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William L. Robinson c/o
Federal eRulemaking Portal
<http://www.regulations.gov>

RE: Comments regarding RIN 0648-AV 63 International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Initial Implementation of the Western and Central Pacific Fisheries Convention – Proposed rule

Dear Mr. Robinson:

Our organization represents the large U.S. flag purse seiners operating in the tropical Pacific Ocean. Our vessels have a long history of operating in the Pacific Ocean. We were instrumental in the development of the eastern and western Pacific purse seine tuna fisheries. We have continuously supported fair and effective conservation of tuna fisheries. Since our early development of the Pacific tuna fishery, fleets of many other countries have also entered the fishery. This has made the implementation of fair and effective management of the tuna fishery across all fleets more difficult. The tuna based Regional Fishery Management Organizations (RFMOs) have been struggling to manage these important fisheries effectively, fairly and equally among the participants in the fishery.

The U.S. tuna purse seine fleet supports effective conservation and management measures for the long term sustainability of tuna stocks. However, management of the fishery for the long term sustainability of the stocks will not be accomplished if the U.S. fleet is the only one that fully complies through effective monitoring and enforcement of regulations. It is vital to the survival of the U.S. fleet that our country negotiates RFMO measures that impose a comparable burden on all participants in the fishery. It is critical to the US fleet that US fishermen do not have to bear an unfair amount of the conservation burden. It is also critical to our survival that the domestic regulations implementing the RFMO measures not be significantly more burdensome on our fleet than those imposed on our foreign competitors. We are very concerned that these proposed regulations will be far more extensive, will be monitored much more closely and will be more burdensome on the U.S. fleet than those imposed on fleets of other countries that are members of the Western and Central Pacific Fisheries Commission (WCPFC).

The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act requires our government to address illegal, unregulated and unreported (IUU) fishing and the bycatch of protected living marine resources. We believe it is also the responsibility of our government to monitor the actions of other governments to be sure that other governments implement substantially similar rules and regulations. Our government should promptly give notice to the

appropriate RFMO of any shortcomings in regulation implementation and enforcement by other member countries of the RFMO.

Following are specific comments about certain contents in the subject document:

Page 23967, 23977 300.212 (g) and 23978 300.213 (a)

2. *Vessel information*

This section calls for changes in vessel information to be submitted within 15 days of the change. This requirement would be burdensome. Thirty (30) days would be a much more manageable timeframe.

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4. *Vessel observer program*

We have fully supported and have cooperated with the Pacific Islands Forum Fisheries Agency (FFA) observer program for about 20 years. The U.S. purse seine fleet has been the leader in the use of observer programs in the Western Pacific. We support the observers gathering the information truly needed to perform their required duties. We believe, however, that a clear listing of questions that the observers should appropriately ask should be developed and be provided to vessel management and operators and to observers. Certain information is proprietary to the fishing vessel operations and is not required for the observer to reasonably perform their duties. Having such a list is all the more critical with the expected expansion of the WCPFC observer program. Vessel responsibilities are spelled out in detail, but very little information is provided regarding the expected behavior and responsibilities of observers. These comments also apply to Page 23969, 9. *Facilitation of enforcement and inspection* and to Page 23978, 300.215 *Observers (c) (1) (ii)*.

We would also like to take this opportunity to again express our strong belief that a debriefing of observers take place at the end of each trip. This can be conducted by NMFS staff; preferably also in the presence of the vessel Captain. The feedback to the vessel operators from observer reports is incomplete and untimely. It is only through effective and timely communications that vessel operators can improve their observer responsibilities to the benefit of all involved. This is a process that has been used for many years in the Eastern Pacific with IATTC observers.

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Definition of Fishing

(5) Engaging in transshipment, either unloading or loading fish

Our vessels are required to transship in port. We believe that activities in port should not be considered fishing. Fishing trips start counting when vessels leave port and not while they are in port. This definition could improperly cause days in port to be counted against available fishing days.

Definition of Fishing Vessel

There has been a continuing debate as to whether carriers and refueling vessels should properly be treated as fishing vessels in virtually all ways. It is our position that they should not be treated that way. These carrier and bunkering vessels used in association with the purse seine fishery are used on an opportunistic basis and are not part of the regular fishing fleet. It is reasonable that these vessels be registered and be identified by information clearly called for in WCPFC regulations, but the U.S. should be careful to not impose more regulations on these vessels than

required. We hope that the US will continue to negotiate reasonable working arrangements for these vessels.

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Vessel monitoring system. § 300.219.c.3.iii:

"Prior to leaving port, receive verbal or written confirmation from NMFS that proper transmissions are being received from the VMS unit"

There is concern that lack of availability of SAC staff will cause an unreasonable loss of fishing time by fishing vessels. These are not 9 am to 5 pm operations. We would like to see a system that would allow fishing vessels to confirm the proper operation of their VMS / MTU units outside of regular office hours of the SAC. One suggestion is that a vessel be able to contact a representative of the manufacturer of the involved VMS / MTU and to have them confirm in writing the proper operation of the device. The vessel could then go fishing for that weekend or holiday period and contact SAC after they open up to confirm that they are properly receiving the signal from the fishing vessel. Fishing vessels operate every available day and circumstances are often out of their control that would prevent finalization of a VMS / MTU during SAC office hours. Differences in time zones among vessel operating hours further exacerbate this problem.

Failure of VMS unit, § 300.219.c.4.ii

"If the vessel is at sea: The vessel owner, operator, or designee shall contact the SAC by telephone, facsimile, or email 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."

We expect that SAC management will be reasonable in their directions given to fishing vessels in the event of a failure of these units. It could easily cost a vessel several \$100,000s if it is forced to return to port to replace or repair a unit during active fishing operations. Equipment can break down and the vessel should not be unreasonably penalized for an event that is out of its control. It should also be noted that repair facilities, replacement equipment and technicians are not sitting waiting at every port for a vessel to come in with a broken VMS. Replacement and repair of this equipment often takes time to arrange. Vessels can be adequately monitored for at least 30 days by manual position reporting for reasonable periods of time. Vessels should be allowed to make necessary changes at the end of a fishing trip. Our purse seiners have for many years been working closely in cooperating with the FFA on similar issues with virtually no significant problems

Thank you for your consideration.

Sincerely,



Paul Krampe
Executive Director
American Tunaboat Association