PUBLIC NOTICE

VESSEL MONITORING SYSTEM REGULATIONS

PURSUANT TO SECTION 204 OF TITLE 24 OF THE CODE OF FEDERATED STATES OF MICRONESIA (FSMC)

This is to inform the general public that National Oceanic Resource Management Authority (NORMA), through its Board of Directors, hereby proposes to promulgate the Vessel Monitoring System Regulations. This public notice is made pursuant Section 204 of Title 24 of the Code of the Federated States of Micronesia.

The purpose of the VMS Regulations is to prescribe the legal requirements and responsibility for a fishing vessel operating within FSM or FSM Flagged to register in the Vessel Monitoring System (VMS). The VMS system is a tool that enables NORMA to monitor the position and activities of foreign and domestic fishing vessels for the purpose of effective management of fisheries. The regulations also require all fishing vessels operating in FSM or FSM flagged to install, maintain and operate a Automated Location Communicator (ALC) device which transmit information or data concerning the position, fishing, and other activities of the fishing vessel.

These regulations are necessary to implement Section 611 of Title 24 of the Code of the Federated States of Micronesia. The proposed Regulations are open for public’s view and comment beginning on the date of posting and ending on the 30th day of posting. Extra copies of the proposed Regulations can be obtained from the Office of the Executive Director, NORMA. Any person interested in commenting on the proposed Regulations may do so in written submission to:

Eugene Pangelinan
National Oceanic Resource Management Authority
P. O. Box PS-122
Palikir, Pohnpei FSM 96941
Tel: (691) 320-2700
Fax: (691) 320-2383
Email: feedback.regs@norma.fm

All written comments or submissions must be submitted to NORMA within the thirty (30) days after the posting of this notice. Written comments and submission must be submitted to NORMA during office working hours (8am to 5pm) from Monday to Friday working days.

The VMS Regulations are proposed to take effect forty days from the date of the posting of this Notice. Otherwise a different effective date will be noted on the certified copy of the Regulations to be filed pursuant to 17 FSMC Section 103(1).
FEDERATED STATES OF MICRONESIA

TITLE 24

VESSEL MONITORING SYSTEM REGULATIONS

PART I. GENERAL PROVISIONS

1.1 Authority. These regulations are promulgated under the authority of the Marine Resources Act of 2002, 24 FSMC §101. These regulations and any amendments hereto shall have the force and effect of law.

1.2 Purpose and Applicability. The purpose of these regulations is to set forth the responsibilities of vessels regarding the installation, maintenance and operation of their onboard ALC as part of the VMS. These regulations apply to all vessels required by the laws of the FSM, including international treaties and fishing permits, to have an ALC on board.

1.3 Definitions. For the purposes of these regulations, all terms shall have the meanings set forth in Title 24, except that the following terms shall have the following meaning:

a. "ALC" Automatic location communicator' or 'mobile transceiver unit' or 'transponder' means a Forum Fisheries Agency (FFA) approved device placed on a fishing vessel that transmits either in conjunction with another device or devices or independently, information concerning the position, fishing and such other activities of the vessel.

b. "ALC Agent" means an agent designated by the Executive Director, taking into account regional standards, for purposes of installation of an ALC.

c. "FFA Vessel Register" means the Register of Fishing Vessels maintained by the Forum Fisheries Agency.

d. "Forum Fisheries Agency" or "FFA" means the Agency established by the South Pacific Forum Fisheries Agency Convention, with headquarters in Honiara, Solomon Islands.

e. "Log on" means to connect an ALC with the VMS system, such that the ALC can transmit or receive, and "logged on" has a corresponding meaning.

f. "Log out" means to disconnect an ALC from the VMS system, such that the ALC cannot transmit or receive, and "logged out" has a corresponding meaning.

g. "Vessel Monitoring System", or "VMS" means any system to monitor the position and activities of fishing vessels for the purpose of effective management of fisheries.
g. "Vessel Monitoring System Information" means all data and information generated, obtained or collected in respect of the operation of the vessel monitoring system in accordance with this Act.

1.4 Penalties. Violation of these regulations may result in suspension or revocation of a fishing permit, or imposition of a civil, criminal or administrative penalty.

PART II. REQUIREMENT FOR AN AUTOMATIC LOCATION COMMUNICATOR

2.0 ALC Required. No foreign fishing vessel or local fishing vessel shall be licensed to fish in the fisheries waters of FSM unless the operator of the vessel installs, maintains and operates a registered automatic location communicator in accordance with such specifications determined by the Executive Director of National Oceanic Resource Management Authority.

2.1 Type of ALC. The type of ALC to be installed must be approved by the Executive Director, who shall give such approval in accordance with the following requirements:

(a) Except as provided under subsection (c), for purposes of fishing or related activities in the fishery waters, each approved ALC must be a type which appears on the list of FFA approved devices for use within the FFA VMS Registry.

(b) For purposes of fishing under the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, each approved ALC must be of a type, which is approved by FFA and the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean.

(c) For purposes of fishing in waters under the national jurisdiction of other coastal States or regional fisheries organizations or arrangements other than in part (b), each approved ALC must be of a type which is required by such coastal State, or regional fisheries organization or arrangement.

2.2 Good Standing on FFA Register. Where a vessel is required to carry an ALC, it shall be a condition of permit issuance that the vessel is in good standing on the FFA Vessel Register and the registration number accorded under such Register is submitted together with the application for a permit. The operator of the vessel shall be responsible for applying for registration of the ALC by the FFA VMS Register on an annual basis, and for paying all fees prescribed by the FFA for such registration.

2.3 Installation and Maintenance. The operator shall ensure that the ALC be installed and maintained in good working order by an ALC agent.

2.4 Interference with the ALC. The operator of a vessel required to carry an ALC shall ensure that no person tampers or interferes with the ALC and that the ALC is not altered, damaged or disabled. The operator shall ensure that such ALC is not moved from the agreed installed position or removed without prior notification to the Executive Director.
PART 3. OPERATION OF ALC

3.1 Designation of Receiver. The operator of the vessel shall ensure that the ALC transmits to FSM VMS Headquarters or such other receiver or receivers designated by the Executive Director.

3.2 Entry into and Exit from the Fishery Waters

(a) The operator of the vessel shall ensure that the ALC is logged on and transmitting continuously to FSM VMS Headquarters at least 50 nautical miles prior to entry into and after departure from the fishery waters, except as provided under (b) of this section.

(b) If the vessel is fishing on the high seas or under the national jurisdiction of another coastal State prior to entry into or after departure from the fishery waters such that the requirement in (a) is impractical, the logging on and continuous transmission by the ALC to FSM VMS Headquarters for a period of six (6) hours prior to entry into and after departure from the fishery waters will be deemed the equivalent of the 50 nautical mile requirement.

3.3 Transmission within the Fishery Waters

(a) At all times when a vessel required to carry an ALC is in the fishery waters, the operator of such vessel shall ensure that the ALC is logged on and is continuously transmitting to FSM VMS Headquarters or such other place as may be designated, all information and in such format as may be required under Title 24 and these regulations.

(b) When a vessel required to carry an ALC is in the fishery waters and its permit expires, the operator of such vessel shall ensure that the ALC continues to be logged on and transmit until such time as the vessel departs from the fishery waters for the final time, until such time as it reenters holding a valid and applicable permit.

PART 4. MALFUNCTIONING ALC

4.1 Notification.

(a) If the operator of a vessel required to carry an ALC discovers that the ALC is not operating or is malfunctioning such that the required notifications, messages and/or transmissions are not being properly sent, the operator shall notify FSM VMS Headquarters as soon as possible and no later than 12 hours after discovery of the malfunction.

(b) If an authorized officer determines that an ALC required to be installed on the vessel has failed to transmit information or to perform other requirements, such officer shall immediately contact the Executive Director or his nominee and the operator or, where appropriate, the authorized agent of the vessel.

4.2 Manual Reporting
(a) Upon discovery or notification that the ALC is not operating or is malfunctioning, the operator shall commence reporting manually every eight hours to the Executive Director by submitting a report containing the vessel’s name, call sign, position (expressed in latitude and longitude to minutes of arc), mid date and time of the report. The Executive Director may require more frequent reporting. Such reports shall continue until such time as either the ALC is confirmed operational, the vessel returns to the designated harbor, or the vessel exits the fishery waters. The Executive Director may limit the total number of days the vessel may continue fishing pursuant to these reporting provisions before effecting the repair or replacement of the ALC.

(b) Within 24 hours of commencing manual reporting, the operator shall submit to the Executive Director a plan for resuming ALC reporting. The plan shall indicate when and how the ALC will be serviced and any request to fish without a functioning ALC until that time.

(c) The Executive Director may approve the plan, amend the plan or direct the vessel to immediately stow its fishing gear and immediately return to port, or, if the vessel is in port, instruct it to remain in port.

(d) All manual reports shall be transmitted to this email address:

Compliance@norma.fm

4.3 Inability to comply with manual reporting.

If it is not possible to make any one or more of the manual reports required by 4.2, the operator must immediately stow the vessel’s fishing gear, immediately take the vessel directly to a designated port, and, as soon as possible, report to the Executive Director that the vessel is being, or has been, taken to port with gear stowed.

PART 5. INFORMATION AND SECURITY

5.1 Ownership of VMS Information. The ownership of all VMS information and data generated and obtained from any vessel in the fishery waters, and VMS information and data generated and obtained from any FSM flag vessel in any waters, is vested in the Federated States of Micronesia.

5.2 Confidentiality of VMS Information. All information from a VMS is classified as confidential.

5.3 Designation of and Access to VMS Room. The Executive Director, in consultation with the Secretary of Justice, shall designate a room or rooms, a "VMS Room", where the system upon which all VMS information is received shall be located. Only officials of the FSM VMS Headquarters expressly authorized by the Secretary of Justice in consultation with the Executive Director shall have access to the VMS Room. A list of authorized personnel shall be posted on the door of the VMS Room.
5.4 Authorization to Use VMS Equipment. The Secretary of Justice, in consultation with the Executive Director, shall authorize, in writing, the personnel who are authorized to use VMS equipment.

5.5 Procedures for the Release of VMS Information. The Secretary of Justice, Executive Director or personnel authorized to use VMS Equipment may release VMS information (i) to discharge any international obligation assumed by the Federated States of Micronesia; (ii) to maintain law and order; (iii) for the protection and safety of life and property; or (iv) such other purpose designated by the Authority to be in the national interest.

5.6 Guidelines for the Collection and Release of VMS Information. The Secretary of Justice, in consultation with the Executive Director, shall develop guidelines in relation to the collection and authorized release of VMS information, and shall periodically review such guidelines.

5.7 Designation of a NORMA VMS Contact. The Secretary of Justice, in consultation with the Executive Director, shall designate a person to serve as the contact person for all inquiries relating to operation of the VMS system. Such individual will be responsible for disseminating information to fishing vessel operators, for obtaining information from the FFA and such other place or places as may be appropriate, and shall have such other responsibilities as may be determined by the Secretary of Justice in consultation with the Executive Director.

PART 6. CANCELLATION OF LICENCE

6.1 The Executive Director may cancel the license of any foreign fishing vessel that fails to comply with these conditions.