

From: Bowman, Randal  
To: Michael Weiss - NOAA Federal  
Subject: Re: Follow-up Tuna questions  
Date: Tuesday, August 08, 2017 2:36:00 PM

Sorry to add another question here, but something just occurred to me - is there a similar legislative provision for the Hawaii-based long-liners to fish in Hawaiian waters, or are those all American-built?

On Tue, Aug 8, 2017 at 3:17 PM, Michael Weiss - NOAA Federal <michael.weiss@noaa.gov> wrote  
Hi Randy,

Responses below.

Thanks

Question #1

I have one follow-up question for the response to #2 to fully address the issue - and agree the number of US-built long-liners in Samoa is not needed in light of the answer - do the American Samoa-based longliners have or could they easily obtain (since I have no idea of what the process is) endorsements to fish in the EEZ around the Pacific Remote Islands if commercial fishing were allowed there?

**RESPONSE** The number that are U.S.-built vessels would become relevant again because those vessels should already have (or could easily obtain) an unconditioned fisheries endorsement that would allow them to fish in the EEZ around the U.S. Pacific Remote Islands.

Question #2

On the follow-up I checked the statutory reference provided and the answer with respect to the PRIs appears to be "no". However, because there could well be other factors involved, I would really appreciate the answer still coming from your folks rather than my making an assumption based on a single section of a law not administered by DOI.

**RESPONSE** To clarify if the question is can foreign-built vessels get a fisheries endorsement allowing them to fish in the EEZ around the PRI? - then the answer is no.

Question #3

My request for your opinion was better than I knew at the time as pursuing it deeper the law in question was recodified and 12108 is now sec 12113 and I'm still reading but answer now may be yes

**RESPONSE** Good catch on the recodified section (correct section is now 12116). The section moved with the language intact so the answer to question above remains no. The 12116 provisions provide a limited fisheries endorsement for only the EEZs adjacent to the three listed U.S. Pacific territories.

On Mon, Aug 7, 2017 at 5:27 PM, Bowman, Randal <randal\_bowman@ios.doi.gov> wrote

On the follow-up, I checked the statutory reference provided and the answer with respect to the PRIs appears to be "no". However, because there could well be other factors involved, I would really appreciate the answer still coming from your folks, rather than my making an assumption based on a single section of a law not administered by DOI.

On Mon, Aug 7, 2017 at 2:31 PM, Bowman, Randal <randal\_bowman@ios.doi.gov> wrote

I have one follow-up question for the response to #2 to fully address the issue - and agree the number of US-built long-liners in Samoa is not needed in light of the answer - do the American Samoa-based longliners have, or could they easily obtain (since I have no idea of what the process is) endorsements to fish in the EEZ around the Pacific Remote Islands if commercial fishing were allowed there?

On Fri, Aug 4, 2017 at 11:25 AM, Michael Weiss - NOAA Federal <michael.weiss@noaa.gov> wrote  
Hi Randy,

Responses below.

Thanks

1) What is the basis for this limitation - Jones Act?

Just about everything in maritime commerce can in some way be drawn back to the requirements of the Jones Act. It is where you can find the basic requirements for vessels to be documented with the appropriate endorsement in order to operate (in this case fish) in U.S. waters. The specific requirements for US vessel documentation, fisheries endorsements and many exemptions for tuna fisheries in the Pacific have been codified over the years and the best cite for the current fishery endorsement requirements is Title 16 U.S. Code §12113. There is a specifically relevant set of limited endorsement provisions for the US Pacific Territories at Title 16 U.S. Code §12108.

The quoted statement was accurate for all other geographic areas and for WCPO purse seiners but imprecise overall since there is a way for a small foreign-built vessel to get an endorsement limited to this region.

2) Does this apply to the long-line fishery and if so, how many of the 40 long-line vessels based in American Samoa are US built?

16 USC §12113 applies to all documented commercial fishing vessels including longliners. But the provisions of 16 USC §12108 allow foreign-built vessels under 200 gross tons to get a fishery endorsement limited to the EEZ around American Samoa, Guam and CNMI. No purse seiners are under 200 GT. All of the longliners are under 200 GT. Many of the American Samoa longliners are foreign-built. The exact number would take some time to determine (pull all of the documents up and looking for build location) but the number is not relevant because 100% of the American Samoa-based longliners have a fishery endorsement and 100% of the American Samoa-based longliners can and do fish in the US EEZ around the Territory.

On Wed, Aug 2, 2017 at 10:39 AM, Bowman, Randal <randal\_bowman@ios.doi.gov> wrote

Two related ones at this point - the previous answer to one of my questions included a statement "only US-built vessels can obtain fisheries endorsement and fish in the EEZ" and that 9 of the 35 American Samoa-based purse seine vessels were US-built.

1) What is the basis for this limitation - Jones Act? 2) Does this apply to the long-line fishery, and if so, how many of the 40 long-line vessels based in American Samoa are US built?

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