

**PART 950—SOLICITATION OF FEDERAL CIVILIAN AND UNIFORMED SERVICE PERSONNEL FOR CONTRIBUTIONS TO PRIVATE VOLUNTARY ORGANIZATIONS**

■ 1. The authority citation for part 950 continues to read as follows:

**Authority:** E.O. 12353 (March 23, 1982), 47 FR 12785 (March 25, 1982). 3 CFR, 1982 Comp., p. 139. E.O. 12404 (February 10, 1983), 48 FR 6685 (February 15, 1983), Pub. L. 100–202, and Pub. L. 102–393 (5 U.S.C. 1101 Note).

■ 2. Amend § 950.203 to revise paragraph (a)(1) to read as follows:

**§ 950.203 Public accountability standards.**

(a) \* \* \*

(1) Certify that the organization is a human health and welfare organization providing services, benefits, or assistance to, or conducting activities affecting, human health and welfare. The organization's application must provide documentation describing the health and human welfare benefits provided by the organization within the previous year.

\* \* \* \* \*

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BILLING CODE 6325–46–P

**DEPARTMENT OF HOMELAND SECURITY**

**Office of the Secretary**

**6 CFR Part 13**

[DHS–2005–0059]

RIN 1601–AA11

**Program Fraud Civil Remedies**

**AGENCY:** Office of the Secretary, DHS.

**ACTION:** Final rule.

**SUMMARY:** This final rule adopts, without change, the Program Fraud Civil Penalties interim rule published by the Department of Homeland Security (DHS) on October 12, 2005. This rule finalizes uniform administrative procedures for DHS to implement the Program Fraud Civil Remedies Act of 1986 (the Act).

**DATES:** The interim rule is adopted as final as of March 12, 2007.

**FOR FURTHER INFORMATION CONTACT:**

Michael Russell, Acting Deputy Associate General Counsel, Division of General Law, Office of the General Counsel, Department of Homeland Security, Washington, DC 20528. Telephone: 202–205–4634 or facsimile:

202–772–9735, not toll free calls; or e-mail: [michael.d.russell@dhs.gov](mailto:michael.d.russell@dhs.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Program Fraud Civil Remedies Act of 1986, codified at 31 U.S.C. 3801–3812 and adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134), establishes an administrative remedy against anyone who makes a false Claim or written Statement to any of certain Federal agencies, including DHS. In brief, any person who submits a Claim or written Statement to an affected agency knowing or having reason to know that it is false, fictitious, or fraudulent, is liable for a penalty of up to \$5,500 per false Claim or Statement and, in addition, with respect to Claims, for an assessment of up to double the amount falsely Claimed. The Act requires each affected Federal agency to publish rules and regulations necessary to implement the provisions of the Act. 31 U.S.C. 3809.

The interim rule, published on October 12, 2005, at 70 FR 59209, contains procedures governing the imposition of civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent Claims or written Statements to DHS or any of its components. The final rule adopts those regulations as final.

**II. Comment on the Interim Rule**

DHS solicited public comments on the interim rule and the comment period closed on November 15, 2005. DHS received one comment. The commenter expressed concern that the penalty of \$5,500 per false Claim or Statement is far too low, because, the commenter asserted, the cost to the government for fraud exceeds this amount. The Act being implemented here limits the penalty and DHS is not authorized to exceed those limitations. The commenter also expressed concerns about how the government gives out money generally; these comments were beyond the scope of the rulemaking because the rule is limited to implementing the Program Fraud and Civil Remedies Act of 1986, and did not address government grant programs generally, or individual eligibility issues.

**III. Regulatory Analyses**

*Executive Order 12866*

This final rule is considered by DHS to be a “significant regulatory action” under Executive Order 12866, section 3(f), Regulatory Planning and Review. 58 FR 51735, October 4, 1993 (Executive Order). Under Executive Order 12866 a significant regulatory action is subject to an Office of Management and Budget (OMB) review and to the requirements of the Executive Order. The Executive Order defines “significant regulatory action” as one that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$ 100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights or obligations of recipients thereof; (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order. As discussed in the interim rule, because this rule announces procedures for a unique and relatively new cabinet-level department, and because DHS engages in uncommon relief and assistance efforts such as those following Hurricane Katrina, this rule may raise novel policy issues. 70 FR 59209, 59211 (Oct. 12, 2005). Accordingly, the rule was reviewed by the Office of Management and Budget.

*Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) mandates that an agency conduct an RFA analysis when an agency is “required by section 553 \* \* \*, or any other law, to publish general notice of proposed rulemaking for any proposed rule, or publishes a notice of proposed rulemaking for interpretative rule involving the internal revenue laws of the United States \* \* \*.” 5 U.S.C. 603(a). RFA analysis is not required when a rule is exempt from notice and comment rulemaking under 5 U.S.C. 553(b). DHS determined that good cause existed under 5 U.S.C. 553(b)(B) to exempt this rule from the notice and comment requirements of 5 U.S.C. 553(b). See 70 FR 59209, 59210 (Oct. 12, 2005). Therefore, no RFA analysis under 5 U.S.C. 603 is required for this rule.

*Unfunded Mandates Reform Act of 1995*

The Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, UMRA addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. UMRA analysis is not required when a rule is exempt from notice and comment rulemaking under 5 U.S.C. 553(b). DHS determined that good cause existed under 5 U.S.C. 553(b)(B) to exempt this rule from the notice and comment requirements of 5 U.S.C. 553(b). See 70 FR 59209, 59210 (Oct. 12, 2005). Therefore, no UMRA analysis is required for this rule. Nevertheless, DHS does not expect this rule to result in such an expenditure.

*Executive Order 13132, Federalism*

This final rule will not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. It will not preempt any state laws. In accordance with section 6 of Executive Order 13132, we determine that this rule will not have federalism implications sufficient to warrant the preparation of a federalism impact statement.

*Executive Order 12988, Civil Justice Reform*

This final rule meets the applicable standards in section 3(a) and 3(b)(2) of Executive Order 12988.

*Paperwork Reduction Act*

This final rule will not require or invite any additional record or information maintenance, submission, or collection for the DHS programs. Therefore, this final rule will not invoke the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

**List of Subjects in 6 CFR Part 13**

Administrative practice and procedure, Claims, Fraud, Penalties.

**Authority and Issuance**

Accordingly, for the reasons stated in the preamble, and pursuant to my authority as Secretary of Homeland Security, the interim rule adding 6 CFR part 13 that was published at 70 FR

59209 on October 12, 2005, is adopted as a final rule without change.

**Michael Chertoff**,  
Secretary.

[FR Doc. 07–569 Filed 2–8–07; 8:45 am]

**BILLING CODE 4410–10–P**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****15 CFR Part 902****50 CFR Part 300**

**[Docket No. 050620161–7016–02; I.D. 061605A]**

**RIN 0648–AP61**

**South Pacific Tuna Fisheries**

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

**ACTION:** Final rule.

**SUMMARY:** NMFS revises regulations implementing the South Pacific Tuna Act of 1988, as amended (SPTA), to reflect the changes agreed to in the Third Extension of the Treaty on Fisheries between the Governments of Certain Pacific Island States and the Government of the United States of America and its annexes, schedules, and implementing agreements, as amended (Treaty). New provisions under the Treaty relate to vessel monitoring system (VMS) requirements, vessel reporting requirements, area restrictions for U.S. purse seine vessels fishing under the Treaty, and allowing U.S. longline vessels to fish on the high seas portion of the Treaty Area. These actions are intended to bring the United States into compliance with its obligations under the Treaty.

**DATES:** Effective March 12, 2007.

**ADDRESSES:** Copies of the final regulatory flexibility analysis (FRFA), regulatory impact review, environmental assessment, and small entity compliance guide that were prepared for this final rule may be obtained from the Regional Administrator, NMFS, Pacific Islands Regional Office, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814–4700, or by contacting Raymond P. Clarke by telephone at 808–944–2200 or by facsimile (fax) at 808–973–2941.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this final rule

may be submitted to NMFS, Pacific Islands Regional Office, and by e-mail to *David\_Rostker@omb.eop.gov*, or fax to 202–395–7285.

**FOR FURTHER INFORMATION CONTACT:** Raymond P. Clarke, 808–944–2200.

**SUPPLEMENTARY INFORMATION:****Background**

On August 10, 2006, NMFS published a proposed rule (71 FR 45752) that would revise regulations at 50 CFR part 300, subpart D, in order to implement, under the authority of the SPTA (16 U.S.C. 973 *et seq.*), certain changes recently agreed to in the Treaty. The proposed rule was open to public comment through October 10, 2006.

The objective of this final rule is to fulfill the commitments of the United States to implement the amendments made in the Third Extension of the Treaty, which was agreed to in 2002 and expires June 14, 2013, as well as subsequent technical modifications made in the seventeenth annual formal consultation of the parties to the Treaty in March 2005.

This final rule implements four modifications to the Treaty, as summarized below. References to the term “FFA” mean the Pacific Islands Forum Fisheries Agency, in its capacity of Treaty Administrator on behalf of the Pacific Island parties to the Treaty. In addition to revising the regulations to implement these Treaty modifications, the regulations are revised to explicitly include the details of certain requirements that were until now incorporated only by reference to the Treaty and its annexes.

(1) *Modifications to vessel reporting requirements:* The purse seine vessel reporting requirements have been modified such that: times must be reported in Universal Coordinated Time (also known as UTC) rather than Greenwich Mean Time (or GMT); catches must be reported in metric tons (rather than short tons); the weekly vessel report to the FFA, known as the WEEK report, is eliminated; the weekly reports to national authorities continue but are amended to indicate whether or not an observer is on board the vessel; the report for entry into port for unloading must be submitted at least 24 hours prior to (rather than any time prior to) the vessel’s arrival into port; and the vessel operator is required to report the estimated date and time of arrival and the estimated date of departure from port in the report for port departure and the report entry into port for unloading, as appropriate.

(2) *Modifications to Closed and Limited Areas:* Papua New Guinea’s