

VESSEL MONITORING SYSTEM REGULATIONS

BUREAU OF NATURAL RESOURCES & DEVELOPMENT REPUBLIC OF PALAU

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VESSEL MONITORING SYSTEM REGULATIONS

Part 1. General Provisions

1.1 Authority: These regulations are promulgated pursuant to the authority contained in Title 27, Palau National Code. The regulations, and amendments thereto, shall have the full force and effect of law.

1.2 Purpose and Applicability: The purpose of these regulations is to implement the provisions of Title 27, Palau National Code, which provide for the monitoring of foreign fishing vessels in the coastal waters of the Republic. These regulations will also apply to any other fishing vessel as prescribed by statute or by the Minister.

1.3 Definitions: In addition to the definitions contained in Title 27, Palau National Code, for the purpose of these regulations, unless the context clearly requires another meaning, the following definitions shall apply:

- A. “Automatic Location Communicator” or “ALC” means a Forum Fisheries Agency approved device placed on a fishing vessel that transmits, either in conjunction with another device or devices or independently, information or data concerning the position, fishing and such other activities of the vessel as may be required.
- B. “Bureau” means the Bureau of Natural Resources and Development of the Ministry of Resources and Development.
- C. “Director” means the Director of the Bureau of Natural Resources and Development.
- D. “Master” refers to any person having command of a vessel.
- E. “Vessel Monitoring System” means the system employed by the Forum Fisheries Agency member countries and coordinated by the Forum Fisheries Agency to monitor the position and activities of fishing vessels for the purpose of effective management of fisheries.
- F. “Vessel Monitoring System Information” means all data and information generated, obtained or collected in respect to the operation of the vessel monitoring system within the waters of the Republic of Palau.

Part 2: Installation of the Automatic Location Communicator

A. Approved Types of Automatic Location Communicators (“ALCs”)

An ALC must be of a type approved by the FFA for use within the FFA VMS system. A list of approved devices will be provided by the Director upon request or may be obtained directly from the FFA VMS Support Officer at FFA Headquarters.

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B. Installation of the ALC

The FFA-approved type ALC must be installed by an FFA-approved agent. An approved agent is necessary to insure that the ALC is installed in accordance with the requisite procedures. Information regarding approved installation agents can be obtained from the Director or from the FFA VMS Support Officer at FFA Headquarters.

C. Maintenance of the ALC

The ALC must be maintained in good working order. Repair of the ALC may only be performed by an FFA-approved agent in accordance with the procedures, prescribed from time to time, contained in the Type Approval Process provided to the agent.

D. Tampering with the ALC

The operator of the foreign fishing vessel 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 the ALC is not moved from the agreed installed position or removed without prior notification to the Director.

Part 3: Registration of the Automatic Location Communicator

A. Registration with the Forum Fisheries Agency (“FFA”) The vessel carrying the ALC must be in good standing on the FFA VMS Register of Foreign Fishing Vessels (FFA VMS Register). An application may be obtained from the Director or from the FFA VMS Support Officer at FFA Headquarters. The applicant must use the prescribed form. Any information required to be recorded, notified, communicated or reported shall be true, complete, and correct. Any change in circumstances, which has the effect of rendering any such information false, incomplete or misleading shall be notified to the Director immediately. The application must be accompanied by payment of the annual VMS registration fee as determined by the FFA.

B. Presentation to the Bureau

Vessels applying for a permit shall provide their FFA VMS registration number with their application for a fishing permit.

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Part 4: Operation of the Automatic Location Communicator

A. Designation of Receiver

The ALC shall transmit to the receiver designated by the FFA.

B. Entry into and Exit from the EEZ of the Republic

The operator of the foreign fishing vessel shall ensure that the ALC is transmitting at least 50 nautical miles prior to entry into and after departure from the exclusive economic zone of the Republic. If the vessel is fishing on the high seas or in the waters of another coastal state prior to entry into or after departure from the exclusive economic zone of the Republic such that the 50 nautical mile requirement is impractical, the transmission by the ALC for a period of six (6) hours prior to entry into and after departure from the exclusive economic zone of the Republic will be deemed the equivalent of the 50 nautical mile requirement.

C. Transmission within the Waters of the Republic

The operator of the fishing vessel shall ensure that the ALC is logged on and is always accessible from FFA at all times during which the vessel is within the exclusive economic zone, the extended fishery zone, the exclusive fishery zone, the territorial sea, or the internal waters of the Republic.

D. Entry into and Exit from Malakal Harbor

The ALC may be turned off or placed into a power saving sleep mode upon reporting to the VMS Officer at the Marine Law Enforcement Division (“MLED”) that the vessel has birthed in Malakal Harbor. In such event, the operator of the foreign fishing vessel shall ensure that the ALC is transmitting; at least two hours prior to the vessel’s departure from Malakal Harbor.

Part 5: Instances of ALC Malfunctioning

A. Communication through Authorized Agent

The operator of the foreign fishing vessel must have an authorized agent within the Republic capable of contacting the fishing vessel while it is within the waters of the Republic.

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B. Notification by the Master of ALC Malfunction or Failure

If the Master of a fishing vessel becomes aware that the ALC is not operating or is malfunctioning such that notifications and messages cannot be sent from the ALC, then the master of the vessel must notify the VMS Officer at the MLED as soon as is practicable.

C. Procedure During Instances of ALC Malfunction or Failure

Should an authorized officer of the Republic become aware or determine that the ALC installed on the vessel has failed to continue transmitting accurate information regarding the vessel, such officer shall immediately contact the authorized agent of the foreign fishing vessel. The officer may instruct the agent to direct the vessel to stow its fishing gear and immediately return to Malakal Harbor or such other port where the vessel may effect repair or replacement of the faulty ALC. Alternatively, the officer may instruct that reports containing the vessel's name, call sign, position (expressed in latitude and longitude to minutes of arc), and date and time of the report are communicated to the VMS Officer at the MLED every hours (12) hours or such shorter period as specified by the officer. Such reports shall continue until such time as either the ALC is confirmed operational, the vessel returns to Malakal Harbor, or the vessel exits the Republic's EEZ. In his discretion, the VMS Officer 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.

If it is not possible for the vessel to make the required reports, the master of the vessel must immediately stow the fishing gear and either take the vessel directly to a port identified by the officer or out of the EEZ of the Republic, and as soon as possible, report to the VMS Officer at the MLED that the vessel is being or has been taken to port with gear stowed.

Part 6: Confidentiality and Security of Information

A. Ownership of VMS Information

The ownership of all vessel monitoring system information and data generated and obtained in the coastal waters of the Republic is vested in the Republic of Palau.

B. Access to the VMS Room

The system upon which all VMS information is received from. the FFA shall be

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segregated in a designated room, the "VMS Room." Only officials of the MLED and the Bureau expressly authorized by the Director shall have access to the VMS Room. A list of authorized personnel will be posted on the door of the VMS Room.

C. Authorization to Use VMS Equipment

Only the Chief of the WED and the VMS Officer of the WED are authorized to operate the equipment in the VMS Room.

D. Procedures for the Release of VMS Information

The Director or personnel authorized to use VMS Equipment may release VMS information in the following circumstances:

- (1) to discharge international obligation assumed by the Republic of Palau;
- (2) in furtherance of maintenance of law and order; and
- (3) for the purpose of protection and safety of life and property.

Part 7: Designation of a of a VMS Contact Person At the Bureau

The Director shall designate an individual within the Bureau of Natural Resources and Development 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 foreign fishing vessel operators and for obtaining information from the FFA.

Certified to have been adopted by the agency on this 11th day of September, 2000.

/s/
Herman Francisco, Director
Bureau of Natural Resources & Development

/s/
Marcelino Melairei
Minister of Resources & Development

Approved on this _____ day of October, 2000.

Kuniwo Nakamura
President, Republic of Palau