

Award Fee for End Item Contracts  
(Date)

\* \* \* \* \*

(c)(1) \* \* \*

(3) Provisional award fee payments will [insert “not” if applicable] be made under this contract pending each interim evaluation. If applicable, provisional award fee payments will be made to the Contractor on a [insert the frequency of provisional payments (not more often than monthly) basis. The amount of award fee which will be provisionally paid in each evaluation period is limited to [Insert a percent not to exceed 80 percent] of the prior interim evaluation score (see [insert applicable cite]), except for the first evaluation period which is limited to [insert a percent not to exceed 80 percent] of the available award fee for that evaluation period. Provisional award fee payments made each evaluation period will be superseded by the interim award fee evaluation for that period. If provisional payments made exceed the interim evaluation score, the Contractor will either credit the next payment voucher for the amount of such overpayment or refund the difference to the Government, as directed by the Contracting Officer. If the Government determines that (i) the total amount of provisional fee payments will apparently *substantially* exceed the anticipated final evaluation score, or (ii) the prior interim evaluation is “poor/unsatisfactory,” the Contracting Officer will direct the suspension or reduction of the future payments and/or request a prompt refund of excess payments as appropriate. Written notification of the determination will be provided to the Contractor with a copy to the Deputy Chief Financial Officer (Finance).

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■ 8. Amend section 1852.216–89 by revising the date of the clause, and the first sentence of the paragraph to read as follows:

**1852.216–89 Assignment and Release Forms.**

\* \* \* \* \*

Assignment and Release Forms ([Date])

The Contractor shall use the following forms to fulfill the assignment and release requirements of FAR clause 52.216–7, Allowable Cost and Payment:

\* \* \* \* \*

[FR Doc. 2016–09356 Filed 4–21–16; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 300**

[Docket No. 160104009–6314–01]

RIN 0648–BF65

**International Fisheries; Tuna and Tuna-Like Species in the Eastern Pacific Ocean; Fishing Restrictions Regarding Mobulid Rays**

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes regulations under the Tuna Conventions Act to implement Resolution C–15–04 (*Resolution on the Conservation of Mobulid Rays Caught in Association with Fisheries in the IATTC Convention Area*) of the Inter-American Tropical Tuna Commission (IATTC). Per the Resolution, this rule would prohibit any part or whole carcass of mobulid rays (*i.e.*, the family Mobulidae, which includes manta rays (*Manta spp.*) and devil rays (*Mobula spp.*)) caught in the IATTC Convention Area from being retained on board, transshipped, landed, stored, sold, or offered for sale. In accordance with the Resolution, the proposed rule also includes requirements for release of mobulid rays. This proposed rule would also revise related codified text for consistency with the recent amendments to the Tuna Conventions Act. This action is necessary for the United States to satisfy its obligations as a member of the IATTC.

**DATES:** Comments on the proposed rule and supporting documents must be submitted in writing by May 23, 2016.

**ADDRESSES:** You may submit comments on this document, identified by NOAA–NMFS–2016–0035, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0035>, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Rachael Wadsworth, NMFS West Coast Region Long Beach Office, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802. Include the identifier

“NOAA–NMFS–2016–0035” in the comments.

**Instructions:** Comments must be submitted by one of the above methods to ensure they are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on [www.regulations.gov](http://www.regulations.gov) without change. All personal identifying information (*e.g.*, name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Copies of the draft Regulatory Impact Review and other supporting documents are available via the Federal eRulemaking Portal: <http://www.regulations.gov>, docket NOAA–NMFS–2016–0035 or by contacting the Regional Administrator, William W. Stelle, Jr., NMFS West Coast Region, 7600 Sand Point Way NE., Bldg 1, Seattle, WA 98115–0070, or [RegionalAdministrator.WCRHMS@noaa.gov](mailto:RegionalAdministrator.WCRHMS@noaa.gov).

**FOR FURTHER INFORMATION CONTACT:** Rachael Wadsworth, NMFS, West Coast Region, 562–980–4036.

**SUPPLEMENTARY INFORMATION:**

**Background on the IATTC**

The United States is a member of the IATTC, which was established under the 1949 Convention for the Establishment of an Inter-American Tropical Tuna Commission. In 2003, the IATTC adopted the Convention for the Strengthening of the IATTC Established by the 1949 Convention between the United States of America and the Republic of Costa Rica (Antigua Convention). The Antigua Convention entered into force in 2010. The United States acceded to the Antigua Convention on February 24, 2016. The full text of the Antigua Convention is available at: [https://www.iattc.org/PDFFiles2/Antigua\\_Convention\\_Jun\\_2003.pdf](https://www.iattc.org/PDFFiles2/Antigua_Convention_Jun_2003.pdf).

The IATTC consists of 21 member nations and four cooperating non-member nations and facilitates scientific research into, as well as the conservation and management of, tuna and tuna-like species in the IATTC Convention Area. The IATTC Convention Area is defined as waters of

the eastern Pacific Ocean (EPO) within the area bounded by the west coast of the Americas and by 50° N. latitude, 150° W. longitude, and 50° S. latitude. The IATTC maintains a scientific research and fishery monitoring program and regularly assesses the status of tuna, sharks, and billfish stocks in the EPO to determine appropriate catch limits and other measures deemed necessary to promote sustainable fisheries and prevent the overexploitation of these stocks.

### International Obligations of the United States Under the Antigua Convention

As a Party to the Antigua Convention and a member of the IATTC, the United States is legally bound to implement certain decisions of the IATTC. The Tuna Conventions Act (16 U.S.C. 951 *et seq.*), as amended on November 5, 2015, by Title II of Public Law 114–81, directs the Secretary of Commerce, in consultation with the Secretary of State and, with respect to enforcement measures, the U.S. Coast Guard for the Secretary of the Department of Homeland Security, to promulgate such regulations as may be necessary to carry out the United States' international obligations under the Antigua Convention, including recommendations and decisions adopted by the IATTC. The authority of the Secretary of Commerce to promulgate such regulations has been delegated to NMFS.

### Resolution on Mobulid Rays

The IATTC adopted Resolution C–15–04 at its 89th meeting in July 2015 in response to the IATTC scientific staff's conservation recommendations related to requirements for release of mobulid rays and concern for the mortality of mobulid rays caught in the IATTC Convention Area. The main objective of Resolution C–15–04 is to promote conservation of mobulid rays by reducing incidental catch mortalities in IATTC fisheries in the EPO.

U.S. commercial fishing vessels in the EPO do not target mobulid rays or commonly catch mobulid rays incidentally. Five species of mobulid rays are typically caught in the EPO: The giant manta ray (*Manta birostris*) and the Chilean (*Mobula tarapacana*), Munk's (*M. munkiana*), spinetail (*M. japonica*), and smoothtail (*M. thurstoni*) devil rays. The International Union for Conservation of Nature's Red List of Threatened Species categorizes the giant manta ray as *vulnerable*, while the Munk's devil ray and the smoothtail devil ray are categorized as *near threatened*. The Chilean devil ray and the spinetail devil ray are considered

*data deficient*. In 2013, the giant manta ray was listed by the Convention on International Trade in Endangered Species of Wild Fauna and Flora as an Appendix II species.

The Resolution calls for IATTC members and cooperating non-members (CPCs) to prohibit any part or whole carcass of mobulid rays (*i.e.*, the family Mobulidae, which includes manta rays (*Manta spp.*) and devil rays (*Mobula spp.*) caught in the IATTC Convention Area from being retained on board, transshipped, landed, stored, sold, or offered for sale. The Resolution provides an exemption in cases where a mobulid ray is unintentionally caught and frozen as part of a purse seine vessel's operation. In that case, the Resolution provides that the vessel owner or operator must surrender the whole mobulid ray to a responsible governmental authority at the point of landing. This provision of the Resolution is implemented in the proposed regulations in consideration of the fact that the U.S. Government does not have the authority or the ability to regulate foreign government authorities. Consequently, NMFS proposes that U.S. purse seine vessel owners or operators that unintentionally catch and freeze a mobulid ray would be required to show the observer the mobulid ray, and then dispose of the mobulid ray at the direction of the governmental authority. Mobulid rays surrendered in this manner may not be sold or bartered, but may be donated for purposes of domestic human consumption.

The Resolution also requires that any mobulid ray (whether live or dead) caught in the IATTC Convention Area be promptly released unharmed, to the extent practicable, as soon as it is seen in the net, on the hook, or on the deck, without compromising the safety of any persons. Per the Resolution, the requirements for release include prohibitions on the gaffing of mobulid rays, the lifting of mobulid rays by the gill slits or spiracles, and the punching of holes through the bodies of mobulid rays (*e.g.*, to pass a cable through for lifting the mobulid ray). Specific to purse seine vessels, the Resolution also provides that large mobulid rays must be brailled out of the net using methods such as those recommended in Poisson *et al.* 2012,<sup>1</sup> which details safe practices to reduce the mortality of sharks and

rays caught incidentally by tropical tuna purse seiners. Per the Resolution, large mobulid rays that cannot be released without compromising the safety of persons or the mobulid ray before being landed on deck must be returned to the water as soon as possible, preferably utilizing a ramp from the deck connecting to an opening on the side of the boat, or, if no such ramp is available, lowered with a sling or net. Poisson *et al.* describe the latter process of lowering a mobulid ray by using a piece of net or plastic canvas that can be lifted by the crane. The minimum size for the sling or net must be at least 25 feet in diameter. Poisson *et al.* further recommend that the crew, owner, or operator be prohibited from using bind wire tightly around the mobulid rays' body or inserting wire into their skin in order to tow or lift mobulid rays.

The Resolution requires the number of discards and releases of mobulid rays, indicating the status (dead or alive) to be recorded, through observer programs. Any mobulid ray disposed of, at the direction of the responsible governmental authority, must also be recorded. Observers on U.S. commercial fishing vessels for drift gillnet and longline gear in the IATTC Convention Area already record the catch and release status of mobulid rays. However, observers on purse seine vessels have only been recording the release of dead mobulid rays and will now be required to record the release of live mobulid rays.

The requirements of the Resolution do not apply to small-scale and artisanal fisheries that fish exclusively for domestic consumption and are flagged/registered by a developing CPC. Because the United States is not a developing nation, this exclusion need not be implemented in U.S. regulations.

### Proposed Regulations for Mobulid Rays

This proposed rule would implement Resolution C–15–04, described above, for U.S. commercial fishing vessels used in the IATTC Convention Area. First, the proposed rule would prohibit any part or whole carcass of a mobulid ray caught by vessels owners or operators in the IATTC Convention Area from being retained on board, transshipped, landed, stored, sold, or offered for sale. Second, the proposed rule would require that the crew, operator, and owner of a U.S. commercial fishing vessel must promptly release unharmed, to the extent practicable, any mobulid ray (whether live or dead) caught in the IATTC Convention Area as soon as it is seen in the net, on the hook, or on the deck, without compromising the safety of any persons. If a mobulid ray is live

<sup>1</sup> Poisson, F., A.L. Vernet, B. Séret, and L. Dagorn. 2012. Good practices to reduce the mortality of sharks and rays caught incidentally by the tropical tuna purse seiners. EU FP7 project #210496 MADE, Deliverable 6.2., 30p. Available online: <https://www.wcpfc.int/system/files/EB-IP-12-Good-practices-reduce-mortality-sharks-and-rays-caught-incidentally-tropical-tuna-purse-sei.pdf>.

when caught, the crew, operator, and owner of a U.S. commercial fishing vessel must follow the requirements for release that are described in the description of the Resolution (above) and incorporated into regulatory text. Regulations at 50 CFR 300.25 already require purse seine vessels to release all rays, except those being retained for consumption aboard the vessel, as soon as practicable after being identified on board the vessel during the brailing operation. This proposed rule would revise regulations at 50 CFR 300.25 to specify that there are other regulatory release requirements specifically for mobulid rays, as described above.

Third, the proposed rule would provide an exemption in the case of any mobulid ray caught in the IATTC Convention Area on an observed purse seine vessel that is not seen during fishing operations and is delivered into the vessel hold. In this circumstance, the mobulid ray may be stored on board and landed, but the vessel owner or operator must show the whole mobulid ray to the observer at the point of landing, and then dispose of the mobulid ray at the direction of the responsible government authority. In U.S. ports the responsible governmental authority is NOAA Office of Law Enforcement, Western Division or Pacific Islands Division, or other authorized personnel. Mobulid rays that are caught and landed in this manner may not be sold or bartered, but may be donated for purposes of domestic human consumption consistent with relevant laws and policies. NMFS is soliciting public comment on other possible methods of use for mobulid rays, including donation for scientific purposes or discard.

In addition, this proposed rule would also revise related codified text for consistency with the recent amendments to the Tuna Conventions Act (16 U.S.C. 951 *et seq.*) made by title II of Public Law 114–81 (November 5, 2015). The proposed rule would update the purpose and scope in § 300.20 by clarifying that the regulations in the subpart are issued under the “amended” authority of the Tuna Conventions Act of 1950, and that the regulations implement “recommendations and other decisions” of the IATTC for the conservation and management of stocks of “tunas and tuna-like species and other species of fish taken by vessels fishing for tunas and tuna-like species” in the IATTC Convention Area. The description of how NOAA implements IATTC recommendations and decisions by rulemaking in § 300.25 would also be revised to clarify that the Secretary, in consultation with the Secretary of State

and, with respect to enforcement measures, the U.S. Coast Guard for the Secretary of the Department of Homeland Security, may promulgate such regulations as may be necessary to carry out the U.S. international obligations. In addition, to improve the readability of the regulatory text, this action would move several paragraphs of regulatory text related to bycatch in § 300.25(e) to a new § 300.27 that would be dedicated to incidental catch and retention requirements. Several paragraphs in the prohibitions at § 300.24 would be updated for consistency with the new section.

#### Classification

The NMFS Assistant Administrator has determined that this proposed rule is consistent with the Tuna Conventions Act and other applicable laws, subject to further consideration after public comment.

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

There are no new collection-of-information requirements associated with this action that are subject to the Paperwork Reduction Act (PRA), and existing collection-of-information requirements still apply under the following Control Numbers: 0648–0148, 0648–0214, and 0648–0593. 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 Office of Management and Budget control number.

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The rationale for the certification is provided in the following paragraphs.

As described previously in the **SUPPLEMENTARY INFORMATION** section, the proposed regulations would implement IATTC Resolution C–15–04, which would establish restrictions on mobulid rays as detailed above. The proposed regulations would also revise related codified text for consistency with the recent amendments to the Tuna Conventions Act. Alternatively, the absence of the proposed action would not implement the Resolution or update the codified text.

On June 12, 2014, the Small Business Administration issued an interim final rule revising the small business size standards for several industries effective July 14, 2014 (79 FR 33467). The rule increased the size standard for Finfish Fishing from \$19.0 million to \$20.5 million, Shellfish Fishing from \$5.0 million to \$5.5 million, and Other Marine Fishing from \$7.0 million to \$7.5 million. NMFS conducted its analysis for this action in light of the new size standards. NMFS considers all entities subject to this action to be small entities as defined by both the former, lower size standards and the revised size standards. The small entities that would be affected by the proposed action are all U.S. commercial fishing vessels that may be used for IATTC fisheries in the IATTC Convention Area (*i.e.*, purse seine, longline, and large-mesh drift gillnet (DGN)).

There are two components to the U.S. tuna purse seine fishery in the EPO: (1) Purse seine vessels with at least 363 metric tons (mt) of fish hold volume (size class 6 vessels) that typically have been based in the western and central Pacific Ocean (WCPO), and (2) coastal purse seine vessels with smaller fish hold volume that are based on the U.S. West Coast. As of March 10, 2016, there are 15 size class 6 purse seine vessels on the IATTC Regional Vessel Register. The number of size class 6 purse seine vessels on the IATTC Regional Vessel Register has increased substantially in the past two years, due in part to uncertainty regarding fishing access pursuant to the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America (aka the South Pacific Tuna Treaty). In recent years, size class 6 purse seine vessels have landed most of the yellowfin, skipjack, and bigeye tuna catch in the EPO. Estimates of ex-vessel revenues for size class 6 purse seine vessels in the IATTC Convention Area since 2005 are confidential and may not be publicly disclosed because of the small number of vessels in the fishery. Since 2010, fewer than three coastal purse seine vessels targeted tunas; therefore, their landings and revenue are confidential. In 2014, eight coastal purse seine vessels landed 1,413 mt of tuna (ex-vessel value of about \$1,535,000) in west coast ports.

Participation in the large-mesh DGN fishery has declined significantly over the years, from 78 vessels in 2000 to 18 in 2013. The large-mesh DGN fishery primarily targets swordfish and to a lesser extent common thresher shark. During 2003 to 2014, the average ex-vessel value of the landings by the large

mesh DGN fishery remained near \$1.8 million per year.

U.S. West Coast vessels with deep-set longline gear primarily target tuna species with a small percentage of swordfish and other highly migratory species taken incidentally. U.S. West Coast-based longline vessels fish primarily in the EPO and are currently restricted to fishing with deep-set longline gear outside of the U.S. West Coast EEZ. Given this restriction, there has been fewer than three west coast-based vessels operating out of southern California ports since 2005; therefore, landings and ex-vessel revenue are confidential. Recently, the number of Hawaii-permitted longline vessels that have landed in west coast ports has increased from one vessel in 2006 to 14 vessels in 2014. In 2014, 621 mt of highly migratory species were landed by Hawaii permitted longline vessels with an average ex-vessel revenue of approximately \$247,857 per vessel.

The available logbook data from 2005 to 2014 does not show a record of mobulid rays caught in fisheries without observers. In fisheries with observers only a few interactions have been recorded over that same time frame. Since at least 2005, the observer coverage rates on class size 6 vessels, large mesh DGN vessels, and deep-set longline vessels in the EPO have been a minimum of 100, 20, and 20 percent, respectively. In addition, since 2005 the following interactions have been recorded on vessels with observers: three mobulid rays were caught on size class 6 purse seine vessels, all of which were discarded dead because the observers do not record the discard of mobulid rays that are alive when released; two *Mobula spp.* and one *Manta spp.* released dead onboard DGN vessels; and the live release of one giant manta ray, one *Mobula spp.*, and two unspecified mobulid rays caught in the IATTC Convention area onboard longline vessels.

The proposed action is not expected to have a significant economic impact on a substantial number of small entities. This action is not expected to change the typical fishing practices of affected vessels or the income of U.S. vessels because these vessels do not target mobulid rays, and do not commonly catch mobulid rays, even incidentally. In those rare situations when vessels owners and operators do catch mobulid rays, there would be some additional time burden for releasing them by implementing the release requirements. NMFS considers all entities subject to this action to be small entities as defined by both the former, lower size standards and the

revised size standards. Because each affected vessel is a small business, this proposed action is considered to equally affect all of these small entities in the same manner. This action is not likely to increase the economic or record keeping and reporting burden on U.S. vessel owners and operators.

Accordingly, vessel income is not expected to be altered as a result of this rule. As a result, an Initial Regulatory Flexibility Analysis is not required, and was not prepared for this proposed rule.

#### List of Subjects in 50 CFR Part 300

Fish, Fisheries, Fishing, Fishing vessels, International organizations, Marine resources, Reporting and recordkeeping requirements, Treaties.

Dated: April 14, 2016.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR part 300 is proposed to be amended as follows:

#### PART 300—INTERNATIONAL FISHERIES REGULATIONS

- 1. The authority citation for part 300, subpart C, continues to read as follows:

**Authority:** 16 U.S.C. 951 *et seq.*

- 2. Section 300.20 is revised to read as follows:

##### § 300.20 Purpose and scope.

The regulations in this subpart are issued under the authority of the Tuna Conventions Act of 1950, as amended, (Act) and apply to persons and vessels subject to the jurisdiction of the United States. The regulations implement recommendations and other decisions of the Inter-American Tropical Tuna Commission (IATTC) for the conservation and management of stocks of tunas and tuna-like species and other species of fish taken by vessels fishing for tunas and tuna-like species in the IATTC Convention Area.

- 3. In § 300.21, revise the introductory paragraph and add the definition for “Mobulid ray” in alphabetical order to read as follows:

##### § 300.21 Definitions.

In addition to the terms defined in § 300.2, the Act, and the Convention for the Strengthening of the Inter-American Tropical Tuna Commission Established by the 1949 Convention between the United States of America and the Republic of Costa Rica (Antigua Convention), the terms used in this subpart have the following meanings. If a term is defined differently in § 300.2,

in the Act, or in the Antigua Convention, the definition in this section shall apply.

\* \* \* \* \*

*Mobulid ray* means any animal in the family Mobulidae, which includes manta rays (*Manta spp.*) and devil rays (*Mobula spp.*).

\* \* \* \* \*

- 4. In § 300.24, revise paragraphs (e), (f), (h), (t), (w), and (x) and add paragraphs (cc) and (dd) to read as follows:

##### § 300.24 Prohibitions.

\* \* \* \* \*

(e) Fail to retain any bigeye, skipjack, or yellowfin tuna caught by a fishing vessel of the United States of class size 4–6 using purse seine gear in the Convention Area as required under § 300.27(a).

(f) When using purse seine gear to fish for tuna in the Convention Area, fail to release any non-tuna species as soon as practicable after being identified on board the vessel during the brailing operation as required in § 300.27(b).

\* \* \* \* \*

(h) Fail to use the sea turtle handling, release, and resuscitation procedures in § 300.27(c).

\* \* \* \* \*

(t) Use a U.S. fishing vessel to fish for HMS in the Convention Area and retain on board, transship, land, store, sell, or offer for sale any part or whole carcass of an oceanic whitetip shark (*Carcharhinus longimanus*) or fail to release unharmed, to the extent practicable, all oceanic whitetip sharks when brought alongside the vessel in contravention of § 300.27(d).

\* \* \* \* \*

(w) Set or attempt to set a purse seine on or around a whale shark (*Rhincodon typus*) in contravention of § 300.27(e).

(x) Fail to release a whale shark encircled in a purse seine net of a fishing vessel as required in § 300.27(f).

\* \* \* \* \*

(cc) To retain on board, transship, store, land, sell, or offer for sale any part or whole carcass of a mobulid ray, as described in § 300.27(g).

(dd) Fail to handle or release a mobulid ray as required in § 300.27(h).

- 5. In § 300.25, revise paragraph (a), remove paragraph (e), and redesignate paragraphs (f) through (h) as (e) through (g), respectively, to read as follows:

##### § 300.25 Eastern Pacific fisheries management.

(a) *IATTC recommendations and decisions.* The Secretary of Commerce, in consultation with the Secretary of State and, with respect to enforcement

measures, the U.S. Coast Guard, may promulgate such regulations as may be necessary to carry out the U.S. international obligations under the Convention, Antigua Convention, and the Act, including recommendations and other decisions adopted by the IATTC.

\* \* \* \* \*

■ 6. Section 300.27 is added to subpart C to read as follows:

**§ 300.27 Incidental catch and tuna retention requirements.**

(a) *Tuna retention requirements for purse seine vessels.* Bigeye, skipjack, and yellowfin tuna caught in the Convention Area by a fishing vessel of the United States of class size 4–6 (more than 182 metric tons carrying capacity) using purse seine gear must be retained on board and landed, except for fish deemed unfit for human consumption for reasons other than size. This requirement shall not apply to the last set of a trip if the available well capacity is insufficient to accommodate the entire catch.

(b) *Release requirements for non-tuna species on purse seine vessels.* All purse seine vessels must release all shark, billfish, ray (not including mobulid rays, which are subject to paragraph (g) of this section), *dorado* (*Coryphaena hippurus*), 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.

(c) *Sea turtle handling and release.* All purse seine vessels must apply special sea turtle handling and release requirements, as follows:

(1) 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 sea turtle;

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

(3) If, in spite of the measures taken under paragraphs (c)(1) and (2) of this section, a sea turtle is accidentally

brought on board the vessel alive and active, the vessel's engine shall be disengaged and the sea turtle shall be released as quickly as practicable;

(4) If a sea turtle brought on board under paragraph (c)(3) 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.

(d) *Oceanic whitetip shark restrictions.* The crew, operator, or owner of a fishing vessel of the United States used to fish for HMS in the Convention Area shall be prohibited from retaining on board, transshipping, landing, storing, selling, or offering for sale any part or whole carcass of an oceanic whitetip shark (*Carcharhinus longimanus*) and must release unharmed, to the extent practicable, all oceanic whitetip sharks when brought alongside the vessel.

(e) *Whale shark restrictions for purse seine vessels.* Owners, operators, and crew of fishing vessels of the United States commercially fishing for tuna in the Convention Area may not set or attempt to set a purse seine on or around a whale shark (*Rhincodon typus*) if the animal is sighted prior to the commencement of the set or the attempted set.

(f) *Whale shark release.* The crew, operator, and owner of a fishing vessel of the United States commercially fishing for tuna in the Convention Area must release as soon as possible, any whale shark that is encircled in a purse seine net, and must ensure that all reasonable steps are taken to ensure its safe release.

(g) *Mobulid ray restrictions.* The crew, operator, and owner of a U.S. commercial fishing vessel is prohibited from retaining on board, transshipping, storing, landing, selling, or offering for sale any part or whole carcass of a mobulid ray that is caught in the IATTC Convention Area, except as provided in the following sentence. In the case of any mobulid ray caught in the IATTC Convention Area on an observed purse seine vessel that is not seen during fishing operations and is delivered into the vessel hold, the mobulid ray may be stored on board and landed, but the

vessel owner or operator must show the whole mobulid ray to the observer at the point of landing, and then dispose of the mobulid ray at the direction of the responsible government authority. In U.S. ports the responsible governmental authority is NOAA Office of Law Enforcement, Western Division or Pacific Islands Division, or other authorized personnel. Mobulid rays that are caught and landed in this manner may not be sold or bartered, but may be donated for purposes of domestic human consumption consistent with relevant laws and policies.

(h) *Mobulid ray handling and release.* The crew, operator, and owner of a U.S. commercial fishing vessel must promptly release unharmed, to the extent practicable, any mobulid ray (whether live or dead) caught in the IATTC Convention Area as soon as it is seen in the net, on the hook, or on the deck, without compromising the safety of any persons. If a mobulid ray is live when caught, the crew, operator, and owner of a U.S. commercial fishing vessel must use the release procedures described in the following two paragraphs.

(1) No mobulid ray may be gaffed, no mobulid ray may be lifted by the gill slits or spiracles or by using bind wire against or inserted through the body, and no holes may be punched through the bodies of mobulid ray (e.g., to pass a cable through for lifting the mobulid ray).

(2) Applicable to purse seine operations, large mobulid rays must be brailled out of the net by directly releasing the mobulid ray from the brailer into the ocean. Large mobulid rays that cannot be released without compromising the safety of persons or the mobulid ray before being landed on deck, must be returned to the water as soon as possible, either utilizing a ramp from the deck connecting to an opening on the side of the boat, or lowered with a sling or net, using a crane if available. The minimum size for the sling or net must be at least 25 feet in diameter.

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