

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 12/21/2007

Department of Commerce
National Oceanic and Atmospheric Administration
FOR CERTIFYING OFFICIAL: Barry West
FOR CLEARANCE OFFICER: Diana Hynek

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 10/25/2007

ACTION REQUESTED: Extension without change of a currently approved collection
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 200710-0648-001
AGENCY ICR TRACKING NUMBER:
TITLE: South Pacific Tuna Act
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0218

The agency is required to display the OMB Control Number and inform respondents of its legal significance in accordance with 5 CFR 1320.5(b).

EXPIRATION DATE: 12/31/2010

DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	308	242	36,000
New	286	199	67,188
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	30,976
Change due to Agency Adjustment	-22	-43	212
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official:

Kevin F. Neyland
Deputy Administrator,
Office Of Information And Regulatory Affairs

List of ICs

IC Title	Form No.	Form Name	CFR Citation
Purse seine transshipment log sheet	NA	Purse Seine Transshipment and Other Unloading Logsheet	
License Application Form	NA	License Application Form	50 CFR Subpart D
Regional Application/VMS Registration Form and Fee and VMS maintenance costs	NA	FFA Vessel Register: Registration for Application	
Unloading Logsheet	NA	Purse seine transshipment and other unloading logsheet	

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

<p>1. Agency/Subagency originating request</p>	<p>2. OMB control number b. <input type="checkbox"/> None a. _____ - _____</p>
<p>3. Type of information collection (<i>check one</i>)</p> <p>a. <input type="checkbox"/> New Collection</p> <p>b. <input type="checkbox"/> Revision of a currently approved collection</p> <p>c. <input type="checkbox"/> Extension of a currently approved collection</p> <p>d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired</p> <p>e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired</p> <p>f. <input type="checkbox"/> Existing collection in use without an OMB control number</p> <p>For b-f, note Item A2 of Supporting Statement instructions</p>	<p>4. Type of review requested (<i>check one</i>)</p> <p>a. <input type="checkbox"/> Regular submission</p> <p>b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____</p> <p>c. <input type="checkbox"/> Delegated</p>
	<p>5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>
	<p>6. Requested expiration date</p> <p>a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____</p>
<p>7. Title</p>	
<p>8. Agency form number(s) (<i>if applicable</i>)</p>	
<p>9. Keywords</p>	
<p>10. Abstract</p>	
<p>11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>)</p> <p>a. <input type="checkbox"/> Individuals or households d. <input type="checkbox"/> Farms</p> <p>b. <input type="checkbox"/> Business or other for-profit e. <input type="checkbox"/> Federal Government</p> <p>c. <input type="checkbox"/> Not-for-profit institutions f. <input type="checkbox"/> State, Local or Tribal Government</p>	<p>12. Obligation to respond (<i>check one</i>)</p> <p>a. <input type="checkbox"/> Voluntary</p> <p>b. <input type="checkbox"/> Required to obtain or retain benefits</p> <p>c. <input type="checkbox"/> Mandatory</p>
<p>13. Annual recordkeeping and reporting burden</p> <p>a. Number of respondents _____</p> <p>b. Total annual responses _____</p> <p> 1. Percentage of these responses collected electronically _____ %</p> <p>c. Total annual hours requested _____</p> <p>d. Current OMB inventory _____</p> <p>e. Difference _____</p> <p>f. Explanation of difference</p> <p> 1. Program change _____</p> <p> 2. Adjustment _____</p>	<p>14. Annual reporting and recordkeeping cost burden (<i>in thousands of dollars</i>)</p> <p>a. Total annualized capital/startup costs _____</p> <p>b. Total annual costs (O&M) _____</p> <p>c. Total annualized cost requested _____</p> <p>d. Current OMB inventory _____</p> <p>e. Difference _____</p> <p>f. Explanation of difference</p> <p> 1. Program change _____</p> <p> 2. Adjustment _____</p>
<p>15. Purpose of information collection (<i>Mark primary with "P" and all others that apply with "X"</i>)</p> <p>a. <input type="checkbox"/> Application for benefits e. <input type="checkbox"/> Program planning or management</p> <p>b. <input type="checkbox"/> Program evaluation f. <input type="checkbox"/> Research</p> <p>c. <input type="checkbox"/> General purpose statistics g. <input type="checkbox"/> Regulatory or compliance</p> <p>d. <input type="checkbox"/> Audit</p>	<p>16. Frequency of recordkeeping or reporting (<i>check all that apply</i>)</p> <p>a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure</p> <p>c. <input type="checkbox"/> Reporting</p> <p> 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly</p> <p> 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually</p> <p> 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____</p>
<p>17. Statistical methods</p> <p>Does this information collection employ statistical methods</p> <p style="text-align: center;"><input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>18. Agency Contact (person who can best answer questions regarding the content of this submission)</p> <p>Name: _____</p> <p>Phone: _____</p>

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
 - (i) Why the information is being collected;
 - (ii) Use of information;
 - (iii) Burden estimate;
 - (iv) Nature of response (voluntary, required for a benefit, mandatory);
 - (v) Nature and extent of confidentiality; and
 - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT
SOUTH PACIFIC TUNA ACT
OMB CONTROL NO.: 0648-0218**

A. JUSTIFICATION

1. Explain the circumstances that make the collection of information necessary.

The Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America (<http://www.intfish.net/treaties/pacisles.htm>), signed in Port Moresby, Papua New Guinea, in 1987, and its annexes, schedules and implementing agreements, as amended (Treaty), authorizes U.S. purse seine vessels to fish within fishing zones of a large region of the Pacific Ocean. The South Pacific Tuna Act ([16 U.S.C. 973g and 973j](#)¹) and U.S. implementing regulations ([50 CFR Subpart D](#)) authorize the collection of information from participants in the Treaty fishery.

2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Qualification Guidelines.

Vessel operators who wish to participate in the Treaty fishery must submit annual license and regional register registration application, and periodic written reports of catch and unloading of fish from a licensed vessel (both reports are recorded on the logsheet for purse seine transshipment and other unloading). The information collected is submitted to the Forum Fisheries Agency (FFA), located in Honiara in the Solomon Islands through the U.S. government (National Marine Fisheries Service (NMFS)). License and registration application information is used by FFA to determine the operational capability and financial responsibility of a vessel owner / operator interested in participating in the Treaty fishery. Information obtained from vessel catch and effort logbooks and unloading reports are used by FFA to assess the operation of the fishery and relevant tuna resources in the region and to track the amount of fish caught within each Pacific Island State's exclusive economic zone (EEZ) for fair disbursement of Treaty monies.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The information collected and the forms for submitting the information are a requirement under the Treaty, its amendments and annexes. At the current time, the simplest and least burdensome method to obtain the information is directly from the vessel operator or management firm. At the present, there is no existing system that would be as efficient and as simple as the required forms. NMFS has engaged the FFA in discussions to move the fishery to fully automated (electronic reporting). NMFS staff in Pago Pago American Samoa provides those vessel

¹see: http://www.law.cornell.edu/uscode/html/uscodhttp://www.intfish.net/treaties/pacisles.htm#16usc_sup_01_16_10_16C.html

operators, who are interested and capable, an electronic version of the Regional Purse Seine Logbook. NMFS accepts electronic version of the catch and effort data provided by vessel operators upon completion of a fishing trip. To reduce the burden on respondents, NMFS supplies the necessary information collection forms and instructions and collects completed forms, either in person, by mail or by fax.

4. Describe efforts to identify duplication.

Duplication is avoided through consultations and cooperation between the U.S. government, FFA and the Pacific island states. There are no other data collection programs in place; therefore, there is no duplication with other programs. There are no programs currently in place that contain the information requested on the forms. FFA has been informed that any modifications to existing information collection or forms must be vetted with the U.S. Government and industry at the annual consultations for the appropriate Paperwork Reduction Act (PRA) review.

5. If the collection of information involves small businesses or other small entities, describe the methods used to minimize burden.

The collection of information is a requirement, under the Treaty, for vessels to participate in the Treaty fishery. All of the data collected have been deemed essential by the parties to the Treaty. Every effort is made that when additional information is requested by either of the parties that there is a review to ensure that it is 1) essential, 2) not collected elsewhere, and 3) is not overly burdensome or intrusive.

6. Describe the consequences to the Federal program or policy activities if the collection is not conducted or is conducted less frequently.

If the information is not collected, the U.S. government will not meet its obligations under the Treaty, and the lack of fishing information will result in poor management of the fishery resource.

7. Explain any special circumstances that require the collection to be conducted in a manner inconsistent with OMB guidelines.

The frequency and format of information collection is mandated by the terms and conditions of the Treaty. A vessel owner / operator is required to supply information once per year related to initially obtaining a license or renewing one, and then other information – related to fishing activities upon completion of each fishing trip and each unloading, which may occur sooner than each quarter. It is estimated that the average number of fishing trips is 5-6 per vessel per year and the average number of unloadings is 6-7 per vessel per year. If the information is not collected as required, the vessel operator would be in violation of the Treaty and subject to fines and prosecution, the U.S. government would not meet its obligations under the Treaty, and management of the fishery stocks would be impaired. The type and substance of information collected from vessel operators generally conform to 5 CFR 1320.6. Respondents are required to supply information at the completion of each fishing trip and unloading, which may occur sooner than each quarter, and are requested to provide vessel operational statistics in metric equivalents (e.g., metric tons for species caught and / or unloaded).

8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

A Federal Register notice that solicited public comments on the information collection was published on May 7, 2007; no comments were received on the proposed collection.

9. Explain any decisions to provide payments or gifts to respondents, other than remuneration of contractors or grantees.

No payment or gift to respondents has occurred.

10. Describe any assurance or confidentiality provided to respondents and the basis for assurance in statute, regulation, or agency policy.

All data are collected for the specific use by the FFA. NOAA Administrative Order 216-100 governs confidential data collected by NMFS. In addition, the South Pacific Tuna Act (16 U.S.C. 973j) provides for confidentiality of catch and unloading information provided by vessel operators.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

No questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, or other matters that are commonly considered private, are required in the information collection.

12. Provide an estimate in hours of the burden of the collection of information.

The estimated total annual burden hours are as follows:

(a) License application form - 1 response per year x 15 minutes/response x 22 respondents = 5.5 (6)hours.

(b) Regional application/VMS registration form - 1 response per year x 45 minutes/response x 22 respondents = 16.5 hours.

(c) Purse seine transshipment logsheet - 5 responses per year x 1 hour/response x 22 respondents = 110 hours.

(e) Unloading logsheet: 6 responses per year x 30 minutes/response x 22 respondents = 66 hours.

(f) Maintenance for Vessel Monitoring System (VMS) Units - cost only; see #13.

Total burden figures are 22 respondents, 286 responses, and 199 hours.

Labor costs:

(a) License application form - 1 response per year x 15 minutes/response x \$7.00/hour (clerical) x 22 respondents = \$39.00.

(b) Regional application/VMS registration form - 1 response per year x 45 minutes/response x \$7.00/ hour (clerical) x 22 respondents = \$116.00.

(c) Purse seine transshipment form - 4 responses per year x 1 hour/response x \$25.00/ hour (vessel master) x 22 respondents = \$2,200.00.

(d) Unloading logsheet - 6 responses per year x 30 minutes/response x \$25.00/ hour (vessel master) x 22 respondents = \$1,650.00.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection (excluding the value of the burden hours in #12 above).

The total annual cost burden to the respondents is \$67,188.00 or \$3,054.00 per respondent:

(a) Mailing costs - \$1.00 per forms package x 22 respondents = \$22.00.

(b) VMS Registration Fee - \$2,253.00 per year x 22 respondents = \$49,566.

(c) Maintenance of VMS Units including transmission costs - \$800 per year x 22 respondents = \$17,600.

14. Provide estimates of annualized cost to the Federal government.

The estimated annualized cost to federal government (\$7,958.00) is described below (dollar amounts are rounded off).

(a) License application forms - 1 page of information @ \$0.10/page x 22 respondents = \$2.00.

(b) Regional application/VMS registration forms - 3 pages of information @ \$0.10 each x 22 respondents = \$7.00.

(c) Mailing and handling of applications - \$1.00 per forms package x 22 respondents = \$22.00.

(d) Staff review and processing - 18 minutes/response @ \$26.00/hr.[GS-9] x 22 respondents = \$172.00.

(e) Purse seine transshipment logsheet - 3 pages of information x \$0.14 per page x 4 responses per year x 22 respondents = \$37.00.

(f) Unloading logsheet - 1 page of information x \$0.14 per page x 6 responses per year x 22 respondents = \$18.00.

(g) Mailing and handling of forms - 20 pages of information x \$1.00 per package of forms x 22 respondents = \$440.00.

(h) Staff review and processing - 20 pages of information x 0.30 hr./page x \$55.00/hr. [GS-13] x 22 respondents = \$7,260.00.

15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB 83-I.

Due to the consolidation of 2 forms – the regional register and the vessel monitoring system register – there is a savings of 6 responses. Forty-three hours were removed, as VMS maintenance is now counted as cost only. In addition, the FFA fee has increased significantly: from \$845 to \$2,253, resulting in an increase of \$30,976. NOTE: this is NOT a NMFS fee, or NMFS fee increase.

16. For collections whose results will be published, outline the plans for tabulation and publication.

The information collected is not for publication.

17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate.

All forms used in the information collection are actually developed by the FFA. They do not display the expiration date for Office of Management and Budget (OMB) approval.

18. Explain each exception to the certification statement identified in Item 19 of the OMB 83-I.

All forms used in the information collection are developed and supplied by the FFA. They do not indicate the retention period for record keeping requirements, or inform respondents of the information called for under 5 CFR 1320.8(b)(3). It is not known whether the forms were developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected.

No PRA information will be displayed on or be attached to forms distributed directly by the FAA. NMFS does distribute some of the license application and vessel registration forms, and the attached PRA information will be sent with those forms.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

Statistical methods are not used for this collection.

SCHEDULE 1

**TREATY ON FISHERIES BETWEEN THE
GOVERNMENTS OF CERTAIN PACIFIC ISLAND
STATES AND THE GOVERNMENT OF THE
UNITED STATES OF AMERICA**

LICENCE APPLICATION FORM

Application is hereby made for a license authorizing the use of the vessel named in this application for fishing in the Licensing Area.

1. FULL NAME OF VESSEL: _____
2. RADIO CALL SIGN OF VESSEL: _____
3. REGIONAL REGISTER NUMBER OF VESSEL: _____
(If none, fill in and attach the FFA Regional Register form)
4. FULL NAME AND ADDRESS OF EACH PERSON WHO IS AN OPERATOR OF THE VESSEL AND STATE WHETHER OWNER, CHARTERER, MASTER OR OTHER. IF OTHER, SPECIFY DETAILS:

5. FULL NAME AND ADDRESS OF INSURER FOR PURPOSES OF ARTICLE 4.3(a) OF THE TREATY:

6. REGISTRATION NUMBER AND MAKE OF HELICOPTER, IF ANY, TO BE CARRIED ON VESSEL:

7. REGISTRATION NUMBER, MAKE AND NAME AND ADDRESS OF OPERATOR OF ANY AIRCRAFT TO BE USED IN ASSOCIATION WITH FISHING ACTIVITIES:

8. STATE WHETHER OWNER OR CHARTERER IS INSOLVENT OR IN ANY BANKRUPTCY PROCEEDING UNDER THE BANKRUPTCY LAW OF THE UNITED STATES:

9. STATE WHETHER OPERATOR OF VESSEL HAS BEEN INVOLVED IN A VIOLATION OF THE TREATY. IF YES, SPECIFY DETAILS:

Date of Application

Administrator of the Pacific Islands Region
National Marine Fisheries Service
National Oceanic and Atmospheric
Administration



Forum Fisheries Agency Vessel Register Application for Registration

VID number – FFA use only

<p>1. Vessel (use block letters)</p> <p>Name of vessel <input style="width: 90%;" type="text"/></p> <p>Flag of vessel <input style="width: 90%;" type="text"/></p> <p>International radio call sign <input style="width: 20%;" type="text"/> Flag state registration number <input style="width: 20%;" type="text"/></p> <p>2. Vessel's previous details</p> <p>Has the vessel ever had different details to those given above? No <input type="checkbox"/> ⇒ go to 'Vessel contact details' Yes <input type="checkbox"/> ⇒ give details below</p> <p>Has a previous FFA Vessel Register application been made for this vessel? No <input type="checkbox"/> Yes <input type="checkbox"/> ⇒ if a VID number was issued, provide VID number below</p> <p style="padding-left: 100px;">VID number <input style="width: 100px;" type="text"/></p> <p>Vessel's previous name <input style="width: 90%;" type="text"/></p> <p>Last radio call sign <input style="width: 20%;" type="text"/> Last flag state registration number <input style="width: 20%;" type="text"/></p> <p>Year change occurred <input style="width: 20%;" type="text"/> Last country of registration <input style="width: 20%;" type="text"/></p> <p>3. Vessel contact details</p> <p>Phone number <input style="width: 20%;" type="text"/> Fax number <input style="width: 20%;" type="text"/></p> <p>E-mail address <input style="width: 90%;" type="text"/></p> <p>4. Vessel owner</p> <p>Name <input style="width: 90%;" type="text"/></p> <p>Mailing address <input style="width: 90%;" type="text"/></p> <p>Phone number <input style="width: 20%;" type="text"/> Fax number <input style="width: 20%;" type="text"/></p> <p>E-mail address <input style="width: 90%;" type="text"/></p> <p>5. Vessel Master/Captain</p> <p>Name <input style="width: 90%;" type="text"/></p> <p>Mailing address <input style="width: 90%;" type="text"/></p> <p>Phone number <input style="width: 20%;" type="text"/> Fax number <input style="width: 20%;" type="text"/></p> <p>E-mail address <input style="width: 90%;" type="text"/></p>	<p>6. Vessel Charterer/Operator</p> <p>Name <input style="width: 90%;" type="text"/></p> <p>Mailing address <input style="width: 90%;" type="text"/></p> <p>Phone number <input style="width: 20%;" type="text"/> Fax number <input style="width: 20%;" type="text"/></p> <p>E-mail address <input style="width: 90%;" type="text"/></p> <p>7. Vessel Fishing Master</p> <p>Name <input style="width: 90%;" type="text"/></p> <p>Mailing address <input style="width: 90%;" type="text"/></p> <p>Phone number <input style="width: 20%;" type="text"/> Fax number <input style="width: 20%;" type="text"/></p> <p>E-mail address <input style="width: 90%;" type="text"/></p> <p>8. Vessel Type</p> <p><input type="checkbox"/> Single Purse Seiner ↓</p> <p>No. FADs on board <input style="width: 20%;" type="text"/> No. Auxiliary boats <input style="width: 20%;" type="text"/> Helicopter model <input style="width: 20%;" type="text"/></p> <p><input type="checkbox"/> Group Purse Seiner ↓</p> <p><input type="checkbox"/> Mothership <input type="checkbox"/> Net boat <input type="checkbox"/> Search boat</p> <p><input type="checkbox"/> Longliner ↓</p> <p>Max number hooks <input style="width: 20%;" type="text"/> Mainline length <input style="width: 20%;" type="text"/> Length specified as: <input type="checkbox"/> km <input type="checkbox"/> nm</p> <p>Mainline material</p> <p><input type="checkbox"/> Polyester (black tarred or vinyl red tarred) -includes Kuralon, Dacron and Polytex</p> <p><input type="checkbox"/> Nylon or Polyamide Nylon (monofilament or braided)</p> <p><input type="checkbox"/> Other - specify <input style="width: 100px;" type="text"/></p> <p><input type="checkbox"/> Pole and line <input type="checkbox"/> Troller <input type="checkbox"/> Fish Carrier / Reefer</p> <p><input type="checkbox"/> Bunker <input type="checkbox"/> Other - specify <input style="width: 100px;" type="text"/></p> <p>9. Vessel Specifications</p> <p>Gross tonnage <input style="width: 20%;" type="text"/> Year built (year of initial launch) <input style="width: 20%;" type="text"/></p> <p>Country built <input style="width: 90%;" type="text"/></p> <p>Hull material</p> <p><input type="checkbox"/> Steel <input type="checkbox"/> Wood <input type="checkbox"/> Fibreglass <input type="checkbox"/> Aluminium</p> <p><input type="checkbox"/> Other - specify <input style="width: 100px;" type="text"/></p>
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Vessel length (complete all lengths)

Length overall Registered length

Length between perpendiculars Lengths specified as:
 metres feet

Rated speed (knots) Normal crew compliment

Total fuel carrying capacity Amount specified as:
 kilolitres gallons

Total engine power Amount specified as:
 HP KW PS

Engine model

Total storage capacity Amount specified as:
 metric tonnes cubic metres

Major storage methods
 Refrigerated sea water Air (coils) Brine (NaCl)
 Ice

10. Vessel's Inmarsat ALC Details

Is FFA VMS type-approved ALC installed on this vessel ?

No Visit the FFA web site or contact FFA for listing of FFA VMS type-approved ALCs and installers.

Yes Provide the Inmarsat ALC information details below.

Inmarsat mobile unit number

Inmarsat unit serial number

Transceiver manufacturer

Model identification

Software version

11. Applicant details

Name

Mailing address

Phone number Fax number

E-mail address

Tick the box that applies to you
 Owner Charterers Authorised agent

12. Application period

from Month Year to Month Year

Privacy and your information

Information provided to the Pacific Islands Forum Fisheries Agency (FFA) on this form is confidential. Further information about vessel registrations/ re-registrations guidelines, ALC inspections, including instructions regarding remittance of Vessel Registration fees, will be provided in a separate notice.

13. Applicant declaration

I hereby apply for 'Good Standing' of the (name of vessel)

- On the FFA Vessel Register.
- I declare that, to the best of my knowledge, there are no outstanding matters pending in relation to this vessel or its use.
- I declare that the information provided in this application for registration, signed by me is true and complete.
- I understand that I am required to report any changes to the information provided within 60 days, and further understand that failure to do so may adversely affect the good standing of this vessel on the FFA Vessel Register.
- As the owner/charterer/duly authorised agent of the Inmarsat Transceiver identified above, I give Xantic Australia permission to download the Pacific Islands Forum Fisheries Agency's DNID into the specified Inmarsat C Transceiver.

Signature Date
 (dd mm yy)

14. Attachments

Attach the following documentation to your application:

- a copy of the vessel's flag state registration certificate;
- company ownership details and proof of corporate registration;
- a recent (12 months or less) date stamped, 15cm x 20cm (6x8 inch) color side-view photo of the vessel; and
- a copy of the vessel's schematic stowage plan.

15. ALC Installer / FFA authorised agent details

Name

Agent's company Name

Agent's company contact details

16. ALC installer declaration

I, , the installer of the Inmarsat Transceiver identified above declare that I have installed the specified Inmarsat C Transceiver in accordance with the 'Certification Requirements for Automatic Communication Locators' as published by the Pacific Islands Forum Fisheries Agency (FFA) from time to time.

The serial numbers of the three FFA security seals used to seal the ALC unit described above in this application are:

Serial 1 Serial 2 Serial 3

Signature Date
 (ALC installer / FFA authorised agent) (dd mm yy)

Send your completed form and documentation to:

Forum Fisheries Agency
 1 FFA Road, Kola'a Ridge
 PO Box 629
 Honiara
 Solomon Islands

Phone: (677) 21124
 Fax: (677) 23995
 email: mcs@ffa.int

PURSE SEINE TRANSSHIPMENT AND OTHER UNLOADING LOGSHEET

(Separate form to be completed for each transshipment/unloading and each processing destination)

TRIP NO: _____ TRIP START DATE: _____

VESSEL NAME: _____ RADIO CALL SIGN: _____

(1) PORT: _____

OR POSITION: LAT: _____ LONG: _____

(2) DATES:

(a) AT UNLOADING POINT: ARRIVAL: _____ DEPARTURE: _____

(b) AT UNLOADING: START: _____ END: _____

(3) PARTIAL OR COMPLETE UNLOADING: _____

(4) UNLOADING TO:

(a) CARRIER VESSEL NAME: _____

and RADIO CALL SIGN OR REGIONAL REGISTER NO: _____

or (b) NAME AND ADDRESS OF COMPANY ACCEPTING FISH: _____

(5) DESTINATION OF FISH: _____

FISH TO BE PROCESSED AT: _____

(6) QUANTITY UNLOADED:

	YELLOWFIN	SKIPJACK	BIGEYE	MARLIN	OTHER	UNIT OF MEASUREMENT
ACCEPTED:	_____	_____	_____	_____	_____	_____
REJECTED:	_____	_____	_____	_____	_____	_____
TRANSSHIPPED:	_____	_____	_____	_____	_____	_____

(7) SIGNATURES:

VESSEL MASTER

RECEIVING AGENT

NB: An attachment to this form should include a signed copy of the size breakdown of catch as provided by the cannery.

-CITE-

-EXPCITE-

TITLE 16 - CONSERVATION
CHAPTER 16C - SOUTH PACIFIC TUNA FISHING

-HEAD-

Sec. 973. Definitions

- STATUTE-

As used in this chapter -

(1) The term "Administrator" means the individual or organization designated by the Pacific Island Parties to act on their behalf under the Treaty and notified to the United States Government.

(2) The term "Authorized Officer" means any officer who is authorized by the Secretary, or the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an enforcement agreement with the Secretary under section 973h(a) of this title.

(3) The term "Authorized Party Officer" means any officer authorized by a Pacific Island Party to enforce the provisions of the Treaty.

(4) The term "applicable national law" means any provision of law of a Pacific Island Party, which is described in paragraph 1(a) of Annex I of the Treaty.

(5) The term "Closed Area" means any of the closed areas identified in Schedule 2 of Annex I of the Treaty.

(6) The term "fishing" means -

(A) searching for, catching, taking, or harvesting fish;

(B) attempting to search for, catch, take, or harvest fish;

(C) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking, or harvesting of fish;

(D) placing, searching for, or recovering fish aggregating devices or associated electronic equipment such as radio beacons;

(E) any operations at sea directly in support of, or in preparation for, any activity described in this paragraph; or

(F) aircraft use, relating to the activities described in this paragraph except for flights in emergencies involving the health or safety of crew members or the safety of a vessel.

(7) The term "fishing vessel" or "vessel" means any boat, ship, or other craft which is used for, equipped to be used for, or of a type normally used for commercial fishing, and which is documented under the laws of the United States.

(8) The term "Licensing Area" means all waters in the Treaty Area except for -

(A) those waters subject to the jurisdiction of the United States in accordance with international law;

(B) those waters within Closed Areas; and

(C) those waters within Limited Areas closed to fishing.

(9) The term "licensing period" means the period of validity of licenses issued in accordance with the Treaty.

(10) The term "Limited Area" means any area so identified in Schedule 3 of Annex I of the Treaty.

(11) The term "operator" means any person who is in charge of, directs or controls a vessel, including the owner, charterer, and master.

(12) The term "Pacific Island Party" means a Pacific Island nation, which is a party to the Treaty.

(13) The term "Party" means a nation, which is a party to the Treaty.

(14) The term "person" means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(15) The term "Secretary" means the Secretary of Commerce, or the designee of the Secretary of Commerce.

(16) The term "State" means each of the several 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.

(17) The term "Treaty" means the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, signed in Port Moresby, Papua New Guinea, April 2, 1987, and its Annexes, Schedules, and implementing agreements.

(18) The term "Treaty Area" means the area so described in paragraph 1(k) of Article 1 of the Treaty.

-SOURCE-

(Pub. L. 100-330, Sec. 2, June 7, 1988, 102 Stat. 591.)

-MISC1-

EFFECTIVE DATE

Section 21 of Pub. L. 100-330 provided that:

"(a) Except as provided in subsection (b) of this section, this Act [enacting this chapter] shall be effective on the date on which the Treaty enters into force for the United States. [The Treaty entered into force for the United States June 15, 1988.]

"(b)(1) The authority to promulgate regulations pursuant to this Act shall be effective on the date of enactment of this Act [June 7, 1988] .

"(2) Any regulation promulgated pursuant to this Act shall not be effective before the date on which the Treaty enters into force for the United States."

SHORT TITLE

Section 1 of Pub. L. 100-330 provided: "That this Act [enacting this chapter] may be cited as the 'South Pacific Tuna Act of 1988'."

-TRANS-

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

-End-

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16C - SOUTH PACIFIC TUNA FISHING

-HEAD-

Sec. 973a. Application to other laws

-STATUTE-

The seizure by a Pacific Island Party of a vessel of the United States shall not be determined to be a seizure described in section 1825(a)(4)(C) of this title or section 1972 of title 22 if the seizure is found by the Secretary of State to be in accordance with the provisions of the Treaty.

-SOURCE-

(Pub. L.100-330, Sec. 3, June 7, 1988, 102 Stat. 592; Pub. L. 208, div. A, title I, Sec.101(a)[title II, Sec. 211(b)], Sept. 30, 1996, 110 Stat. 3009, 3009-41.)

-MISC1-

AMENDMENTS

1996 - Pub. L. 104-208 made technical amendment to reference in original act which appears in text as reference to section 1825(a)(4)(C) of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 101(a) [title II, Sec. 211(b)] of div. A of Pub. L. 104-208 provided that the amendment made by that section is effective 15 days after Oct. 11, 1996.

-End-

-CITE-

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16C - SOUTH PACIFIC TUNA FISHING

-HEAD-

Sec. 973b. Regulations

-STATUTE-

The Secretary of Commerce, with the concurrence of the Secretary of State and after consultation with the Secretary of the department in which the Coast Guard is operating, shall issue regulations as may be necessary to carry out the purposes and objectives of the Treaty and this chapter. These regulations shall be made applicable as necessary to all persons and vessels subject to the jurisdiction of the United States, wherever located.

-SOURCE-

(Pub. L. 100-330, Sec. 4, June 7, 1988, 102 Stat. 592.)

-MISC1-

EFFECTIVE DATE

Authority to promulgate regulations effective on June 7, 1988, with any such regulation not to be effective before date on which Treaty enters into force for the United States, see section 21 of Pub. L. 100-330, set out as an Effective Date note under section 973 of this title.

- TRANS -

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

- End -

- CITE -

16 USC Sec. 973c

01/02/2006

- EXPCITE -

TITLE 16 - CONSERVATION

CHAPTER 16C - SOUTH PACIFIC TUNA FISHING

- HEAD -

Sec. 973c. Prohibited acts

- STATUTE -

(a) Except as provided in section 973d of this title, it is unlawful for any person subject to the jurisdiction of the United States -

(1) to violate any provision of this chapter or any regulation or order issued pursuant to this chapter;

(2) to use a vessel for fishing in violation of an applicable national law;

(3) who has entered into a fishing arrangement under paragraph 3 of Article 3 of the Treaty, to violate the terms and conditions of such fishing arrangement if the Secretary of State has decided under section 973p of this title that Article 4 and paragraph 6 of Article 5 of the Treaty shall apply to the arrangement;

(4) to use a vessel for fishing in any Limited Area in violation of any requirement in Schedule 3 of Annex I of the Treaty;

(5) to use a vessel for fishing in any Closed Area;

(6) to falsify any information required to be reported, notified, communicated, or recorded pursuant to a requirement of this chapter, or to fail to submit any required information, or to fail to report to the Secretary immediately any change in circumstances which has the effect of rendering any such information false, incomplete, or misleading;

(7) to intentionally destroy evidence which could be used to determine if a violation of this chapter or the Treaty has occurred;

(8) to refuse to permit any Authorized Officer or Authorized Party Officer to board a fishing vessel for purposes of conducting a search or inspection in connection with the enforcement of this chapter or the Treaty;

(9) to refuse to comply with the instructions of an Authorized Officer or Authorized Party Officer relating to fishing activities under the Treaty;

(10) to forcibly assault, resist, oppose, impede, intimidate, or interfere with -

(A) any Authorized Officer or Authorized Party Officer in the conduct of a search or inspection in connection with the enforcement of this chapter or the Treaty; or

(B) an observer in the conduct of observer duties under the Treaty;

(11) to resist a lawful arrest for any act prohibited by this section;

(12) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section; or

(13) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this chapter or any regulation, permit, or the Treaty, with the knowledge that the fish were so taken or retained.

(b) Except as provided in section 973d of this title, it is unlawful for any person subject to the jurisdiction of the United States when in the Licensing Area -

(1) to use a vessel to fish unless validly licensed as required by the Administrator;

(2) to use a vessel for directed fishing for southern bluefin tuna or for fishing for any kinds of fish other than tunas, except that fish may be caught as an incidental by-catch;

(3) to use a vessel for fishing by any method other than the purse-seine method;

(4) to use any vessel to engage in fishing after the revocation of its license, or during the period of suspension of an applicable license;

(5) to operate a vessel in such a way as to disrupt or in any other way adversely affect the activities of traditional and locally based fishermen and fishing vessels;

(6) to use a vessel to fish in a manner inconsistent with an order issued by the

Secretary under section 973i of this title; or

(7) except for circumstances involving force majeure and other emergencies involving the health or safety of crew members or the safety of the vessel, to use an aircraft in association with the fishing activities of a vessel unless it is identified in the license application for the vessel, or any amendment thereto.

-SOURCE-

(Pub. L. 100-330, Sec. 5, June 7, 1988, 102 Stat. 592.)

-End-

-CITE-

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16C - SOUTH PACIFIC TUNA FISHING

-HEAD-

Sec. 973d. Exceptions

-STATUTE-

(a) The prohibitions of section 973c of this title and the licensing requirements of section 973g of this title shall 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.

(b) The prohibitions of section 973c(a)(4), (a)(5), and (b)(3) of this title shall not apply to fishing under the terms and conditions of an arrangement which has been reached under paragraph 3 of Article 3 of the Treaty and which, pursuant to a decision by the Secretary of State under section 973p of this title, is covered by Article 4 and paragraph 6 of Article 5 of the Treaty.

-SOURCE-

(Pub. L.100-330, Sec. 6, June 7, 1988, 102 Stat. 594; L.
Pub. L. 219, title IV, Sec.402, Apr. 13, 2004, 118 Stat.617.)

-MISC1-

AMENDMENTS

2004 - Subsec. (a). Pub. L. 108-219 substituted "or to fishing by vessels using the longline method in the high seas areas of the Treaty area" for "outside of the 200 nautical mile fisheries zones of the Pacific Island Parties".

-End-

-CITE-

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16C - SOUTH PACIFIC TUNA FISHING

-HEAD-

Sec. 973e. Criminal offenses

-STATUTE-

(a) Prohibited acts

A person is guilty of a criminal offense if he or she commits any act prohibited by section 973c(a)(8), (10), (11), or (12) of this title.

(b) Sentence and fine

Any offense described in subsection (a) of this section is punishable by a fine of not more than \$50,000, or imprisonment for not more than 6 months, or both; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any Authorized Officer, Authorized Party Officer, or observer under the Treaty in the conduct of their duties, or places any such Authorized Officer, Authorized Party Officer, or observer in fear of imminent bodily injury, the offense is punishable by a fine of not more than \$100,000 or imprisonment for not more than 10 years, or both.

(c) Jurisdiction

The district courts of the United States shall have jurisdiction over any offense described in this section.

-SOURCE-

(Pub. L. 100-330, Sec. 7, June 7, 1988, 102 Stat. 594.)

-End-

-CITE-

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16C - SOUTH PACIFIC TUNA FISHING

-HEAD-

Sec. 973f. Civil penalties

- STATUTE -

(a) Determination of liability; amount; participation by Secretary of State in assessment proceeding

Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, to have committed an act prohibited by section 973c of this title, shall be liable to the United States Code (!1) for a civil penalty. Before issuing a notice of violation, the Secretary shall consult with the Secretary of State. The amount of the civil penalty shall be determined in accordance with considerations set forth in the Treaty and shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require. Except for those acts prohibited by section 973c(a)(4), (5), (7), (8), (10), (11), and (12), and section 973c(b)(1), (2), (3), and (7) of this title, the amount of the civil penalty shall not exceed \$250,000 for each violation. Upon written notice, the Secretary of State shall have the right to participate in any proceeding initiated to assess a civil penalty for violation of this chapter.

(b) Judicial review of assessment; procedures applicable

Any person against whom a civil penalty is assessed under subsection (a) of this section may obtain review thereof in the United States district court for the appropriate district by filing a complaint in such court within 30 days from the date of the order and by simultaneously serving a copy of the complaint by certified mail on the Secretary, the Attorney General of the United States, and the appropriate United States Attorney. The Secretary shall promptly file in the court a certified copy of the record upon which the violation was found or the penalty imposed. The findings and order of the Secretary shall be set aside or modified by the court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5.

(c) Failure to pay assessment of civil penalty; recovery by Attorney General

Except as provided in subsection (g) of this section, if any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States.

(d) In rem liability for civil penalty; jurisdiction; maritime lien on vessel

Except as provided in subsection (g) of this section, a fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 973c of this title shall be liable in rem for any civil penalty assessed for the violation under this section and may be proceeded against in any district court of the United States having jurisdiction thereof. The penalty shall constitute a maritime lien on the vessel which may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(e) Compromise, etc., of civil penalty

The Secretary, after consultation with the Secretary of State, may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(f) Conduct of hearings

For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon a person pursuant to this subsection, the district court of the United States for any district in which the person is found, resides, or transacts business, upon application by the United States and after notice to the person, shall have jurisdiction to issue an order requiring the person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(g) Waiver of referral to Attorney General

If a vessel used in a violation of section 973c(a)(1), (2), (3), (4), (5), (6), (7), (8), (9), or (13) or section 973c(b) of this title for which a civil penalty has been assessed -

(1) had a valid license under the Treaty at the time of the violation, and

(2) within 60 days after the penalty assessment has become final, leaves and remains outside of the Licensing Area, all Limited Areas closed to fishing, and all Closed Areas until the final penalty has been paid,

there shall be no referral to the Attorney General under subsection (c) of this section or in rem action under subsection (d) of this section in connection with such civil penalty.

- SOURCE -

(Pub. L. 100-330, Sec. 8, June 7, 1988, 102 Stat. 594; Pub. L. 100-350, Sec. 4(1), (2), June

27, 1988, 102 Stat. 660.)

-MISC1-

AMENDMENTS

1988 - Subsec. (a). Pub. L. 100-350, Sec. 4(1), substituted "and gravity" for "any gravity" and "history of prior" for "history or prior".

Subsec. (g)(1). Pub. L. 100-350, Sec. 4(2), substituted "Treaty" for "Treasury".

(!1) So in original. "Code" probably should not appear.

-End-

-CITE-

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16C - SOUTH PACIFIC TUNA FISHING

-HEAD-

Sec. 973g. Licenses

- STATUTE-

(a) Issuance; establishment of procedures; designation of agent for service of legal process in license application; reception and response to process

Licenses to fish in the Licensing Area, to be issued by the Administrator in accordance with the Treaty, may be requested from the Secretary by operators of vessels, under procedures established by the Secretary. The license application shall designate an agent for the service of legal process to be located in Port Moresby, Papua New Guinea. The applicant shall ensure that the designated agent for service of process, acting on behalf of the license holder, will receive and respond to any legal process issued in accordance with the Treaty and will, within 21 days after notification, travel if necessary for this purpose to any Pacific Island Party at no expense to that Party.

(b) Forwarding and transmittal of vessel license application

Except as provided in subsections (e), (f), and (g) of this section, the Secretary shall forward a vessel license application to the Secretary of State for transmittal to the Administrator whenever such application is in accordance with application procedures established by the Secretary, includes a complete application form as required by Annex II of the Treaty, and is accompanied by the required license fee.

(c) Fees and fee schedules

(1) In the initial year of implementation, fees for the first 40 vessel licenses shall be at least \$50,000 each, for any 10 vessel licenses in addition to the first 40 shall be \$60,000 each, and for vessel licenses in addition to the first 50 shall be in accordance with Annex II of the Treaty.

(2) After such initial year, fees for vessel licenses shall be paid in accordance with fee schedules established under Annex II of the Treaty and published by the Secretary.

(d) Period of validity

Licenses shall be valid for the licensing period specified by the Administrator.

(e) Allocation system

The Secretary may establish a system of allocating licenses in the event more applications are received than there are licenses available.

(f) Minimum fees required to be received in initial year of implementation for forwarding and transmittal of license applications

For the initial year of implementation, license fees totaling at least \$1,750,000 must be received by the Secretary before any license applications will be forwarded to the Secretary of State for transmittal to the Administrator.

(g) Grounds for denial of forwarding of license application

The Secretary, in consultation with the Secretary of State, may determine that a license application should not be forwarded to the Administrator for one of the following reasons:

(1) where the application is not in accordance with the Treaty or the procedures established by the Secretary;

(2) where the owner or charterer is the subject of proceedings under the bankruptcy laws of the United States, unless reasonable financial assurances have been provided to the Secretary;

(3) where the owner or charterer has not established to the satisfaction of the Secretary that the fishing vessel is fully insured against all risks and liabilities normally provided in maritime liability insurance;

(4) where the owner or charterer has not paid any penalty which has become final, assessed by the Secretary in accordance with this chapter.

(h) Grandfathering of vessels documented before November 3, 1995 Notwithstanding the requirements of -

(1) section 12108 of title 46;

(2) the general permit issued on December 1, 1980, to the American Tunaboat Association under section 1374(h)(1) of this title; and

(3) sections 1374(h)(2) and 1416(a) of this title - (!1) any vessel documented under the laws of the United States as of November 3, 1995, for which a license has been issued under subsection (a) of this section may fish for tuna in the Treaty Area, including those waters subject to the jurisdiction of the United States in accordance with international law, subject to the provisions of the treaty (!2) and this chapter, provided that no such vessel fishing in the Treaty Area intentionally deploys a purse seine net to encircle any dolphin or other marine mammal in the course of fishing under the provisions of the Treaty or this chapter.

-SOURCE-

(Pub. L. 100-330, Sec. 9, June 7, 1988, 102 Stat. 596;
Pub. 43, title VIII, Sec. 801, Nov. 3, 1995, 109 Stat. 395.)

-REFTEXT-

REFERENCES IN TEXT

The bankruptcy laws of the United States, referred to in subsec. (g)(2), are generally classified to Title 11, Bankruptcy.

Section 12108 of title 46, referred to in subsec. (h)(1), was in the original "section 1 of the Act of August 26, 1983 (97 Stat. 587, 46 U.S.C. 12108)", and was translated to reflect the probable intent of Congress. Section 1 of act Aug. 26, 1983, Pub. L. 98-89, 97 Stat. 500, enacted Title 46, Shipping.

Sections 1374(h)(1), 1374(h)(2), and 1416(a) of this title, referred to in subsec. (h)(2), (3), were in the original references to sections 104(h)(1), 104(h)(2), and 306(a) of the Marine Mammal Protection Act, and were translated as meaning sections 104(h)(1), 104(h)(2), and 306(a), respectively, of the Marine Mammal Protection Act of 1972, Pub. L. 92-522, to reflect the probable intent of Congress.

- MISCL-

AMENDMENTS

1995 - Subsec. (h). Pub. L. 104-43 added subsec. (h).

-FOOTNOTE-

(!1) So in original. The dash probably should be a semicolon.

(!2) So in original. Probably should be capitalized.

-End-

-CITE-

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16C - SOUTH PACIFIC TUNA FISHING

-HEAD-

Sec. 973h. Enforcement

(a) Federal responsibilities; utilization of personnel, etc., of other Federal and State agencies

The provisions of this chapter shall be enforced by the Secretary in cooperation with the Secretary of State. The Secretary, after consultation with the Secretary of State, may by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency and of any State agency in the performance of these duties.

(b) Investigation and report of alleged Treaty infringement involving U.S. vessel; notice requirements to operator of vessel; comments, information, or evidence by operator

(1) The Secretary shall, at the request of a Pacific Island Party made to the Secretary of State, fully investigate any alleged infringement of the Treaty involving a vessel of the United States, and report as soon as practicable, and in any case within 2 months, to that Party through the Secretary of State on any action taken or proposed by the Secretary in regard to the alleged infringement.

(2) Upon commencement of an investigation under paragraph (1) of this subsection, the Secretary shall notify the operator of any vessel concerned regarding -

(A) the nature of the investigation;

(B) the right of the operator to submit comments, information, or evidence bearing on the investigation and to receive, upon the operator's timely written request to the Secretary, an opportunity to present such comments, information, or evidence orally to the Secretary or the Secretary's representative within 30 days after receipt of such notification.

(c) Notice requirements to Pacific Island Party concerning institution and outcome of legal proceedings

(1) Prior to instituting any legal proceedings under this chapter for any action which involves an alleged infringement of the Treaty in waters within the jurisdiction of a Pacific Island Party, the Secretary, through the Secretary of State, shall notify the Pacific Island Party in accordance with paragraph 8 of Article 4 of the Treaty that the proceedings will be instituted. Such notice shall include a statement of the facts believed to show an infringement of the Treaty and the nature of the proposed proceedings, including any proposed charges and any proposed penalties. The

Secretary shall not institute such proceedings if the Pacific Island Party objects within 30 days after the effective date of the notice under Article 10 of the Treaty.

(2) The Pacific Island Party exercising jurisdiction over the waters involved in such a legal proceeding shall be promptly notified by the Secretary, through the Secretary of State, concerning the outcome of the proceeding.

(d) Searches and seizures by Authorized Officers; limitations on powers

(1) Any Authorized Officer may -

(A) with or without a warrant or other process -

(i) arrest any person, if he has reasonable cause to believe that the person has committed any act subject to prosecution under section 973e of this title;

(ii) board, and search or inspect, any fishing vessel which is subject to the provisions of this chapter; or

(iii) seize samples of fish or items for evidence (other than the vessel or its fishing gear or equipment) related to any violation of any provision of this chapter;

(iv) order a vessel into the most convenient port of the United States for investigation when an investigation has been requested by a Pacific Island Party in accordance with the Treaty and when such an order is necessary to gather information for such an investigation;

(B) execute any warrant or other process issued by any court of competent jurisdiction;

(C) exercise any other lawful authority; and

(D) investigate alleged violations of the Treaty to the same extent authorized to investigate alleged violations of this chapter.

(2) To the extent possible, Authorized Officers shall exercise their powers under paragraph (1)(A)(ii), (iii), and (iv) of this subsection so as not to interfere unduly with the lawful operation of the vessel.

(3) Nothing in this chapter shall be construed to limit the enforcement of this or other applicable Federal laws under section 89 of title 14.

(e) Exclusive jurisdiction

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this chapter.

-SOURCE-

(Pub. L. 100-330, Sec. 10, June 7, 1988, 102 Stat. 597.)

-End-

-CITE-

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16C - SOUTH PACIFIC TUNA FISHING

-HEAD-

Sec. 973i. Findings by Secretary

- STATUTE-

(a) Order of vessel to leave waters upon failure to submit to jurisdiction of Pacific Island Party; procedure applicable following any investigation conducted in accordance with section 973h(b) of this title, the Secretary, with the concurrence of the Secretary of State, and upon the request of the Pacific Island Party concerned, may order a fishing vessel which has not submitted to the jurisdiction of that Pacific Island Party to leave immediately the Licensing Area, all Limited Areas, and all Closed Areas upon making a finding -

(1) that the fishing vessel -

(A) while fishing in the Licensing Area did not have a license under the Treaty to fish in the Licensing Area, and that under paragraph 2 of Article 3 of the Treaty, such fishing is not authorized to be conducted in the Licensing Area without a license;

(B) was involved in any incident in which an Authorized Officer, Authorized Party Officer, or observer was allegedly assaulted with resultant bodily harm, physically threatened, forcefully resisted, refused boarding, or subjected to physical intimidation or physical interference in the performance of duties as authorized by this chapter or the Treaty;

(C) has not made full payment within 60 days of any amount due as a result of a final judgment or other final determination deriving from a violation in waters within the Treaty Area of a Pacific Island Party; or

(D) was not represented by an agent for service of process in accordance with the Treaty; or

(2) that there is probable cause to believe that the fishing vessel -

(A) was used in violation of section 973c(a)(4), (a)(5), (b) (2), or (b) (3) of this title;

(B) used an aircraft in violation of section 973c(b)(7) of this title; or

(C) was involved in an incident in which section 973c(a)(7) of this title was violated.

(b) Order of vessel to leave waters where Pacific Island Party investigating alleged

Treaty infringement

Upon being advised by the Secretary of State that proper notification to Parties has been made under paragraph 7 of Article 5 of the Treaty that a Pacific Island Party is investigating an alleged infringement of the Treaty by a vessel in waters under the jurisdiction of such Pacific Island Party, the Secretary shall order the vessel to leave such waters until the Secretary of State notifies the Secretary that such order is no longer necessary.

(c) Rescission of orders

The Secretary shall rescind any order issued on the basis of a finding under subsection (a)(1)(C) or (D) of this section as soon as the Secretary determines that the facts underlying the finding do not apply.

(d) Prohibition on judicial review of orders

No order issued in accordance with this section is subject to judicial review.

(e) Enforcement of orders by Attorney General

Upon a request by the Secretary, the Attorney General shall commence a civil action for appropriate relief, including permanent or temporary injunction, to enforce any order issued by the Secretary under this section.

-SOURCE-

(Pub. L. 100-330, Sec. 11, June 7, 1988, 102 Stat. 598; Pub. L. 100-350, Sec. 4(3), June 27, 1988, 102 Stat. 660.)

-MISC1-

AMENDMENTS

1988 - Subsec. (a)(2)(C). Pub. L. 100-350 substituted "section 973c(a)(7) of this title" for "section 973c(b)(7) of this title".

- End-

-CITE-

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16C - SOUTH PACIFIC TUNA FISHING

-HEAD-

Sec. 973j. Reporting requirements; disclosure of information

- STATUTE-

(a) Holders of licenses shall comply with the reporting requirements of part 4 of Annex I to the Treaty.

(b) Information provided by license holders in Schedules 5 and 6 of Annex I of the Treaty shall be provided to the Secretary for transmittal to the Administrator and to an entity designated by the license holder. Such information thereafter shall not be released and shall be maintained as confidential by the Secretary, including information requested under the Freedom of Information Act [5 U.S.C. 552], unless disclosure is required under court order or unless the information is essential for an enforcement action under section 973c, 973h(b), 973h(c), or 973i of this title, or any other proper law enforcement action.

-SOURCE-

(Pub. L. 100-330, Sec. 12, June 7, 1988, 102 Stat. 599.)

- End-

-CITE-

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16C - SOUTH PACIFIC TUNA FISHING

-HEAD-

Sec. 973k. Closed Area stowage requirements

- STATUTE-

At all times while a vessel is in a Closed Area, the fishing gear of the vessel shall be stowed in such a manner as not to be readily available for fishing. In particular, the boom shall be lowered as far as possible so that the vessel cannot be used for fishing, but so that the skiff is accessible for use in emergency situations; the helicopter, if any, shall be tied down; and launches shall be secured.

-SOURCE-

(Pub. L. 100-330, Sec. 13, June 7, 1988, 102 Stat. 599.)

- End-

-CITE-

-EXPCITE-

TITLE 16 - CONSERVATION

CHAPTER 16C - SOUTH PACIFIC TUNA FISHING

-HEAD-

Sec. 973l. Observers

- STATUTE -

(a) Required access and assistance; scope of authorities

The operator and each member of the crew of a vessel shall allow and assist any individual identified as an observer under the Treaty by the Pacific Island Parties -

(1) to board the vessel for scientific, compliance, monitoring and other functions at the point and time notified by the Pacific Island Parties to the Secretary;

(2) without interfering unduly with the lawful operation of the vessel, to have full access to and use of facilities and equipment on board the vessel which the observer may determine are necessary to carry out observer duties; have full access to the bridge, fish on board, and areas which may be used to hold, process, weigh, and store fish; remove samples; have full access to the vessel's records, including its log and documentation for the purpose of inspection and copying; and gather any other information relating to fisheries in the Licensing Area;

(3) to disembark at the point and time notified by the Pacific Island Parties to the Secretary; and

(4) to carry out observer duties safely.

(b) Free provision of food, etc., while on vessel

The operator shall provide any such observer, while on board the vessel, at no expense to the Pacific Island Parties, with food, accommodation, and medical facilities of such reasonable standard as may be acceptable to the Pacific Island Party whose representative is serving as the observer.

(c) Removal of fish samples and gathering of other information relating to fisheries

The operator of any vessel from which any fish taken in the Licensing Area is unloaded shall allow, or arrange for, and assist any individual so authorized by the Pacific Island Parties to have full access to any place where such fish is unloaded, to remove samples, and to gather any other information relating to fisheries in the Licensing Area.

- SOURCE -

(Pub. L. 100-330, Sec. 14, June 7, 1988, 102 Stat. 599.)

- End -

- CITE -

- EXPCITE -

TITLE 16 - CONSERVATION

CHAPTER 16C - SOUTH PACIFIC TUNA FISHING

- HEAD -

Sec. 973m. Technical assistance

- STATUTE -

The United States tuna industry shall provide \$250,000 annually in technical assistance, including provision of assistance by technicians, in response to requests coordinated through the Administrator. The Secretary of State shall designate an entity to coordinate the provision of such technical assistance as provided by the United States tuna industry and to provide an annual report to the Secretary of State regarding the provision of such technical assistance.

- SOURCE -

(Pub. L. 100-330, Sec. 15, June 7, 1988, 102 Stat. 600.)

- End -

- CITE -

- EXPCITE -

TITLE 16 - CONSERVATION

CHAPTER 16C - SOUTH PACIFIC TUNA FISHING

- HEAD -

Sec. 973n. Arbitration

- STATUTE -

In the event of a dispute requiring the establishment of an arbitral tribunal under Article 6 of the Treaty, the Secretary of State, in consultation with the Secretary, shall appoint the arbitrator to be appointed by the United States under paragraph 3 of that Article, and shall represent the United States in reaching agreement under such paragraph with each Pacific Island Party involved concerning the appointment of the presiding arbitrator of the tribunal.

- SOURCE -

(Pub. L. 100-330, Sec. 16, June 7, 1988, 102 Stat. 600.)

- End -

- CITE -

- EXPCITE -

TITLE 16 - CONSERVATION

CHAPTER 16C - SOUTH PACIFIC TUNA FISHING

-HEAD-

Sec. 973o. Disposition of fees, penalties, forfeitures, and other moneys

-STATUTE-

To the extent required by Article 4 of the Treaty, an amount equivalent to the total value of any fine, penalty, or other amount collected as a result of any action, judicial or otherwise, taken pursuant to sections 973e and 973f of this title shall be paid by the United States through the Secretary of State to the Administrator as soon as reasonably possible following the date that such amount is collected.

-SOURCE-

(Pub. L. 100-330, Sec. 17, June 7, 1988, 102 Stat. 600.)

-End-

-CITE-

-EXPCITE-

TITLE 16 - CONSERVATION
CHAPTER 16C - SOUTH PACIFIC TUNA FISHING

-HEAD-

Sec. 973p. Additional agreements

-STATUTE-

Within 30 days after the Secretary of State's receipt of notice from a Pacific Island Party that it has concluded an arrangement pursuant to paragraph 3 of Article 3 of the Treaty, the Secretary of State shall consult with the Secretary concerning whether the procedures of Article 4 and paragraph 6 of Article 5 of the Treaty should be made applicable to such arrangement. At the conclusion of the consultations the Pacific Island Party and all other persons agreeing to the arrangement shall be notified by the Secretary of State of the resulting decision.

-SOURCE-

(Pub. L. 100-330, Sec. 18, June 7, 1988, 102 Stat. 600.)

-End-

-CITE-

-EXPCITE-

TITLE 16 - CONSERVATION
CHAPTER 16C - SOUTH PACIFIC TUNA FISHING

-HEAD-

Sec. 973q. Secretary of State to act for United States

-STATUTE-

The Secretary of State is authorized to receive on behalf of the United States reports, requests, and other communications from the Administrator and to act thereon directly or by reference to the appropriate authorities. The Secretary of State, after consultations with the Secretary, may accept or reject, on behalf of the United States, changes or amendments to Annex I of the Treaty and its Schedules and Annex II to the Treaty and its Schedules.

-SOURCE-

(Pub. L. 100-330, Sec. 19, June 7, 1988, 102 Stat. 600.)

-End-

-CITE-

-EXPCITE-

TITLE 16 - CONSERVATION
CHAPTER 16C - SOUTH PACIFIC TUNA FISHING

- HEAD-

Sec. 973r. Authorization of appropriations

-STATUTE-

(a) There are authorized to be appropriated for fiscal years 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, and 2002 such sums as may be necessary for carrying out the purposes and provisions of the Treaty and this chapter including -

(1) for fiscal years 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, and 2002, an amount not to exceed \$350,000 annually to the Department of Commerce for administrative expenses; and

(2) for fiscal years 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, and 2002, an amount not to exceed \$50,000 annually to the Department of State for administrative expenses.

(b) Funds appropriated for the purposes of the Treaty may be used notwithstanding any of the provisions of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) or of any appropriations Act that imposes restrictions on the maintenance or use of cash transfer assistance, which are inconsistent with the provisions of the Treaty.

-SOURCE-

(Pub. L. 100-330, Sec. 20, June 7, 1988, 102 Stat. 601; Pub. L. 102-523, Sec. 3(b), Oct. 26, 1992, 106 Stat. 3433.)

-REFTEXT-

REFERENCES IN TEXT

The Foreign Assistance Act of 1961, referred to in subsec. (b), is Pub. L. 87-195, Sept. 4, 1961, 75 Stat. 424, as amended, which is classified principally to chapter 32 (Sec. 2151 et seq.) of Title 22, Foreign Relations and Intercourse. For complete classification of this Act to the Code, see Short Title note set out under section 2151 of Title 22 and Tables.

-MISC1-

AMENDMENTS

1992 - Subsec. (a). Pub. L. 102-523 substituted "1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, and 2002" for "1988, 1989, 1990, 1991, and 1992" in three places.

-End-

Subpart D—South Pacific Tuna Fisheries

Authority: 16 U.S.C. 973–973r.

§ 300.30 Purpose and scope.

This subpart implements the South Pacific Tuna Act of 1988 (Act) and the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America (Treaty) and applies to persons and vessels subject to the jurisdiction of the United States.

§ 300.31 Definitions.

In addition to the terms defined in §300.2, in the Act, and in the Treaty, and unless the context requires otherwise, the terms used in this subpart have the following meanings. If a term is defined differently in §300.2, the Act, or the Treaty, the definition in this section shall apply.

Administrator means the individual or organization designated by the Pacific Island Parties to act on their behalf under the Treaty and notified to the United States.

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 Licenses 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).
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.

Authorized officer means any officer who is authorized by the Secretary, or the Secretary of Transportation, or the head of any Federal or state agency that has entered into an enforcement agreement with the Secretary under section 10(a) of the Act.

Authorized party officer means any officer authorized by a Pacific Island Party to enforce the provisions of the Treaty.

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.
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.

Fishing means searching for, catching, taking, or harvesting fish; attempting to search for, catch, take, or harvest fish; engaging in any other activity that can reasonably be expected to result in the locating, catching, taking, or harvesting of fish; placing, searching for, or recovering fish aggregating devices or associated electronic equipment such as radio beacons; any operations at sea directly in support of, or in preparation for, any activity described in this paragraph; or aircraft use, relating to the activities described in this definition, except for flights in emergencies involving the health or safety of crew members or the safety of a vessel.

Fishing arrangement means an arrangement between a Pacific Island Party and the owner of a U.S. fishing vessel that complies with section 6(b) of the Act.

Fishing vessel or vessel means any boat, ship, or other craft that is used for, equipped to be used for, or of a type normally used for commercial fishing, and that is documented under the laws of the United States.

Licensing Area means all waters in the Treaty Area except for:

- (1) Those waters subject to the jurisdiction of the United States in accordance with international law.
- (2) Those waters within closed areas.
- (3) Those waters within limited areas closed to fishing.

Licensing period means the period of validity of licenses issued in accordance with the Treaty.

Operator means any person who is in charge of, directs or controls a vessel, including the owner, charterer and master.

Pacific Island Party means a Pacific island nation that is a party to the Treaty.

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.

Transship means to unload any or all of the fish on board a licensed vessel either ashore or onto another vessel.

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
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.

[61 FR 35550, July 5, 1996, as amended at 72 FR 6149, Feb. 9, 2007]

§ 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 excepted 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 duly certified copy, facsimile or telex confirmation 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. Prior to receipt of the license, but after issuance, a vessel may be used to fish, provided the number of the issued license is available on board.

(c) Application forms for licenses to use a vessel to fish in the Licensing Area may be requested from, and upon completion, must be returned to, the Regional Administrator. All of the information requested on the form and the following must be supplied before the application will be considered complete:

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

(2) 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.

(3) 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.

(4) If the owner or charterer is the subject of proceedings under the bankruptcy laws of the United States, reasonable assurances 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.

(5) A copy of the vessel's USCG Certificate of Documentation.

(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.

(e) Applications for vessels may be submitted at any time; complete applications will be forwarded to the Secretary of State for transmittal to the Administrator.

(f) The Secretary, in consultation with the Secretary of State, may determine that a license application for a vessel should not be forwarded to the Administrator if:

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

(2) 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;

(3) 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

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

(g) An applicant will be promptly notified if that applicant's license application will not be forwarded to the Administrator, and of the reasons therefor. Within 15 days of notification by the Regional Administrator that the application will not be forwarded, an applicant may request reconsideration by providing a petition for reconsideration accompanied by new or additional information.

[61 FR 35550, July 5, 1996, as amended at 72 FR 6151, Feb. 9, 2007]

§ 300.33 Compliance with applicable national laws.

The operator of the vessel shall comply with each of the applicable national laws, and the operator of the vessel shall be responsible for the compliance by the vessel and its crew with each of the applicable national laws, and the vessel shall be operated in accordance with those laws.

§ 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.

[72 FR 6151, Feb. 9, 2007]

§ 300.35 Vessel and gear identification.

While a vessel is in the Licensing Area, a Limited Area closed to fishing, or a Closed Area, a recent and up-to-date copy of the International Code of Signals (INTERCO) shall be on board and accessible at all times. The operator shall comply with the 1989 Food and Agricultural Organization standard specifications for the marking and identification of fishing vessels. The international radio call sign of the vessel shall be painted in white on a black background, or in black on a white background, and be clear, distinct, and uncovered, in the following manner:

(a) On both sides of the vessel's hull or superstructure, with each letter and number being at least 1 m high and having a stroke width of 16.7 cm, with the background extending to provide a border around the mark of not less than 16.7 cm.

(b) On the vessel's deck, on the body of any helicopter and on the hull of any skiff, with each letter and number being at least 30 cm high, and having a stroke width of 5 cm with the background extending to provide a border around the mark of not less than 5 cm.

(c) On any other equipment being carried by and intended to be separated from the vessel during normal fishing operations, with each letter and number being at least 10 cm high and having a stroke width of 1.7 cm, with the background extending to provide a border around the mark of not less than 1.7 cm.

§ 300.36 Closed area stowage requirements.

At all times while a vessel is in a Closed Area, the fishing gear of the vessel shall be stowed in a manner as not to be readily available for fishing. In particular, the boom shall be lowered as far as possible so that the vessel cannot be used for fishing, but so that the skiff is accessible for use in emergency situations; the helicopter, if any shall be tied down; and launches shall be secured.

§ 300.37 Radio monitoring.

The international distress frequency, 2.182 MHz, and 156.8 MHz (Channel 16, VHF) shall be monitored continuously from the vessel for the purpose of facilitating communication with the fisheries management, surveillance and enforcement authorities of the Parties.

§ 300.38 Prohibitions.

(a) Except as provided for in §300.39, in addition to the prohibitions in §300.4, it is unlawful for any person subject to the jurisdiction of the United States to do any of the following:

- (1) To violate the Act or any provision of any regulation or order issued pursuant to Act.
 - (2) To use a vessel for fishing in violation of an applicable national law.
 - (3) To violate the terms and conditions of any fishing arrangement to which that person is a party.
 - (4) To use a vessel for fishing in any Closed Area.
 - (5) To refuse to permit any authorized officer or authorized party officer to board a fishing vessel for purpose of conducting a search or inspection in connection with the enforcement of the Act or the Treaty.
 - (6) To refuse to comply with the instructions of an authorized officer or authorized party officer relating to fishing activities under the Treaty.
 - (7) To refuse to permit an authorized inspector full access to any place where fish taken in the Licensing Area is unloaded.
 - (8) To refuse to allow an authorized inspector to remove samples of fish from a vessel that fished in the Licensing Area.
 - (9) To forcibly assault, resist, oppose, impede, intimidate, or interfere with:
 - (i) Any authorized officer, authorized party officer or authorized inspector in the conduct of a search or inspection in connection with the enforcement of these regulations, the Act or the Treaty; or
 - (ii) An observer in the conduct of observer duties under the Treaty.
 - (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).
- (b) Except as provided for in §300.39, it is unlawful for any person subject to the jurisdiction of the United States when in the Licensing Area:
- (1) To use a vessel to fish unless validly licensed as required by the Administrator.
 - (2) To use a vessel for directed fishing for southern bluefin tuna or for fishing for any kinds of fish other than tunas, except that fish may be caught as an incidental bycatch.
 - (3) To use a vessel for fishing by any method, except the purse-seine method.
 - (4) To use any vessel to engage in fishing after the revocation of its license, or during the period of suspension of an applicable license.
 - (5) To operate a vessel in such a way as to disrupt or in any other way adversely affect the activities of traditional and locally based fishermen and fishing vessels.
 - (6) To use a vessel to fish in a manner inconsistent with an order issued by the Secretary under §300.42 (section 11 of the Act).
 - (7) Except for circumstances involving force majeure and other emergencies involving the health or safety of crew members or the safety of the vessel, to use aircraft in association with fishing activities of a vessel, unless it is identified on the license application for the vessel, or any amendment thereto.

§ 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.

(b) The prohibitions of §300.38(a)(4), (a)(5), and (b)(3) do not apply to fishing under the terms and conditions of a fishing arrangement.

[61 FR 35550, July 5, 1996, as amended at 72 FR 6153, Feb. 9, 2007]

§ 300.40 Civil penalties.

The procedures of 15 CFR part 904 apply to the assessment of civil penalties, except as modified by the requirements of section 8 of the Act.

§ 300.41 Investigation notification.

Upon commencement of an investigation under section 10(b)(1) of the Act, the operator of any vessel concerned shall have 30 days after receipt of notification of the investigation and the operator's rights under section 10(b)(1) to submit comments, information, or evidence bearing on the investigation, and to request in writing that the Secretary provide the operator an opportunity to present the comments, information, or evidence orally to the Secretary or the Secretary's representative.

§ 300.42 Findings leading to removal from fishing area.

(a) Following an investigation conducted under section 10(b) of the Act, the Secretary, with the concurrence of the Secretary of State, and upon the request of the Pacific Island Party concerned, may order a fishing vessel that has not submitted to the jurisdiction of that Pacific Island Party to leave immediately the Licensing Area, all Limited Areas, and all Closed Areas upon making a finding that:

(1) The fishing vessel—

(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.

(ii) Was involved in any incident in which an authorized officer, authorized party officer, or observer was allegedly assaulted with resultant bodily harm, physically threatened, forcibly resisted, refused boarding or subjected to physical intimidation or physical interference in the performance of duties as authorized by the Act or the Treaty;

(iii) Has not made full payment within 60 days of any amount due as a result of a final judgement or other final determination deriving from a violation in waters within the Treaty Area of a Pacific Island Party; or

(iv) Was not represented by an agent for service of process in accordance with the Treaty; or

(2) There is probable cause to believe that the fishing vessel—

(i) Was used in violation of section 5(a)(4), (a)(5), (b)(2), or (b)(3) of the Act;

(ii) Used an aircraft in violation of section 5(b)(7) of the Act; or

(iii) Was involved in an incident in which section 5(a)(7) of the Act was violated.

(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.

(c) The Secretary shall rescind any order issued on the basis of a finding under paragraphs (a)(1) (iii) or (iv) of this section (subsections 11(a)(1) (C) or (D) of the Act) as soon as the Secretary determines that the facts underlying the finding do not apply.

(d) An order issued in accordance with this section is not subject to judicial review.

[61 FR 35550, July 5, 1996, as amended at 72 FR 6154, Feb. 9, 2007]

§ 300.43 Observers.

(a) The operator and each member of the crew of a vessel shall allow and assist any person identified as an observer under the Treaty by the Pacific Island Parties:

(1) To board the vessel for scientific, compliance, monitoring and other functions at the point and time notified by the Pacific Island Parties to the Secretary.

(2) Without interfering unduly with the lawful operation of the vessel, to have full access to and use of facilities and equipment on board the vessel that the observer may determine are necessary to carry out observer duties; have full access to the bridge, fish on board, and areas that may be used to hold, process, weigh and store fish; remove samples; have full access to vessel's records, including its log and documentation for the purpose of inspection and copying; have reasonable access to navigation equipment, charts, and radios, and gather any other information relating to fisheries in the Licensing Area.

(3) To disembark at the point and time notified by the Pacific Island Parties to the Secretary.

(4) To carry out observer duties safely.

(b) The operator shall provide the observer, while on board the vessel, at no expense to the Pacific Island Parties, with food, accommodation and medical facilities of reasonable standard as may be acceptable to the Pacific Island Party whose representative is serving as the observer.

§ 300.44 Other inspections.

The operator and each member of the crew of any vessel from which any fish taken in the Licensing Area is unloaded or transshipped shall allow, or arrange for, and assist any authorized inspector, authorized party officer, or authorized officer to have full access to any place where the fish is unloaded or transshipped, to remove samples, to have full access to the vessel's records, including its log and documentation for the purpose of inspection and photocopying, and to gather any other information relating to fisheries in the Licensing Area without interfering unduly with the lawful operation of the vessel.

§ 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 of such as soon as possible, by any means possible.

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

(g) *Shutdown of VMS unit while in port or in shipyard.* When a vessel is in port and not moving, the VMS unit may be shut down, provided that the Administrator has been notified by telephone, facsimile, or e-mail that the vessel is in port and of the intended shutdown, and only as long as manual position reports as described in paragraph (f)(1) of this section are submitted to the Administrator at intervals of no greater than 24 hours or a shorter interval if and as specified by the Administrator or an authorized officer. If the VMS unit is shut down while the vessel is in port, the vessel owner or operator must notify the Administrator by telephone, facsimile, or e-mail as soon as possible after the vessel's departure from port. When the vessel is in a shipyard, the VMS unit may be shut down and the submission of manual position reports is not required, provided that the Administrator has been notified by telephone, facsimile, or e-mail that the vessel is in the shipyard and of the intended VMS unit shutdown. If the VMS unit is shut down while the vessel is in a shipyard, the vessel owner or operator must notify the Administrator by telephone, facsimile, or e-mail as soon as possible after the vessel's departure from the shipyard.

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

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

[72 FR 6154, Feb. 9, 2007]

§ 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.

[72 FR 6155, Feb. 9, 2007]

this section, and will consider whether the burden of the collection of information is justified by its practical utility. In addition:

(1) OMB will consider necessary any collection of information specifically mandated by statute or court order, but will independently assess any collection of information to the extent that the agency exercises discretion in its implementation; and

(2) OMB will consider necessary any collection of information specifically required by an agency rule approved or not acted upon by OMB under §1320.11 or §1320.12, but will independently assess any such collection of information to the extent that it deviates from the specifications of the rule.

(f) Except as provided in §1320.15, to the extent that OMB determines that all or any portion of a collection of information is unnecessary, for any reason, the agency shall not engage in such collection or portion thereof. OMB will reconsider its disapproval of a collection of information upon the request of the agency head or Senior Official only if the sponsoring agency is able to provide significant new or additional information relevant to the original decision.

(g) An agency may not make a substantive or material modification to a collection of information after such collection of information has been approved by OMB, unless the modification has been submitted to OMB for review and approval under this Part.

(h) An agency should consult with OMB before using currently approved forms or other collections of information after the expiration date printed thereon (in those cases where the actual form being used contains an expiration date that would expire before the end of the use of the form).

§ 1320.6 Public protection.

(a) Notwithstanding any other provision of law, no person shall be subject to any penalty for failing to comply with a collection of information that is subject to the requirements of this part if:

(1) The collection of information does not display, in accordance with §1320.3(f) and §1320.5(b)(1), a currently valid OMB control number assigned by

the Director in accordance with the Act; or

(2) The agency fails to inform the potential person who is to respond to the collection of information, in accordance with §1320.5(b)(2), that such person is not required to respond to the collection of information unless it displays a currently valid OMB control number.

(b) The protection provided by paragraph (a) of this section may be raised in the form of a complete defense, bar, or otherwise to the imposition of such penalty at any time during the agency administrative process in which such penalty may be imposed or in any judicial action applicable thereto.

(c) Whenever an agency has imposed a collection of information as a means for proving or satisfying a condition for the receipt of a benefit or the avoidance of a penalty, and the collection of information does not display a currently valid OMB control number or inform the potential persons who are to respond to the collection of information, as prescribed in §1320.5(b), the agency shall not treat a person's failure to comply, in and of itself, as grounds for withholding the benefit or imposing the penalty. The agency shall instead permit respondents to prove or satisfy the legal conditions in any other reasonable manner.

(1) If OMB disapproves the whole of such a collection of information (and the disapproval is not overridden under §1320.15), the agency shall grant the benefit to (or not impose the penalty on) otherwise qualified persons without requesting further proof concerning the condition.

(2) If OMB instructs an agency to make a substantive or material change to such a collection of information (and the instruction is not overridden under §1320.15), the agency shall permit respondents to prove or satisfy the condition by complying with the collection of information as so changed.

(d) Whenever a member of the public is protected from imposition of a penalty under this section for failure to comply with a collection of information, such penalty may not be imposed by an agency directly, by an agency through judicial process, or by any

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other person through administrative or judicial process.

(e) The protection provided by paragraph (a) of this section does not preclude the imposition of a penalty on a person for failing to comply with a collection of information that is imposed on the person by statute—e.g., 26 U.S.C. §6011(a) (statutory requirement for person to file a tax return), 42 U.S.C. §6938(c) (statutory requirement for person to provide notification before exporting hazardous waste).

§ 1320.7 Agency head and Senior Official responsibilities.

(a) Except as provided in paragraph (b) of this section, each agency head shall designate a Senior Official to carry out the responsibilities of the agency under the Act and this part. The Senior Official shall report directly to the head of the agency and shall have the authority, subject to that of the agency head, to carry out the responsibilities of the agency under the Act and this part.

(b) An agency head may retain full undelegated review authority for any component of the agency which by statute is required to be independent of any agency official below the agency head. For each component for which responsibility under the Act is not delegated to the Senior Official, the agency head shall be responsible for the performance of those functions.

(c) The Senior Official shall head an office responsible for ensuring agency compliance with and prompt, efficient, and effective implementation of the information policies and information resources management responsibilities established under the Act, including the reduction of information collection burdens on the public.

(d) With respect to the collection of information and the control of paperwork, the Senior Official shall establish a process within such office that is sufficiently independent of program responsibility to evaluate fairly whether proposed collections of information should be approved under this Part.

(e) Agency submissions of collections of information for OMB review, and the accompanying certifications under §1320.9, may be made only by the agen-

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cy head or the Senior Official, or their designee.

§ 1320.8 Agency collection of information responsibilities.

The office established under §1320.7 shall review each collection of information before submission to OMB for review under this part.

(a) This review shall include:

(1) An evaluation of the need for the collection of information, which shall include, in the case of an existing collection of information, an evaluation of the continued need for such collection;

(2) A functional description of the information to be collected;

(3) A plan for the collection of information;

(4) A specific, objectively supported estimate of burden, which shall include, in the case of an existing collection of information, an evaluation of the burden that has been imposed by such collection;

(5) An evaluation of whether (and if so, to what extent) the burden on respondents can be reduced by use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses;

(6) A test of the collection of information through a pilot program, if appropriate; and

(7) A plan for the efficient and effective management and use of the information to be collected, including necessary resources.

(b) Such office shall ensure that each collection of information:

(1) Is inventoried, displays a currently valid OMB control number, and, if appropriate, an expiration date;

(2) Is reviewed by OMB in accordance with the clearance requirements of 44 U.S.C. §3507; and

(3) Informs and provides reasonable notice to the potential persons to whom the collection of information is addressed of—

(i) The reasons the information is planned to be and/or has been collected;

(ii) The way such information is planned to be and/or has been used to further the proper performance of the functions of the agency;

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other person through administrative or judicial process.

(e) The protection provided by paragraph (a) of this section does not preclude the imposition of a penalty on a person for failing to comply with a collection of information that is imposed on the person by statute—e.g., 26 U.S.C. §6011(a) (statutory requirement for person to file a tax return), 42 U.S.C. §6938(c) (statutory requirement for person to provide notification before exporting hazardous waste).

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(5) An evaluation of whether (and if so, to what extent) the burden on respondents can be reduced by use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses;

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(2) Is reviewed by OMB in accordance with the clearance requirements of 44 U.S.C. §3507; and

(3) Informs and provides reasonable notice to the potential persons to whom the collection of information is addressed of—

(i) The reasons the information is planned to be and/or has been collected;

(ii) The way such information is planned to be and/or has been used to further the proper performance of the functions of the agency;

(iii) An estimate, to the extent practicable, of the average burden of the collection (together with a request that the public direct to the agency any comments concerning the accuracy of this burden estimate and any suggestions for reducing this burden);

(iv) Whether responses to the collection of information are voluntary, required to obtain or retain a benefit (citing authority), or mandatory (citing authority);

(v) The nature and extent of confidentiality to be provided, if any (citing authority); and

(vi) The fact that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

(c)(1) An agency shall provide the information described in paragraphs (b)(3)(i) through (v) of this section as follows:

(i) In the case of forms, questionnaires, instructions, and other written collections of information sent or made available to potential respondents (except in an electronic format), such information can be included either on the form, questionnaire or other collection of information, as part of the instructions for such collection, or in a cover letter or memorandum that accompanies the collection of information.

(ii) In the case of forms, questionnaires, instructions, and other written collections of information sent or made available to potential respondents in an electronic format, such information can be included either in the instructions, near the title of the electronic collection instrument, or, for on-line applications, on the first screen viewed by the respondent;

(iii) In the case of collections of information published in regulations, guidelines, and other issuances in the FEDERAL REGISTER, such information can be published in the FEDERAL REGISTER (for example, in the case of a collection of information in a regulation, by publishing such information in the preamble or the regulatory text to the final rule, or in a technical amendment to the final rule, or in a separate notice announcing OMB approval of the collection of information).

(iv) In other cases, and where OMB determines in advance in writing that special circumstances exist, agencies may use other means to inform potential respondents.

(2) An agency shall provide the information described in paragraph (b)(3)(vi) of this section in a manner that is reasonably calculated to inform the public (see §1320.5(b)(2)(ii)).

(d)(1) Before an agency submits a collection of information to OMB for approval, and except as provided in paragraphs (d)(3) and (d)(4) of this section, the agency shall provide 60-day notice in the FEDERAL REGISTER, and otherwise consult with members of the public and affected agencies concerning each proposed collection of information, to solicit comment to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

(2) If the agency does not publish a copy of the proposed collection of information, together with the related instructions, as part of the FEDERAL REGISTER notice, the agency should—

(i) Provide more than 60-day notice to permit timely receipt, by interested members of the public, of a copy of the proposed collection of information and related instructions; or

(ii) Explain how and from whom an interested member of the public can request and obtain a copy without charge, including, if applicable, how the public can gain access to the collection of information and related instructions electronically on demand.

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(3) The agency need not separately seek such public comment for any proposed collection of information contained in a proposed rule to be reviewed under §1320.11, if the agency provides notice and comment through the notice of proposed rulemaking for the proposed rule and such notice specifically includes the solicitation of comments for the same purposes as are listed under paragraph (d)(1) of this section.

(4) The agency need not seek or may shorten the time allowed for such public comment if OMB grants an exemption from such requirement for emergency processing under §1320.13.

§ 1320.9 Agency certifications for proposed collections of information.

As part of the agency submission to OMB of a proposed collection of information, the agency (through the head of the agency, the Senior Official, or their designee) shall certify (and provide a record supporting such certification) that the proposed collection of information—

(a) Is necessary for the proper performance of the functions of the agency, including that the information to be collected will have practical utility;

(b) Is not unnecessarily duplicative of information otherwise reasonably accessible to the agency;

(c) Reduces to the extent practicable and appropriate the burden on persons who shall provide information to or for the agency, including with respect to small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. 601(6)), the use of such techniques as:

(1) Establishing differing compliance or reporting requirements or timetables that take into account the resources available to those who are to respond;

(2) The clarification, consolidation, or simplification of compliance and reporting requirements; or

(3) An exemption from coverage of the collection of information, or any part thereof;

(d) Is written using plain, coherent, and unambiguous terminology and is understandable to those who are to respond;

(e) Is to be implemented in ways consistent and compatible, to the maximum

extent practicable, with the existing reporting and recordkeeping practices of those who are to respond;

(f) Indicates for each recordkeeping requirement the length of time persons are required to maintain the records specified;

(g) Informs potential respondents of the information called for under §1320.8(b)(3);

(h) Has been developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected, including the processing of the information in a manner which shall enhance, where appropriate, the utility of the information to agencies and the public;

(i) Uses effective and efficient statistical survey methodology appropriate to the purpose for which the information is to be collected; and

(j) To the maximum extent practicable, uses appropriate information technology to reduce burden and improve data quality, agency efficiency and responsiveness to the public.

§ 1320.10 Clearance of collections of information, other than those contained in proposed rules or in current rules.

Agencies shall submit all collections of information, other than those contained either in proposed rules published for public comment in the FEDERAL REGISTER (which are submitted under §1320.11) or in current rules that were published as final rules in the FEDERAL REGISTER (which are submitted under §1320.12), in accordance with the following requirements:

(a) On or before the date of submission to OMB, the agency shall, in accordance with the requirements in §1320.5(a)(1)(iv), forward a notice to the FEDERAL REGISTER stating that OMB approval is being sought. The notice shall direct requests for information, including copies of the proposed collection of information and supporting documentation, to the agency, and shall request that comments be submitted to OMB within 30 days of the notice's publication. The notice shall direct comments to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for [name of agency]. A

Administrative Management and Executive Secretariat

NAO 216-100

PROTECTION OF CONFIDENTIAL FISHERIES STATISTICS Eff: 7/18/94; Iss: 7/26/94

SECTION 1. PURPOSE.

. 01 This Order:

a. prescribes policies and procedures for protecting the confidentiality of data submitted to and collected by the National Oceanic and Atmospheric Administration (NOAA)/National Marine Fisheries Service (NMFS) as authorized or required by law;

b. informs authorized users of their obligations for maintaining the confidentiality of data received by NMFS;

c. provides for operational safeguards to maintain the security of data; and

d. states the penalties provided by law for disclosure of confidential data.

SECTION 2. SCOPE.

This Order covers all confidential data received, collected, maintained, or used by NMFS.

SECTION 3. DEFINITIONS.

. 01 **Access to data** means the freedom or ability to use data, conditioned by a statement of nondisclosure and penalties for unauthorized use.

. 02 **Aggregate or summary form** means data structured so that the identity of the submitter cannot be determined either from the present release of the data or in combination with other releases.

. 03 **Agreement** refers to all binding forms of mutual commitment under a stated set of conditions to achieve a specific objective.

. 04 **Assistant Administrator** means the Assistant Administrator for Fisheries, NOAA, or a designee authorized to have access to confidential data.

. 05 **Authorized Use/User.**

a. **Authorized use** is that specific use authorized under the governing statute, regulation, order, contract or agreement.

b. An **authorized user** is any person who, having the need to collect or use confidential data in the performance of an official activity, has read this Order and has signed a statement of nondisclosure affirming the user's understanding of NMFS obligations with

respect to confidential data and the penalties for unauthorized use and disclosure.

. 06 **Confidential data** means data that are identifiable with any person, accepted by the Secretary, and prohibited by law from being disclosed to the public. The term "as used" does not convey data sensitivity for national security purposes [See Executive Order (E.O.) 12356 dated April 2, 1982].

. 07 **Data** refers to information used as a basis for reasoning, discussion, or calculation that a person may submit, either voluntarily or as required by statute or regulation.

. 08 **GC** means the Office of General Counsel, NOAA.

. 09 **Person** means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of such governments, including Regional Fishery Management Councils (Councils).

. 10 **Public** means any person who is not an authorized user.

. 11 **Region** means NMFS Regional field offices, Fisheries Science Centers, and associated laboratories.

. 12 **Source document** means the document, paper, or electronic format on which data are originally recorded.

. 13 **State employee** means any member of a State agency responsible for developing and monitoring the State's program for fisheries or Marine Mammal Protection Act (MMPA) program.

. 14 **Submitter** means any person or the agent of any person who provides data to NMFS either voluntarily or as required by statute or regulation.

SECTION 4. POLICY.

For data subject to this Order, it is NMFS policy that:

a. confidential data shall only be disclosed to the public if required by the Freedom of Information Act (FOIA), 5 U.S.C. 552, the Privacy Act, 5 U.S.C. 552a, or by court order. Disclosure of data pursuant to a subpoena issued by an agency of competent jurisdiction is a lawful disclosure. Disclosure pursuant to a subpoena must be approved by GC;

b. individual identifiers shall be retained with data, unless the permanent deletion is consistent with the needs of NMFS and good scientific practice [See Section 6.02c]; and

c. a notice is required on all report forms requesting data and must comply with 5 U.S.C. 552a(e)(3) and Paperwork Reduction Act requirements in NAO 216-8, Information Collections and Requirements Needing Office of Management and Budget Clearance. [See E.O. 12600 of June 23, 1987, for additional information regarding the rights of submitters to designate commercial confidential data at the time of submission.]

SECTION 5. OPERATIONAL RESPONSIBILITIES.

. 01 The Regional Director of each region (or, in the case of headquarters, each Office

Director) has the responsibility to maintain the confidentiality of all data collected, maintained, and disclosed by the respective region.

. 02 Each region shall submit to the Assistant Administrator specific procedures governing the collection, maintenance, and disclosure of confidential data. These documents shall be compiled as regional handbooks following the guidelines and standards:

a. handbooks are to be developed in detail to ensure the maintenance of confidential data on a functional basis in each region; and

b. handbooks shall be coordinated through the National Data Management Committee (a NMFS group established by the Assistant Administrator to develop data management policies and procedures) and reviewed annually. The regional handbooks will address, at minimum, the contents of Sections 6-7.

SECTION 6. PROCEDURES.

. 01 **Data Collection.** To collect data, the Secretary may use Federal employees, contractor employees, or, pursuant to an agreement, State employees.

a. General Requirements.

1. Personnel authorized to collect Federal data must maintain all documents containing confidential data in secure facilities; and

2. may not disclose confidential data, whether recorded or not, to anyone not authorized to receive and handle such data.

b. Specific Requirements.

1. Each Federal or contractor employee collecting or processing confidential data will be required to read, date, and sign a statement of nondisclosure, that affirms the employee's understanding of NMFS obligations with respect to confidential data and the penalties for unauthorized use and disclosure of the data. Upon signature, the employee's name will be placed on record as an "authorized user," and the employee will be issued certification.

2. Data collected by a contractor must be transferred timely to authorized Federal employees; no copies of these data may be retained by the contractor. NMFS may permit contractors to retain aggregated data. A data return clause shall be included in the agreement. All procedures applicable to Federal employees must be followed by contractor employees collecting data with Federal authority.

3. Under agreements with the State, each State data collector collecting confidential data will sign a statement at least as protective as the one signed by Federal employees, which affirms that the signer understands the applicable procedures and regulations and the penalties for unauthorized disclosure.

.02 Maintenance.

a. Maintenance is defined as the procedures required to keep confidential data secure from the time the source documents are received by NMFS to their ultimate disposition, regardless of format. [See National Institute of Standards and Technology "Computer Security Publications, List 91" for guidance.]

b. Specific procedures in regional handbooks must deal with the following minimum security requirements, as well as any others that may be necessary because of the specific data, equipment, or physical facilities:

1. the establishment of an office or person responsible for evaluating requests for access to data;
2. the identifications of all persons certified as authorized users. These lists shall be kept current and reviewed on an annual basis;
3. the issuance of employee security rules that emphasize the confidential status of certain data and the consequences of unauthorized removal or disclosure;
4. the description of the security procedures used to prevent unauthorized access to and/or removal of confidential data;
5. the development of a catalog/inventory system of all confidential data received including: the type of source document; the authority under which each item of data was collected; any statutory or regulatory restriction(s) which may apply; and routing from the time of receipt until final disposition; and
6. The development of an appropriate coding system for each set of confidential data so that access to data that identifies, or could be used to identify, the person or business of the submitter is controlled by the use of one or more coding system(s). Lists that contain the codes shall be kept secure.

c. The permanent deletion of individual identifiers from a database shall be addressed on a case-by-case basis. Identifiers may only be deleted after:

1. future uses of data have thoroughly been evaluated, e.g., the need for individual landings records for allocating shares under an individual transferable quota program;
2. consultation with the agency(s) collecting data (if other than NMFS), the relevant Council(s), and NMFS Senior Scientist; and
3. concurrence by the Assistant Administrator has been received prior to deletion.

.03 Access to Data Subject to This Order.

a. **General Requirements.** In determining whether to grant a request for access to confidential data, the following information shall be taken into consideration:

1. the specific types of data required;
2. the relevance of the data to the intended uses;
3. whether access will be continuous, infrequent, or one-time;
4. an evaluation of the requester's statement of why aggregate or nonconfidential summaries of data would not satisfy the requested needs; and
5. the legal framework for the disclosure, in accordance with GC and this Order.

b. **Within NMFS.** NMFS employees requesting confidential data must have certification as being authorized users for the particular type of data requested.

c. **Councils.** Upon written request by the Council Executive Director:

1. "authorized user" status for confidential data collected under the Magnuson Fishery Conservation and Management Act (Magnuson Act) may be granted to a Council for use by the Council for conservation and management purposes consistent with the approval of the Assistant Administrator as described in 50 CFR 603.5;
2. "authorized user" status for confidential data, collected under the Magnuson Act and MMPA, will be granted to Council employees who are responsible for Fishery Management Plan development and monitoring; and
3. Councils that request access to confidential data must submit, on an annual basis, a copy of their procedures for ensuring the confidentiality of data to the region, or in the case of intercouncil fisheries, regions. The procedures will be evaluated for their effectiveness and, if necessary, changes may be recommended. As part of this procedure, an updated statement of nondisclosure will be included for each employee and member who requires access to confidential data.

d. **States.**

1. Requests from States for confidential data shall be directed in writing to the NMFS office that maintains the source data.
2. Each request will be processed in accordance with any agreement NMFS may have with the State:
 - (a) confidential data collected **solely** under Federal authority will be provided to a State by NMFS only if the Assistant Administrator finds that the State has authority to protect the confidentiality of the data comparable to, or more stringent than, NMFS' requirements; and
 - (b) the State will exercise its authority to limit subsequent access and use of the data to those uses allowed by authorities under which the data was collected.
3. If the State has no agreement with NMFS for the collection and exchange of confidential data, the request shall be treated as a public request and disclosure may be denied subject to FOIA or the Privacy Act.
4. Where a State has entered into a cooperative exchange agreement with another State(s), NMFS will facilitate transfer or exchange of State collected data in its possession if:
 - (a) NMFS has written authorization for data transfer from the head of the collecting State agency; and
 - (b) the collecting State has provided NMFS a list of authorized users in the recipient State(s); and
 - (c) the collecting State agrees to hold the United States Government harmless for any suit that may arise from the misuse of the data.

e. **Contractors.**

1. Pursuant to an agreement with NMFS, a NMFS contractor (including universities, Sea Grant investigators, etc.) may be granted "authorized user" status consistent with this Order if the use furthers the mission of NMFS.

2. The region will notify the contractor of its decision on access in writing within 30 calendar days after receipt of the request.

3. Contingent upon approval, the contractor will be provided with details regarding conditions of data access, any costs involved, formats, timing, and security procedures. If the request is denied, the reason(s) for denial will be given by the NMFS office involved. The denial will not preclude NMFS consideration of future requests from the contractor.

4. If access is granted, language in the agreement specifically dealing with confidentiality of data will be required. The language shall include all of the relevant portions of this Order and shall prohibit the further disclosure of the data. No data may be retained beyond the termination date of the agreement; and any disclosure of data derived from the accessed confidential data must be approved by NMFS.

5. Each agreement shall be reviewed by GC prior to its execution, and shall, to the extent possible, be consistent with the model agreement contained in Appendix D (Not included --WebEd).

f. **Submitters.** The Privacy Act allows for data to be released back to the submitter upon receipt and verification of a written request stating the data required.

04. Requests for Confidential Data. NMFS is authorized to collect data under various statutes [See Appendix A (Not include --WebEd)]. Two types of statutes govern the disclosure of confidential data collected by the Federal Government, those that contain specific and non-discretionary language within the Act, and those that provide overall guidance to the Federal Government. Sections of these Acts that deal with exceptions to disclosure may be found in Appendix B (Not included -- WebEd).

a. Magnuson Act and MMPA.

1. Data collected under 16 U.S.C. 1853 (a) or (b), and 16 U.S.C. 1383a (c),(d),(e),(f),or (h) will be handled in the following manner:

(a) data will only be disclosed to Federal employees and Council employees who are responsible for management plan development and monitoring; State employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person; a Council for conservation and management purposes [not applicable for MMPA data] or when required by court order. [See 50 CFR 229.10 and part 603];

(b) Council advisory groups are not permitted access to such confidential data [See 50 CFR 601.27(b)];

(c) requests from States that do not have an agreement with the Secretary will be processed in accordance with the Privacy Act or FOIA; and

(d) data collected by an observer under 16 U.S.C. 1853 (a) or (b) are not considered to have been "submitted to the Secretary by any person," and therefore are not confidential under Section 6.04.a of this Order. Data collected by an observer may be withheld from disclosure under the Privacy Act, or subsections (b)(3),(4),(5),(6), or (7) of FOIA.

2. Confidential data submitted to the Secretary under other Sections of the Magnuson Act or MMPA may only be disclosed in accordance with the Privacy Act or FOIA. Types of data and the collection authority may include among others:

(a) Processed Product Data -- 16 U.S.C. 1854(e);

(b) Fish Meal and Oil, Monthly -- 16 U.S.C. 1854(e);

(c) Data Collected Under State Authority and Provided to NMFS -- 16 U.S.C. 1854(e); and

(d) Tuna-Dolphin Observer Program -- 16 U.S.C. 1361 et seq.

b. **South Pacific Tuna Act.** Data collected under South Pacific Tuna Act 16 U.S.C. 973j is protected from disclosure to the public in accordance with section 973j(b).

c. **Other Statutes.** Confidential data collected under other NMFS programs as authorized by statutes other than South Pacific Tuna Act (16 U.S.C 973j), MMPA (16 U.S.C. 1361 et seq.), and Magnuson Act (16 U.S.C. 1801 et seq.), may only be disclosed to the public in accordance with the Privacy Act and FOIA. Types of data and the collection authority may include among others:

(1) Monthly Cold Storage Fish Report -- 16 U.S.C. 742(a);

(2) Market News Data -- 16 U.S.C. 742(a); and

(3) Seafood Inspection Data -- 7 U.S.C. 1621 et seq.

d. **Special Procedures.**

1. **Cold Storage Summary Reports.** NMFS publishes monthly cold storage holdings of fishery products. Advance knowledge of the content of these reports could give those who trade in the products an opportunity to gain competitive advantage. Therefore, in addition to the confidential protection provided to individual reports, the monthly summary report will not be disclosed to the public until 3:00 p.m. Eastern Time of the official release date. Release dates for these data are published 1 year in advance in November, and can be obtained from the NMFS Fisheries Statistics Division.

2. **Surplus commodity purchases by USDA.** NMFS and the Department of Agriculture (USDA) have an interagency agreement relating to the purchase of surplus fishery products. NMFS is responsible for providing confidential data and recommendations to the USDA regarding these purchases. Advance knowledge of these data could cause a competitive advantage or disadvantage to the general public, fishing industry, and the program. Therefore, all NMFS personnel engaged in the surplus commodity purchase program will be required to sign a specific "USDA Responsibility Statement." A copy will be maintained in the Office of Trade Services.

3. **Agreements for Disclosure of Confidential Data.** A letter of agreement may authorize the disclosure of confidential data when both the Government and the submitter agree to disclosure of the data. The need to provide security for the data will vary depending on the type of data collected and the form of the disclosure. Disclosure can be undertaken if all the following conditions are met:

(a) the person has agreed in writing to the disclosure and is aware that disclosure is irrevocable;

(b) the recipient has been informed in writing of the sensitivity of the data; and

(c) the wording of the agreement has been approved by GC.

. 05 Disposal. NAO 205-1, NOAA Records Management Program, shall govern the disposition of records covered under this Order.

SECTION 7. PENALTIES.

. 01 **Civil and Criminal.** Persons who make unauthorized disclosure of confidential data may be subject to civil penalties or criminal prosecution under:

- a. Trade Secrets Act (18 U.S.C. 1905);
- b. Privacy Act (5 U.S.C. 552a(i)(1));
- c. Magnuson Act (16 U.S.C. 1858); and
- d. MMPA (16 U.S.C. 1375).

. 02 **Conflict of Interest.** Employees are prohibited by Department of Commerce employee conduct regulations [15 CFR part 0] and by ethics regulations applicable to the Executive Branch [5 CFR 2635.703] from using nonpublic information subject to this Order for personal gain, whether or not there is a disclosure to a third party.

. 03 **Disciplinary Action.** Persons may be subject to disciplinary action, including removal, for failure to comply with this Order. Prohibited activities include, but are not limited to, unlawful disclosure or use of the data, and failure to comply with implementing regulations or statutory prohibitions relating to the collection, maintenance, use and disclosure of data covered by this Order.

SECTION 8. EFFECT ON OTHER ISSUANCES. None.

time to analyze the responses and issue any supplemental questionnaires, if necessary. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit for the preliminary results until no later than August 31, 2007, which is 365 days after the last day of the anniversary month of the date of publication of the order. Unless extended, the final results continue to be due 120 days after the publication of the preliminary results, pursuant to section 351.213(h) of the Department's regulations.

This notice is issued and published in accordance to sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 30, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7-8690 Filed 5-4-07; 8:45 am]

BILLING CODE 3510-DS-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; South Pacific Tuna Act

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before July 6, 2007.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Raymond P. Clarke, National Marine Fisheries Service, 808-944-2205 or raymond.clarke@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Treaty on Fisheries Between the Governments of Certain Pacific Island

States and the Government of the United States, signed in Port Moresby, Papua New Guinea, in 1987, and its annexes, schedules and implementing agreements, as amended (Treaty), authorize U.S. tuna vessels to fish within fishing zones of a large region of the Pacific Ocean. The South Pacific Tuna Act (16 U.S.C. 973g and 973f) and U.S. implementing regulations (50 CFR 282.3 and 282.5) authorize the collection of information from participants in the Treaty fishery. Vessel operators who wish to participate in the Treaty fishery must submit annual license and registration applications and periodic written reports of catch and unloading of fish from a licensed vessel. The information collected is submitted to the Forum Fisheries Agency (FFA) through the U.S. government (National Marine Fisheries Service). The license and registration application information is used by FFA to determine the operational capability and financial responsibility of a vessel operator interested in participating in the Treaty fishery. Information obtained from vessel catch and unloading reports is used by FFA to assess fishing effort and fishery resources in the region and to track the amount of fish caught within each Pacific island state's exclusive economic zone for fair disbursement of Treaty monies. If the information is not collected, the U.S. government will not meet its obligations under the Treaty, and the lack of fishing information will result in poor management of the fishery resources.

II. Method of Collection

All forms are to be submitted in hard copy, via mail.

III. Data

OMB Number: 0648-0218.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 22.

Estimated Time per Response: License application, 15 minutes; 45 minutes for a registration application, 45 minutes; catch report, 1 hour; and unloading log sheet, 30 minutes.

Estimated Total Annual Burden Hours: 242.

Estimated Total Annual Cost to Public: \$36,000.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have

practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: May 1, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7-8633 Filed 5-4-07; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Statement of Financial Interests, Regional Fishery Management Councils

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before July 6, 2007.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to William Chappell, (301) 713-2337 or william.chappell@noaa.gov.

SUPPLEMENTARY INFORMATION: