Annual report	Public comments
PHMSA Response	*This field was intended to reduce the number of failures an operator would report if they were similar in nature. Due to the confusion, PHMSA eliminates this field.*

Comment Topic 3 Proposals for Other Changes to the Gas Distribution System Annual Report Form and Instructions.

Some of the other comments proposed changes to other parts of the Annual Report Form. A commenter requested that one of the columns titled: "Other" in Part B.1 be amended to "Other Plastic" to be consistent with Part B.2 and B.3. Another commenter maintained that based on *The Integrity Management for Gas Distribution Report of Phase 1 Investigations (December 2005),* the "PERCENT OF UNACCOUNTED FOR GAS" in Part H is not a valid national level performance measure and should be removed from the Annual Report Form.

NAPSR suggested that PHMSA modify the form instructions to align with the changes recently made to the incident report form and instructions. NAPSR also proposed a revision of the definition of "excavation damage" to include "damaged tracer wire" and the use of the term "enclosure" as opposed to the "housing" for the line device.

Commenters also requested a "save" feature for electronic reporting so that the report can be printed out and circulated for review prior to electronic submittal. Additionally, they noted the importance of the use of pick lists when possible instead of free form data collection.

PHMSA Response: PHMSA appreciates the input commenters provided to improve the Annual Report Form. PHMSA made an editorial correction to the column titles for "Other" in Part B.1 and B.2 on the proposed Annual Report form. A "save" feature will be available for electronic data submission for the revised annual report. The paper submission includes pick lists as will future electronic submission. Under this information collection notice, PHMSA limits changes to and addresses comments about the Annual Report form and instructions to those proposed in the DIMP final rule.

III. Proposed Information Collection Revisions and Request for Comments

The revised burden hours associated with this information collection is:

Title of Information Collection: Incident and Annual Reports for Gas Pipeline Operators.

OMB Control Number: 2137–0522.

Type of Request: Revision of currently approved information collection to one form within the information collection, PHMSA F 7100.1–1 Annual Reports for Gas Distribution System.

Abstract: Currently Information Collection 2137–0522 titled: "Incident and Annual Reports for Gas Pipeline Operators" has an approved burden hour estimate of 37,845 hours. This information collection consists of incident and annual reporting for gas pipeline operators. Based on review of proposed changes to the Gas Distribution Annual Report form data, PHMSA estimates the respondent community of 1,262 Distribution Operators to report a total of 18,000 mechanical fitting failures. PHMSA estimates that the form changes relative to this notice will result in one hour increase per mechanical fitting failure. These actions would result in an increase from 37,845 hours to an estimated 55,845 hours (37,845 hours + 18,000 hours).

The result of this revision is specified in the following:

Affected Public: Gas Pipeline Operators.

Estimated Number of Respondents: 2,212.

Estimated Total Annual Burden Hours: 55,845 hours (18,000 hour increase).

Frequency of collection: Annually with the option for the operator to submit mechanical fitting failure information electronically at greater frequency if the operator chooses.

Issued in Washington, DC on June 18, 2010.

Jeffrey D. Wiese,

Associate Administrator for Pipeline Safety.

[FR Doc. 2010–15633 Filed 6–25–10; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 100507218–0219–01]

RIN 0648–AY91

International Fisheries; South Pacific Tuna Fisheries; Procedures to Request Licenses and a System to Allocate Licenses

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

ACTION: Proposed rule; request for comments.

SUMMARY: Pursuant to its authority under the South Pacific Tuna Act of 1988 (SPTA), NMFS proposes regulations to modify the procedures that U.S. purse seine vessels use to request fishing licenses to fish in areas managed under the SPTA. This rule would also establish a system for allocating licenses in the event more applications are received than there are licenses available. Such an allocation system is needed because the number of applications is approaching the number of available licenses, and may exceed that number. The proposed license allocation system would include objective criteria to be used by NMFS in prioritizing among license applicants. The license application procedures would be modified in accordance with the allocation system, and would be designed to provide license holders and prospective license applicants with a clear and certain regulatory process. The regulations for vessels licensed under the SPTA would also be modified to require that the vessel monitoring system units (VMS units), also known as mobile transmitting units, installed and carried on the vessels are a type that is NMFS-approved.

DATES: Comments must be received in writing by August 12, 2010.

ADDRESSES: You may submit comments on this proposed rule, identified by 0648–AY91, and the regulatory impact review (RIR) prepared for the proposed rule, by any of the following methods

- Electronic submissions: Submit all electronic public comments via the

Federal e-Rulemaking portal, at *http://www.regulations.gov*.

• Mail: Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Regional Office (PIRO), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814. Include the identifier "0648–AY91" in the comments.

Instructions: All comments received are part of the public record and generally will be posted to *http://www.regulations.gov* without change. No comments will be posted for public viewing until after the comment period has closed. All personal identifying information (for example, name and address) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information. NMFS will accept anonymous comments (if submitting comments via the Federal e-Rulemaking portal, enter "N/A" in the relevant required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

A certification prepared under authority of the Regulatory Flexibility Act (RFA) is included in the Classification section of the **SUPPLEMENTARY INFORMATION** section of this proposed rule.

Copies of the RIR prepared for this proposed rule are available at *http://www.fpir.noaa.gov/IFD/ifd__documents__data.html* or may be obtained from William L. Robinson, Regional Administrator, NMFS PIRO (see address above).

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to William L. Robinson, Regional Administrator, NMFS PIRO (see address above) and by e-mail to *David__Rostker@omb.eop.gov* or fax to 202–395–7285.

FOR FURTHER INFORMATION CONTACT: Tom Graham, NMFS PIRO, 808–944–2219.

SUPPLEMENTARY INFORMATION:

Electronic Access

This proposed rule is also accessible at *http://www.gpoaccess.gov/fr*.

Background

The U.S. purse seine fishery in the western and central Pacific Ocean (WCPO) is regulated primarily under the authority of the South Pacific Tuna Act of 1988 (SPTA) (16 U.S.C. 973–973r), which NMFS has implemented at 50 CFR part 300, subpart D. The SPTA was enacted to implement 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 (hereafter "the Treaty"). This treaty is between the United States and 16 Members of the Pacific Islands Forum Fisheries Agency. The Treaty governs the conduct of U.S. fishing vessel operations in the Treaty Area, as defined at 50 CFR 300.31, and which encompasses approximately 10 million square miles (26 million square kilometers) of the WCPO. The Treaty allows U.S. purse seine vessels access to a large portion of the WCPO by authorizing, and regulating 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 (PIPs) to the Treaty. Licenses to operate in the Licensing Area under the Treaty are issued by the Pacific Islands Forum Fisheries Agency (FFA), based in Honiara, Solomon Islands, which acts as the Treaty Administrator on behalf of the PIPs. The Licensing Area comprises the entire Treaty Area, with the exception of areas subject to the jurisdiction of the United States and areas closed to fishing under the Treaty. U.S. purse seine vessels licensed under the Treaty are used to target skipjack tuna and yellowfin tuna.

The Treaty and SPTA also allow U.S. longline vessels and U.S. vessels fishing for albacore by the trolling method to fish in the high seas portion of the Treaty Area. However, such vessels are not subject to the Treaty's or SPTA's licensing requirements, and do not fall under the actions proposed in this rule.

The Treaty entered into force in 1988 following ratification by the United States and the PIPs. The Treaty was renewed for ten years in 1993, and again in 2003 for 10 more years (through June 14, 2013). 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 with PIPs. 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. Treaty licenses are issued by the FFA, but license applications are first submitted to, and must be approved by, NMFS before being forwarded to the FFA. Under current practices, NMFS ensures that applications are complete, and forwards them to the FFA on a first-come, first-served basis.

Recent Developments in the Fishery

The number of U.S. purse seine vessels licensed under the Treaty has varied widely since its entry into force in 1988. The number of licensed vessels reached a high of 49 in 1994 (at which time the Treaty authorized up to 55 licenses, with 5 reserved for joint ventures), and a low of 11 in 2007. As of May 2010, 38 licenses had been issued for the current licensing period (June 15, 2009 through June 14, 2010). No joint venture licenses have ever been issued under the Treaty.

Advance Notices of Proposed Rulemakings and Control Dates

On March 28, 2008, NMFS issued an advance notice of proposed rulemaking (ANPR) (73 FR 16619), to establish a control date for participation in the U.S. purse seine fishery managed under the SPTA (hereafter, "WCPO purse seine fishery"). One purpose of the ANPR was to notify vessel owners and operators that attempts to enter the WCPO purse seine fishery after the control date of March 28, 2008, would not assure a vessel of being granted entry into or future participation in the fishery if all available licenses have been issued, or if NMFS limits the number of available licenses or imposes other management measures in the fishery.

Prior to the March 2008 ANPR, on August 15, 2005, NMFS issued an ANPR (70 FR 47782) that established a control date of June 2, 2005, for persons contemplating entry into the purse seine fishery in the U.S. EEZ in the western Pacific region (the control date also applied to persons interested in the longline fishery in the western Pacific region). The June 2, 2005, control date is limited to fishing vessels that operate within the U.S. EEZ, and does not affect fishing vessels operating elsewhere in the Treaty Area. In contrast, the March 28, 2008, control date applies to all purse seine vessels subject to the Treaty and the SPTA; that is, to purse seine vessels operating anywhere on the high seas in the Treaty Area or in the EEZs of the 16 PIPs.

Both the June 2, 2005, and March 28, 2008, control dates remain in effect.

In addition to establishing a control date for entry into the WCPO purse seine fishery, the March 28, 2008, ANPR solicited comments and input on possible criteria and procedures that NMFS could use to review, order, and process license applications. NMFS received five sets of such comments, which it has considered in developing this proposed rule. NMFS has

incorporated some of the suggestions contained in those comments, or variations of those suggestions, into the proposed rule. Several comments were on issues outside the scope of this proposed rule. The comments received are summarized as follows:

Two commenters suggested that, with respect to the transferability of licenses among vessels and vessel owners: (1) in the case where a vessel licensed under the Treaty is sold to U.S. interests, the license should be transferable to the new owner; (2) in the case where a vessel licensed under the Treaty sinks, the vessel owner should be allowed five years to replace the vessel and retain for the new vessel the license associated with the sunk vessel; and (3) in the case where a vessel licensed under the Treaty is sold to foreign interests, the original owner should be allowed three years to replace the vessel and retain for the new vessel the license associated with the sold vessel.

One commenter recommended that priority consideration be given to owners of vessels that were licensed under the Treaty when the number of licensed vessels was at its low point in 2007.

One commenter suggested that five to seven licenses should be set aside, as they expire, for small business owners, and that license eligibility requirements include such things as: (1) the vessel hull being built in the United States; (2) a history of participation in the Treaty; (3) a higher percentage of U.S. citizen ownership of the vessel; and (4) a history of landing fish in U.S. ports, including American Samoa, Guam, and Puerto Rico.

One commenter stated that the most reasonable, fair, and implementable criteria and procedures for allocating licenses would take into account: (1) the origin of the purse seine vessel's hull; (2) a history of good-standing participation in the existing and pre-existing treaties; (3) the ownership level of the applicant; (4) the record of fishing landings (unloadings) or transshipments via U.S.-controlled ports such as American Samoa, Guam, and Puerto Rico; and (5) a history of compliance with relevant U.S. treaties and U.S. Coast Guard regulations.

Two commenters recommended that a moratorium be placed on the building of new tuna vessels, with one commenter qualifying that recommendation to say that new vessels may be built to replace vessels that have sunk or been scrapped.

One commenter expressed disappointment with the recent U.S. support for the building of new vessels in Taiwan and legitimizing the transfer of recently built foreign vessels to U.S. flag without full regard to the total number of vessels and fishing licenses in the western and central Pacific region.

One commenter noted, with respect to the establishment of a control date for the WCPO purse seine fishery, that vessel owners need advance notice of those types of things, and that an equitable control date would be June 14, 2008, the last day in the then-current Treaty licensing period.

Scope of the Proposed Action

NMFS notes that the March 28, 2008, ANPR stated that NMFS was considering the possible need to limit the number of vessels, or take other actions in the WCPO purse seine fishery, in order to implement the obligations of the United States as a Contracting Party to the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean. The scope of this proposed rule does not include any such actions. Rather, as described further below, it is limited to: (1) establishing a system to allocate licenses in the event that more applications are received than there are licenses; (2) modifying the procedures used to request licenses and the procedures used by NMFS to process such requests; and (3) modifying the existing requirements regarding the installation, carrying, and operation of VMS units to require that such units be a type that is NMFS-approved.

Description of the Proposed Action

Under section 973g of the SPTA, the Secretary of Commerce (Secretary) may establish a system of allocating Treaty licenses in the event more applications are received than there are licenses available. In part because the number of licenses issued is approaching the number of licenses available under the Treaty, NMFS proposes to establish such a system.

Section 973g of the SPTA also authorizes the Secretary to establish procedures for vessel operators ("operator" is defined under the SPTA to mean any person who is in charge of, directs, or controls a vessel, including the owner, charterer, and master) to request licenses from the Secretary to fish in the Treaty's Licensing Area. Such procedures have been established by NMFS, on behalf of the Secretary, at 50 CFR 300.32. In order to accommodate the allocation system that this proposed rule would establish, this action would also modify the procedures used by applicants to request licenses along with the procedures used by NMFS to process those requests. The proposed modifications to the procedures are designed in part to provide license holders and prospective license applicants with a clear and certain regulatory process.

The FFA, as Treaty Administrator, issues licenses only to vessels for which the license applications have first been approved by NMFS on behalf of the Secretary. Licenses are issued on an annual basis, with the licensing period starting June 15th of each year. This proposed rule would establish license application and review procedures up to the point of approval by NMFS for forwarding to the Treaty Administrator.

The main elements of the proposed rule are described below, starting with the license application and review procedures, followed by the license allocation system (including transferability provisions), and closing with the VMS-related requirements.

Proposed License Application and Review Procedures

(1) The distinction between joint venture licenses (licenses for fishing activities designed to promote maximization of the benefits generated for the PIPs, of which there are five available) and "general licenses" (the remaining licenses, of which there are 40 available) would be clarified, and separate application procedures would be established for the two license types.

(2) To obtain approval from NMFS for a joint venture license, in addition to submitting a complete application, as for a general license, an applicant would have to obtain initial approval from the FFA, as Treaty Administrator, as well as documentation from the relevant PIP or PIPs providing concurrence for the issuance of a joint venture license for the vessel. Upon receipt of a complete application for a joint venture license, NMFS would process and approve the application as it would for a general license, except that it would not issue pre-approvals, as described below for general licenses. NMFS would approve applications for joint venture licenses on a first-come, first-served basis, based on the date of initial approval by the FFA.

(3) To provide an opportunity for applicants to receive earlier and greater certainty on the status of their general license applications for a given licensing period, applicants would be allowed to seek and receive pre-approval of their applications. They would do so by submitting expressions of interest earlier than the submission of complete applications. A pre-approval would serve to temporarily reserve an application approval spot until the time that complete applications are due.

Whether a pre-approval would be issued for a given application would depend on the outcome of the allocation process, described below. Because of time constraints associated with implementing this rule, pre-approvals would not be issued for the 2011–2012 licensing period.

(4) Dates by which expressions of interest and complete applications for general licenses must be received by NMFS would be established. For a given licensing period with the exception of the 2011–2012 licensing period, for which pre-approvals would not be issued the deadline for submitting expressions of interest would be June 1st of the year preceding the year in which the licensing period begins. The deadline for submitting complete applications would be February 5th of the year in which the licensing period begins. Comparable due dates would be established for applications for licenses that become available in the middle of a licensing period.

(5) Dates by which NMFS would decide on pre-approvals and approvals for general licenses and notify applicants of those decisions would be established. With the exception of the 2011–2012 licensing period, for which pre-approvals would not be issued, NMFS would pre-approve applications by July 16th of the year preceding the year in which the licensing period begins, and notify applicants of its decisions by July 26th of the same year. NMFS would approve applications by March 7th of the year in which the licensing period begins, and notify applicants of its decisions by March 17th of the same year.

(6) A process to appeal NMFS' pre-approval and approval decisions would be established. Appeals would have to be submitted in writing within 14 days of the notice of NMFS' decision. The initial decision on an appeal would be made by a designee of the NMFS Pacific Islands Regional Administrator within 30 days of the appeal. Within 10 days of notice of the initial decision, the applicant could request a review of the initial decision. The final decision on an appeal would be made by the Assistant Administrator for Fisheries, NOAA, or a designee, within 30 days of the request for review. The final decision would constitute the final administrative action of the Department of Commerce.

(7) Interim procedures would be established for the 2011–2012 licensing period, as the proposed rule would likely not become effective in time for the new procedures to be fully applied for that licensing period. These procedures would not include any provisions regarding pre-approvals. Instead, the application process would start with the February 5, 2011, deadline for submitting complete applications.

Proposed License Allocation System

(1) The following criteria would be used to prioritize applicants for general licenses. Based on this prioritization, NMFS would issue pre-approvals for up to 40 applications for general licenses.

First priority would be given to applications for vessels that have a valid Treaty license on the due date for expressions of interest. Also included in the first priority pool would be applications for vessels licensed in the current or previous two licensing periods, but that were lost or were destroyed. In other words, first priority would be given to license renewals, provided that the vessel is the same. In the event that a licensed vessel is lost or destroyed, the applicant would be reserved an approval spot for the licensing period in which the vessel was lost, and for the two subsequent licensing periods, provided that the ownership of the replacement vessel is identical to the ownership of the lost vessel.

Second priority would be given to applicants according to a ranking scheme in which points are assigned to an applicant as follows: (a) 15 points would be assigned if the vessel has been issued, or will be issued by the time application approvals are issued, in accordance with applicable U.S. Coast Guard regulations, a valid U.S. Coast Guard Certificate of Documentation with a fishery endorsement (among the eligibility criteria for receiving a fishery endorsement are that the vessel must have been built in the United States, and if rebuilt, it must have been rebuilt in the United States); (b) one point would be assigned for each licensing period, starting with the 1988–1989 licensing period, in which a Treaty license had been issued for the vessel, for a total of no more than 10 points; (c) one point would be assigned for each calendar year in which at least 3,000 mt of fish were landed or transshipped from the vessel in U.S. ports (including ports located in any of the U.S. States, commonwealths, territories, or possessions) starting in 1988 and ending in the year prior to the year in which the applied-for licensing period starts, for a total of no more than 5 points; and (d) if application of the foregoing criteria results in a tie, priority would be given to the vessel from which the greatest amount of fish, by weight, was landed or transshipped in U.S. ports (including ports located in any of the U.S. States, commonwealths, territories, or possessions) starting in 1988 and ending in the year prior to the year in which the applied-for licensing period starts. If there is still a tie, priority would be given by a lottery conducted by the NMFS Pacific Islands Regional Administrator.

(2) With respect to joint venture licenses, NMFS would not pre-approve applications or prioritize applications using the scheme established for general licenses. Instead, NMFS would approve joint venture license applications on a first-come, first-served basis, based on the date of initial approval by the FFA.

(3) With respect to the interim procedures that would be established for the 2011–2012 licensing period, NMFS would apply the same prioritization scheme and criteria as it would for subsequent licensing periods, but it would do so only after receiving the complete applications that would be due February 5, 2011.

(4) The proposed rule would clarify that application approvals from NMFS are not transferable among vessel owners or operators or applicants. It would, however, allow limited transferability of application approvals among vessels. Specifically, if a general or joint venture license has been issued to a vessel, and has been valid for at least 365 consecutive days, and all required fees to the FFA for the vessel have been paid, the vessel operators would be able to request that the license be transferred to a different vessel. Such a transfer would only be allowed if the ownership of the replacement vessel is identical to that of the licensed vessel, and the transferee vessel otherwise meets the requirements for licensing under 50 CFR part 300 and the SPTA.

Until NMFS issues a final rule to establish a system for allocating licenses and/or to modify the license application and processing procedures, and that rule becomes effective, NMFS will continue its practice of processing and forwarding completed applications to the Treaty Administrator based upon order of receipt.

Neither the Treaty nor the SPTA include criteria or guidelines as to how licenses should be allocated among prospective participants. In the absence of such guidance, NMFS solicited public input through the ANPR on possible criteria that could be used to order license applications. In reviewing public comment, NMFS considered the principles set forth in the National Standards of the Magnuson-Stevens Fishery Conservation and Management Act, which although not directly applicable to the SPTA, provide guidance on the equitable allocation of fishing privileges among U.S. fishermen.

In particular, National Standard 4 states, in relevant part (16 U.S.C. 1851(a)(4)):

> If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

Some of the public comments made in response to the ANPR advocated an allocation system that favors vessels with longer and more active histories in the fishery. NMFS generally agrees that a system that recognizes a demonstrated history of active participation in the fishery helps ensure that licenses will be productively utilized, and that resulting catches will generate economic and social benefits to the nation. Under the proposed allocation system, in any given year, first priority would be given to vessels that are currently in the fishery that is, to license renewals. One of the reasons for this prioritization is that in a fishery that requires such large investments in order to participate (new purse seine vessels cost tens of millions of dollars), participants should be given reasonable assurances that they will be able to continue to participate in the fishery for a reasonable amount of time. At the second tier of prioritization, after license renewals, the proposed allocation system includes three criteria. The first would favor vessels with fishery endorsements, which requires that the vessel be built in the United States, or if rebuilt, then rebuilt in the United States. This is consistent with some of the public comments on the ANPR. The second criterion would favor vessels with the longest histories of participation in the WCPO purse seine fishery. The rationale for this is partly the same as described for the first-tier prioritization (favoring license renewals). Also, it supports the notion that those who have invested more in the fishery in the past should be afforded greater opportunity to participate in the future. This concept was prevalent in the public comments in response to the ANPR. The third criterion would favor vessels with the longest histories of landing or transshipping fish in U.S. ports while participating in the WCPO purse seine fishery. The rationale for giving priority to those who have landed or transshipped fish in U.S. ports (i.e., versus foreign ports) is that it is expected to result in more fish being landed or transshipped at U.S. ports in the future, thereby possibly generating greater domestic economic benefits than would otherwise be the case. This concept also was suggested in the public comments on the ANPR. Finally, the proposed tie-breaking second-tier criterion would favor participants that landed or transshipped the most fish in U.S. ports while participating in the WCPO purse seine fishery. The rationale for this is the same as for the previous criterion that is, it would be expected to result in more fish being landed or transshipped in U.S. ports in the future, with attendant economic benefits to the Nation.

NMFS recognizes that the proposed license allocation system may potentially limit entry of new participants in the WCPO purse seine fishery, while encouraging continued participation of historically active participants that are already in the fishery (in any given licensing period, first priority would be given to vessels that had licenses during the previous licensing period). Nevertheless, NMFS believes that the proposed allocation system would provide opportunities for new participants to enter the fishery. For example, occasionally license holders can be expected to depart from the WCPO purse seine fishery with their vessels and move to other purse seine fisheries, or sell their interests in Treaty-licensed vessels, thereby making licenses available for reallocation. NMFS will continually monitor the WCPO purse seine fishery with respect to the turnover of participants, and will consider further regulatory action as appropriate.

Proposed VMS-Related Requirements

The proposed rule would modify the regulations at 50 CFR 300.45, which relate to the installation, carrying, and operation of VMS units on vessels licensed under the SPTA. The regulations currently require that the VMS units installed and carried on board vessels consist of hardware and software that are type-approved by the Treaty Administrator. This is consistent with the terms of the Treaty, which mandates that the VMS units used on licensed vessels be of a type approved by the Treaty Administrator. The regulations would be modified to require that the hardware and software that constitute the VMS units be type-approved by both the Treaty Administrator and NMFS. The purpose of the proposed change is to ensure that the VMS units used on licensed vessels are compatible with, and meet the technical standards of, the vessel monitoring system administered by NMFS, as well as the vessel monitoring system administered by the Treaty Administrator.

NMFS publishes separately lists of the VMS units that it has type-approved. The current type-approval lists can be obtained from the NOAA Office of Law Enforcement, 8484 Georgia Avenue, Suite 415, Silver Spring, MD 20910; by telephone at 888–210–9288; or by fax at 301–427–0049.

To be considered, comments on this proposed rule must be received by August 12, 2010, not postmarked or otherwise transmitted by that date.

Classification

The NMFS Assistant Administrator has determined that this proposed rule is consistent with the SPTA and other applicable laws, subject to further consideration after public comment.

Executive Order 12866

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

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The proposed rule includes three elements. The first element would modify the procedures used by U.S. purse seine vessels to apply for licenses to fish in the area governed under the SPTA. Such licenses are required for U.S. purse seine vessels that operate anywhere in a large portion of western and central Pacific Ocean (WCPO), including areas of high seas and areas under foreign jurisdiction. The second element would establish a system for allocating such licenses in the event more applications are received than there are licenses available. Such an allocation system is needed because the number of annual applications is approaching the number of available licenses (40, plus 5 under joint-venture arrangements) and may exceed that number. The proposed license allocation system would include objective criteria to be used by the National Marine Fisheries Service (NMFS) in prioritizing among license applicants. The license application procedures would be modified in accordance with the allocation system, and would be designed to provide license holders and prospective license applicants with a clear and certain regulatory process. The third element of the proposed rule would modify the regulations for purse seine vessels licensed under the SPTA to require that the vessel monitoring system (VMS) units that are installed and carried on vessels be a type that is NMFS-approved.

The fleet of U.S. purse seine vessels licensed under the SPTA currently consists of 37 vessels. Most or all of the businesses that operate these vessels are large entities as defined by the Regulatory Flexibility Act. However, it is possible that one or a few of

these fish harvesting businesses meet the criteria for small entities; that is, they are independently owned and operated and not dominant in their fields of operation, and have annual receipts of no more than $4.0 million. Based on available data, it is not possible to determine with any certainty how many small entities are in the fleet, and no attempt is made here to determine whether a substantial number of small entities would be impacted by the proposed rule. Instead, this certification is based on a finding that the proposed rule would not have significant economic impacts on affected entities.

The VMS element of the proposed rule would not have any economic impact on affected entities because it overlaps completely with regulations recently issued under authority of the Western and Central Pacific Fisheries Convention Implementation Act. Specifically, regulations at 50 CFR 300.219, which became effective on April 21, 2010, established VMS requirements for U.S. vessels used to fish on the high seas in the Convention Area. Among the requirements is that the vessels carry VMS units that are type-approved by NMFS. The type-approvals under those regulations are expected to be the same as those that would be established under this proposed rule, because they are both for the purpose of tracking vessels in the NMFS VMS. Because U.S. vessels licensed under the SPTA are also subject to the requirements at 50 CFR 300.219, they are already subject to the VMS requirements of this proposed rule.

The license application procedures included in the proposed rule would add a step in the application process for applicants choosing to submit "expressions of interest" for pre-approval of applications prior to submitting their complete applications. This step would not involve any change in application fees or other fees, but for applicants that voluntarily submit expressions of interest, it would increase the public reporting burden associated with the information collected as part of the license application process (the collection of information is approved by the Office of Management and Budget under control number 0648–0218). For vessels already in the fleet (license renewals), the additional time burden associated with these expressions of interest is estimated to average 15 minutes per vessel per year. For new applicants, the burden is estimated to average 120 minutes per vessel per year. The cost associated with this burden is discountable when compared to gross receipts or total operating costs for even the smallest of the affected entities.

The license allocation system included in the proposed rule would establish a prioritization scheme that would be applied in the event more applications are received than there are licenses available under the existing limit of 40 non-joint-venture licenses. First priority would be given to vessels already with licenses that is, to license renewals. This element of the proposed rule would not cause any adverse economic impacts on license holders, and would help to ensure their future participation in the fishery.

Based on these findings, the Chief Counsel for Regulation at the Department of Commerce has concluded that the proposed rule would not have a significant economic impact on a substantial number of small entities. As a result, an initial regulatory flexibility analysis is not required and none has been prepared.

Paperwork Reduction Act

This proposed rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA). This collection has been approved by the Office of Management and Budget (OMB) under control number 0648–0218. Public reporting burden for this collection of information, called "South Pacific Tuna Act," is estimated to average: (a) for the complete license application form, 15 minutes per response (with one response per year); (b) for the regional register application / VMS registration form, 45 minutes per response (with 1 response per year); (c) for the purse seine transshipment logsheet, 60 minutes per response (with 5 responses per year); and (d) for the unloading logsheet, 30 minutes per response (with 6 responses per year). These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to *David__Rostker@omb.eop.gov* or fax to 202–395–7285.

The proposed rule would require changes to the OMB-approved collection of information. Specifically, additional information would be required from prospective license applicants choosing to submit "expressions of interest" for pre-approval of license applications. Expressions of interest would be due from prospective license applicants by a specified date each year, prior to the due date for complete license application packages. The information provided in expressions of interest would be used by NMFS to determine eligibility for licenses. Public reporting burden for the expressions of interest is expected to average an additional 15 minutes per response for licenses being renewed, and 120 minutes per response for initial licenses, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This proposed change to the collection of information will be subject to review by OMB.

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: June 22, 2010.

Eric C. Schwaab,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 300 as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart D—South Pacific Tuna Fisheries

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, a definition of "State" is added, in alphabetical order, and the definition of "Vessel Monitoring System Unit" or "VMS unit" is revised, to read as follows:

§ 300.31 Definitions.

* * * * *

State means each of the several States of the United States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, American Samoa, the Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States.

* * * * *

Vessel Monitoring System Unit or *VMS unit*, sometimes known as a "mobile transmitting unit," means Administrator-approved and NMFS-approved VMS unit hardware and software that is installed on a vessel pursuant to § 300.45. The VMS units are a component of the regional vessel monitoring system administered by the FFA, as well as of the vessel monitoring system administered by NMFS, and as such are used to transmit information between the vessel and the Administrator and NMFS and/or other reporting points designated by NMFS.

3. § 300.32 is revised to read as follows:

§ 300.32 Vessel licenses.

(a) Each vessel fishing in the Licensing Area must have a license issued by the Administrator for the licensing period being fished, unless exempted by § 300.39. Each licensing period begins on June 15 and ends on June 14 of the following year.

(b) Upon receipt, the license or a copy or facsimile thereof must be carried on board the vessel when in the Licensing Area or Closed Areas, and must be produced at the request of authorized officers, authorized party officers, or authorized inspectors. A vessel may be used to fish in the Licensing Area if the license has been issued but not yet received, provided that the license number is available on board.

(c) The total number of licenses that may be issued and valid at any point in time is 45, five of which shall be reserved for fishing vessels of the United States engaged in joint venture arrangements.

(1) For the purpose of this section, the licenses reserved for vessels engaged in joint venture arrangements are referred to as "joint venture licenses," and the remaining licenses are referred to as "general licenses."

(2) A joint venture arrangement is one in which the subject vessel and its operators are engaged in fishing-related activities designed to maximize 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 activities 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.

(d) Licenses are issued by the Administrator. The Administrator will issue licenses only for applications that have been approved by the Regional Administrator. The Regional Administrator's approval is indicated by the signature of the Regional Administrator on the part of the application form labeled "Schedule 1." Upon approval by the Regional Administrator of a license application, the complete application will be forwarded to the Administrator for consideration. Except as provided in paragraph (n) of this section, prior to approving license applications for a given licensing period, the Regional Administrator will issue pre-approvals that serve the purpose of temporarily reserving approvals up until the time complete applications are due to be received by the Regional Administrator.

(e) The Regional Administrator, in his or her sole discretion, may approve fewer license applications than there are licenses available for any given licensing period or at any given time.

(f) A pre-approval or approval issued by the Regional Administrator pursuant to this section:

(1) Shall not confer any right of compensation to the recipient of such pre-approval or approval;

(2) Shall not create, or be construed to create, any right, title, or interest in or to a license or any fish; and

(3) Shall be considered a grant of permission to the recipient of the pre-approval or approval to proceed with the process of seeking a license from the Administrator.

(g) A pre-approval or approval issued by the Regional Administrator pursuant to this section is subject to being rescinded at any time if the Regional Administrator determines that an administrative error has been made in its granting, false information has been provided by the applicant, or circumstances have changed such that the information provided by the applicant is no longer accurate, true or valid, or if the applicant or vessel no longer meets the requirements for licensing under this subpart or under the Act. NMFS will notify the applicant of its rescission of a pre-approval or approval within 14 days of the rescission. In the event that the Regional Administrator rescinds an approval after the license has been issued, NMFS will notify the Administrator of such, and request that the Administrator immediately revoke the license.

(h) *Application process for general licenses.*

(1) A vessel operator who satisfies the requirements for licensing under the Act and under this subpart may apply for a general license.

(2) In order for a general license to be issued for a vessel, an applicant must submit a complete application to, and obtain an application approval from, the Regional Administrator.

(3) Except for the 2011–2012 licensing period, prior to submitting a complete application, an applicant may request pre-approval of an application by the Regional Administrator by submitting an expression of interest. A pre-approval of an application establishes that the applicant is eligible to be considered for one of the available licenses following timely submission of a complete application. Although submission of an expression of interest is entirely voluntary, applications that have not been pre-approved might not be eligible for approval if the number of applications exceeds the number of available licenses for a given licensing period.

(4) Except as provided in paragraph (n) of this section, in order to obtain a pre-approval for a given licensing period, either an expression of interest or a complete application must be received by the Regional Administrator no later than June 1st in the year preceding the year in which the licensing period begins.

(5) An expression of interest must include the information listed below, which may be submitted by electronic or hard-copy correspondence following instructions provided by the Regional Administrator.

(i) If the expression of interest is for a vessel that has a valid license on June 1st in the year preceding the year in which the licensing period begins (i.e., an anticipated renewal of the license is being sought), the expression of interest shall include:

(A) The licensing period for which the license is being sought.

(B) The current name, IRCS, and annual USCG Certificate of Documentation number of the vessel.

(ii) If the expression of interest is for a vessel that does not have a valid license on June 1st in the year preceding the year in which the licensing period begins, the expression of interest shall include:

(A) The licensing period for which the license is being sought.

(B) The full name and address of each person who is, or who is anticipated to be, an operator of the vessel for which a license is sought, and for each such person, a statement of whether the person is, or is anticipated to be, owner, charterer, and/or master of the vessel.

(C) A statement of whether or not the vessel to be licensed is known, and if it is known, the current name, IRCS, and annual USCG Certificate of Documentation number, if any, of the vessel.

(D) A copy of the vessel's current USCG Certificate of Documentation. If the vessel has not been issued such a document, then a statement of whether application has been or will be made for a USCG Certificate of Documentation, including identification of all endorsements sought in such application.

(E) If the vessel is known, a list of the licensing periods, if any, during which a license for the vessel was issued under this section.

(F) If the vessel is known, a statement of the total amount, in metric tons, of any tuna species landed or transshipped from the vessel at United States ports,

including ports located in any of the States, for each of the calendar years 1988 through the current year.

(6) In order to obtain an application approval for a given licensing period, a complete application must be received by the Regional Administrator no later than February 5th in the year in which the licensing period begins, except that in cases in which pre-approvals are issued in accordance with paragraphs (k)(8) or (k)(9)(i) of this section, the complete application must be received by the Regional Administrator not later than the date specified by NMFS in the notification of such pre-approval (which will be calculated by NMFS to be no later than 194 days from the date of mailing of the notification of the pre-approval).

(7) License application forms, which include the "Schedule 1" form and the FFA Vessel Register application form, are available from the Regional Administrator. The complete application must be received by the Regional Administrator by the date specified in paragraph (h)(6) of this section. An application shall not be complete, and shall not be subject to processing, unless it contains all of the information specified on the "Schedule 1" form and all the items listed in paragraphs (h)(7)(i) through (h)(7)(x) of this section, as follows:

(i) The licensing period for which the license is requested.

(ii) The name of an agent, located in Port Moresby, Papua New Guinea, who, on behalf of the license holder, will receive and respond to any legal process issued in accordance with the Treaty.

(iii) Documentation from an insurance company showing that the vessel will be fully insured for the licensing period against all risks and liabilities normally covered by maritime liability insurance.

(iv) If the owner or charterer is the subject of proceedings under the bankruptcy laws of the United States, a statement that the owner or charterer will be financially able to fulfill any and all responsibilities under the Treaty, Act, and regulations, including the payment of any penalties or fines.

(v) A copy of the vessel's current annual USCG Certificate of Documentation.

(vi) Electronic versions of full color photographs of the vessel in its current form and appearance, including a bow-to-stern side-view photograph of the vessel that clearly and legibly shows the vessel markings, and a photograph of every area of the vessel that is marked with the IRCS assigned to the vessel.

(vii) A schematic stowage/well plan for the vessel.

(viii) The VMS unit installation certificate, issued by the Administrator-authorized person who installed the VMS unit, for the VMS unit installed on the vessel in accordance with § 300.45.

(ix) An FFA Vessel Register application form that includes all the applicable information specified in the form.

(x) In the case of an application for a vessel that did not have a valid license on June 1st in the year preceding the year in which the licensing period begins, any information under paragraph (h)(5)(ii) of this section that has not already been provided or that has changed since it was previously submitted.

(i) *Application process for joint venture licenses.*

(1) A vessel operator who satisfies the requirements for licensing under the Act and under this subpart may apply for a joint venture license.

(2) The applicant, in coordination with one or more Pacific Island Parties, shall contact the Administrator to determine the specific information and documents that are required by the Administrator in order to obtain an initial approval from the Administrator for a joint venture license. The applicant shall submit such required information and documents directly to the Administrator. Once an initial approval is obtained from the Administrator, the applicant shall submit a complete application package, as described in paragraph (h)(7) of this section, to the Regional Administrator, along with dated documentation of the Administrator's initial approval, and a letter or other documentation from the relevant national authority or authorities of the Pacific Island Party or Parties identifying the joint venture partner or partners and indicating the Party's or Parties' approval of the joint venture arrangement and its or their concurrence that a joint venture license may be issued for the vessel.

(j) *Appeals.*

(1) *Eligibility.* Any applicant who is denied a pre-approval or an approval under this section may appeal the denial. The appeal must be made in writing and must clearly state the basis for the appeal and the nature of the relief that is requested. The appeal must be received by the Regional Administrator not later than 14 days after the date that the notice of denial is postmarked.

(2) *Appeal review.* Upon receipt of an appeal, the Regional Administrator will appoint a designee who will review the basis of the appeal and issue an initial written decision. The written decision will be mailed to the applicant within 30 days of receipt of the appeal. If the appellant does not request a review within 10 days of mailing of the initial decision, the initial decision is the final administrative action of the Department of Commerce. If, within 10 days of mailing of the initial decision, the Regional Administrator receives from the appellant a written request for review of the initial decision, the Assistant Administrator or a designee will review the basis of the appeal and issue a final written decision. The final decision will be made within 30 days of receipt of the request for review of the initial decision. The decision of the Assistant Administrator or designee constitutes the final administrative action of the Department of Commerce.

(k) *Procedures used by the Secretary to review and process applications for general licenses.* The procedures in this paragraph apply to the process used by NMFS, on behalf of the Secretary and in consultation with the Secretary of State, to review expressions of interest and applications, and to approve applications. For the purpose of this section, NMFS' approval of an application means the signing by the Regional Administrator of the "Schedule 1" part of the application form, indicating that the application is complete, and that it meets the requirements of the Act and of this subpart for forwarding to the Administrator. For the purpose of this section, NMFS' pre-approval of an application means that the Regional Administrator has initially determined that the applicant is eligible for a general license, but that the application has not yet been approved for forwarding to the Administrator.

(1) NMFS will pre-approve no more applications for a given licensing period than there are licenses available for that licensing period.

(2) NMFS will approve no more applications for a given licensing period than there are licenses available for that licensing period.

(3) NMFS will not approve a license application if it determines that:

(i) The application is not in accord with the Treaty, Act, or regulations;

(ii) The owner or charterer is the subject of proceedings under the bankruptcy laws of the United States, and reasonable financial assurances have not been provided to the Secretary that the owner or charterer will be financially able to fulfill any and all responsibilities under the Treaty, Act, and regulations, including the payment of any penalties or fines;

(iii) The owner or charterer has not established to the satisfaction of the Secretary that the vessel will be fully

insured for the licensing period against all risks and liabilities normally covered by maritime liability insurance; or

(iv) The owner or charterer has not paid any final penalty assessed by the Secretary in accordance with the Act.

(4) Except as provided in paragraph (n) of this section, no later than July 16th of each year, NMFS will pre-approve applications from among the expressions of interest and applications received for the licensing period that starts the following year, prioritizing the expressions of interest and applications as follows:

(i) First priority will be given to expressions of interest and applications for vessels with valid licenses as of June 1st of that year (i.e., anticipated license renewal applications), provided that such vessels continue to satisfy the requirements for licensing under the Act and this subpart, and provided such vessels have no unsatisfied civil penalties or fines assessed by the Secretary under the Act that have become final.

(ii) Second priority will be given to expressions of interest and applications scored using the following scheme, in descending order of the sum of the points assigned:

(A) 15 points will be assigned for a vessel that has been issued, or will be issued by the date complete applications are due to be received the Regional Administrator under paragraph (h)(6) of this section, a valid USCG Certificate of Documentation with a fishery endorsement.

(B) 1 point will be assigned for each licensing period, starting with the 1988–1989 licensing period, in which a license had been issued for the vessel pursuant to the Act, for a total of no more than 10 points.

(C) 1 point will be assigned for each calendar year in which at least 3,000 metric tons of fish were landed or transshipped from the vessel in United States ports, including ports located in any of the States, as determined by the Regional Administrator. The applicable period shall run from 1988 through the last calendar year prior to the year in which the applied-for licensing period starts, and the total number of points assigned shall be no more than 5.

(D) In the event that two or more vessels receive the same sum number of points under paragraphs (k)(4)(ii)(A) through (k)(4)(ii)(C) of this section, priority will be given to the vessel from which the greatest amount of fish, by weight, was landed or transshipped in United States ports, including ports located in any of the States, starting in calendar year 1988 and ending in the year prior to the year in which the applied-for licensing period starts, as determined by the Regional Administrator. In the event that that does not resolve the tie, priority will be given by lottery, which will be conducted by the Regional Administrator.

(5) Except as provided in paragraph (n) of this section, no later than July 26th of each year, NMFS will notify all applicants (for the licensing period that starts the following year) whether their applications have been pre-approved.

(6) No later than March 7th of each year, NMFS will approve complete applications (for the licensing period that starts that year) that satisfy all of the following conditions:

(i) The application was pre-approved;

(ii) The information associated with the application has not changed since the point of pre-approval in a way such that pre-approval would not have been made using the updated information;

(iii) The complete application was received by February 5th of the same year; and

(iv) The applicant satisfies the requirements of this subpart.

(7) No later than March 17th of each year, NMFS will notify all applicants (for the licensing period that starts that year) who submitted complete applications by March 7th of that year, whether their applications have been approved under paragraph (k)(6) of this section, and in cases where they have not, whether their applications are being considered for approval under paragraph (k)(8) of this section.

(8) In the event that additional licenses are available after issuing the approvals under paragraph (k)(6) of this section, NMFS, after final administrative action by the Department of Commerce on any appeals of approvals made under paragraph (j) of this section, shall:

(i) Review all outstanding expressions of interest and applications it received within the required deadlines for that licensing period; and

(ii) Apply the process described in paragraphs (k)(9)(i) through (k)(9)(iv) of this section to pre-approve and approve applications from among that pool of applicants.

(9) If a license or application approval that has been issued for a given licensing period becomes available before or during that licensing period, NMFS will review all outstanding expressions of interest and complete applications it received within the required deadlines for that licensing period and will pre-approve and approve applications for that license from among that pool as follows:

(i) Within 45 days of NMFS becoming aware of the availability of the license, NMFS will pre-approve an application using the prioritization criteria and point-assigning scheme described in paragraphs (k)(4)(i) and (k)(4)(ii) of this section.

(ii) Within 55 days of NMFS becoming aware of the availability of the license NMFS will notify all active applicants as to whether their applications have been pre-approved, and for those applications that have been pre-approved, notify each applicant of the date by which a complete application, if not already received, must be received (which will be calculated by NMFS to be no later than 194 days from the date of mailing of the notification of the pre-approval).

(iii) Within 30 days of receiving a complete application that had been pre-approved, NMFS will approve the application, if and as appropriate and if the applicant satisfies the requirements of this subpart.

(iv) Within 10 days of approving an application, NMFS will notify the applicant.

(l) *Procedures used by the Secretary to review and process applications for joint venture licenses.* NMFS, on behalf of the Secretary and in consultation with the Secretary of State, will review and approve applications for joint venture licenses as described in paragraph (k) of this section for general licenses, except that NMFS will not consider expressions of interest for joint venture licenses or pre-approve applications for joint venture licenses. In the event that NMFS receives for a given licensing period more applications for joint venture licenses than there are licenses available, it will approve the applications in the chronological order that the Administrator has provided its initial approval.

(m) *Transferability of application approvals.* Application approvals from NMFS are not transferable among vessel owners or operators or license applicants. Application approvals are transferable among vessels, subject to the following requirements:

(1) A vessel operator may seek to transfer a general or joint venture license to another vessel that meets the requirements for licensing under this subpart and the Act, only if the license has been valid for the vessel for at least 365 consecutive days and all the fees required by the Administrator for the current licensing period have been paid to the Administrator. The vessel operator may seek to transfer the license by submitting a written request to the Regional Administrator along with a complete application for the other

vessel as described in paragraph (h)(7) of this section. Any such transfer may be subject to additional fees for the registration of the vessel on the FFA Vessel Register, as specified in paragraph (b) of § 300.45.

(2) Upon receipt of an application under paragraph (m)(1) of this section, the Regional Administrator, after determining that all the fees required for the vessel by the Administrator for the current licensing period have been paid, that the ownership of the licensed vessel and the ownership of the vessel to which the application approval would be transferred are identical, and that the transferee vessel meets the requirements for licensing under this subpart and the Act, will approve the application and notify the applicant of such within 10 days of the determination.

(3) If a licensed vessel is lost or destroyed, and the operators of the vessel apply for a license for another vessel for the licensing period during which the vessel was lost, or for either of the two subsequent licensing periods, NMFS will consider the applicants to have a currently licensed vessel for the purpose of applying the prioritization criteria of paragraph (k)(4) of this section, provided that the ownership of the lost or destroyed vessel and the ownership of the replacement vessel, as determined by the Regional Administrator, are identical.

(n) *Procedures for 2011–2012 licensing period.* For the licensing period that starts June 15, 2011, and for that licensing period only, pre-approvals may not be sought and will not be issued by NMFS. NMFS will rank order those applications received by February 5, 2011, for the 2011–2012 licensing period by applying the criteria in paragraphs (k)(4)(i) and (k)(4)(ii) of this section, except that in lieu of using June 1, 2010, as the date referred to in paragraph (k)(4)(i) of this section, NMFS will use February 5, 2011.

4. In § 300.45, paragraph (d) is revised to read as follows:

§ 300.45 Vessel monitoring system.

* * * * *

(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 approved by NMFS. A current list of hardware and software approved by the Administrator may be obtained from the Administrator. A current list of hardware and software approved by NMFS may be obtained from NMFS.

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