtle handling and release procedures, as follows:

(i) Whenever a sea turtle is sighted in the net, a speedboat shall be stationed close to the point where the net is lifted out of the water to assist in release of the turtle;

(ii) If a turtle is entangled in the net, net roll shall stop as soon as the turtle comes out of the water and shall not resume until the turtle has been disentangled and released;

(iii) If, in spite of the measures taken under paragraphs (e)(3)(i) and (ii) of this section, a turtle is accidentally brought onboard the vessel alive and active, the vessel's engine shall be disengaged and the turtle shall be released as quickly as practicable;

(iv) If a turtle brought on board under paragraph (e)(3)(iii) of this section is alive but comatose or inactive, the resuscitation procedures described in §223.206(d)(1)(i)(B) of this title shall be used before release of the turtle.

[64 FR 44431, Aug. 16, 1999, as amended at 66 FR 49320, Sept. 27, 2001. Redesignated at 69 FR 67277, Nov. 17, 2004]

## Subpart D—South Pacific Tuna Fisheries

AUTHORITY: 16 U.S.C. 973–973r.

### § 300.30 Purpose and scope.

This subpart implements the South Pacific Tuna Act of 1988 (Act) and the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America (Treaty) and applies to persons and vessels subject

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to the jurisdiction of the United States.

### § 300.31 Definitions.

In addition to the terms defined in §300.2, in the Act, and in the Treaty, and unless the context requires otherwise, the terms used in this subpart have the following meanings. If a term is defined differently in §300.2, the Act, or the Treaty, the definition in this section shall apply.

*Administrator* means the individual or organization designated by the Pacific Island Parties to act on their behalf under the Treaty and notified to the United States.

*Applicable national law* means any provision of law of a Pacific Island Party that is described in paragraph 1(a) of Annex I of the Treaty.

*Authorized inspector* means any individual authorized by a Pacific Island Party or the Secretary to conduct inspections, to remove samples of fish, and to gather any other information relating to fisheries in the Licensing Area.

*Authorized officer* means any officer who is authorized by the Secretary, or the Secretary of Transportation, or the head of any Federal or state agency that has entered into an enforcement agreement with the Secretary under section 10(a) of the Act.

*Authorized party officer* means any officer authorized by a Pacific Island Party to enforce the provisions of the Treaty.

*Closed area* means any of the closed areas identified in Schedule 2 of Annex I of the Treaty.

*Fishing* means searching for, catching, taking, or harvesting fish; attempting to search for, catch, take, or harvest fish; engaging in any other activity that can reasonably be expected to result in the locating, catching, taking, or harvesting of fish; placing, searching for, or recovering fish aggregating devices or associated electronic equipment such as radio beacons; any operations at sea directly in support of, or in preparation for, any activity described in this paragraph; or aircraft use, relating to the activities described in this definition, except for flights in emergencies involving the health or

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safety of crew members or the safety of a vessel.

*Fishing arrangement* means an arrangement between a Pacific Island Party and the owner of a U.S. fishing vessel that complies with section 6(b) of the Act.

*Fishing vessel* or *vessel* means any boat, ship, or other craft that is used for, equipped to be used for, or of a type normally used for commercial fishing, and that is documented under the laws of the United States.

*Licensing Area* means all waters in the Treaty Area except for:

(1) Those waters subject to the jurisdiction of the United States in accordance with international law.

(2) Those waters within closed areas.

(3) Those waters within limited areas closed to fishing.

*Licensing period* means the period of validity of licenses issued in accordance with the Treaty.

*Limited area(s)* means those areas so identified in Schedule 3 of Annex I of the Treaty.

*Operator* means any person who is in charge of, directs or controls a vessel, including the owner, charterer and master.

*Pacific Island Party* means a Pacific island nation that is a party to the Treaty.

*Regional Administrator* means the Director, Southwest Region, or a designee.

*Transship* means to unload any or all of the fish on board a licensed vessel either ashore or onto another vessel.

*Treaty Area* means the area described in paragraph 1(k) of Article I of the Treaty.

### § 300.32 Vessel licenses.

(a) Each vessel fishing in the Licensing Area must have a license issued by the Administrator for the licensing period being fished, unless excepted by § 300.39. Each licensing period begins on June 15 and ends on June 14 of the following year.

(b) Upon receipt, the license or a duly certified copy, facsimile or telex confirmation must be carried on board the vessel when in the Licensing Area or Closed Areas and must be produced at the request of authorized officers, authorized party officers, or authorized

inspectors. Prior to receipt of the license, but after issuance, a vessel may be used to fish, provided the number of the issued license is available on board.

(c) Application forms for licenses to use a vessel to fish in the Licensing Area may be requested from, and upon completion, must be returned to, the Regional Administrator. All of the information requested on the form and the following must be supplied before the application will be considered complete:

(1) The licensing period for which the license is requested.

(2) The name of an agent, located in Port Moresby, Papua New Guinea, who, on behalf of the license holder, will receive and respond to any legal process issued in accordance with the Treaty.

(3) Documentation from an insurance company showing that the vessel will be fully insured for the licensing period against all risks and liabilities normally covered by maritime liability insurance.

(4) If the owner or charterer is the subject of proceedings under the bankruptcy laws of the United States, reasonable assurances that the owner or charterer will be financially able to fulfill any and all responsibilities under the Treaty, Act, and regulations, including the payment of any penalties or fines.

(5) A copy of the vessel's USCG Certificate of Documentation.

(d) The number of available licenses are set forth in Schedule 2 of Annex II of the Treaty.

(e) Applications for vessels may be submitted at any time; complete applications will be forwarded to the Secretary of State for transmittal to the Administrator.

(f) The Secretary, in consultation with the Secretary of State, may determine that a license application for a vessel should not be forwarded to the Administrator if:

(1) The application is not in accord with the Treaty, Act, or regulations;

(2) The owner or charterer is the subject of proceedings under the bankruptcy laws of the United States, and reasonable financial assurances have not been provided to the Secretary