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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 130722646-4081-01]

RIN 0648-BD54

International Fisheries; Pacific Tuna Fisheries; Establishment of Tuna Vessel Monitoring System in the Eastern Pacific Ocean

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations under the Tuna Conventions Act to implement Resolution C-04-06 of the Inter-American Tropical Tuna Commission (IATTC). The regulations would establish requirements for a satellite-based vessel monitoring system (VMS) for U.S. commercial fishing vessels, 24 meters or more in overall length, used to target any fish of the genus Thunnus or of the species Euthynnus (Katsuwonus) pelamis (skipjack tuna) in the area bounded by the west coast of the Americas and on the north, south and west respectively, by the 50° N. and 50° S. parallels, and the 150° W. meridian. This action is necessary for the United States to satisfy its obligations as a member of the IATTC.

DATES: Comments on the proposed rule and the initial regulatory flexibility analysis (IRFA) must be submitted on or before [Insert date 30 days after date of publication in the FEDERAL REGISTER]. A public hearing will be held from 1 p.m. to 4 p.m. PST, February 28, 2014, in Long Beach, CA.

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2013-0117, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NMFS-2013-0117, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- **Mail:** Submit written comments to Rachael Wadsworth, NMFS West Coast Regional Office, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802. Include the identifier “NOAA-NMFS-2013-0117” in the comments.
- **Public hearing:** The public is welcome to attend a public hearing and offer comments on this proposed rule from 1 p.m. to 4 p.m. PST, February 28, 2014 at 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802. The public may also participate in the public hearing via conference line: 888-790-6181; participant passcode: 40810.

Instructions: Comments must be submitted by one of the above methods to ensure they are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will only be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS West Coast Region and by e-mail to OIRA_Submission@omb.eop.gov, or faxed to (202) 395-7285 by the comment date listed above. Copies of the draft Regulatory Impact Review (RIR) and other supporting documents are available via the Federal eRulemaking Portal:

<http://www.regulations.gov>, docket NOAA-NMFS-2013-0117 or contact with the Regional Administrator, William Stelle, Jr., NMFS West Coast Regional Office, 7600 Sand Point Way, NE, Bldg 1, Seattle, WA 98115-0070 or by e-mail to RegionalAdministrator.WCRHMS@noaa.gov.

FOR FURTHER INFORMATION CONTACT: Heidi Taylor, NMFS West Coast Region, 562-980-4039, or Rachael Wadsworth, NMFS West Coast Region, 562-980-4036.

SUPPLEMENTARY INFORMATION:

Background on the IATTC

The United States is a member of the IATTC, which was established under the 1949 Convention for the Establishment of an Inter-American Tropical Tuna Commission. The full text of the 1949 Convention is available at:

http://www.iattc.org/PDFFiles/IATTC_convention_1949.pdf.

The IATTC facilitates scientific research into, as well as conservation and management of, highly migratory species of fish in the Convention Area (defined as the waters of the eastern Pacific Ocean (EPO)). Since 1998, conservation resolutions adopted by the IATTC have further defined the Convention Area as the area bounded by the west coast of the Americas, the 50° N. and 50° S. parallels, and the 150° W. meridian. The IATTC has maintained a scientific research and fishery monitoring program for many years, and regularly assesses the status of tuna and

billfish stocks in the Convention Area to determine appropriate catch limits and other measures deemed necessary to prevent overexploitation of these stocks and to promote sustainable fisheries. Current IATTC member countries include: Belize, Canada, China, Chinese Taipei (Taiwan), Colombia, Costa Rica, Ecuador, El Salvador, the European Union, France, Guatemala, Japan, Kiribati, the Republic of Korea, Mexico, Nicaragua, Panama, Peru, the United States, Vanuatu, and Venezuela. Bolivia, Honduras, Indonesia and the Cook Islands are cooperating non-members.

International Obligations of the United States under the Convention

As a Contracting Party to the 1949 Convention and a member of the IATTC, the United States is legally bound to implement the decisions of the IATTC. The Tuna Conventions Act (16 U.S.C. 951-962) directs the Secretary of Commerce, after approval by the Secretary of State, to promulgate such regulations as may be necessary to implement recommendations adopted by the IATTC. The Secretary's authority to promulgate such regulations has been delegated to NMFS.

IATTC Vessel Monitoring System (VMS) Resolution

At its 72nd Meeting, in June 2004, the IATTC adopted by consensus Resolution C-04-06: Resolution on the Establishment of a VMS. All resolutions and recommendations of the IATTC are available on the following website: <http://iattc.org/ResolutionsActiveENG.htm>. The main objective of Resolution C-04-06 is to establish a satellite-based VMS for tuna-fishing vessels, 24 meters (78.74 feet) or more in length, operating in the EPO and harvesting species for which the IATTC has established conservation and management measures. This regulation would implement Resolution C-04-06 for U.S. fishing vessels and it would broaden U.S. VMS requirements across the Pacific Ocean. VMS requirements in the western and central Pacific Ocean (WCPO) were adopted by the Commission for the Conservation and Management of

Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (WCPFC), and implemented for U.S. fleets by NMFS under 50 CFR 300.219. VMS requirements exist for U.S. purse seine vessels under regulations implementing the South Pacific Tuna Treaty under 50 CFR 300.45. VMS requirements have also been implemented by NMFS for the West Coast groundfish fisheries under 50 CFR 660.14, for the West Coast longline vessels under 50 CFR 660.712, and for Hawaii and American Samoa longline vessels under 50 CFR 665.19.

Information collected under this VMS would be handled in accordance with NOAA Administrative Order 216-100 for confidential fisheries data.

Proposed Regulations for VMS

The proposed action applies to all owners and operators of U.S. commercial fishing vessels, 24 meters or more in overall length, used to target any fish of the genus Thunnus or of the species Euthynnus (Katsuwonus) pelamis (skipjack tuna), in the Convention Area. The proposed action requires these vessels to install, activate, carry and operate VMS units (also known as “mobile transmitting units”).

The VMS units and mobile communications service providers must be type-approved by NOAA for fisheries in the IATTC Convention Area. Information for current NOAA type-approved VMS units can be obtained from: NOAA, Office of Law Enforcement, 1315 East-West Hwy, Suite 3301, Silver Spring, MD 20910-3282; telephone at (888) 210-9288; fax at (301) 427-0049. Or, by contacting NOAA OLE VMS Helpdesk: telephone: (888) 219-9228; e-mail: ole.helpdesk@noaa.gov. The business hours of the VMS Helpdesk are: Monday through Friday, except Federal holidays, 7 a.m. to 11 p.m., Eastern Time.

A NOAA-approved VMS unit automatically determines the vessels position and transmits it to a NOAA-approved communications service provider. The communications service

provider receives the transmission (also called “position reports”) and relays it to NOAA. The vessel owner and operator must authorize NOAA OLE, the U.S. Coast Guard (USCG) and other authorized entities to receive and relay position reports. The owner and operator must authorize NOAA to set up the reporting interval of the VMS unit and the transmission of automated position reports to occur hourly.

Compliance with the existing VMS requirements at 50 CFR 300.219, 50 CFR part 660, or 50 CFR part 665 would satisfy these new requirements relating to the installation, carrying, and operation of VMS units, provided that the VMS unit and mobile communications service provider are type-approved by NOAA specifically for fisheries in the IATTC Convention Area, the VMS unit is operated continuously at all times while the vessel is at sea, the vessel owner or operator have authorized NOAA to receive and relay transmissions from the VMS unit, and the proposed requirements applicable in case of VMS unit failure are followed.

Under these regulations, the vessel owner and operator would be responsible for all costs associated with the purchase, installation and maintenance of the VMS unit, and for all charges levied by the mobile communications service provider as necessary to ensure the transmission of automatic position reports to NOAA. The unit cost, physical size, available features, transmission fees, and service packages vary between the different type-approved VMS units. Vessel owners may choose the type-approved unit that best fits their needs. Federal funds may be available for reimbursement of type-approved VMS units up to \$3,100.¹ More information on the VMS Reimbursement Program can be obtained from calling the NOAA OLE VMS Helpdesk: telephone: (888) 219-9228, and online at:

<http://www.psmfc.org/program/vessel-monitoring-system-reimbursement-program-vms?pid=17>.

¹ The availability of these funds for reimbursement for the cost of purchasing a VMS unit is not guaranteed, but the funds are anticipated to be available on a first-come first-served basis.

For vessel owners and operators that are carrying and operating VMS units in compliance with the requirements of 50 CFR 300.219, 50 CFR 660.712, or 50 CFR 665.19 relating to the installation, carrying, and operation of VMS units, the vessel owner and operator would not be responsible for costs that are the responsibility of NOAA under those regulations.

Activation of a VMS unit would be required any time the unit is installed or reinstalled, any time the mobile communications service provider has changed, and any time directed by NOAA. Activation would involve submitting to NOAA a report via mail, facsimile or email with information about the vessel, its owner or operator, and the VMS unit, as well as receiving confirmation from NOAA that the VMS unit is transmitting position reports properly. The VMS unit would have to be turned on and operating (i.e., transmitting automated position reports) at all times inside and outside the Convention Area. However, the requirement to operate the VMS unit at all times would not apply in the circumstance described below.

The VMS unit may be turned off while the vessel is in port, but only if the vessel operator or owner notifies NOAA via mail, facsimile or email prior to such shut-down. In such cases, NOAA must also be notified when the VMS unit is subsequently turned back on (these two types of notifications are called “on/off reports”), and the vessel operator must receive confirmation from NOAA that the VMS unit is functioning properly prior to leaving port.

In the case of failure of the VMS unit while at sea, the vessel operator would be required to contact NOAA and follow the instructions provided by NOAA, which could include, among other actions: submitting position reports at specified intervals by other means, ceasing fishing, stowing fishing gear, and/or returning to port; and repair or replace the VMS unit and ensure it is operable before starting the next trip.

If the vessel owner or operator informed NOAA in writing that a vessel that had been subject to these VMS requirements would be departing the Convention Area, and not be present in the Convention Area for one year or longer, the VMS requirements of this rule would cease to apply to that vessel only if specifically authorized in writing by NOAA. However, the VMS requirements of this rule would apply again if the vessel were used again to target any fish of the genus Thunnus or of the species Euthynnus (Katsuwonus) pelamis (skipjack tuna) in the Convention Area.

Classification

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

National Environmental Policy Act

This action is categorically excluded from the requirement to prepare an environmental assessment in accordance with NAO 216-6. A memorandum for the file has been prepared that sets forth the decision to use a categorical exclusion.

Executive Order 12866

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

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) requires government agencies to assess the impact of regulatory actions on small businesses and other small organizations. An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the RFA. The IRFA describes the economic impact that this proposed rule, if

adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the SUMMARY section of the preamble. A summary of the analysis follows. A copy of this analysis is available from NMFS (see ADDRESSES).

All of the entities impacted by this proposed rule are considered small business entities. All impacted vessels will be affected in a similar way and disproportional economic effect between small and large businesses will not exist. This proposed rule would apply to all owners and operators of U.S. commercial fishing vessels, 24 meters or more in overall length, used to target any fish of the genus Thunnus or of the species Euthynnus (Katsuwonus) pelamis (skipjack tuna) in the Convention Area. The proposed action requires these vessels to install, activate, carry and operate NOAA type-approved VMS units and mobile communications service providers for fisheries in the IATTC Convention Area. Gear types that would be impacted include: purse seine, hook-and-line (i.e., bait and troll/jig) and vessels using combinations of these gear types (i.e., multi-gear vessels).

To estimate the number of affected entities, the number of vessels authorized to fish for highly migratory species in the EPO through fishing permits was considered a reasonable proxy. The permits used to estimate affected entities were those issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) through regulations codified at 50 CFR 660.707 and permits under the authority of the High Seas Fishing Compliance Act of 1995 (16 U.S.C. 5501 et seq.) through regulations codified at 50 CFR 300.13. Vessels under 24 meters in overall length and vessels already subject to the existing VMS requirements at 50 CFR 300.219, 50 CFR part 660, or 50 CFR part 665, compliance with which would satisfy this new requirement were excluded from the estimate of impacted entities. As of

September 2013, approximately 15 vessels did not have VMS units installed, and 2 vessels have VMS units installed that are not type-approved for these regulations.

The VMS units that have been type-approved range in cost and service features. This allows the vessel owner flexibility in choosing the model that best fits the needs their vessel. Compliance for each of the projected 17 small entities would involve the following approximate annualized costs: \$1,000 for the purchase and installation of VMS units (based on \$4,000 per unit and a lifespan of 4 years per unit), \$250 for VMS unit maintenance, and, based on estimated communication costs of about \$1.50 per day (based on hourly reporting cost of some service providers), \$547.50 for VMS unit operation (i.e., the transmission of automatic vessel position reports to NOAA). Thus, the annualized compliance cost would be about \$1,797.50 per vessel. The analysis assumes that vessels will pay for the required VMS units. However, Federal funds may be available for reimbursement of type-approved units up to \$3,100.²

Under the proposed action, the United States would implement the Resolution C-04-06. This would satisfy international obligations of the United States to implement decisions of the IATTC according to the provisions agreed to in the resolution. The reporting, recordkeeping and other compliance requirements of this proposed rule are described earlier in the preamble and under the Paperwork Reduction Act section.

Paperwork Reduction Act

This proposed rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the PRA. This requirement has been submitted to OMB for approval. Public reporting burden for this collection of information is estimated as an average per individual response for each requirement. The

² The availability of these funds for reimbursement for the cost of purchasing a VMS unit is not guaranteed, but the funds are anticipated to be available on a first-come first-served basis.

estimated time for initial VMS unit installation is 4 hours. The estimated time to maintain or repair a VMS unit is 1 hour annually. The estimated response time for respondents to prepare and submit activation reports is estimated to be 5 minutes per report. The vessel owner and operator must authorize NOAA OLE, the U.S. Coast Guard (USCG) and other authorized entities to receive and relay position reports. The estimated response time to prepare and submit each on/off report is also 5 minutes. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to NMFS West Coast Region at the ADDRESSES above, and by e-mail to OIRA_Submission@omb.eop.gov, or fax to (202) 395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Part 300

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

Dated: February 3, 2014.

Samuel D. Rauch III,
Deputy Assistant Administrator
For Regulatory Programs,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300 is proposed to be amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart C—Eastern Pacific Tuna Fisheries

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

Authority: 16 U.S.C. 951-961 et seq.

2. In § 300.21, definitions for “Commercial”, “Vessel monitoring system (VMS)” and “VMS unit” are added, in alphabetical order, to read as follows:

§ 300.21 Definitions.

* * * * *

Commercial with respect to commercial fishing, means fishing in which the fish harvested, either in whole or in part, are intended to enter commerce through sale, barter or trade.

* * * * *

Vessel monitoring system (VMS) means an automated, remote system that provides information about a vessel's identity, location and activity, for the purposes of routine monitoring, control, surveillance and enforcement of area and time restrictions and other fishery management measures.

VMS unit, sometimes known as a “mobile transmitting unit,” means a transceiver or communications device, including all hardware and software that is carried and operated on a vessel as part of a VMS.

3. In § 300.24, paragraphs (u) through (x) are added to read as follows:

§ 300.24 Prohibitions.

* * * * *

(u) Fail to install, activate, or operate a VMS unit as required in § 300.26(c).

(v) In the event of VMS unit failure or interruption, fail to repair or replace a VMS unit, fail to notify the Special-Agent-In-Charge (SAC), NOAA Office of Law Enforcement, Pacific Islands Division (or designee) and follow the instructions provided, or otherwise fail to act as provided in § 300.26(c)(4).

(w) Disable, destroy, damage or operate improperly a VMS unit installed under § 300.26, or attempt to do any of the same, or fail to ensure that its operation is not impeded or interfered with, as provided in § 300.26(e).

(x) Fail to make a VMS unit installed under § 300.26 or the position data obtained from it available for inspection, as provided in § 300.26(f) and (g).

4. Section 300.26 is added to read as follows:

§ 300.26 Vessel monitoring system (VMS).

(a) Special-Agent-In-Charge (SAC), NOAA Office of Law Enforcement, Pacific Islands Division (or designee), and VMS Helpdesk contact information and business hours: (1) The contact information for the SAC for the Pacific Islands Division: NOAA/DKIRC, ATTN: OLE/VMS, 1025 Quincy Avenue, Suite 5010, Honolulu, HI 96860-4512; telephone: (808) 725-6100; e-mail: pidvms@noaa.gov. The business hours of the SAC for the purpose of this section are: Monday through Friday, except Federal holidays, 8 a.m. to 4:30 p.m., Hawaii Standard Time.

(2) The contact information for the NOAA Office of Law Enforcement's VMS Helpdesk for the purpose of this section is: telephone: (888) 219-9228; e-mail: ole.helpdesk@noaa.gov. The business hours of the VMS Helpdesk for the purpose of this section are: Monday through Friday, except Federal holidays, 7 a.m. to 11 p.m., Eastern Time.

(b) Applicability. This section applies to all owners and operators of U.S. commercial fishing vessels, 24 meters or more in overall length, used to target tuna in the Convention Area. If specifically authorized by NOAA OLE in writing, this section shall no longer be applicable to a vessel that departs the Convention Area and remains outside the Convention Area for 1 year or longer.

(c) Provisions for Installation, Activation and Operation — (1) VMS Unit Installation. The vessel owner and operator must obtain and have installed on the fishing vessel, in accordance with instructions provided by the SAC, and the VMS unit manufacturer, a VMS unit that is type-approved by NOAA for fisheries in the IATTC Convention Area. The vessel owner and operator shall arrange for a NOAA-approved mobile communications service provider to

receive and relay transmissions from the VMS unit to NOAA. The vessel owner and operator shall authorize NOAA OLE, the U.S. Coast Guard (USCG) and other authorized entities to receive and relay position reports. The owner and operator must authorize NOAA to set up the reporting interval of the VMS unit and the transmission of automated position reports to occur hourly. The NOAA OLE VMS Helpdesk is available to provide instructions for VMS installation and a list of the current type-approved VMS units and mobile communication service providers.

(2) VMS Unit Activation. If the VMS unit has not yet been activated as described in this paragraph, or if the VMS unit has been newly installed or reinstalled, or if the mobile communications service provider has changed since the previous activation, or if directed by the SAC, the vessel owner and operator must, prior to leaving port:

(i) Turn on the VMS unit to make it operational;

(ii) Submit a written activation report, via mail, facsimile or e-mail, to the SAC, that includes: the vessel's name; the vessel's official number; the VMS unit manufacturer and identification number; and telephone, facsimile or e-mail contact information for the vessel owner or operator; and

(iii) Receive verbal or written confirmation from the SAC that the proper VMS unit transmissions are being received from the VMS unit.

(3) VMS Unit Operation. The vessel owner and operator shall continuously operate the VMS unit at all times, except that the VMS unit may be shut down while the vessel is in port or otherwise not at sea, provided that the owner and operator:

(i) Prior to shutting down the VMS unit, report to the SAC or the NOAA Office of Law Enforcement's VMS Helpdesk via facsimile, e-mail, or web-form the following information: the intent to shut down the VMS unit; the vessel's name; the vessel's official number; an estimate for

when the vessel's VMS may be turned back on; and telephone, facsimile or e-mail contact information for the vessel owner or operator; and

(ii) When turning the VMS unit back on, report to the SAC or the NOAA Office of Law Enforcement's VMS Helpdesk, via mail, facsimile or e-mail, the following information: that the VMS unit has been turned on; the vessel's name; the vessel's official number; and telephone, facsimile or e-mail contact information for the vessel owner or operator; and

(iii) Prior to leaving port, receive verbal or written confirmation from the SAC that proper transmissions are being received from the VMS unit.

(4) Failure of VMS unit. If the VMS unit has become inoperable or transmission of automatic position reports from the VMS unit has been interrupted, or if notified by NOAA or the U.S. Coast Guard (USCG) that automatic position reports are not being received from the VMS unit or that an inspection of the VMS unit has revealed a problem with the performance of the VMS unit, the vessel owner and operator shall comply with the following requirements:

(i) If the vessel is at port: The vessel owner or operator shall repair or replace the VMS unit and ensure it is operable before the vessel leaves port.

(ii) If the vessel is at sea: The vessel owner, operator, or designee shall contact the SAC by telephone, facsimile, or e-mail at the earliest opportunity during the SAC's business hours and identify the caller and vessel. The vessel operator shall follow the instructions provided by the SAC, which could include, but are not limited to: ceasing fishing, stowing fishing gear, returning to port, and/or submitting periodic position reports at specified intervals by other means; and, repair or replace the VMS unit and ensure it is operable before starting the next trip.

(5) Related VMS Requirements. Installing, carrying and operating a VMS unit in compliance with the requirements in 50 CFR 300.219, 50 CFR 660.712, 50 CFR 660.14, or 50

CFR 665.19 relating to the installation, carrying, and operation of VMS units shall be deemed to satisfy the requirements of paragraph (c) of this section, provided that the VMS unit is operated continuously and at all times while the vessel is at sea, the VMS unit and mobile communications service providers are type-approved by NOAA for fisheries in IATTC Convention Area, the owner and operator have authorized NOAA to receive and relay transmissions from the VMS unit, and the specific requirements of paragraph (c)(4) of this section are complied with. If the VMS unit is owned by NOAA, the requirement under paragraph (c)(4) of this section to repair or replace the VMS unit will be the responsibility of NOAA, but the vessel owner and operator shall be responsible for ensuring that the VMS unit is operable before leaving port or starting the next trip.

(d) Costs. The vessel owner and operator shall be responsible for all costs associated with the purchase, installation and maintenance of the VMS unit and for all charges levied by the mobile communications service provider as necessary to ensure the transmission of automatic position reports to NOAA as required in paragraph (c) of this section. However, if NOAA is paying for the VMS-associated costs because the VMS unit is carried and operated under a requirement of 50 CFR 300.219, 50 CFR 660.712, or 50 CFR 665.19, the vessel owner and operator shall not be responsible to pay the costs.

(e) Tampering. The vessel owner and operator must ensure that the VMS unit is not tampered with, disabled, destroyed, damaged or maintained improperly, and that its operation is not impeded or interfered with.

(f) Inspection. The vessel owner and operator must make the VMS unit, including its antenna, connectors and antenna cable, available for inspection by authorized officers.

(g) Access to data. The vessel owner and operator must make the vessel's position data obtained from the VMS unit or other means immediately and always available for inspection by NOAA personnel, USCG personnel, and authorized officers.

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