

*Unfunded Mandates Reform Act of 1995*

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

*Executive Order 13132, Federalism*

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

*Executive Order 12988, Civil Justice Reform*

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

*Paperwork Reduction Act*

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

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

Administrative practice and procedure, Claims, Fraud, Penalties.

**Authority and Issuance**

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

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

**Michael Chertoff**,  
Secretary.

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

**BILLING CODE 4410–10–P**

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

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

**RIN 0648–AP61**

**South Pacific Tuna Fisheries**

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

**ACTION:** Final rule.

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

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

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

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

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

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

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

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

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

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

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

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

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*: U.S. purse seine vessels licensed under the Treaty are required to have installed and to carry, operate, and maintain a VMS unit

while in the Treaty Area. The VMS unit and attendant software have to be of a type approved by the FFA as Treaty Administrator. A list of VMS units and associated software that are approved at this time is provided in the following table. The approvals are subject to change; an up-to-date list can be obtained from the FFA, as Treaty Administrator.

Model name	Model No.	Software version
Thrane and Thrane Capsat transceiver .....	TT-3022D .....	3.11
Thrane and Thrane Capsat transceiver .....	TT-3022D .....	3.24
Thrane and Thrane Capsat transceiver .....	TT-3022D .....	3.28 non-SOLAS Fishery DistFn-1
Thrane and Thrane Capsat transceiver .....	TT-3022D .....	3.32
Thrane and Thrane Capsat transceiver .....	TT-3026S Mini-C .....	2.12
Japan Radio Company Limited Inmarsat-C transceiver .....	JUE-75C .....	8.0
Japan Radio Company Limited Inmarsat-C transceiver .....	JUE-75CV .....	6.1
Japan Radio Company Limited Inmarsat-C transceiver .....	JUE-95VM .....	1.0
Trimble Galaxy transceiver .....	8005 (Courier) .....	5.10
Trimble Galaxy transceiver .....	TNL 7001 .....	5.10a
Trimble Galaxy transceiver .....	TNL 7005 (non solas) .....	5.10
Trimble Galaxy transceiver .....	TNL 8001 (Sentinel) ...	5.10
Furuno Inmarsat-C Mobile Earth Station Transceiver .....	Felcom 15 .....	DCE F15 V02+FFA
Furuno Inmarsat-C transceiver .....	Felcom 12 (IC-212) ...	DCE version .07+FFA
Furuno Inmarsat-C transceiver .....	Felcom 12 (IC-212) ...	DCE version .08+FFA
Furuno Mini-C Mobile Earth Station Transceiver .....	Felcom 16 .....	DCE F16 V02+FFA
Furuno Mini-C Mobile Earth Station Transceiver .....	Felcom 16 .....	DCE F16 V03+FFA
Sailor Inmarsat-C Mobile Earth Station Transceiver (SAT-C) .....	H1622D .....	TT-10202A Version 3.21 non-SOLAS Fishery

If the VMS unit malfunctions or fails, the owner or operator is 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 are also 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 will administratively facilitate the applications for registration on the register, but vessel owners and operators are responsible for completing the FFA registration forms and the payment of associated fees.

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 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](mailto: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*: Director-General, Pacific Islands Forum Fisheries Agency, P.O. Box 629, Honiara, Solomon Islands

Updated contact information may be obtained from the NMFS American Samoa field station, *telephone*: 684-633-5598; *facsimile*: 684-633-1400, or the NMFS Pacific Islands Regional Office (see **ADDRESSES**).

The VMS data will be treated by NMFS as confidential business information. However, if VMS data are requested under FOIA, the responding agency will be required to determine the releasability of the information pursuant to any applicable exemptions. These new VMS requirements appear in the revised regulations at 50 CFR 300.45.

(4) *Longline high seas access*: This final rule exempts 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 revised regulations at 50 CFR 300.39(a).

Additional background information may be found in the preamble to the proposed rule (71 FR 45752, August 10, 2006).

#### Comments and Responses

NMFS received two sets of comments on the proposed rule; summaries of those comments, and NMFS' responses, follow (see the Classification section for

comments on the initial regulatory flexibility analysis (IRFA) and NMFS' responses).

*Comment 1:* There are many required reports involving fish tonnages by species and size. The crew makes estimates of these weights without the benefit of scales, so the estimates vary from actual weights. The proposed requirements in 50 CFR 300.34(a)-(c), which call for reported information to be true, complete, correct, accurate and timely, are a concern with respect to the expected accuracy of the reports. A literal interpretation of the language could place the vessels in an impossible position.

*Response:* The reporting requirements in 50 CFR 300.34(a) and (b) of the rule, which state that reported information must be "true, complete and correct", are existing regulations; they will not be altered by this rulemaking. The contents of the required reports will not be modified, either (except in relatively minor ways that should have no effect in terms of the attainable accuracy of reported fish weights, such as changing the reporting units for fish weights from short tons to metric tons). The rulemaking will only add, in 50 CFR 300.34(c), the terms "accurate" and "timely" with respect to the required reports and notifications. NMFS believes that it is important, as well as reasonable, that reported information, including fish weights, be accurate. At the same time, NMFS does not interpret the term "accurate" to necessarily mean that measurements and reports thereof must be absolutely precise.

*Comment 2:* The preamble to the proposed rule neglected to note the duration of the Third Extension of the Treaty, which is 10 years, until 2013.

*Response:* That is correct; the duration of the Third Extension of the Treaty was not noted in the proposed rule. Its duration is 10 years, expiring June 14, 2013.

*Comment 3:* The preamble to the proposed rule indicated that the contact numbers for the NMFS American Samoa field station include a "country code 684", but the office is actually dialed from within the United States as a domestic number.

*Response:* That is correct—the preamble to the proposed rule included incorrect contact numbers for the NMFS field station in American Samoa. American Samoa uses the telephone country code for the United States, which is 1. The correct contact numbers for the office are: telephone: 684-633-5598; facsimile: 684-633-1400.

*Comment 4:* I do not believe in longline fishing; it is dangerous for oceans, depletes the supply, makes the

balance of marine life suffer, and results in other fish and birds getting caught and suffering and dying; please do away with this longline fishing.

*Response:* The comment is acknowledged, but it addresses an issue that is beyond the scope of this rule, the purpose of which is to fulfill the obligations of the United States under an international agreement, the Third Extension of the Treaty.

#### Changes to the Proposed Rule

Three changes have been made to the proposed rule: (1) The statement "The initial list of approved hardware and software will appear in the final rule for this action" has been removed from paragraph (d) of proposed 50 CFR 300.45. The referenced list is provided in this preamble to the final rule. (2) Corrections have been made to the numbering of the paragraphs referred to in 50 CFR 300.38. (3) An entry has been added in the table in 15 CFR 902.1(b), of control numbers issued by the Office of Management and Budget (OMB), which identifies the location of NOAA regulations for which OMB control numbers have been issued under the Paperwork Reduction Act (PRA) for collections of information. The additional entry identifies that the new 50 CFR 300.45, on VMS requirements, contains collection-of-information requirements and that the associated OMB control number is 0648-0218.

#### Delegation of Authority

Under NOAA Administrative Order 205-11, dated December 17, 1990, the under Secretary for Oceans and Atmosphere has delegated authority to sign material for publication in the **Federal Register** to the Assistant Administrator for Fisheries, NOAA.

#### Classification

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

A final regulatory flexibility analysis (FRFA) was prepared. The FRFA incorporates the IRFA (which was summarized in the proposed rule), a summary of the significant issues raised by the public comments in response to the IRFA and NMFS' responses to those comments, and a summary of the analyses completed to support the action. A copy of the FRFA is available from NMFS (see **ADDRESSES**). A summary of the FRFA follows.

#### Need for, and Objectives of, the Rule

A description of the need for, and objectives of, this final rule is contained at the beginning of this section in the

preamble and in the **SUMMARY** section of the preamble.

#### Summary of the Significant Issues Raised by the Public Comments in Response to the IRFA

NMFS received one comment on the IRFA (as summarized in the proposed rule) and one comment not specifically on the IRFA but on an issue with possible economic implications. Those comments, and NMFS' responses, follow.

*Comment 1:* The owners of vessels licensed under the Treaty now pay \$2,235 per year for the new combined VMS and vessel registration fee. Should that be indicated in the rule?

*Response:* The FFA has consolidated what were previously called the "FFA VMS Register of Foreign Fishing Vessels" and the "FFA Regional Register of Foreign Fishing Vessels" into a single "FFA Vessel Register." There is a single annual fee for applying for inclusion on the FFA Vessel Register; the fee has been formulated as the sum of two components (one of which is the VMS-related component) that correspond to the two former registers. The IRFA summary in the preamble to the proposed rule included an estimate of only the additional cost that would be imposed under the rule; that is, the VMS-related part of the fee (\$1,375 per vessel per year). The remainder of the payment referred to by the commenter (which is actually \$2,253, not \$2,235) is not related to, and will not be affected by, this final rule.

*Comment 2:* There are many required reports involving fish tonnages by species and size. The crew makes estimates of these weights without the benefit of scales, so the estimates vary from actual weights. The proposed requirements in 50 CFR 300.34(a)-(c), which call for reported information to be true, complete, correct, accurate and timely, are a concern with respect to the expected accuracy of the reports. A literal interpretation of the language could place the vessels in an impossible position.

*Response:* The reporting requirements in 50 CFR 300.34(a) and (b) of the rule, which state that reported information must be "true, complete and correct", are existing regulations; they will not be altered by this rule. The contents of the required reports will not be modified, either (except in relatively minor ways that should have no effect in terms of the attainable accuracy of reported fish weights, such as changing the reporting units for fish weights from short tons to metric tons). The rule will only add, in 50 CFR 300.34(c), the terms "accurate" and "timely" with respect to the

required reports and notifications. NMFS believes that it is important, as well as reasonable, that reported information, including fish weights, be accurate. At the same time, NMFS does not interpret the term "accurate" to necessarily mean that measurements and reports thereof must be absolutely precise.

NMFS finds that neither of the issues raised in these public comments gives reason to make any changes to the rule. The first issue, regarding the VMS-related registration costs, is one merely of clarifying the information presented in the IRFA. The second issue, regarding the potential difficulty in vessel operators providing accurate and timely information, is not a new issue created by this rule, and in any case NMFS has not identified any alternative that would provide the needed information with a lesser burden on small entities. NMFS has not made any changes to the rule as a result of these public comments.

#### **Description and an Estimate of the Number of Small Entities to Which the Rule Will Apply**

Three of the measures in this final rule, the modified vessel reporting requirements, the VMS requirements, and the modified Closed and Limited Areas, will 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 will 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 will 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).

#### **Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Rule**

The reporting, recordkeeping, and other compliance requirements of this final 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:* Approximately seven small business entities will be subject to these requirements. The cost of compliance will 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 will 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 will be subject to these requirements. These modifications will 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 will affect the operational flexibility of U.S. purse seine vessels, and such effects could in turn bring economic impacts. Vessels will 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 will 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:* Approximately seven small business entities will 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 VMS portion of the annual FFA Vessel Register 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 will be subject to this measure. Opening the high seas areas of the Treaty Area to U.S. longline vessels will not impose any additional reporting, recordkeeping, or other compliance requirements. Since the measure will 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.

The measures that will apply to the purse seine entities (particularly the VMS requirements) will impose the same cost burden on small entities as they will on large entities, so the cost as a proportion of gross revenues will generally be greater for small entities than for large entities. The same is true within the group of affected small entities: the smaller the business, the greater the burden is likely to be relative to gross revenues, assuming that profit margins are similar among firms. However, there is not a great difference in size (e.g. in terms of gross revenues) between the affected small and large entities or among the small entities, so the differences in the relative burdens by entity size are expected to be minor. No disproportionate burdens among affected entities according to other characteristics, such as homeport or area fished, are expected.

The measure that will apply to the longline entities (all of which are small entities) will not impose any costs on

any entities, so no disproportionate adverse impacts according to entity size will occur. The measure will have positive, if any, impacts on affected entities, but since larger vessels tend to have greater operating ranges, they are more likely than smaller vessels to be able to take advantage of the availability of new fishing grounds and enjoy the benefits of the measure. A similar difference in the likelihood of benefitting from the measure might also exist according to where a vessel is based (e.g. American Samoa versus Hawaii), but the difference is not possible to predict.

#### Steps Taken To Minimize the Significant Economic Impact on Small Entities

NMFS considered several alternatives to this final 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, NMFS rejected this alternative. 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 a VMS is significantly less than the costs of enhanced observer coverage or enhanced aerial and surface monitoring,

NMFS rejected the alternatives of enhanced observer coverage and enhanced aerial and surface monitoring, and selected the VMS alternative for adoption in this final rule.

#### Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. Copies of the small entity compliance guide for this final rule are available from NMFS (see **ADDRESSES**).

This final rule contains VMS and vessel reporting collection-of-information requirements subject to the Paperwork Reduction Act (PRA) 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. These estimated burdens 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 these burden estimates 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.

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.

Prior notice and opportunity for public comment are not required with respect to the revision to the table of OMB control numbers in 15 CFR 902.1(b) because this action is a rule of agency organization, procedure or practice under 5 U.S.C. 553(b)(A).

#### List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 300

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

Dated: February 5, 2007.

**John Oliver,**

*Deputy Assistant Administrator for Operations, National Marine Fisheries Service.*

■ For the reasons set out in the preamble, 15 CFR chapter IX and 50 CFR chapter III are amended to read as follows:

#### 15 CFR CHAPTER IX—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE

##### PART 902—NOAA INFORMATION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

*Authority:* 44 U.S.C. 3501 *et seq.*

■ 2. In § 902.1, the table in paragraph (b) is amended by adding a new entry, "300.45", and its corresponding OMB control number, under the entry "50 CFR", to read as follows:

##### § 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

\* \* \* \* \*

(b) \* \* \*

CFR part or section where the information collection requirement is located	Current OMB control No. (all numbers begin with 0648-)
* * *	* *
50 CFR .....	.....
* * *	* *
300.45 .....	-0218
* * *	* *

**50 CFR CHAPTER III—INTERNATIONAL FISHING AND RELATED ACTIVITIES**

**PART 300—INTERNATIONAL FISHERIES REGULATIONS**

**Subpart D—South Pacific Tuna Fisheries**

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

Authority: 16 U.S.C. 973–973r.

■ 4. 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(s)*” is removed, 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. 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.
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).

Pacific Island Party	Laws
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 9°11'30" S, 171°47'00" 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: commencing at the north-easternmost 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.
PAPUA NEW GUINEA	All territorial seas, archipelagic and internal waters.
SOLOMON ISLANDS	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.
TONGA	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.

Pacific Island Party	Area
TUVALU	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.
VANUATU	Archipelagic waters and the territorial sea, and internal waters.
SAMOA	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"
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"
AD	59°00'00" S	160°00'00" E

Point	Latitude	Longitude
AE	59°00'00" S	152°00'00" E and north along the 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.

■ 5. 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.

\* \* \* \* \*

■ 6. 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, the 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 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 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 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.

■ 7. 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(e).

(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(f).

(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(f).

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

\* \* \* \* \*

■ 8. 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.

\* \* \* \* \*

■ 9. 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.

\* \* \* \* \*

■ 10. 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 Web site: <http://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. 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 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.

■ 11. 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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**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Parts 1 and 602**

[TD 9312]

RIN 1545-BF95

**Section 181—Deduction for Film and Television Production Costs**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Temporary regulation.

**SUMMARY:** This document contains temporary regulations relating to deductions for the cost of producing film and television productions under section 181. These temporary regulations reflect changes to the law made by the American Jobs Creation Act of 2004 and the Gulf Opportunity Zone Act of 2005, and affect taxpayers that produce films and television productions within the United States. The text of these temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

**DATES:** *Effective Date:* These regulations are effective February 9, 2007.

*Applicability Dates:* For dates of applicability, see § 1.181-6T.

**FOR FURTHER INFORMATION CONTACT:** Bernard P. Harvey, (202) 622-3110 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Paperwork Reduction Act**

These temporary regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collections of information contained in these regulations have been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget under control number 1545-2059. Responses to these collections of information are required to obtain a tax benefit.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

For further information concerning this collection of information, and where to submit comments on the collection of information and the accuracy of the estimated burden, and suggestions for reducing this burden, please refer to the preamble of the cross-referencing notice of proposed rulemaking published in the Proposed Rules section in this issue of the **Federal Register**.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

**Background**

This document contains amendments to 26 CFR part 1 to provide regulations under section 181 of the Internal Revenue Code of 1986 (Code). Section 181 was added to the Code by section 244 of the American Jobs Creation Act of 2004, Public Law 108-357 (118 Stat. 1418) (Oct. 22, 2004), and was modified by section 403(e) of the Gulf Opportunity Zone Act of 2005, Public Law 109-135 (119 Stat. 2577) (Dec. 21, 2005).

**Explanation of Provisions**

For several years, independent filmmakers and television producers have moved production activities from the United States to other countries. Frequently, this has been motivated by credits and other incentives offered by foreign governments to attract the economic benefits gained by hosting these productions. Congress enacted section 181 to make domestic production more attractive to these taxpayers.

Section 181 permits the owner of a qualified film or television production to elect to deduct production costs in the year the costs are paid or incurred in lieu of capitalizing the costs and recovering them through depreciation allowances if the aggregate costs do not exceed \$15 million for each qualifying production (\$20 million if a significant amount of the production costs are incurred in certain designated areas) (the "production cost limit"). A film or television production is a qualified film or television production if 75 percent of the total compensation of the production is compensation for services performed in the United States by actors, directors, producers, and other relevant production personnel (the "75 percent test").