

should be reported on a single Form SA3 and report these systems separately as multiple Forms SA1 and SA2 systems, the effect of which is the reduction of the royalty fees due and the elimination of the systems' 3.75% fees obligations.

We note, however, that the FCC has stated that community units are not equivalent to franchise areas for communications law purposes. See *Implementation of Sections of the Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation*, 8 FCC Rcd 510, 515, fn 34 (1992) (noting that a cable franchise may span more than one community unit operating within a distinct geographic franchise area). We also note that the FCC has recently questioned whether cable system boundaries are coterminous with franchise area boundaries. See *Implementation of Section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992*, 20 FCC Rcd 18581, 18588 (2005) (in seeking comment on the efficacy of the local cable franchising process under Section 621 of the Communications Act, the FCC asked, *inter alia*: "Are cable systems generally equivalent to franchise areas?").

In responding to MPAA's proposal to amend its rule, commenters should consider whether there is a general pattern of disaggregation by cable operators to support a rule change, and if so, is it reasonable to equate the term "community" with a cable operator's "franchise area" as defined by the Federal Communication Commission? What would be the advantages and disadvantages of defining community in this manner? We also seek comment on the impact such definitional changes may have on copyright royalty payments, and whether and to what extent the FCC's statements would affect the definitions and policies we may adopt in this proceeding.

V. Conclusion

We hereby seek comment from the public on the issues raised by the Program Suppliers in their Petition for Rulemaking. The petition and the attachments may be viewed on the Copyright Office website at: www.copyright.gov/docs/cable/soa-petition-attachment-a.pdf and www.copyright.gov/docs/cable/soa-attachments-b-c.pdf. If there are any other issues not raised or identified in this NOI related to the requested changes, interested parties may address those matters in their comments.

Dated: August 4, 2006

Tanya M. Sandros,

Associate General Counsel.

[FR Doc. E6-13112 Filed 8-9-06; 8:45 am]

BILLING CODE 1410-30-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 050620161-5161-01; I.D. 061605A]

RIN 0648-AP61

South Pacific Tuna Fisheries

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to revise 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 needed to bring the United States into compliance with its obligations under the Treaty.

DATES: Comments must be received by October 10, 2006.

ADDRESSES: You may submit comments on the proposed rule or the initial regulatory flexibility analysis (IRFA), identified by 0648-AP61, by any of the following methods:

- E-mail: 0648-AP61@noaa.gov;

Include 0648-AP61 in the subject line of the message.

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

- Facsimile (fax): 808-973-2941.

Attention: Raymond P. Clarke.

- Mail: Regional Administrator, NMFS, Pacific Islands Regional Office, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814-4700.

Copies of the environmental assessment (EA), regulatory impact

review, and IRFA that were prepared for this rule may be obtained from the Regional Administrator of NMFS, Pacific Islands Regional Office, at the above address.

Send comments regarding the reporting burden estimate or any other aspect of the collection-of-information requirements in these management measures, including suggestions for reducing the burden, to the NMFS address listed above and to David Rostker, Office of Management and Budget (OMB), by email at David_Rostker@omb.eop.gov, or by fax at 202-395-7285.

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

SUPPLEMENTARY INFORMATION:

Background on the Treaty

The Treaty, implemented through the SPTA (16 U.S.C. 973 *et seq.*) and its implementing regulations at 50 CFR part 300, subpart D, governs the conduct of U.S. fishing vessel operations in the Treaty Area. The Treaty authorizes, and regulates through a licensing system, U.S. purse seine vessels operations within all or part of the exclusive economic zones (EEZs) of the 16 Pacific Island parties to the Treaty (PIPs), thus providing access to a large portion of the western and central Pacific Ocean. The 16 PIPs, each a sovereign state, are members of the Pacific Islands Forum, an inter-governmental body.

Until recently the Treaty allowed U.S. vessels fishing for albacore by the trolling method to fish in the high seas portion of the Treaty Area, but it did not allow U.S. longline vessels to do so. The Treaty has since been amended to allow U.S. longline vessels to fish in the high seas portion of the Treaty Area and the SPTA was amended in 2004 to reflect that change (Public Law 108-219). U.S. longline and albacore troll vessels fishing in the high seas portion of the Treaty Area are not subject to the Treaty's or SPTA's licensing requirements.

The Treaty entered into force in 1988 following ratification by the U.S. and the PIPs. After an initial 5-year agreement, the Treaty was renewed in 1993 for an additional 10 years. Currently, the Treaty allows for a maximum of 45 licenses to U.S. purse seine fishing vessels to fish in the Licensing Area of the Treaty. Of the 45 licenses, 5 are reserved for "joint venture" arrangements: specifically, U.S. purse seine fishing vessels engaged in activities designed to promote the maximization of benefits generated for PIPs, such as the use of onshore facilities in PIPs, purchase of equipment

and supplies from PIPs and employment of PIP nationals on such vessels. The Licensing Area includes all or part of the EEZs of the following countries: Australia, Cook Islands, Federated States of Micronesia, Fiji, Kiribati, Marshall Islands, Nauru, New Zealand, Niue, Palau, Papua New Guinea, Samoa, Solomon Islands, Tonga, Tuvalu, and Vanuatu. The Treaty Area, which is the area bounded by the coordinates provided in paragraph 1(k) of Article 1 of the Treaty, is approximately 10 million square miles (26 million square kilometers) in size. As of June 2006, 12 U.S. vessels were active in the fishery under the Treaty (there have been no joint venture arrangements implemented to this date).

The Treaty establishes the terms and conditions associated with certain aspects of U.S. purse seine vessel operations and conditions of access to the EEZs of the PIPs. Treaty terms and conditions include, but are not limited to, various fees, area closures, reporting requirements, and monitoring requirements. Additionally, the U.S. has certain Treaty obligations, such as administrative requirements, payment of licensing and access fees, and the collection, compilation, and summarization of fishery related data. Under the current agreement governing financial and administrative aspects of the Treaty (Agreement between the Government of the United States of America and the South Pacific Forum Fisheries Agency), the United States is obligated to pay an annual fee of 21 million dollars. The U.S. Government pays 18 million dollars under a technical assistance agreement, and the U.S. purse seine tuna industry, represented by the American Tunaboat Association, provides the additional 3 million dollars. All these funds are paid to the Pacific Islands Forum Fisheries Agency (FFA), headquartered in Honiara, Solomon Islands. The FFA Secretary General and staff act as the Treaty administrator on behalf of the PIPs.

NMFS has been designated by the U.S. Secretary of Commerce as the agency responsible for implementing fishery conservation and management measures required to be imposed on U.S. fishing vessel owners and operators under the Treaty and the SPTA. U.S. operational, administrative, and enforcement commitments under the Treaty are carried out by NMFS and the U.S. Coast Guard.

Background on the Regional VMS

Under the Treaty, U.S. purse seine vessel operators participating in the western and central Pacific Ocean purse

seine fishery must submit a variety of written reports and provide electronic communications regarding vessel position. At present, these reports are submitted via e-mail communications to the FFA or the appropriate PIP. The non-electronically collected information from U.S. participants is transmitted to the FFA, typically through NMFS, Pacific Islands Regional Office, or its field office in Pago Pago, American Samoa.

VMS programs that utilize shipboard transceivers, or VMS units, are used successfully in several fisheries around the world for fishery monitoring, compliance, and surveillance purposes. These automated systems assist fishery managers and enforcement personnel in monitoring compliance with certain types of fishery regulations, and are particularly useful in circumstances where, as under the Treaty, fishing vessels operate over large geographic areas and vessel operators are subject to area restrictions. The VMS automates monitoring and surveillance using satellite and communications technology to send location and identity information from a fishing vessel to a designated land-based monitoring station. Shipboard VMS units can be programmed to report at set time intervals. Some systems allow remote programming of the time intervals. This is typically done from a land-based monitoring station via the satellite communications system. The reporting intervals may be adjusted (e.g. from 1 time per day to 20 times per hour) based on operational needs. In some systems, the VMS units can receive and process polling commands, such as a request to transmit the vessel's current position. Position fixing is typically done using a global positioning system receiver integrated into the VMS unit.

In 1992, the parties to the Treaty signaled recognition of the potential value of a VMS by including language in Annex 1 Part 8 stating "It is understood that a region-wide vessel tracking system applicable to all vessels licensed to fish in the Treaty Area may be established. United States vessels with a license to fish under the Treaty shall participate in such a system and shall install and operate a transponder of a type and in such a manner as may be agreed by the Parties. It is understood that data derived through the system shall be treated as confidential business information and that the terms and conditions for access to that information shall be a matter of discussions between the Parties". If VMS data are requested under the Freedom of Information Act (FOIA), the responding agency would be required to determine the releasability

of the information under Exemption 4 of the FOIA pertaining to the release of confidential business information, as well as any other applicable exemptions.

Recognizing the value of VMS to the management regime, the 16 PIPs, all members of the FFA's policy coordinating body called the Forum Fisheries Committee (FFC), implemented a regional VMS to assist in the management of highly migratory species fishery resources within their EEZs. Specifically, the FFC mandated that as of October 1, 2001, all fishing vessels operating under bilateral or multilateral fishery access agreements within the EEZs of member nations would be required to participate in the FFA's regional VMS. Under the terms of the Treaty, the U.S. agreed that vessels licensed to fish in the Treaty Area would be required to participate when a VMS requirement was implemented within the EEZs of the PIPs.

The principal purpose of the FFA regional VMS is to support existing surveillance assets such as patrol vessels, surveillance flights, and regional at-sea fishery observers. Currently, vessels licensed under the Treaty operate across an area of approximately 10 million square miles (26 million square kilometers). Effective surveillance of an area of this size is extremely difficult. The FFA regional VMS is expected to be a valuable asset in effectively monitoring this vast area in a cost-effective manner, and is expected thereby to contribute to the sustainability of fishery resources. The specifications for the FFA Regional VMS were developed and implemented based upon FFA member countries' experiences with VMS and taking into consideration the need to ensure a high degree of information security and operational efficiency, with minimum potential for tampering.

The United States has determined that a robust regional VMS within the Treaty Area is needed in order to effectively manage the fleets of the various distant water fishing nations that operate in the western and central Pacific Ocean. Now that a regional VMS has been established and domestic VMS-related regulations have been established in most of the PIPs, the U.S. is prepared to participate in the system.

Modifications to the Treaty and the SPTA and Proposed Regulations

In 2002 the Treaty was extended for the second time since its inception in 1988 (the 2002 extension is referred to as the Third Extension). To fulfill the commitments of the United States to implement the Treaty amendments

made in the Third Extension, as well as subsequent technical modifications made in the seventeenth annual formal consultation of the parties to the Treaty in March 2005, NMFS proposes to revise the regulations implementing the SPTA. Four modifications were made to the Treaty: (1) Modifications to vessel reporting requirements, (2) modifications to Closed and Limited Areas, (3) new VMS requirements, and (4) longline high seas access.

The four modifications would be implemented in this proposed rule through revisions to the regulations implementing the SPTA (with respect to longline high seas access, the SPTA has also been amended). These modifications and how they would be implemented through this proposed rule are described below. In addition to amending the regulations to implement these Treaty modifications, the regulations would be amended to explicitly include the details of certain requirements that are currently 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 archipelagic waters are now closed to U.S. purse seine vessels (prior to the Third Extension certain of these waters were open to U.S. vessels fishing under the Treaty) and the Solomon Islands EEZ is now opened to fishing under the Treaty, with the exception of the area from the archipelagic baseline for the main island group (as defined in Solomon Islands' Delimitation of Marine Waters Act 1978) out to 60 nautical miles (111 kilometers) that is closed to fishing (prior to the Third Extension all but a small portion of the Solomon Islands EEZ was a Closed

Area; the remainder was a Limited Area in which effort by U.S. purse seine vessels was restricted).

(3) *VMS requirements:* To comply with the FFC's October 2001 mandate regarding the regional VMS and the Treaty amendments made under the Third Extension, NMFS proposes to require each U.S. vessel licensed under the Treaty to have installed and to carry, operate, and maintain a VMS unit while in the Treaty Area. The VMS unit and attendant software would have to be of a type approved by the FFA as Treaty Administrator. If the VMS unit malfunctions or fails, the owner or operator would be required to provide notice of such failure or malfunction, submit substitute reports by an alternative means at intervals of no greater than 8 hours, and if directed by the FFA or NMFS, proceed to a designated port to repair or replace the VMS unit. Owners and operators of vessels licensed under the Treaty would also be required to register annually on the FFA Vessel Register (in the past the FFA administered a "FFA VMS Register of Foreign Fishing Vessels" and a "FFA Regional Register of Foreign Fishing Vessels" but the two have been consolidated into a single "FFA Vessel Register"). NMFS would administratively facilitate the applications for registration on the register, but vessel owners and operators would be responsible for completing the FFA registration forms and the payment of associated fees. Once a vessel has been granted registered status on the FFA Vessel Register, the FFA would notify the license holder of such status. Vessel owners and operators are advised to retain a copy of this notice as a record of a vessel's status on the FFA Vessel Register.

The contact information for the FFA, as Treaty Administrator, for the purpose of the manual position reports and the notifications required in certain circumstances in the proposed VMS-related regulations, as well as for informational purposes, is as follows:

- Telephone: Country code 677, number 21124.
- Facsimile: Country code 677, number 23995.
- E-mail: VMS.Help@ffa.int.

Updated contact information may be obtained from NMFS (see **ADDRESSES**).

Additional contact information for the FFA, as Treaty Administrator, for informational purposes is as follows:

- Internet: <http://www.ffa.int>.
- Mail: Secretary General, Pacific Islands Forum Fisheries Agency, PO Box 629, Honiara, Solomon Islands

Updated contact information may be obtained from the NMFS American

Samoa field station, telephone: country code 684, number 633-5598; facsimile: country code 684, number 633-1400, or the NMFS Pacific Islands Regional Office (see **ADDRESSES**).

The VMS data would be treated by NMFS as confidential business information. However, if VMS data are requested under FOIA, the responding agency would be required to determine the releasability of the information under Exemption 4 of the FOIA pertaining to the release of confidential business information, as well as any other applicable exemptions. These new VMS requirements appear in the proposed regulations at § 300.45.

(4) *Longline high seas access:* This proposed rule would exempt U.S. longline vessels from the prohibitions currently listed in 50 CFR 300.38, effectively allowing authorized U.S. longline vessels to fish in the high seas portions of the Treaty Area. The original language of the Treaty stated that only purse seine vessels could operate under the Treaty, with one exception, that being for albacore vessels that trolled (fished) while transiting through the high seas portion of the Treaty Area. The unintended consequence of this language is that it did not allow for other types of U.S. vessels, including longline vessels, to fish on the high seas portions of the Treaty Area. It was never the intent of the parties to the Treaty to exclude U.S. longline vessels to areas open to all others fleets in the region. In 1999, after an expressed interest on the part of the U.S. longline industry, the parties agreed to rectify the situation and to allow U.S. longline vessels access to the high seas portions of the Treaty Area. This exemption for U.S. longline vessels to fish in the high seas portion of the Treaty Area appears in the proposed regulations at § 300.39(a).

Classification

NMFS prepared an EA for this action that discusses the impact on the environment as a result of this proposed rule. A Finding of No Significant Impact was signed on July 23, 2004. A copy of the EA is available from NMFS (see **ADDRESSES**).

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

NMFS prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. NMFS invites public comment on the IRFA (see **ADDRESSES**). A description of the action, an explanation of why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the

SUMMARY section of the preamble. A summary of the analysis follows:

Three of the measures in this proposed action, the modified vessel reporting requirements, the VMS requirements, and the modified Closed and Limited Areas, would apply to owners and operators of U.S. purse seine vessels that operate in the Treaty Area. The measure to allow longline vessels access to the high seas portion of the Treaty Area would apply to owners and operators of U.S. longline vessels operating in the Pacific Ocean. Based on the number of U.S. purse seine vessels licensed under the Treaty and the number of U.S. longline vessels permitted to operate in the Pacific Ocean under the Magnuson-Stevens Fishery Conservation and Management Act and/or the High Seas Fishing Compliance Act as of June 2006, NMFS estimates that 12 purse seine vessels and approximately 183 longline vessels would be subject to the rule. These purse seine and longline vessels are owned by approximately 9 and 183 business entities, respectively. Based on (limited) financial information about these fishing fleets, NMFS believes that as many as 7 and 183 of the affected purse seine and longline business entities, respectively, are small business entities (i.e. they have gross annual revenues of less than \$4.0 million).

The reporting, recordkeeping, and other compliance requirements of this proposed rule are described in the **SUPPLEMENTARY INFORMATION** section of this preamble. The classes of small entities subject to the requirements and the types of professional skills necessary to fulfill the requirements are as follows:

(1) *Vessel reporting requirements:*

These requirements are part of a collection of information approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA) (OMB control number 0648-0218). Approximately seven small business entities would be subject to these requirements. The cost of compliance would be minor: because the changes have to do only with units of measure, the timing of reports, and the reporting of one additional piece of information (whether or not an observer is on board), they would require only minor modifications in habit on the part of the vessel operators. Fulfillment of these reporting requirements is not expected to require any professional skills that the vessel owners and operators do not already possess.

(2) *Fishing area modifications:*

Approximately seven small business entities would be subject to these requirements. These modifications would not impose any new reporting or

recordkeeping requirements (within the meaning of the PRA) on purse seine vessel owners or operators, but they could affect the economic performance of such vessels. It is not known whether the density of exploitable stocks in the affected areas is greater or less than in the fleet's fishing grounds generally. Because the target stocks are a highly fluid resource in this region, with high turnover rates and significant movements of fish through the region, any such differences are likely to be small. The measure is therefore not expected to have a strong direct effect on catch rates or resulting economic returns. However, the modifications would affect the operational flexibility of U.S. purse seine vessels, and such effects could in turn bring economic impacts. Vessels would have greater operational flexibility through enhanced access to the Solomon Islands EEZ but less flexibility from reduced access to the waters around Papua New Guinea. It is not possible to predict whether the expected positive impacts to small entities from the former effect would be less than or greater than the expected negative impacts from the latter effect. This is due to a lack of information about the extent and value of the operational flexibility afforded by each of the two affected areas, as well as the general difficulty in predicting the behavior of vessels that operate in response to many biophysical and economic factors and conditions, many of which change markedly from year to year. The impact, while difficult to predict, is not expected to differ by entity class (i.e. by small versus large entity). Fulfillment of these requirements is not expected to require any professional skills that the vessel owners and operators do not already possess.

(3) *VMS requirements:* These requirements are part of a collection of information approved by OMB under the PRA (OMB control number 0648-0218). Approximately seven small business entities would be subject to these requirements. The expected annual cost of complying with the VMS requirements is no more than about \$4,000 per vessel (including annualized costs of \$1,000-\$2,000 for the purchase of VMS units and approximately \$200 for the installation and activation of VMS units, which might have to be replaced as often as once every four years; \$1,375 for the annual FFA VMS registration fee; and approximately \$500 for maintenance and routine operation). This represents about one tenth of one percent of the total costs of production for a typical purse seine vessel, and

perhaps as much as two tenths of one percent of the total costs of production for the smallest affected small business entity. Fulfillment of these VMS requirements is not expected to require any professional skills that the vessel owners and operators do not already possess.

(4) *Longline high seas access:*

Approximately 183 small business entities would be subject to this measure. Opening the high seas areas of the Treaty Area to U.S. longline vessels would not impose any additional reporting, recordkeeping, or other compliance requirements. Since the measure would expand the fishing area available to U.S. longline vessels, increasing their operational flexibility, it is expected to have positive or neutral impacts on affected small entities.

NMFS is not aware of any relevant Federal rules that duplicate, overlap with, or conflict with this proposed rule. NMFS considered several alternatives to this proposed rule. As a party to the Treaty, the U.S. has committed itself to implementation of the Treaty amendments. Consequently, NMFS has limited discretion with regard to implementation of the SPTA. One alternative NMFS considered is to take no action. However, NMFS rejected this alternative because it would not achieve the objectives of the SPTA, which are to implement the terms of the Treaty. NMFS also considered several alternatives to the VMS requirements. One is to encourage voluntary compliance with the VMS measures rather than issuing a rule that would make them mandatory. To the extent that voluntary compliance is achieved, the costs to small entities would be the same as under the preferred alternative. Because relying on voluntary compliance would make it difficult to ensure that the VMS requirements of the Treaty are met, this alternative is not preferred. Two other non-regulatory alternatives, which would require agreement by the parties to the Treaty, are to obtain the desired compliance and monitoring benefits via enhanced vessel observer coverage or enhanced aerial and surface surveillance activities rather than via a VMS. These alternatives could achieve the objectives of the SPTA at potentially lesser cost to small entities. However, the projected costs to the public of enhancing vessel observer coverage or aerial and surface surveillance to the extent needed to achieve the compliance and monitoring benefits offered by a VMS are significantly greater than the expected total costs of the VMS alternative. Because the cost of VMS is significantly less than the costs of enhanced observer

coverage or enhanced aerial and surface monitoring, it appears more appropriate to choose the more cost-effective VMS alternative. A copy of the IRFA is available from NMFS (see **ADDRESSES**).

This proposed rule contains collection-of-information requirements subject to the PRA and which have been approved by OMB under control number 0648-0218. The public reporting burden for the modified vessel reporting requirements is estimated to average 1 hour per catch report, with about five catch reports per year per respondent, and about 30 minutes per unloading logsheet, with about six unloading logsheets per year per respondent. The public reporting burden for the VMS requirements is estimated to average 30 minutes per year per respondent for what was formerly called the FFA Regional Register of Foreign Fishing Vessels application form, 15 minutes per year per respondent for what was formerly called the FFA VMS Register of Foreign Fishing Vessels application form, and 2 hours per year per respondent for VMS unit maintenance. As explained previously, the FFA consolidated the two previously-used vessel registers into a single "FFA Vessel Register" on about September 1, 2005, and there is now a single application form for the register. This consolidation had no effect on the

information collection requirement or the estimated public reporting burden.

Public comment is sought regarding: whether these collection-of-information requirements are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the burden estimates; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection-of-information requirements to NMFS (see **ADDRESSES**) and to David Rostker, OMB, by email at *David_Rostker@omb.eop.gov* or by fax at 202-395-7285.

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 OMB control number.

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources, Reporting and recordkeeping requirements, Treaties.

Dated: August 3, 2006.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR 300, subpart D, as follows.

PART 300—INTERNATIONAL FISHERIES REGULATIONS

1. The authority citation for 50 CFR part 300, subpart D continues to read as follows:

Authority: 16 U.S.C. 973-973r.

2. In § 300.31, definitions for "FFA Vessel Register", "Pacific Islands Forum Fisheries Agency" or "FFA", "UTC", and "Vessel Monitoring System Unit" or "VMS unit" are added, the definition for "Limited Area" is deleted, and definitions for "Regional Administrator", "Applicable national law", "Closed Area", and "Treaty Area" are revised to read as follows:

§ 300.31 Definitions.

* * * * *

Applicable national law means any of the laws of Pacific Island Parties in the following table and any regulations or other instruments having the force of law implemented pursuant to these laws:

Pacific Island Party	Laws
AUSTRALIA	Antarctic Marine Living Resources Conservation Act, 1981. Fisheries Management Act, 1991. Fisheries Administration Act, 1991. Statutory Fishing Rights Charge Act, 1991. Fisheries Legislation (Consequential Provisions) Act, 1991. Foreign Fishing Licences Levy Act, 1991.Fishing Levy Act, 1991. Fisheries Agreements (Payments) Act, 1991. Fisheries Agreements (Payments) Act, 1991. Torres Strait Fisheries Act, 1984. Whale Protection Act, 1980.
COOK ISLANDS.	Exclusive Economic Zone (Foreign Fishing Craft) Regulations, 1979. Territorial Sea and Exclusive Economic Zone Act, 1977.Marine Resources Act, 1989.
FEDERATED STATES OF MICRONESIA	Titles 18 and 24 of the Code of the Federated States of Micronesia, as amended by Public Law Nos. 2-28, 2-31, 3-9, 3-10, 3-34, and 3-80.
FIJI	Fisheries Act (Cap. 158). Fisheries Regulations (Cap. 158). Marine Spaces Act (Cap. 158A). Marine Spaces (Foreign Fishing Vessels) Regulations, 1979.
KIRIBATI	Fisheries Ordinance, 1979. Fisheries (Amendment) Act, 1984. Marine Zones (Declaration) Act, 1983. Fisheries (Pacific Island States'Treaty with the United States) Act 1988.

Pacific Island Party	Laws
MARSHALL ISLANDS	Title 33, Marine Resources Act, as amended by P.L. 1989-56, P.L. 1991-43, and P.L. 1992-25 of the Marshall Islands Revised Code.
NAURU	Interpretation Act, 1971. Interpretation Act (Amendment) Act No. 1 1975. Interpretation Act (Amendment) Act No. 2 1975. Marine Resources Act, 1978.
NEW ZEALAND	Antarctic Marine Living Resources Act, 1981.Continental Shelf Act, 1964. Conservation Act, 1987. Driftnet Prohibition Act, 1991. Exclusive Economic Zone (Foreign Fishing Craft) Regulations, 1978. Fishing Industry Board Act, 1963. Fisheries Act, 1983. Marine Mammals Protection Act, 1978. Marine Reserves Act, 1971. Marine Pollution Act, 1974. Meat Act, 1964. Territorial Sea and Exclusive Economic Zone Act, 1977. Tokelau (Territorial Sea and Exclusive Economic Zone) Act, 1977. Submarine Cables and Pipelines Protection Act, 1966. Sugar Loaf Islands Marine Protected Area Act, 1991. Wildlife Act, 1953.
NIUE	Niue Fish Protection Ordinance 1965. Sunday Fishing Prohibition Act 1980. Territorial Sea and Exclusive Economic Zone Act 1978.
PALAU	Palau National Code, Title 27.
PAPUA NEW GUINEA	Fisheries Act (Cap 214). Fisheries Regulations (Cap 214). Fisheries (Torres Strait Protected Zone) Act, 1984. National Seas Act (Cap 361). Tuna Resources Management Act (Cap 224). Whaling Act (Cap 225).
SOLOMON ISLANDS	Delimitation of Marine Waters Act, 1978. Fisheries Act, 1972. Fisheries Limits Act, 1977. Fisheries Regulations, 1972. Fisheries (Foreign Fishing Vessels) Regulations, 1981. Fisheries (United States of America) (Treaty) Act 1988.
TONGA	Fisheries Act, 1989.
TUVALU	Fisheries Act (Cap 45). Fisheries (Foreign Fishing Vessel) Regulations, 1982. Marine Zones (Declaration) Act, 1983. Foreign Fishing Vessels Licensing (US Treaty) Order 1987.
VANUATU	Fisheries Act 1982 (Cap 158). Fisheries Regulations 1983. Maritime Zones Act 1981 (Cap 138).
SAMOA	Exclusive Economic Zone Act, 1977. Territorial Sea Act, 1971. Fisheries Act, 1988.

* * * * *

Closed area means any of the areas in the following table, as depicted on

charts provided by the Regional Administrator and as further described in additional information that may be provided by the Regional Administrator:

Pacific Island Party	Area
AUSTRALIA	All waters within the seaward boundary of the Australian Fishing Zone (AFZ) west of a line connecting the point of intersection of the outer limit of the AFZ by the parallel of latitude 25° 30' South with the point of intersection of the meridian of longitude 151 East by the outer limit of the AFZ and all waters south of the parallel of latitude 25° 30' South.
COOK ISLANDS	Territorial Sea.
FEDERATED STATES OF MICRONESIA	Three nautical mile territorial sea and nine nautical mile exclusive fishery zone and on all named banks and reefs as depicted on the following charts: DMAHTC NO 81019 (2nd. ed., Mar. 1945; revised 7/17/72; corrected through NM 3/78 of 21 June 1978). DMAHTC NO 81023 (3rd. ed., 7 Aug. 1976). DMAHTC NO 81002 (4th. ed., 26 Jan. 1980; corrected through NM 4/80).
FIJI	Internal waters, archipelagic waters and territorial seas of Fiji and Rotuma and its Dependencies.
KIRIBATI	Within archipelagic waters as established in accordance with Marine Zones (Declaration) Act 1983; within 12 nautical miles drawn from the baselines from which the territorial seas is measured; and within 2 nautical miles of any anchored fish aggregating device within the Kiribati exclusive economic zone for which notification of its location shall be given by geographical coordinates.
MARSHALL ISLANDS	12 nautical mile territorial sea and area within two nautical miles of any anchored fish aggregating device within the Marshall Islands exclusive economic zone for which notification of its location shall be given by geographical coordinates.
NAURU	The territorial waters as defined by Nauru Interpretation Act, 1971, Section 2.
NEW ZEALAND	Territorial waters; waters within 6 nautical miles of outer boundary of territorial waters; all waters to west of New Zealand main islands and south of 39° South latitude; all waters to east of New Zealand main islands south of 40° South latitude; and in respect of Tokelau: areas within 12 nautical miles of all island and reef baselines; twelve and one half nautical miles either side of a line joining Atafu and Nukunonu and Faka'ofu; and coordinates as follows: Atafu: 8° 35' 10" S, 172° 29' 30" W Nukunonu: 9° 06' 25" S, 171° 52' 10" W Faka'ofu: 9° 22' 30" S, 171° 16' 30" W
NIUE	Territorial sea and within 3 nautical miles of Beveridge Reef, Antiope Reef and Haran Reef as depicted by appropriate symbols on NZ 225F (chart showing the territorial sea and exclusive economic zone of Niue pursuant to the Niue Territorial Sea and Exclusive Economic Zone Act of 1978).
PALAU	Within 12 nautical miles of all island baselines in the Palau Islands; and the area:

Pacific Island Party	Area
PAPUA NEW GUINEA	<p>commencing at the north-easterly intersection of the outer limit of the 12 nautical mile territorial sea of Palau by the arc of a circle having a radius of 50 nautical miles and its center at Latitude 07 ° 16' 34 " North, longitude 134 ° 28' 25 " East, being at about the center of the reef entrance to Malakal Pass; running thence generally south-easterly, southerly, south-westerly, westerly, north-westerly, northerly and north-easterly along that arc to its intersection by the outer limit of the 12 nautical mile territorial sea; and thence generally northerly, north-easterly, easterly, south-easterly and southerly along that outer limit to the point of commencement. Where for the purpose of these specifications it is necessary to determine the position on the surface of the Earth of a point, line or area, it shall be determined by reference to the World Geodetic System 1984; that is to say, by reference to a spheroid having its center at the center of the Earth and a major (equatorial) radius of 6,378,137 meters and a flattening of 1/298.2572.</p>
SOLOMON ISLANDS	All territorial seas, archipelagic and internal waters.
TONGA	All internal waters, territorial seas and archipelagic waters; and such additional waters around the main group archipelago, as defined under the Delimitation of Marine Waters Act 1978, not exceeding sixty nautical miles.
TUVALU	All waters with depths of not more than 1,000 meters, within the area bounded by the fifteenth and twenty third and one half degrees of south latitudes and the one hundred and seventy third and the one hundred and seventy seventh degrees of west longitudes; also within a radius of twelve nautical miles from the islands of Teleki Tonga and Teleki Tokelau.
VANUATU	Territorial sea and waters within two nautical miles of all named banks, that is Macaw, Kosciusko, Rose, Bayonnaise and Hera, in Tuvalu exclusive economic zone, as depicted on the chart entitled "Tuvalu Fishery Limits" prepared by the United Kingdom Hydrographic Department, Taunton, January 11, 1981.
SAMOA	Archipelagic waters and the territorial sea, and internal waters.
	Territorial sea; reefs, banks and sea-mounts and within 2 nautical miles of any anchored fish aggregating device within the Samoa exclusive economic zone for which notification of its location shall be given by geographical coordinates.

* * * * *

FFA Vessel Register means the registry of fishing vessels maintained by the FFA, comprising those vessels which are in good standing and licensed to fish in the waters of FFA member countries, including those vessels licensed under § 300.32.

* * * * *

Pacific Islands Forum Fisheries Agency or *FFA* means the organization established by the 1979 South Pacific Forum Fisheries Agency Convention.

Regional Administrator means the Regional Administrator, Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814, or a designee.

* * * * *

Treaty Area means all waters north of 60 S. lat. and east of 90 E. long., subject to the fisheries jurisdiction of Pacific Island Parties, and all other waters within rhumb lines connecting the following points, except for waters subject to the jurisdiction in accordance with international law of a State which is not a party to the Treaty:

Point	Latitude	Longitude
A	2° 35' 39" S	141° 00' 00" E
B	1° 01' 35" N	140° 48' 35" E
C	1° 01' 35" N	129° 30' 00" E
D	10° 00' 00" N	129° 30' 00" E
E	14° 00' 00" N	140° 00' 00" E
F	14° 00' 00" N	142° 00' 00" E
G	12° 30' 00" N	142° 00' 00" E
H	12° 30' 00" N	158° 00' 00" E
I	15° 00' 00" N	158° 00' 00" E
J	15° 00' 00" N	165° 00' 00" E
K	18° 00' 00" N	165° 00' 00" E
L	18° 00' 00" N	174° 00' 00" E
M	12° 00' 00" N	174° 00' 00" E
N	12° 00' 00" N	176° 00' 00" E
O	5° 00' 00" N	176° 00' 00" E
P	1° 00' 00" N	180° 00' 00" E
Q	1° 00' 00" N	164° 00' 00" W
R	8° 00' 00" N	164° 00' 00" W
S	8° 00' 00" N	158° 00' 00" W
T	0° 00' 00"	150° 00' 00" W
U	6° 00' 00" S	150° 00' 00" W
V	6° 00' 00" S	146° 00' 00" W
W	12° 00' 00" S	146° 00' 00" W
X	26° 00' 00" S	157° 00' 00" W
Y	26° 00' 00" S	174° 00' 00" W
Z	40° 00' 00" S	174° 00' 00" W
AA	40° 00' 00" S	171° 00' 00" W
AB	46° 00' 00" S	171° 00' 00" W
AC	55° 00' 00" S	180° 00' 00" E
AD	59° 00' 00" S	160° 00' 00" E
AE	59° 00' 00" S	152° 00' 00" E

and north along 152° degrees of East longitude until intersecting the Australian 200-nautical-mile limit.

UTC means Universal Coordinated Time.

Vessel Monitoring System Unit or *VMS unit* means Administrator-approved VMS unit hardware and software installed on a vessel and required under § 300.45 as a component of the regional VMS administered by the FFA to transmit information between the vessel and the Administrator and/or other reporting points designated by NMFS.

3. In § 300.32, paragraph (d) is revised to read as follows:

§ 300.32 Vessel licenses.

* * * * *

(d) The number of available licenses is 45, five of which shall only be available to fishing vessels of the United States engaged in joint venture arrangements, specifically: vessels engaged in fishing activity designed to promote maximization of the benefits generated for the Pacific Island Parties from the operations of fishing vessels licensed pursuant to the Treaty, as determined by the Administrator. Such activity can include the use of canning, transshipment, vessel slipping and repair facilities located in the Pacific island Parties; the purchase of equipment and supplies, including fuel supplies, from suppliers located in the Pacific Island Parties; and the employment of nationals of the Pacific Island Parties on board such vessels.

* * * * *

4. Section 300.34 is revised to read as follows:

§ 300.34 Reporting requirements.

(a) Holders of licenses issued under § 300.32 shall comply with the reporting requirements of this section with respect to the licensed vessels.

(b) Any information required to be recorded, or to be notified, communicated or reported pursuant to a requirement of these regulations, they Act, or the Treaty shall be true, complete and correct. Any change in circumstances that has the effect of rendering any of the information provided false, incomplete or misleading shall be communicated immediately to the Regional Administrator.

(c) The operator of any vessel licensed under § 300.32 must prepare and submit accurate, complete, and timely notifications, requests, and reports with respect to the licensed vessel, as described in paragraphs (c)(1) through (10) of this section.

(1) *Catch report forms.* A record of catch, effort and other information must be maintained on board the vessel, on catch report forms (also known as "Regional Purse Seine Logsheets", or RPLs) provided by the Regional

Administrator. At the end of each day that the vessel is in the Licensing Area, all information specified on the form must, for that day, be recorded on the form. The completed catch report form must be mailed by registered airmail to the Administrator within 14 days of the vessel's next entry into port for the purpose of unloading its fish catch. A copy of the completed catch report form must also be submitted to, and received by, the Regional Administrator within 2 days of the vessel reaching port.

(2) *Unloading and transshipment logsheet forms.* At the completion of any unloading or transshipment of fish from the vessel, all the information specified on unloading and transshipment logsheet forms provided by the Regional Administrator must, for that unloading or transshipment, be recorded on such forms. A separate form must be completed for each fish processing destination to which the unloaded or transshipped fish are bound. The completed unloading and transshipment logsheet form or forms must be mailed by registered airmail to the Administrator within 14 days of the completion of the unloading or transshipment. The submitted form must be accompanied by a report or reports of the size breakdown of the catch as determined by the receiver or receivers of the fish, and such report must be signed by the receiver or receivers. A copy of the completed unloading and transshipment logsheet, including a copy of the accompanying report or reports of the size breakdown of the catch as determined by the receiver or receivers of the fish, must also be submitted to, and received by, the Regional Administrator within 2 days of the completion of the unloading or transshipment.

(3) *Port departure reports.* Before the vessel's departure from port for the purpose of beginning a fishing trip in the Licensing Area, a report must be submitted to the Administrator by telex, transmission via VMS unit, facsimile, or e-mail that includes the following information: report type ("LBEG"); Regional Register number; trip begin date; date and time (in UTC) of report; IRCS; port name; weight of catch on board (in metric tons) for each of skipjack tuna, yellowfin tuna, and all other species combined; intended action; and estimated date of departure. This information must be reported in the format provided by the Regional Administrator.

(4) *Entry into port for unloading reports.* At least 24 hours before the vessel's entry into port for the purpose of unloading fish from any trip involving fishing within the Licensing

Area, a report must be submitted to the Administrator by telex, transmission via VMS unit, facsimile, or e-mail that includes the following information: report type ("LFIN"); FFA Regional Register number; trip begin date; date and time (in UTC) of report; IRCS; port name; weight of catch on board (in metric tons) for each of skipjack tuna, yellowfin tuna, and all other species combined; intended action; and estimated date and time (in UTC) of entry into port. This information must be reported in the format provided by the Regional Administrator.

(5) *Intent to transship notification and request.* At least 48 hours before transshipping any or all of the fish on board the vessel, a notification must be submitted to the Administrator and a request must be submitted to the Pacific Island Party in whose jurisdiction the transshipment is requested to occur. The notification to the Administrator and the request to the Pacific Island Party may be identical. The notification and request must include the following information: name of vessel; IRCS; vessel position (latitude and longitude to nearest minute of arc); weight of catch on board the vessel (in metric tons) for each of skipjack tuna, yellowfin tuna, and all other species combined; and the date, time (in UTC), and location where such transshipment is requested to occur. The notification to the Administrator must be reported in the format provided by the Regional Administrator and submitted by telex, transmission by VMS unit, facsimile, or e-mail. The request to the Pacific Island Party must be reported in the format provided by the Regional Administrator and sent via the means and to the address provided by the Regional Administrator.

(6) *Zone entry and exit reports.* Each time the vessel enters or exits the waters under the jurisdiction of a Pacific Island Party, a report must be submitted to that Pacific Island Party that includes the following information: report type ("ZENT" for entry or "ZEXT" for exit); FFA Regional Register number; trip begin date; date and time (in UTC) of the entry or exit; IRCS; vessel position (latitude and longitude to nearest minute of arc); weight of catch on board (in metric tons) for each of skipjack tuna, yellowfin tuna, and all other species combined; and intended action. This information must be reported in the format provided by the Regional Administrator and sent via the means and to the address provided by the Regional Administrator.

(7) *Weekly reports.* Each Wednesday while the vessel is within the waters under the jurisdiction of a Pacific Island

Party, a report must be submitted to that Pacific Island Party that includes the following information: report type ("WEEK"); FFA Regional Register number; trip begin date; date and time (in UTC) of report; IRCS; vessel position (latitude and longitude to nearest minute of arc); weight of catch on board (in metric tons) for each of skipjack tuna, yellowfin tuna, and all other species combined; intended action; and whether or not there is a vessel observer on board ("Y" or "N"). This information must be reported in the format provided by the Regional Administrator and sent via the means and to the address provided by the Regional Administrator.

(8) *Port entry reports.* At least 24 hours before the vessel's entry into port of any Pacific Island Party, a report must be submitted to that Pacific Island Party that includes the following information: report type ("PENT"); FFA Regional Register number; trip begin date; date and time (in UTC) of report; IRCS; vessel position (latitude and longitude to nearest minute of arc); weight of catch on board (in metric tons) for each of skipjack tuna, yellowfin tuna, and all other species combined; estimated time (in UTC) of entry into port; port name; and intended action. This information must be reported in the format provided by the Regional Administrator and sent via the means and to the address provided by the Regional Administrator.

(9) *Transshipment reports.* Upon completion of transshipment of any or all of the fish on board the vessel, a report must be submitted to the Administrator and to the Pacific Island Party in whose jurisdiction the transshipment occurred. The report must include the following information: report type ("TRANS"); FFA Regional Register number; trip begin date; date and time (in UTC) of the transshipment; IRCS; vessel position at time of transshipment (latitude and longitude to nearest minute of arc); amount of fish transshipped (in metric tons) for each of skipjack tuna, yellowfin tuna, and all other species combined; name of vessel to which the fish were transshipped; and the destination of the transshipped fish. The report to the Administrator must be reported in the format provided by the Regional Administrator and submitted by telex, transmission by VMS unit, facsimile, or e-mail. The report to the Pacific Island Party must be reported in the format provided by the Regional Administrator and sent via the means and to the address provided by the Regional Administrator.

(10) *Other reports and notifications to Pacific Island Parties.* Reports and notifications must be submitted to the relevant Pacific Island Parties in each of

the circumstances and in the manner described in the subparagraphs of this paragraph. Unless otherwise indicated in this paragraph, the reports must be prepared in the format provided by the Regional Administrator and sent via the means and to the address provided by the Regional Administrator.

(i) *Australia.*

(A) Each day while the vessel is within the Australian Fishing Zone, a report must be submitted that includes the following information: vessel position (latitude and longitude to nearest minute of arc); and the amount of catch made during the previous day, by species.

(B) At least 24 hours before entering the Australian Fishing Zone, a notification must be submitted that indicates an intent to enter the Australian Fishing Zone.

(ii) *Fiji.*

(A) Each day while the vessel is in Fiji fisheries waters, a report must be submitted that includes the following information: vessel name; IRCS; country of registration of the vessel; and vessel position at the time of the report (latitude and longitude to nearest minute of arc).

(B) Each week while the vessel is in Fiji fisheries waters, a report must be submitted that includes the amount of the catch made during the preceding week, by species.

(iii) *Kiribati.*

(A) At least 24 hours before entering a Closed Area under the jurisdiction of Kiribati, a notification must be submitted that includes the following information: vessel name; IRCS; vessel position at the time of the report (latitude and longitude to nearest minute of arc); the reason for entering the Closed Area; and the estimated time (in UTC) of entry into the Closed Area (latitude and longitude to nearest minute of arc).

(B) Immediately upon entry into or exit from a Closed Area under the jurisdiction of Kiribati, a report must be submitted that includes the following information: report type ("CAENT" for entry or "CAEXT" for exit); the number of the vessel's license issued under § 300.32; IRCS; date and time (in UTC) of the report; vessel position (latitude and longitude to nearest minute of arc); amount of the catch on board the vessel, by species; and status of the boom ("up" or "down"), net ("deployed" or "stowed"), and skiff ("deployed" or "stowed").

(C) At least 24 hours prior to fueling the vessel from a tanker in the area of jurisdiction of Kiribati, a report must be submitted that includes the following information: report type ("SBUNK"); the

number of the vessel's license issued under § 300.32; IRCS; trip start date; name of port from which trip started; amount of the catch on board the vessel, by species; estimated time of bunkering; estimated position of bunkering (latitude and longitude to nearest minute of arc); and name of tanker.

(D) After fueling the vessel from a tanker in the area of jurisdiction of Kiribati, but no later than 12:00 noon local time on the following day, a report must be submitted that includes the following information: report type ("FBUNK"); the number of the vessel's license issued under § 300.32; IRCS; start time of bunkering; end time of bunkering; amount of fuel received, in kiloliters; and name of tanker.

(iv) *New Zealand.*

(A) At least 24 hours before entering the exclusive economic zone of New Zealand, a notification must be submitted that includes the following information: name of vessel; IRCS; position of point of entry into the exclusive economic zone of New Zealand (latitude and longitude to nearest minute of arc); amount of catch on board the vessel, by species; and condition of the catch on board the vessel ("fresh" or "frozen").

(B) For each day that the vessel is in the exclusive economic zone of New Zealand, a notification must be submitted no later than noon of the following day of the vessel's position (latitude and longitude to nearest minute of arc) at noon.

(C) For each week or portion thereof that the vessel is in the exclusive economic zone of New Zealand, a report that covers the period from 12:01 a.m. on Monday to 12:00 midnight on the following Sunday must be submitted and received by noon of the following Wednesday (local time). The report must include the amount of the catch taken in the exclusive economic zone of New Zealand during the reporting period.

(D) At least 10 days prior to an intended transshipment in an area under the jurisdiction of New Zealand, a notification must be submitted that includes the intended port, date, and time of transshipment.

(E) At least 24 hours prior to exiting the exclusive economic zone of New Zealand, a notification must be submitted that includes the following information: position of the intended point of exit (latitude and longitude to nearest minute of arc); the amount of catch on board the vessel, by species; and condition of the catch on board the vessel ("fresh" or "frozen").

(v) *Solomon Islands.*

(A) At least 24 hours prior to entry into Solomon Islands Fisheries Limits, a report must be submitted that includes the following information: expected vessel position (latitude and longitude to nearest minute of arc) and expected date and time of entry.

(B) For each week or portion thereof that the vessel is in the exclusive economic zone of Solomon Islands, a report that covers the period from 12:01 a.m. on Monday to 12:00 midnight on the following Sunday must be submitted and received by noon of the following Tuesday (local time). The report must include the amount of the catch taken and the number of fishing days spent in the exclusive economic zone of Solomon Islands during the reporting period.

(vi) *Tonga.*

(A) Each day while the vessel is in the exclusive economic zone of Tonga, a report must be submitted that includes the vessel's position (latitude and longitude to nearest minute of arc).

(B) [Reserved]

(vii) *Tuvalu.*

(A) At least 24 hours prior to entering Tuvalu fishery limits, a report must be submitted that includes the following information: vessel name; IRCS; country of registration of the vessel; the number of the vessel's license issued under § 300.32; intended vessel position (latitude and longitude to nearest minute of arc) at entry; and amount of catch on board the vessel, by species.

(B) Every seventh day that the vessel is in Tuvalu fishery limits, a report must be submitted that includes vessel position (latitude and longitude to nearest minute of arc) and the total amount of catch on board the vessel.

(C) Immediately upon exit from Tuvalu fishery limits, a notification must be submitted that includes vessel position (latitude and longitude to nearest minute of arc) and the total amount of catch on board the vessel.

5. In § 300.38, paragraph (a)(4) is removed, paragraphs (a)(5) through (a)(11) are redesignated as paragraphs (a)(4) through (a)(10), redesignated paragraph (a)(10) is revised, and paragraphs (a)(11) through (a)(15) are added to read as follows:

§ 300.38 Prohibitions.

(a) * * *

(10) To transship fish on board a vessel that fished in the Licensing Area, except in accordance with the requirements of § 300.46.

(11) To fail to have installed, allow to be programmed, carry, or have operational a VMS unit while in the Treaty Area as specified in § 300.45(a).

(12) To fail to activate a VMS unit, to interrupt, interfere with, or impede the

operation of a VMS unit, to tamper with, alter, damage, or disable a VMS unit, or to move or remove a VMS unit without prior notification as specified in § 300.45(f).

(13) In the event of a VMS unit failure or breakdown or interruption of automatic position reporting in the Treaty Area, to fail to submit manual position reports as specified in § 300.45(g).

(14) In the event of a VMS unit failure or breakdown or interruption of automatic position reporting in the Treaty Area and if directed by the Administrator or an authorized officer, to fail to stow fishing gear or take the vessel to a designated port as specified in § 300.45(g).

(15) To fail to repair or replace a VMS unit as specified in § 300.45(i).

* * * * *

6. In § 300.39, paragraph (a) is revised to read as follows:

§ 300.39 Exceptions.

(a) The prohibitions of § 300.38 and the licensing requirements of § 300.32 do not apply to fishing for albacore tuna by vessels using the trolling method or to fishing by vessels using the longline method in the high seas areas of the Treaty Area.

* * * * *

7. In § 300.42, paragraphs (a)(1)(i) and (b) are revised to read as follows:

§ 300.42 Findings leading to removal from fishing area.

(a) * * *

(1) * * *

(i) While fishing in the Licensing Area did not have a license issued under § 300.32 to fish in the Licensing Area, and that under the terms of the Treaty the fishing is not authorized to be conducted in the Licensing Area without such a license.

* * * * *

(b) Upon being advised by the Secretary of State that proper notification to Parties has been made by a Pacific Island Party that such Pacific Island Party is investigating an alleged infringement of the Treaty by a vessel in waters under the jurisdiction of that Pacific Island Party, the Secretary shall order the vessel to leave those waters until the Secretary of State notifies the Secretary that the order is no longer necessary.

* * * * *

8. A new § 300.45 is added to read as follows:

§ 300.45 Vessel Monitoring System.

(a) *Applicability.* Holders of vessel licenses issued under § 300.32 are

required, in order to have the licensed vessel in the Treaty Area, to:

- (1) Have installed a VMS unit on board the licensed vessel;
- (2) Allow the Administrator, its agent, or a person authorized by the Administrator to program the VMS unit to transmit position and related information to the Administrator;
- (3) If directed by the Regional Administrator, allow NMFS, its agent, or a person authorized by NMFS to program the VMS unit to transmit position and related information to NMFS; and
- (4) Carry and have operational the VMS unit at all times while in the Treaty Area, except as provided in paragraphs (f) and (g) of this section.

(b) *FFA Vessel Register*. Purse seine vessels must be in good standing on the FFA Vessel Register maintained by the Administrator in order to be licensed under the Treaty. FFA Vessel Register application forms may be obtained from the Regional Administrator or the Administrator or from the FFA website: www.ffa.int. Purse seine vessel owners or operators must submit completed FFA Vessel Register applications to the Regional Administrator for transmittal to the Administrator and pay fees for registration of their vessel(s) on the FFA Vessel Register annually. The vessel owner or operator may submit a completed FFA Vessel Register application form at any time, but the application must be received by the Regional Administrator at least seven days before the first day of the next licensing period to avoid the potential lapse of the registration and license between licensing periods.

(c) *VMS unit installation*. A VMS unit required under this section must be installed by a person authorized by the Administrator. A list of Administrator-authorized VMS unit installers may be obtained from the Regional Administrator or the Administrator.

(d) *Hardware and software specifications*. The VMS unit installed and carried on board a vessel to comply with the requirements of this section must consist of hardware and software that is approved by the Administrator and able to perform all functions required by the Administrator. The initial list of approved hardware and software will appear in the final rule for this action. A current list of approved hardware and software may be obtained from the Administrator.

(e) *Service activation*. Other than when in port or in a shipyard and having given proper notification to the Administrator as specified in paragraph (g) of this section, the owner or operator of a vessel licensed under § 300.32

must, when the vessel is in the Treaty Area:

- (1) Activate the VMS unit on board the licensed vessel to transmit automatic position reports;
- (2) Ensure that no person interrupts, interferes with, or impedes the operation of the VMS unit or tampers with, alters, damages, or disables the VMS unit, or attempts any of the same; and
- (3) Ensure that no person moves or removes the VMS unit from the installed position without first notifying the Administrator by telephone, facsimile, or e-mail of such movement or removal.

(f) *Interruption of VMS unit signal*. When a vessel owner or operator is notified by the Administrator or an authorized officer that automatic position reports are not being received, or the vessel owner or operator is otherwise alerted or aware that transmission of automatic position reports has been interrupted, the vessel owner and operator must comply with the following:

(1) The vessel owner or operator must submit manual position reports that include vessel name, call sign, current position (latitude and longitude to the nearest minute), date, and time to the Administrator by telephone, facsimile, or e-mail at intervals of no greater than eight hours or a shorter interval if and as specified by the Administrator or an authorized officer. The reports must continue to be submitted until the Administrator has confirmed to the vessel owner or operator that the VMS unit is properly transmitting position reports. If the manual position reports cannot be made, the vessel operator or owner must notify the Administrator of such as soon as possible, by any means possible.

(2) If directed by the Administrator or an authorized officer, the vessel operator must immediately stow the fishing gear in the manner described in § 300.36, take the vessel directly to a port designated by the Administrator or authorized officer, and notify the Administrator by telephone, facsimile, or e-mail as soon as possible that the vessel is being taken to port with fishing gear stowed.

(g) *Shutdown of VMS unit while in port or in shipyard*. When a vessel is in port and not moving, the VMS unit may be shut down, provided that the Administrator has been notified by telephone, facsimile, or e-mail that the vessel is in port and of the intended shutdown, and only as long as manual position reports as described in paragraph (f)(1) of this section are submitted to the Administrator at

intervals of no greater than 24 hours or a shorter interval if and as specified by the Administrator or an authorized officer. If the VMS unit is shut down while the vessel is in port, the vessel owner or operator must notify the Administrator by telephone, facsimile, or e-mail as soon as possible after the vessel's departure from port. When the vessel is in a shipyard, the VMS unit may be shut down and the submission of manual position reports is not required, provided that the Administrator has been notified by telephone, facsimile, or e-mail that the vessel is in the shipyard and of the intended VMS unit shutdown. If the VMS unit is shut down while the vessel is in a shipyard, the vessel owner or operator must notify the Administrator by telephone, facsimile, or e-mail as soon as possible after the vessel's departure from the shipyard.

(h) *VMS unit repair and replacement*. After a fishing trip during which interruption of automatic position reports has occurred, the vessel's owner or operator must have the VMS unit repaired or replaced prior to the vessel's next trip. If the VMS unit is replaced, the new VMS unit must be installed by an Administrator-authorized VMS unit installer, as specified in paragraph (c) of this section. In making such repairs or replacements, conformity with the current requirements must be met before the vessel may lawfully operate under the Treaty.

(i) *Access to data*. As a condition to obtaining a license, holders of vessel licenses issued under § 300.32 must allow the Regional Administrator, an authorized officer, the Administrator or an authorized party officer or designees access to the vessel's position data obtained from the VMS unit at the time of, or after, its transmission to the vendor or receiver.

9. A new § 300.46 is added to read as follows:

§ 300.46 Transshipping requirements.

(a) *Applicability*. This section applies to vessels licensed under § 300.32.

(b) Transshipping may only be done at the time and place authorized for transshipment by the Pacific Island Parties, following the notification and request requirements of § 300.34(c)(5).

(c) The operator and each member of the crew of a vessel from which any fish taken in the Licensing Area is transshipped must:

(1) Allow and assist any person identified as an officer of the Pacific Island Party to:

(i) Have full access to the vessel and any place where such fish is being transshipped and the use of facilities

and equipment that the officer may determine is necessary to carry out his or her duties;

(ii) Have full access to the bridge, fish on board and areas which may be used to hold, process, weigh and store fish;

(iii) Remove samples;

(iv) Have full access to the vessel's records, including its log and documentation, for the purpose of inspection and copying; and

(v) Gather any other information required to fully monitor the activity

without interfering unduly with the lawful operation of the vessel; and

(2) Not assault, obstruct, resist, delay, refuse boarding to, intimidate, or interfere with any person identified as an officer of the Pacific Island Party in the performance of his or her duties.

(d) Transshipping at sea may only be done:

(1) In a designated area in accordance with such terms and conditions as may be agreed between the operator of the

vessel and the Pacific Island Party in whose jurisdiction the transshipment is to take place;

(2) In accordance with the requirements of § 300.34; and

(3) If the catch is transshipped to a carrier vessel duly authorized in accordance with national laws.

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