

*Service life* means the length of time during which a VMS unit remains fully operational with reasonable repairs.

*Sniffing* means the unauthorized and illegitimate monitoring and capture, through use of a computer program or device, of data being transmitted over a network.

*Spoofing* means the reporting of a false Global Positioning System position and/or vessel identity.

*Time stamp* means the time, in hours, minutes, and seconds in a position report. Each position report is time stamped.

*Type-approval holder* means an applicant whose type-approval request has been approved pursuant to this subpart.

*Vendor* means a commercial provider of VMS hardware, software, and/or mobile communications services.

*Vessel Monitoring System (VMS)* means, for purposes of this subpart, a satellite and/or cellular based system designed to monitor the location and movement of vessels using onboard VMS units that send Global Positioning System position reports to an authorized entity.

*Vessel Monitoring System (VMS) data* means the data transmitted to authorized entities from a VMS unit.

*Vessel Monitoring System Program* means the Federal program that manages the vessel monitoring system, data, and associated program-components, nationally and in each NMFS region; it is housed in the Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service's Office of Law Enforcement.

*Vessel Monitoring System (VMS) Unit* means MTU, EMTU or EMTU-C, as well as the units that can operate as both an EMTU and an EMTU-C.

*Vessel Monitoring System (VMS) Vessels* means vessels that operate in federally managed fisheries with a requirement to carry and operate a VMS unit.

#### **§ 600.1501 Vessel Monitoring System type-approval process.**

(a) *Applicability.* Unless otherwise specified, this section applies to EMTUs, EMTU-Cs, units that operate as both an EMTU and EMTU-C, and MCSs. Units that can operate as both

an EMTU and EMTU-C must meet the requirements for both an EMTU and an EMTU-C in order to gain type-approval as both. MTUs are no longer eligible for type-approval.

(b) *Application submission.* A requestor must submit a written type-approval request and electronic copies of supporting materials that include the information required under this section to the NMFS Office of Law Enforcement (OLE) at: U.S. Department of Commerce; National Oceanic and Atmospheric Administration; National Marine Fisheries Service; Office of Law Enforcement; Attention: Vessel Monitoring System Office; 1315 East-West Highway, SSMC3, Suite 3301, Silver Spring, Maryland 20910.

(c) *Application requirements.* (1) EMTU, EMTU-C, and MCS Identifying Information: In a type-approval request, the requestor should indicate whether the requestor is seeking approval for an EMTU, EMTU-C, MCS, or bundle and must specify identifying characteristics, as applicable: Communication class; manufacturer; brand name; model name; model number; software version and date; firmware version number and date; hardware version number and date; antenna type; antenna model number and date; tablet, monitor or terminal model number and date; MCS to be used in conjunction with the EMTU/EMTU-C; entity providing MCS to the end user; and current global and regional coverage of the MCS.

(2) Requestor-approved third party business entities: The requestor must provide the business name, address, phone number, contact name(s), email address, specific services provided, and geographic region covered for the following third party business entities:

(i) Entities providing bench configuration for the EMTU/EMTU-C at the warehouse or point of supply.

(ii) Entities distributing/selling the EMTU/EMTU-C to end users.

(iii) Entities currently approved by the requestor to install the EMTU/EMTU-C onboard vessels.

(iv) Entities currently approved by the requestor to offer a limited warranty.

(v) Entities approved by the requestor to offer a maintenance service agreement.

(vi) Entities approved by the requestor to repair or install new software on the EMTU/EMTU-C.

(vii) Entities approved by the requestor to train end users.

(viii) Entities approved by the requestor to advertise the EMTU/EMTU-C.

(ix) Entities approved by the requestor to provide other customer services.

(3) Regulatory Requirements and Documentation: In a type-approval request, a requestor must:

(i) Identify the NMFS region(s) and/or Federal fisheries for which the requestor seeks type-approval.

(ii) Include copies of, or citation to, applicable VMS regulations and requirements in effect for the region(s) and Federal fisheries identified under paragraph (c)(3)(i) of this section that require use of VMS.

(iii) Provide a table with the type-approval request that lists in one column each requirement set out in §§ 600.1502 through 600.1509 and regulations described under paragraph (c)(3)(ii) of this section. NMFS OLE will provide a template for the table upon request. The requestor must indicate in subsequent columns in the table:

(A) Whether the requirement applies to the type-approval; and

(B) Whether the EMTU, EMTU-C, MCS, or bundle meets the requirement.

(iv) Certify that the features, components, configuration and services of the requestor's EMTU/EMTU-C, MCS, or bundle comply with each requirement set out in §§ 600.1502 through 600.1509 and the regulations described under paragraph (c)(3)(ii) of this section.

(v) Certify that, if the request is approved, the requestor agrees to be responsible for ensuring compliance with each requirement set out in §§ 600.1502 through 600.1509 and the regulations described under paragraph (c)(3)(ii) of this section over the course of the type-approval period.

(vi) Provide NMFS OLE with two EMTU/EMTU-Cs loaded with forms and software, if applicable, for each NMFS region or Federal fishery, with activated MCS, for which a type-approval

request is submitted for a minimum of 90 calendar days for testing and evaluation. For EMTU-Cs, the forms and software may be loaded onto a dedicated message terminal and display component to which the EMTU-C can connect. Copies of forms currently used by NMFS are available upon request. As part of its review, NMFS OLE may perform field tests and at-sea trials that involve demonstrating every aspect of EMTU/EMTU-C and communications operation. The requestor is responsible for all associated costs including paying for: Shipping of the EMTU/EMTU-C to the required NMFS regional offices and/or headquarters for testing; the MCS during the testing period; and shipping of the EMTU/EMTU-C back to the vendor.

(vii) Provide thorough documentation for the EMTU/EMTU-C and MCS, including: EMTU/EMTU-C fact sheets; installation guides; user manuals; any necessary interfacing software; MCS global and regional coverage; performance specifications; and technical support information.

(d) *Certification.* A requestor seeking type-approval of an EMTU/EMTU-C to operate with a class or type of communications, as opposed to type-approval for use with a specific MCS, shall certify that the EMTU/EMTU-C meets requirements under this subpart when using at least one MCSP within that class or type of communications.

(e) *Notification.* Unless additional time is required for EMTU/EMTU-C testing, NMFS OLE will notify the requestor within 90 days after receipt of a complete type-approval request as follows:

(1) If a request is approved or partially approved, NMFS OLE will provide notice as described under § 600.1510 and the type-approval letter will serve as official documentation and notice of type-approval. OLE will publish and maintain the list of type-approved units on their Vessel Monitoring System web page.

(2) If a request is disapproved or partially disapproved:

(i) OLE will send a letter to the requestor that explains the reason for the disapproval/partial disapproval.

(ii) The requestor may respond to NMFS OLE in writing with additional

information to address the reasons for disapproval identified in the NMFS OLE letter. The requestor must submit this response within 21 calendar days of the date of the OLE letter sent under paragraph (e)(2)(i) of this section.

(iii) If any additional information is submitted under paragraph (e)(2)(ii) of this section, NMFS OLE, after reviewing such information, may either take action under paragraph (e)(1) of this section or determine that the request should continue to be disapproved or partially disapproved. In the latter case, the NMFS OLE Director will send a letter to the requestor that explains the reasons for the continued disapproval/partial disapproval. The NMFS OLE Director's decision is final upon issuance of this letter and is not appealable.

#### **§ 600.1502 Communications functionality.**

(a) Unless otherwise specified, this subsection applies to all VMS units. Units that can operate as both an EMTU and EMTU-C must meet the requirements for both an EMTU and an EMTU-C in order to gain type-approval as both. The VMS unit must:

- (1) Be able to transmit all automatically-generated position reports.
- (2) Provide visible or audible alarms onboard the vessel to indicate malfunctioning of the VMS unit.
- (3) Be able to disable non-essential alarms in non-Global Maritime Distress and Safety System (GMDSS) installations.
- (4) EMTU/EMTU-Cs must be able to send communications that function uniformly throughout the geographic area(s) covered by the type-approval, except an EMTU-C only needs to be capable of transmission and reception when in the range of a cellular network.
- (5) EMTU/EMTU-Cs must have two-way communications between the unit and authorized entities, via MCS, or be able to connect to a device that has two-way communications.
- (6) EMTU/EMTU-Cs must be able to run or to connect to a dedicated message terminal and display component that can run software and/or applications that send and receive electronic forms and internet email messages for

the purpose of complying with VMS reporting requirements in Federal fisheries. Depending on the reporting requirements for the fishery(s) in which the requester is seeking type-approval, an EMTU-C type-approval may not require the inclusion of a dedicated message terminal and display component at the time of approval, but the capability to support such a component must be shown.

(7) Have messaging and communications mechanisms that are completely compatible with NMFS vessel monitoring and surveillance software.

(b) In addition, messages and communications from a VMS unit must be able to be parsed out to enable clear billing of costs to the government and to the owner of a vessel or EMTU/EMTU-C, when necessary. Also, the costs associated with position reporting and the costs associated with other communications (for example, personal email or communications/reports to non-NMFS Office of Law Enforcement entities) must be parsed out and billed to separate parties, as appropriate.

#### **§ 600.1503 Position report data formats and transmission.**

Unless otherwise specified, this subsection applies to all VMS units, MCSs and bundles. Units that can operate as both an EMTU and EMTU-C must meet the requirements for both an EMTU and an EMTU-C in order to gain type-approval as both. To be type-approved in any given fishery, a VMS unit must also meet any additional positioning information as required by the applicable VMS regulations and requirements in effect for each fishery or region for which the type-approval applies. The VMS unit must meet the following requirements:

- (a) Transmit all automatically-generated position reports, for vessels managed individually or grouped by fleet, that meet the latency requirement under § 600.1504.
- (b) When powered up, must automatically re-establish its position reporting function without manual intervention.
- (c) Position reports must contain all of the following:
  - (1) Unique identification of an EMTU/EMTU-C and clear indication if the unit is an EMTU-C.