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FISHERIES MANAGEMENT REGULATIONS 2025

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FISHERIES MANAGEMENT REGULATIONS 2025

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FISHERIES MANAGEMENT REGULATIONS 2025

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MADE UNDER SECTION 104 OF THE FISHERIES MANAGEMENT ACT 2025

Commencement [day month year]

In exercise of the powers conferred by section 104 of the Fisheries Management Act 2025, I hereby make the following regulations —

PART I - PRELIMINARY

1 Citation

These Regulations may be cited as the Fisheries Management Regulations 2025.

2 Commencement

These Regulations shall come into force upon signature and endorsement of the Minister.

3 Objectives

These Regulations contribute to achieving the objectives of the Act by –

- (a) specifying procedures and requirements for the submission, content, consideration, review, conditionality, suspension and cancellation of fishing permits issued pursuant to Parts IV and VI of the Act;
- (b) specifying requirements for vessel reporting and vessel monitoring;
- (c) giving domestic legislative effect to the Third and Fourth Implementing Arrangements; and
- (d) giving domestic legislative effect to certain Conservation and Management Measures agreed by Parties to the Western and Central Pacific Tuna Convention.

4 Interpretation

In these Regulations, unless the contrary intention requires: —

“Act” means the Fisheries Management Act 2025 and includes any regulations, order, declarations or other instruments having the force of law made under the authority of that Act.

“activate” means enable satellite communication services for a FAD buoy by the FAD Buoy Service Provider.

“anchored FAD” means a FAD that has a mooring line attached to an anchor or other object that ensures that the FAD remains in a fixed position.

“ancillary vessel” means a small vessel that is kept on board a fishing vessel when not in use.

“Arrangement Area” means the fisheries waters of the Parties to the Nauru Agreement and the High Seas of the Western and Central Pacific Tuna Convention Area east of 130 degrees East and between 20 degrees North and 20 degrees South.

“associated electronic equipment” means any device or system that can be used by any vessel to locate, track or otherwise monitor a FAD;

“automatic location communicator” or **“ALC”** has the same meaning as it does in the Act;

“bunkering activities” means the transfer to or receiving from a vessel of fuel and oil;

“by-catch” means all living and non-living organisms incidentally caught while fishing for target species, including any by-products and discards forming part of the catch not retained on board the vessel during such fishing operation;

“cetacean” means any member of the cetacean order, including a whale, dolphin or porpoise.

“deactivate” means stopping or terminating satellite communication services for a FAD buoy by the FAD buoy service provider.

“deployment” means the introduction into the sea of a FAD or associated electronic equipment.

“exclusive economic zone” means the exclusive economic zone as defined in the Maritime Zones Act 2012.

“FAD” means fish aggregating device.

“FAD buoy operator” means the entity listed on the Nauru Agreement FAD Buoy Register responsible for a FAD buoy.

“FAD buoy service provider” means a business that provides FAD buoys and associated services to FAD buoy operators related to FAD tracking.

“FAD closure period” means the period of time between 0001 hours GMT on 1 July and 2359 hours GMT on 15 August each year;

“fish aggregating device” has the same meaning as it does in the Act;

“fish aggregating device buoy” or **“FAD buoy”** means a buoy equipped with associated electronic equipment.

“fish carrier” means a vessel used for the transport of refrigerated fish and “reefer” has the same meaning.

“fishing day” means any calendar day or part of a calendar day, during which a purse seine or a longline vessel is in the EEZ of a Party outside of a port.

“fishing trip” means any period, which commences upon the departure of the vessel from port and ends when the fishing vessel returns to port and offloads any or all of the fish on board.

“Fourth Implementing Arrangement” means the Fourth Arrangement Implementing the Nauru Agreement Relating to Fish Aggregating Device Tracking and FAD Buoy Registration signed by the Parties on 13 November 2020.

“high seas” means an area of the seas beyond the seaward boundary of the exclusive economic zone that is not part of the recognised waters of any other State;

“licence” includes a permit issued in accordance with the Act and a licence issued by a regional authority;

“Managing Director” has the same meaning as it does in the Act;

“Minister” means the Minister responsible for fisheries;

“net-sharing” means the transfer of excess fish from one purse-seiner to another purse-seiner for reason of insufficient well space to accommodate all fish caught in the last set of the vessel transferring fish.

“Parties to the Nauru Agreement” or **“PNA”** means the Nauru Agreement Concerning Cooperation in the Management of Fisheries of Common Interest;

“Parties to the Nauru Agreement FAD Buoy Register” means the FAD Buoy Register established by the Chief Executive Officer of the Nauru Agreement Office;

“Parties to the Nauru Agreement FIMS” means the Nauru Agreement Fisheries Information Management System;

“operator” has the same meaning as it does in the Act;

“provisioning activities” means the transfer to or receiving from a vessel any supplies not limited to food, cargo, crew and spare parts required by the vessel;

“regional authority” means the Administrator under the Treaty on Fisheries between the Governments of Certain Pacific Islands States and the Government of the United States of America and the Administrator of the Federated States of Micronesia Arrangement for Regional Fisheries Access;

“related activities” has the same meaning as it does in the Act;

“retrieval” or **“retrieved”** in relation to FADs or associated electronic equipment means the collection or removal from the water of any fish aggregating device or associated electronic

equipment by a vessel;

“**serious violation**” has the same meaning given to it in article 21 paragraph 11 of the 1995 UN Fish Stocks Agreement.

“**servicing**” means the cleaning, maintenance, repair, enhancement, movement and any other related activity, of fish aggregating devices or associated electronic equipment;

“**shark**” means all species of elasmobranch, including all types of sharks, rays and chimaeras.

“**sub-regional observer programme**” means an observer programme established pursuant to the Treaty on Fisheries between the Governments of Certain Pacific Islands States and the Government of the United States of America, the Federated States of Micronesia Arrangement for Regional Fisheries Access and other observer programmes agreed to by the Parties to the Nauru Agreement from time to time;

“**switch off**” means manually turn off a FAD buoy to stop the FAD buoy being able to send or receive satellite transmissions of position and any other available information.

“**switch on**” means manually turn on a FAD buoy to enable the FAD buoy to send or receive satellite transmissions of position and any other available information.

“**taken**” in relation to catch retention means the capture of fish but does not include the release or discard of fish;

“**Third Implementing Arrangement**” means the Third Arrangement Implementing the Nauru Agreement Setting Forth Additional Terms and Conditions of Access to the Fisheries Zones of the Parties, done at Koror, Republic of Palau on 16 May 2008.

“**unregistered FAD buoy**” means a FAD buoy that is not registered on the Parties to the Nauru Agreement FAD Buoy Register.

“**vessel monitoring system**” means the systems employed by FFA member countries and coordinated by the FFA to monitor the position and activities of foreign fishing vessels for the purpose of effective management of fisheries.

PART II – PERMITS AND RELATED MATTERS

5 Permit Applications

- (1) A person applying for a permit pursuant to Part IV of the Act shall make application on such form, including an electronic form, as may be approved by the Board, and the form shall include:
 - (a) the name of the applicant;
 - (b) the name of the vessel;
 - (c) the call sign of the vessel;
 - (d) the country of registration and the registration number of the vessel in that country;

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- (e) the operational base port or ports of the vessel;
 - (e) the regional register number or numbers of the vessel;
 - (f) the type and identifying number or code of the ALC installed on the vessel;
 - (f) the name and address of the owner;
 - (f) the name and address of the operator;
 - (g) the name and address of the master;
 - (h) the gross tonnage, age, length, rated speed, engine power, fuel capacity, gear type, number of crew, hull material, processing equipment and such other information with respect to the characteristics of each vessel or its intended operation as the Board may require; and
 - (i) if applicable, the access agreement under which such permit is sought.
- (2) A person applying for a permit pursuant to Part IV of the Act who intends to undertake marine scientific research, or to take samples from the fishery waters for marine scientific research, shall demonstrate to the satisfaction of the Board that they are engaged in bona fide scientific research as demonstrated by their employment by, affiliation with, or sponsorship by, a duly constituted government agency, an accredited educational organisation or other recognised scientific research institution, and other such relevant information as may be required by the Board.
- (3) A person applying for a port permit pursuant to Part IV of the Act shall submit the application:
- (a) no less than 24 hours before entry into port; or
 - (b) immediately after the end of the fishing operations, if the time distance to the port is less than 24 hours.
- (4) The Board may require such additional information for permit applications as may be necessary to implement and enforce the Act, including an activity plan in accordance with these regulations.

6 Mandatory Refusal of Fishing Permit Applications

- (1) The Managing Director shall refuse to grant a fishing permit pursuant to Part IV of the Act;
- (a) if the vessel, or its operator, is not in good standing;
 - (b) if the fishing vessel does not have a valid and applicable authorisation issued by its flag state to engage in fishing or fishing related activities;
 - (c) if the vessel is on a list of fishing vessels maintained by a regional or sub-regional fisheries management organisation that are believed to have engaged in illegal, unreported, or unregulated fishing;
 - (d) where it has been established that the vessel has been involved in the commission of a serious violation until such time as all outstanding sanctions imposed in respect of the violation have been complied with;
 - (e) if there is reason to believe that the vessel has engaged in trafficking of people, drug trafficking, or has treated fish workers on board in a cruel or inhumane manner;

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- (f) if the vessel has violated, or is reasonably suspected of having a high potential to violate, environmental laws;
 - (g) where there is a pending investigation or civil or criminal proceedings against the vessel or operator in Tuvalu or in any country; or
 - (h) if the vessel does not comply with applicable safety standards including compliance with relevant international safety-related instruments.
- (2) The Managing Director shall refuse to grant a fishing permit pursuant to Part IV of the Act in respect of a vessel unless satisfied that Tuvalu will be able to exercise effectively its responsibilities under applicable international conservation and management measures with respect to that vessel.
- (3) The Managing Director shall refuse to grant a fishing permit pursuant to Part IV of the Act in respect of any fishing vessel, if that vessel was previously authorized to be used for fishing on the high seas by a foreign State, and
- (a) the foreign State suspended such permit because the vessel undermined the effectiveness of international conservation and management measures, and the suspension has not expired; or
 - (b) the foreign State withdrew such permit because the vessel undermined the effectiveness of international conservation and management measures; or
 - (c) the vessel is at the time of application for a fishing permit on a list of vessels maintained by a global or regional or sub-regional fisheries organization that are believed to have engaged in illegal, unreported or unregulated fishing.
- (4) The Managing Director shall refuse to grant a fishing permit pursuant to Part IV of the Act in respect of any application
- (a) for fishing by foreign fishing vessels, domestic based foreign fishing vessels, Tuvalu fishing vessels, or local fishing vessels greater than 20 metres in length on, over or within 12 nautical miles of the outer edge of the reef structure surrounding the atolls and islands;
 - (b) for fishing by foreign fishing vessels, domestic based foreign fishing vessels, or Tuvalu fishing vessels, or local fishing vessels greater than 20 metres in length within 15 nautical miles from the centre of all underwater seamounts located in the fishery waters, and where two or more seamounts are in close proximity, the distance of 15 nautical miles shall be measured from the centre of the nearest seamount.
 - (c) allowing the holder to have any exclusive right to fish in the fishery waters; or
 - (d) for fishing or related activities within a Falekaupule area where the respective Falekaupule does not allow such fishing or related activities.
- (5) The restriction in subregulation (1) does not apply if the ownership of the vessel has changed since the vessel undermined international conservation and management measures, and the new owner has provided sufficient evidence to the Managing Director demonstrating that the previous owner or operator has no further legal, beneficial or financial interest in the vessel.
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7 Port Permits

- (1) The Managing Director, where there is sufficient proof that a vessel requesting entry into a port of Tuvalu has engaged in illegal, unregulated or unreported fishing or fishing related activities in support of such fishing:
 - (a) shall refuse to grant a port permit allowing entry to that vessel; or
 - (b) notwithstanding subregulation (1)(a), may allow such vessel to enter a port exclusively for the purpose of inspecting it and taking other appropriate actions in conformity with international law which are at least as effective as denial of port entry in preventing, deterring and eliminating illegal, unregulated or unreported fishing and fishing related activities in support of such fishing.
- (2) Where a vessel has been allowed entry pursuant to subregulation 1(b), it shall not be authorised to use the port.
- (3) Notwithstanding subregulation (2), the Managing Director may allow a vessel the use of port services:
 - (a) where such services are essential to the safety and health of the crew or the safety of the vessel, provided these needs are duly proven; or
 - (b) as appropriate, for the scrapping of the vessel.
- (4) The Managing Director may revoke authority to enter or remain in port or may require a vessel to be detained in port under such conditions as he deems appropriate where he later has reasonable grounds to believe that the vessel has engaged in illegal, unregulated or unreported fishing or fishing related activities in support of such fishing.

8 Denial of Permit Application - Notification and Appeal

Where the Managing Director denies an application pursuant to Part IV of the Act he shall

- (a) notify the applicant of the denial and the reasons for the refusal;
- (b) invite the applicant to submit a revised application taking into consideration the reasons for denial; and
- (c) inform the applicant that he may appeal the decision to deny the application in writing to the Board, whose decision shall be final and binding.

9 Suspension or Cancellation of a Permit

- (1) The Managing Director may suspend or cancel a permit pursuant to Part IV of the Act
 - (a) where he determines it is necessary or expedient to do so for the conservation or management of living marine resources;

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- (b) where there is a reason to believe that a vessel has been engaged in illegal, unreported, or unregulated fishing;
 - (c) where there is reason to believe that the vessel has been used in the commission of a serious violation;
 - (d) where there is reason to believe that the vessel has been involved in trafficking of drugs or people, or has treated workers on board in a cruel or inhumane manner;
 - (e) where a vessel is removed from good standing;
 - (f) where a vessel is not registered, or flagged in accordance with Tuvalu law; or
 - (g) where a foreign State has removed an authorisation for the vessel to fish.
- (2) Upon deciding to suspend or cancel a permit the Managing Director shall
- (a) notify in writing the operator or Agent including the reasons for the suspension or cancellation;
 - (b) inform the operator or Agent that an appeal against the decision to suspend or cancel the permit may be made in writing to the Board within 14 days of the date upon which the operator or agent received the notification.
- (3) The Board shall consider any submissions made under subregulation (2)(b) and give a final decision within 28 days of the date of the notification under subregulation (2)(a).
- (4) Upon receiving a notification under subregulation (2) for a fishing permit the operator shall cease fishing immediately and shall not resume fishing until such time as the suspension or cancellation is revoked.
- (5) For the purpose of subregulation (1) the term “serious violation” has the same meaning given to it in article 21 paragraph 11 of the 1995 UN Fish Stocks Agreement and includes any violation of the requirements of section 57 of the Act or Part III of these regulations.

10 Conditions for Permits

- (1) The operator of each vessel for which a permit has been issued pursuant to Part IV of the Act shall comply with the following conditions:
- (a) the vessel shall at all times fly its national flag;
 - (b) the vessel shall hold a valid registration issued by the flag State and shall not be registered in any other State;
 - (c) the vessel shall be marked and identified in accordance with the Food and Agriculture Organisation of the United Nations (FAO) approved Standard Specifications for the Marking and Identification of Fishing Vessels and all ancillary vessels and aircraft shall be marked with the vessel's call sign.
 - (d) the international distress and calling frequency 2182 kHz (HF), and the international safety and calling frequency 156.8 MHz (channel 16, VHF-FM) shall be continuously monitored to facilitate communication with authorised officers;

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- (e) a recent and up-to-date copy of the international Code of Signals (INTERCO) shall be carried on board and accessible at all times;
 - (f) an up-to-date set of charts, including electronic charts, showing the fishery waters shall be carried on board and accessible at all times;
 - (g) such position-fixing, identification and vessel monitoring system equipment as may be required shall be installed, maintained and fully operational at all times as may be required;
 - (h) in accordance with section 57 of the Act each vessel shall have installed, maintained and fully operational at all times on board the vessel an ALC, and shall be responsible for all operational and maintenance costs of the ALC and cooperate fully with the Managing Director in its utilisation;
 - (i) the vessel is seaworthy and contains adequate life safety equipment and survival gear for each passenger and member of the crew in full compliance with all relevant provisions of Tuvalu law relating to navigational standards and the safety of vessels at sea;
 - (j) full compliance with the reporting requirements of the Act, these regulations and any applicable access agreement;
 - (k) the vessel shall at all times have onboard a person who can communicate sufficiently well in English to receive instructions from an authorised officer is on board at all times the vessel is in the fishery waters; and
 - (m) full compliance with such other terms and conditions as may be prescribed or otherwise specified in accordance with the Act or any applicable access agreement.
- (2) In the event of a failure by a permit holder to comply with any of the conditions provided in subregulation (1) the Managing Director may cancel or suspend the permit in accordance with the Act and regulations, in addition to any other penalty that may be imposed.

11 Reporting Requirements for Fishing Vessels

- (1) The operator of each foreign fishing vessel, domestic based foreign fishing vessel and Tuvalu fishing vessel issued with a fishing permit or which is permitted to fish pursuant to an access agreement, and such other vessels as the Managing Director may require including any local fishing vessel, shall
- (a) at all times while the vessel is in the fishery waters, maintain in the English language a fishing log in a form approved by the Board recording the following information relating to the activities of the vessel on a daily basis:
 - (i) the gear type used;
 - (ii) the noon position of the vessel and, where applicable, the set position and time or the number of hooks and sea surface temperature;
 - (iii) the species of fish taken and the size and quantity of each species by weight or number as may be specified in the form;
 - (iv) the species of fish returned from the vessel to the sea, and the reason for discard;
 - (v) such other information as an authorised officer may require, or as may be required by an applicable access agreement or fisheries management agreement;

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- (b) report information to the Managing Director or other authority required in an access agreement, in a format required by the Managing Director or under an access agreement, by email or other electronic communication system, relating to the position of, and catch on board the vessel, at the following times:
 - (i) at least 48 hours prior to the estimated time of entry into and departure from the exclusive economic zone;
 - (ii) each Wednesday while in the fishery waters;
 - (iii) at least 24 hours prior to the estimated time of entry into or departure from port; and
 - (iv) upon entry and departure from a closed area;
 - (c) where a vessel tranships at a port of Tuvalu, the departure report made under subregulation 1(b)(iii) must include the port at which the fish are intended to be finally unloaded;
 - (d) ensure that any information or data which may be required to be transmitted by an ALC is transmitted continuously, accurately and effectively to the designated receiver;
 - (e) provide such daily information relating to high seas fishing during the course of a fishing trip involving fishing in the fishery waters in the form the Managing Director may require pursuant to any fisheries management agreement and to give effect to the duty in international law to cooperate in the conservation and management of highly migratory fish stocks; and
 - (f) certify that information provided pursuant to subparagraphs (a) — (e) is true, complete and accurate.
- (2) An operator subject to the requirements of subregulation (1) shall provide original unaltered reports required under subparagraphs (a) and (d) and post the requisite forms to the Managing Director by registered airmail within fourteen days following the date of completion of the official operation.
 - (3) The Managing Director may require by written notice such other reports in respect of any vessel as may be necessary
 - (a) for the conservation and management of marine resources; or
 - (b) to implement or enforce the provisions of the Act, and any access agreement or fisheries management agreement.
 - (4) Any reporting requirements required of an operator under the Act or these regulations or as condition of permit shall be transmitted through a mode specified in the Act or regulations, or in the condition of permit, or as directed by the Managing Director and may include electronic reporting.

12 Activity Plans

- (1) Where the Managing Director decides pursuant to section 30 of the Act to require an activity plan to be attached to an application for a permit, such plans shall comply with the requirements stated in this regulation.

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- (2) An activity plan for fishing shall include
- (a) time, area and species to be fished;
 - (b) gear to be used, including FADs and aircraft;
 - (c) plans for offloading, transshipment, and supply; and
 - (d) any other information required to be included in the plan by the Managing Director.
- (3) An activity plan for fish processing establishments shall include
- (a) a description of the site and evidence of ownership or other legal title or permission for use;
 - (b) evidence that all requirements of the Environmental Protection Act 2008 have been complied with or are in the process of being complied with;
 - (c) the proposed processing methods;
 - (d) the proposed species to be processed;
 - (e) the proposed markets for processed fish to the extent possible;
 - (f) the proposed procedures to ensure compliance with health standards and relevant import sanitary and quality control requirements;
 - (g) evidence of consultation with all those who may be directly affected by the operation of the establishment; and
 - (h) any other information required to be included in the plan by the Managing Director.
- (4) An activity plan for mariculture or aquaculture shall include
- (a) a description of the site by reference to area, fish species and cultivation methods;
 - (b) the objectives to be achieved and the products to be produced;
 - (c) the means by which the objectives are to be achieved by outlining the strategy to be followed;
 - (d) evidence that all requirements of the Environmental Protection Act 2008 have been complied with or are in the process of being complied with;
 - (e) if any living aquatic animals are intended to be transported into Tuvalu, the biosecurity precautions and quarantine measures to be taken to prevent accidental introduction of exotic species, pests and diseases, and plans to ensure that the mariculture or aquaculture project will otherwise comply with all requirements of the Biosecurity Act 2017;
 - (f) evidence of consultation with all those who may be directly affected;
 - (g) evidence of an entitlement to use the intended site, such as proof of ownership, a lease or other agreement with any resource owner;
 - (h) evidence of permission or agreement of a Falekaupule for mariculture or aquaculture within its area; and
 - (i) any other information required to be included in the plan by the Managing Director.
- (5) An activity plan for commercial pilot fishing shall include
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- (a) a description of the fishery including the location, area, fish species, fishing methods and the present state of exploitation;
 - (b) the objectives to be achieved in the commercial pilot fishing or research plan;
 - (c) the means by which these objectives are to be achieved by outlining the strategy to be followed;
 - (d) performance criteria or other means of evaluating the effectiveness of the plan;
 - (e) the limitations, if any, to be applied for fishing operations;
 - (f) the proposed schedule and content for reporting findings to the Managing Director; and
 - (g) any other information required to be included in the plan by the Managing Director.

(6) An activity plan for marine scientific research shall include

- (a) a description of the marine scientific research to be undertaken, qualifications of each person involved and a description of the equipment to be used;
- (b) the objectives to be achieved;
- (c) performance criteria or other means of evaluating the effectiveness of the research;
- (d) any impact or effect the marine scientific research may have on the waters of a Falekaupule and resources therein, including any resources or samples which may be taken during the course of the research;
- (e) plans to carry on board any persons nominated by Tuvalu for training, monitoring, scientific or other purposes,;
- (f) the limitations, if any, to be applied to the scope of the research;
- (g) arrangements for sharing research reports and other findings and outputs of the research with the Tuvalu Government; and
- (h) any other information required to be included in the plan by the Managing Director.

13 Conditions and Restrictions on High Seas or Foreign Waters Fishing Permits

- (1) Every High Seas or Foreign Waters Fishing Permit issued by the Board pursuant to Part VI of the Act shall be in the prescribed form and shall be subject to the conditions and restrictions provided in an applicable access agreement and which may also include
 - (a) restrictive measures giving effect to applicable conservation and management measures agreed by a Regional Fisheries Management Organisation;
 - (b) a requirement that the permit holder is named as the operator of the vessel in the Tuvalu High Seas or Foreign Waters Fishing Vessel Register;
 - (c) a requirement that the permit holder, when the vessel is in foreign waters, comply with all of the laws of the State concerned;
 - (d) a statement declaring the permit only grants authorisation in respect of
 - (i) the permit holder;
 - (ii) an employed agent of the permit holder; and
 - (iii) the master and crew members of the vessel to which the permit applies;
 - (e) a prohibition of fishing or related activities undertaken outside of areas in which fishing or related activities is expressly authorised:

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- (f) restrictive measures relating to the seasons, times and particular trips during which fishing or transportation is authorised;
 - (g) restrictive measures relating to the species, size, age and quantities of fish that may be taken or transported, including non-target species;
 - (h) restrictive measures prescribing the methods by which fish may be taken;
 - (i) restrictive measures prescribing the types, size and amount of fishing gear or equipment that may be used or carried, and the modes of storage of that gear or equipment when not in use;
 - (j) restrictive measures prescribing the location and methods of transfer, transshipment, transportation, landing, receiving and processing of fish;
 - (k) procedures or requirements, or both, enabling the verification of fish taken or being taken by the vessel, including procedures or restrictions relating to the species of, quantities of or areas from which fish are being or have been taken by the vessel;
 - (l) a requirement for entry by the vessel to Tuvalu or foreign ports in accordance with applicable conservation and management measures, whether for inspection of catch or for other purposes, to give effect to conservation and management measures;
 - (m) a requirement that reports and information be given to the Managing Director by the permit holder, and a statement of the records required to be kept by the permit holder;
 - (o) prescriptions relating to the conduct of specified research programmes;
 - (p) prescriptions relating to vessel marking, and other means of identification;
 - (q) requirements for observers and payment of related fees and charges;
 - (r) requirements to install on the vessel and maintain in good order equipment to monitor fishing or transportation under the permit, and the payment of any related fees and charges;
 - (s) requirements to install on the vessel and maintain in good order any ALC or other equipment for the identification and location of the vessel, and of adequate navigational equipment to enable the vessel to fix its position, and the registration on any relevant vessel monitoring system register or payment of any related fees and charges;
 - (t) requirements to carry on board the vessel specified charts, publications and instruments;
 - (u) requirements to retain, dispose or discard fish in accordance with applicable conservation and management measures;
 - (v) a mandatory obligation for the operator to provide the permit document and other evidence that its operations are authorised when inspection takes place;
 - (w) other conditions as may be prescribed, including conditions that are considered necessary and appropriate by the Managing Director to carry out the obligations of Tuvalu under the United Nations Fish Stocks Agreement and the Western and Central Pacific Tuna Convention.
- (2) The Board may vary any conditions attached to a High Seas or Foreign Waters Fishing Permit where the Board is satisfied that it is necessary to ensure compliance by Tuvalu with its obligations under the United Nations Fish Stock Agreement and the Western and Central Pacific Tuna Convention.
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- (3) Where the Board varies any conditions attached to a High Seas or Foreign Waters Fishing Permit, the Managing Director Minister shall notify the permit holder of such variation as soon as practicable.

PART III – VESSEL MONITORING

14 Conditions Governing Automatic Location Communicator

It shall be a condition of every fishing license or permit granted under the Act that, in respect of the ALC required to be installed in the vessel pursuant to section 57 of the Act, the vessel owner or operator

- (a) applies for registration of the ALC at the Forum Fisheries Agency for each year;
- (b) pays the fee determined by the Forum Fisheries Agency for the registration of the ALC;
- (c) maintains the ALC in good working order at all times;
- (d) does not interfere with, tamper with, alter, damage, or disable the ALC;
- (e) does not move or remove the ALC from the agreed installed position without the prior permission of the Managing Director; and
- (f) ensures that the vessel's ALC is switched on and is operating properly at all times when the vessel is in the region.

15 Automatic Location Communicator Malfunction

In the event the vessel's ALC fails to transmit or is otherwise unable to provide reports the vessel operator shall

- (a) provide manual reports to the Managing Director of the vessel's position every 4 hours;
- (b) if after 72 hours the ALC remains unable to provide reports the operator shall immediately stow the vessel's fishing gear and either leave the fishery waters or take the vessel directly to the Port of Funafuti and remain there until the vessel's ALC has been repaired.

16 Vessel Monitoring of Tuvalu Flagged Vessels on the High Seas and Foreign Waters

Tuvalu flagged fishing vessels on the high seas or foreign waters in the Convention Area shall at all times comply with the requirements established by the Commission for the purposes of the Commission VMS, or by the Managing Director for the purposes of this Act, and are equipped with ALCs that shall communicate such data as directed by the Managing Director.

17 Vessel Monitoring Information

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- (1) All vessel monitoring information is classified as confidential information and any person who intentionally, recklessly or negligently divulges information from a vessel monitoring system, to any person or persons not authorised to receive such information shall be guilty of an offence.
 - (2) Notwithstanding subregulation (1), the Minister may release vessel monitoring information in order to:
 - (a) discharge international obligations assumed by Tuvalu;
 - (b) maintain law and order; or
 - (c) ensure safety of life.
 - (3) The ownership of VMS information generated in the fisheries waters of Tuvalu, and by Tuvalu vessels on the high seas, vests in the Government of Tuvalu.

PART IV – THIRD IMPLEMENTING ARRANGEMENT MEASURES

18 Fishing Permits Not Valid unless Terms Complied With

In addition to any other terms and conditions the Managing Director imposes on any fishing vessel licensed to fish in the fishery waters pursuant to Part IV of the Act, no fishing permit issued pursuant to the Act shall be valid unless the conditions prescribed in this Part are complied with by the operator.

19 Requirement for Catch Retention

- (1)
 - (a) All bigeye, skipjack and yellowfin tuna taken by any purse seine vessel licensed to fish in the exclusive economic zone pursuant to the Act shall be retained on board and then landed or transshipped.
 - (b) Where the operator of a purse seine vessel licensed to fish pursuant to the Act determines that fish should not be retained on board for reasons related to the size, marketability, or species composition, the said fish shall only be released before the net is fully pursed and one half of the net has been retrieved.
- (2) Subject to subregulations (3), (4) and (5), the requirement specified in subregulation (1)(a) of this regulation shall not apply to:
 - (a) fish clearly and demonstrably unfit for human consumption; and
 - (b) fish caught during the final set of a trip when there may be insufficient well space to accommodate all fish caught in that set.
- (3) For the purposes of subregulation (2)(a), fish clearly and demonstrably unfit for human consumption: —

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- (a) includes, but is not limited to fish that:
 - (i) is meshed or crushed in the purse seine net; or
 - (ii) is damaged due to shark or whale depredation; or
 - (iii) has died and spoiled in the net where a gear failure has prevented both the normal retrieval of the net and catch and efforts to release the fish alive; and
 - (b) does not include fish that:
 - (i) is considered undesirable in terms of size, marketability, or species composition; or
 - (ii) is spoiled or contaminated as the result of an act or omission of the crew of the fishing vessel.
- (4) Where the operator of a vessel licensed to fish pursuant to the Act determines that fish is clearly and demonstrably unfit for human consumption in accordance with subregulation (3), the said fish shall not be discarded from the vessel until after an observer has estimated the species composition of the fish to be discarded.
- (5) For the purposes of subregulation (2)(b), any excess fish that cannot be accommodated in the fishing vessel may only be discarded if:
- (a) the vessel master and crew attempt to release the fish alive as soon as possible;
 - (b) an observer has estimated the species composition of the fish to be discarded; and
 - (c) no further fishing is undertaken after the discard until the fish on board the vessel has been landed or transshipped.
- (6) The operator of the vessel shall submit a report in the form set out in Schedule 1 to the Managing Director within 48 hours after any discard.

20 Use of Fish Aggregating Devices Prohibited

- (1) The deployment or servicing of a FAD and/or any associated electronic equipment within the Arrangement Area is prohibited during the FAD closure period.
- (2) No purse seine fishing vessel shall conduct any set during the FAD closure period within one (1) nautical mile of a FAD or of a point where a FAD has been retrieved by another vessel in the preceding 24 hours.
- (3) A FAD and/or associated electronic equipment shall not be retrieved by a vessel licensed to fish pursuant to the Act during the FAD closure period unless
 - (a) the FAD and/or associated electronic equipment are retrieved and kept on board the vessel until landed or until the end of the prohibition; and
 - (b) the vessel does not conduct any set either for a period of seven (7) days after retrieval or within a fifty (50) mile radius of the point of retrieval.

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- (4) The Board may exempt all or part of the exclusive economic zone or any Tuvalu vessel from the conditions prescribed in subregulations (1) to (3) of this regulation if
 - (a) the Board determines that a disproportionate burden will be suffered from application of the condition; and
 - (b) a management plan prepared pursuant to section 9 of the Act provides alternative mechanisms for the reduction of fishing on FADs by vessels highly dependent on fishing on FADs.
 - (5) The operator of a vessel shall not allow the vessel to be used to aggregate fish.
 - (6) All exemptions granted under subregulation (4) shall be published in the Gazette or otherwise made publicly available, including on the website of the Authority.

21 Sets Associated with Whale Sharks Prohibited

No purse seine vessel licensed pursuant to the Act shall engage in fishing or related activities in order to catch tuna associated with whale sharks (*Rhincodon typus*).

22 Fishing in Certain Areas of the High Seas Prohibited

- (1) Subject to subregulation (3), no fishing vessel licensed pursuant to the Act to fish in the exclusive economic zone shall, whilst the licence is in force, undertake any fishing or related activities in: —
 - (a) the high seas areas bounded by the exclusive economic zones of the Federated States of Micronesia, Indonesia, Palau and Papua New Guinea; and
 - (b) the high seas areas bounded by the exclusive economic zones of the Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, Papua New Guinea, Solomon Islands and Tuvalu.
- (2) The operator of a fishing vessel licensed pursuant to the Act to fish in the exclusive economic zone, whilst on the high seas areas specified in subregulation (1) shall ensure at all times that all gear on board is stowed or secured in such a manner that it is not readily available for fishing.
- (3) A vessel licensed to fish pursuant to the Act shall not retrieve or remove a FAD and/or associated electronic equipment from the water of the high seas areas specified in subregulation (1) unless: —
 - (a) the FAD and/or associated electronic equipment are deployed or serviced in accordance with these regulations; and
 - (b) the vessel does not conduct any set either for a period of 7 days after retrieval or within a 50 mile radius of the point of retrieval or removal from the water.

23 Requirement for Use of Observers

- (1) A purse seine fishing vessel licensed pursuant to the Act shall carry at all times an observer from either the national observer programme of a Party or an existing sub-regional observer programme in accordance with all requirements of such observer programmes.
- (2) Where an observer is exercising powers conferred on him in accordance with the Act outside the fisheries waters, any act or omission of any person in contravention of the Act shall be deemed to be committed within the fishery waters and such contravention shall be dealt with in any administrative or judicial proceedings as if such act or omission had taken place within Tuvalu.
- (3) The Managing Director may exempt any vessel from the conditions prescribed in subregulation (1) if an observer cannot be obtained from either a national observer programme of a Party or an existing sub-regional observer programme
- (4) All variations or exemptions granted under subregulation (3) shall be published in the Gazette or otherwise made publicly available, including on the website of the Authority.

24 Minimum Mesh Size for Purse Seine Nets

No purse seine vessel licensed pursuant to the Act shall use or have in its possession a purse seine net which is smaller or less than a minimum size of 90mm measured from knot to knot in the bunt and 240mm in 70 percent of the body of each purse seine net.

25 Bunkering on the High Seas

No purse seine vessel licensed pursuant to the Act shall, during the validity of the licence, conduct any bunkering or provisioning activities on the high seas of the Western and Central Pacific Tuna Convention.

PART V – FOURTH IMPLEMENTING ARRANGEMENT MEASURES

26 Unregistered FAD Buoys Prohibited in the Waters of the Territorial Sea or the Exclusive Economic Zone

No person shall cause an unregistered FAD buoy to be in the waters of the territorial sea or the exclusive economic zone, except that an unregistered FAD buoy may be in the territorial sea or archipelagic waters if it is attached to an anchored FAD.

27 Managing Director may Seize and Dispose of Unregistered FAD Buoys found in Waters of the Territorial Sea or the Exclusive Economic Zone

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- (1) The Managing Director may seize and dispose of any unregistered FAD buoy, and any FAD attached to it, found in
 - (a) the sea of the exclusive economic zone; or
 - (b) the territorial sea or archipelagic waters, unless the unregistered FAD buoy is attached to an anchored FAD.
 - (2) The Managing Director is not obliged to identify or locate, or attempt to identify or locate, the owner of an unregistered FAD buoy, or any FAD attached to it, found in the territorial sea, archipelagic waters or the exclusive economic zone.

28 Fishing on Unregistered FAD Buoys Prohibited

No vessel licensed under the Act shall fish on a FAD with an unregistered FAD buoy.

29 Duties of FAD Buoy Operators

A FAD buoy operator shall ensure that, in relation to any FAD buoy that is deployed in the exclusive economic zone,

- (a) the FAD buoy is registered on the PNA FAD Buoy Register before it is deployed; and
- (b) the FAD buoy is activated, switched on, and transmitting information automatically in near real time to the PNA FIMS at least once in every 12-hour period; and
- (c) the information that is transmitted by the FAD buoy includes —
 - (i) the unique identification number of the FAD buoy; and
 - (ii) the position fix (latitude and longitude) of the FAD buoy; and
 - (iii) the date and time of fixing of the position of the FAD buoy expressed in Universal Time Constant; and
- (d) the PNA FIMS is advised within 24 hours if the FAD buoy —
 - (i) is being switched off after removal from the sea; or
 - (ii) is being deactivated; or
 - (iii) fails to transmit for 72 consecutive hours; or
 - (iv) is stationary for 72 consecutive hours within 1 nautical mile from land and the FAD buoy operator believes the FAD buoy has drifted onto a reef or beach; and
- (e) the unique identification number is clearly visible.

30 Information Generated by FAD Buoys

All information or data generated by a FAD buoy shall be regarded as if it was information subject to section 26 of the Act for –

- (a) evidentiary purposes in administrative or judicial proceedings,
- (b) establishing ownership, and
- (c) providing confidentiality.

PART VI – CONSERVATION AND MANAGEMENT MEASURES

31 Cetacean Conservation Measures

- (1) Tuvalu flagged vessels shall not set a purse seine net on a school of tuna associated with a cetacean in the high seas and exclusive economic zones of the Convention Area, if the animal is sighted prior to commencement of the set.
- (2) Vessels licensed pursuant to the Act shall not set a purse seine net on a school of tuna associated with a cetacean during the period of validity of the licence, if the animal is sighted prior to commencement of the set.
- (3) In the event that a cetacean is unintentionally encircled in a purse seine net, the operator of the vessel shall
 - (a) ensure that all reasonable steps are taken to ensure its safe release. This shall include stopping the net roll and not recommencing fishing operation until the animal has been released and is no longer at risk of recapture; and
 - (b) report the incident to the Managing Director, including details of the species (if known) and number of individuals, location and date of such encirclement, steps taken to ensure safe release, and an assessment of the life status of the animal on release (including, if possible, whether the animal was released alive but subsequently died).
- (4) In taking steps to ensure the safe release of the cetacean as required under subregulation (3)(a), the master of the vessel shall follow any guidelines adopted by the Commission for this purpose, while maintaining high standards of crew safety.

32 Sea Turtle Conservation Measures

- (1) The operator of a Tuvalu flagged vessel or vessels licensed pursuant to the Act shall bring aboard, if practicable, any captured hard-shell sea turtle that is comatose or

inactive as soon as possible and foster its recovery, including giving it resuscitation, before returning it to the water.

- (2) The operator of a Tuvalu flagged vessel or a vessel licensed pursuant to the Act shall ensure that the vessel's crew are aware of and use sea turtle harm mitigation and proper handling techniques, as described in guidelines of the Western and Central Pacific Tuna Convention.
- (3) The operator of a Tuvalu flagged purse seine vessel or a purse seine vessel licensed pursuant to the Act shall ensure that
 - (a) to the extent practicable, avoid encirclement of sea turtles, and if a sea turtle is encircled or entangled, take practicable measures to safely release the turtle;
 - (b) to the extent practicable, release all sea turtles observed entangled in fish aggregating devices or other fishing gear;
 - (c) if a sea turtle is entangled in the net, stop net roll as soon as the turtle comes out of the water and disentangle the turtle take all practicable steps to avoid injuring it, before resuming the net roll, and to the extent practicable, assist the recovery of the turtle before returning it to the water; and;
 - (e) carry and employ dip nets to handle turtles.
- (4) The operator of a Tuvalu flagged longline vessel or a longline vessel licensed pursuant to the Act shall ensure that the vessel carries and uses line cutters, de-hookers and dip-nets to handle and promptly release sea turtles caught or entangled, and that they do so in accordance with Western and Central Pacific Tuna Convention guidelines.
- (5) The operator of a vessel licensed pursuant to the Act shall record all incidents involving sea turtles during fishing operations and report such incidents to the Managing Director.

33 Shark Conservation Measures

- (1) Shark finning is prohibited and the operator of a Tuvalu flagged vessel or a vessel licensed pursuant to the Act shall ensure that no shark finning occurs, including for the purpose of crew consumption.
- (2) The operator of a Tuvalu flagged vessel or a vessel licensed pursuant to the Act shall ensure that all sharks caught are returned to the water whether they are alive or dead.
- (3) The operator of a Tuvalu flagged vessel or a vessel licensed pursuant to the Act shall ensure that all practicable efforts are made to avoid harm to sharks while in the process of returning them to the water, including performing the operation as soon as practicable following capture.

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- (4) The operator of a Tuvalu flagged longline vessel targeting tuna and billfish, or a longline vessel targeting tuna and billfish licensed pursuant to the Act shall ensure that
 - (a) the vessel does not use or carry wire trace as branch lines or leaders;
 - (b) the vessel does not use branch lines running directly off the longline floats or drop lines, also known as shark lines;
 - (c) where a shark is caught that it be released as soon as practicable, taking into consideration the safety of the crew and observer, and where possible leaving the shark in the water and using a line cutter to cut the branch line as close to the hook as possible.
 - (5) The operator of a Tuvalu flagged vessel or a vessel licensed pursuant to the Act shall ensure that all interactions with sharks are recorded and reported to the observer and the Managing Director and such reports shall include information as specified by the Managing Director.
 - (6) The operator of a vessel carrying sharks that have been legally caught outside of the fishery waters must declare the quantity and species to the Managing Director at least 72 hours prior to entering the exclusive economic zone.

34 Seabird Conservation Measures

- (1) The operator of a Tuvalu flagged vessel or a vessel licensed pursuant to the Act shall ensure that all practicable efforts are made to avoid seabird bycatch and to avoid harm to seabirds.
- (2) The operator of a Tuvalu flagged longline vessel or a longline vessel licensed pursuant to the Act that is fishing south of 30°S, must ensure the use of either
 - a) two of the following three measures:
 - i). weighted branch lines;
 - ii). night setting;
 - iii). tori lines; or
 - b) hook-shielding devices.
- (3) The operator of a Tuvalu flagged longline vessel or a longline vessel licensed pursuant to the Act that is fishing in the area 25°S-30°S must ensure the use of one of the following mitigation measures:
 - a) weighted branch lines;
 - b) tori lines; or
 - c) hook-shielding devices.
- (4) The operator of a Tuvalu flagged longline vessel or a longline vessel licensed pursuant to the

Act that is 24 meters or more in overall length that is fishing north of 23°N, must use at least two of the mitigation measures in the Table in Schedule 5, including at least one from Column A.

- (5) The operator of a Tuvalu flagged longline vessel or a longline vessel licensed pursuant to the Act that is less than 24 meters in overall length fishing north of 23°N, must use at least one of the mitigation measures from Column A in the Table in Schedule 5.

PART VII – OBSERVER SAFETY AND WELFARE

35 Observer Safety and Welfare

- (1) The duties provided in this Part are additional to the duties to authorised observers provided in section 54 of the Act.
- (2) Operators of vessels licensed pursuant to the Act shall immediately rectify any conditions that may cause serious health and safety issues to an authorised observer, not limited to making basic safety equipment available and ensuring adequate standards of sanitation are maintained on board the vessel.
- (3) Operators of vessels licensed pursuant to the Act shall immediately cease fishing
- a) where an authorised observer is incapacitated from performing his duties due to sickness or injury that requires immediate medical attention;
 - b) where the health or safety, including mental health, of an authorised observer is at risk;
 - c) where an authorised observer has been assaulted, harassed or intimidated; or
 - d) where the operator has been directed to do so by the observer service provider or the licensing authority for reasons relating to the safety and wellbeing of the observer.
- (4) Where any of the circumstances in regulation 35(3) occur, operators of vessels licensed pursuant to the Act shall immediately report the details of the circumstances to the relevant observer service provider and facilitate the replacement and transfer of the authorised observer.
- (5) Where an authorised observer is missing or presumed fallen overboard operators of vessels licensed pursuant to the Act shall
- a) immediately cease all fishing activities, activate search and rescue protocols then immediately conduct a search for at least 72 hours or as otherwise directed by authorities;
 - b) report the incident immediately to the observer service provider including the vessel's position where the incident happened;
 - c) alert other vessels in the vicinity by using all available means of communication;
 - d) whether or not the search is successful, return the vessel for further investigation to the

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- nearest port as designated by the observer service provider; and
- e) provide a full report to the observer service provider and appropriate authorities on the incident and fully cooperate with the investigation, while remaining in port until further notice.
- (6) Where an authorised observer has died, operators of vessels licensed pursuant to the Act shall
- a) immediately cease all fishing activities;
 - b) report the incident immediately to the observer service provider including the vessel's position where any incident happened, the exact time of death and the location of the vessel at that time;
 - c) immediately return the vessel for further investigation to the nearest port as designated by the observer service provider;
 - d) provide a full report to the observer service provider and to the Managing Director on the incident and fully cooperate with any investigation, and
 - e) ensure the vessel remains in port until the Managing Director determines that the vessel may leave port.
- (7) Operators of vessels licensed pursuant to the Act shall ensure the following are provided without cost to an authorised observer, the Government, or any other person or entity
- a) all safety equipment to be used by an authorised observer;
 - b) in the event of injury or illness of an authorised observer, full repatriation and medical costs, as applicable, where the observer is returned to port for medical reasons;
 - c) in the event of death of an authorised observer, all costs related to autopsy, funeral expenses, and reasonable costs for repatriation, loss of earnings, and other related expenses as applicable; and
 - d) in the event of death of the observer, to ensure that the body is well preserved for the purposes of an autopsy and investigation.
- (8) Operators shall assist the observer service provider to replace or disembark an authorised observer at the nearest port where a spouse, child or parent of an authorised observer is seriously ill or has died.

PART VIII – ENFORCEMENT

36 Offences and Penalties

- (1) A contravention any of the above regulations is an offence against the Act and the operator of that vessel shall be liable on conviction to a fine not exceeding \$1,000,000 for each offence.
- (2) Offences against these regulations shall be dealt with in accordance with the procedures and requirements in Parts IX and X of the Act.

37 Citations

In accordance with section 76 of the Act, the offences against these regulations that eligible for citation are listed in Schedule 4.

38 Amendment of Schedules

Schedules to these regulations may be amended by order of the Minister.

Schedule 1

THIRD IMPLEMENTING ARRANGEMENT DISCARD REPORTING FORM

Name of Boat		
Flag of Boat		
Boat WCPFC Identification No.		
Name and nationality of master		
Licence number		
Name of observer on board		
Date, time and location (lat/long) of discard		
Date, time, location (lat/long) and type of the shot (drifting FAD, anchored FAD, free school, etc)		
Reason that fish were discarded (including statement of retrieval status if fish were discarded according to Reg 6, sub-reg 1.b		
Estimated tonnage and species of discarded fish	Species	Tonnage
Estimated tonnage and species of retained fish from that set	Species	Tonnage
If fish were discard according to regulation 6 sub-reg 2.b, a statement that no further fishing will be undertaken until the catch on board has been unloaded	Signed by master	
Any other information deemed relevant by the boat master		
Any other information deemed relevant by the observer		

Schedule 2

[INSERT THE TEXT OF THE THIRD IMPLEMENTING ARRANGEMENT]

Schedule 3

[INSERT THE TEXT OF THE FOURTH IMPLEMENTING ARRANGEMENT]

Schedule 4

OFFENCES ELIGIBLE FOR CITATION

Regulation	Description	Fine USD\$
9(1)	Failure to fly national flag (but other clear identification markings in place);	\$500
9(1)	Failure to hold set of INTERCO signals on board;	\$500
9(1)	Failure to mark fishing gear fully with radio callsign (odd longline buoys or FAD buoys not marked);	\$500
9(1)	Nobody on board with a good command of English.	\$500
31(4)	No dip net and/or line cutter on board for release of sea turtles regs	\$1,000
32(1)	Crew on board a licensed vessel in possession of a small, non-commercial, quantity of a protected species (e.g. shark fin)	\$1,500

Schedule 5

SEABIRD MITIGATION MEASURES

Table 1: Mitigation measures

<i>Column A</i>	<i>Column B</i>
<i>Side setting with a bird curtain and weighted branch lines¹</i>	<i>Tori line²</i>
<i>Night setting with minimum deck lighting</i>	<i>Blue-dyed bait</i>
<i>Tori line</i>	<i>Deep setting line shooter</i>
<i>Weighted branch lines</i>	<i>Management of offal discharge</i>
<i>Hook-shielding devices³</i>	