

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Diana Hynek  
Departmental Paperwork Clearance Officer  
Office of the Chief Information Officer  
14th and Constitution Ave. NW.  
Room 6625  
Washington, DC 20230

09/22/2004

In accordance with the Paperwork Reduction Act, OMB has taken the following action on your request for approval of a new information collection received on 08/11/2004.

TITLE: Northeast Multispecies Framework Adjustment 40A  
Permit Information Data Collection

AGENCY FORM NUMBER(S): None

ACTION : APPROVED WITHOUT CHANGE  
OMB NO.: 0648-0501  
EXPIRATION DATE: 03/31/2005

BURDEN:	RESPONSES	HOURS	COSTS(\$,000)
Previous	0	0	0
New	8,683,445	-2,094	1,181
Difference	8,683,445	-2,094	1,181
Program Change		-2,094	1,181
Adjustment		0	0

TERMS OF CLEARANCE:

The agency must publish in the Notice of Final Rulemaking a request for public comments on this information collection that complies with the requirements of 44 U.S.C. 3506(c)(2)(A).

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OMB Authorizing Official	Title
Donald R. Arbuckle	Deputy Administrator, Office of Information and Regulatory Affairs

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# 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.**

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

## 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  
NORTHEAST MULTISPECIES FRAMEWORK 40A  
PERMIT DATA COLLECTION**

**INTRODUCTION**

This submission requests Office of Management and Budget (OMB) clearance of information collection provisions for the vessel permit requirements proposed under Framework Adjustment 40A (Framework 40A) to the Northeast (NE) Multispecies Fishery Management Plan (FMP). This information collection submission builds upon two previously approved submissions under the “Northeast Region Permit Family of Forms” (OMB Control No. 0648-0202 and 0648-0489). OMB Control No. 0648-0489 includes information collection burden estimates for provisions contained under Amendment 13 to the NE Multispecies FMP and builds upon the permit provisions originally approved under OMB Control No. 0648-0202. The National Marine Fisheries Service (NOAA Fisheries) intends to integrate the information collection approved for Amendment 13 and described in OMB Control No. 0648-0489 into OMB Control No. 0648-0202 when circumstances allow. To date, the information collection approved for Amendment 13 under OMB Control No. 0648-0489 has not been integrated into OMB Control No. 0648-0202. The information collection for this action would modify some of the provisions included within the submission for OMB Control No. 0648-0489 as well as add new information collection burdens for provisions included within Framework 40A. Since the information collection under OMB Control No. 0648-0489 has not been integrated with OMB Control No. 0648-0202, this information collection submission for Framework 40A is considered a new information collection. If approved, NOAA Fisheries intends to integrate this new information collection submission into OMB Control No. 0648-0202 when circumstances allow.

The New England Fishery Management Council (Council) is proposing management measures under Framework Adjustment 40A that create additional opportunities for commercial fishing vessels to harvest healthy groundfish stocks. The proposed measures under Framework 40A include the following provisions requiring either new or revised information collection requirements: (1) A Category B (regular) days-at-sea (DAS) pilot program; (2) Closed Area I (CA I) Hookgear Haddock Special Access Program (SAP), (3) Eastern United States (U.S.)/Canada SAP Pilot Program, and (4) Modifications to the Western U.S./Canada Area regulations. This data collection submission requests approval of new and revised information collection requirements to implement the above provisions for Framework Adjustment 40A to the NE Multispecies FMP.

**A. JUSTIFICATION**

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

Under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Secretary of Commerce (Secretary) has responsibility for the conservation and management of marine fishery resources off the coast of the U.S. The majority of this responsibility has been delegated to the Regional Fishery Management Councils and NOAA

Fisheries. The Council develops management plans for fishery resources in New England. The NE Multispecies FMP manages twelve regulated groundfish species.

In 1999, the Council began development of an amendment to the management plan that would end overfishing and adopt required rebuilding plans for overfished stocks. In the case of Conservation Law Foundation, et al. V. Evans (Case No. 00CV011234), the U.S. District Court for the District of Columbia (Court) required the Council, along with the NOAA Fisheries, to implement management measures that would prevent overfishing and help rebuild groundfish stocks managed under the NE Multispecies FMP by a specific date. Ultimately, the Court required Amendment 13 to be implemented by May 1, 2004. On November 6, 2003, the Council approved measures outlined in Amendment 13 to meet the court-ordered deadline. Amendment 13 was implemented on May 1, 2004. The implementation of Amendment 13 brought the FMP into full compliance with the provisions of the Magnuson-Stevens Act and other applicable law, and complied with the Court-ordered implementation deadline of May 1, 2004. Amendment 13 included programs to facilitate targeting of healthy groundfish stocks, but only two of these programs were approved by NOAA Fisheries. The two disapproved programs, the CA I Hookgear Haddock SAP and the Eastern U.S./Canada SAP Pilot Program, did not contain sufficient analysis to determine the impacts of these programs. Framework 40A provides further justification for these two disapproved programs and revises some of the requirements for these SAPs that were previously proposed under Amendment 13. In addition, the Council developed Framework 40A to create further opportunities to target healthy stocks through a Category B (regular) DAS pilot program so that the Magnuson-Stevens Act requirement to attain optimum yield from the fishery can be met.

### **Category B (regular) DAS Pilot Program**

One of the ways the NE Multispecies FMP controls fishing mortality is by limiting the number of days that vessels can fish. Amendment 13 assigned each limited access permit holder a number of DAS that can be used. These DAS are categorized as either Category A DAS, Category B (regular or reserve) DAS, or Category C DAS. Category A DAS could be used beginning May 1, 2004, to target any regulated groundfish stock. The management measures in Amendment 13 (including the allocation of Category A DAS) are designed so that the mortality objectives will be met for all stocks. The number of allocated Category A DAS was chosen so that the appropriate amount of effort would be available. Any Category B DAS that are used increase the amount of effort. In order to prevent these additional DAS from threatening the mortality objectives of Amendment 13, Category B DAS can only be used to target healthy groundfish stocks. Only one program to use Category B DAS included in Amendment 13 was approved by NOAA Fisheries – a SAP designed to harvest yellowtail flounder in CA II on Georges Bank (GB).

Amendment 13 further defined Category B DAS as either Category B (regular) or Category B (reserve) DAS and placed limits on how each can be used. Framework 40A includes a pilot program that would allow Category B (regular) DAS to be used outside of any SAPs. Vessels participating in this program must meet the following requirements:

- They would be required to purchase, install and use an approved Vessel Monitoring System (VMS).
- Vessel operators would be required to notify NMFS 72 hours in advance of a Category B DAS trip so that NOAA Fisheries can plan observer coverage.
- Vessel operators must notify NOAA Fisheries that they are using a Category B (regular) DAS at the start of the trip. This notification would be made through the VMS.
- Vessel operators would be required to report the catch of stocks of concern daily through the VMS. This reporting requirement will be addressed in a separate PRA submission for the “Northeast Region Logbook Family of Forms” (OMB Control No. 0648-0212).
- While using a Category B (regular) DAS within the CA I Hookgear Haddock SAP, the Eastern U.S./Canada SAP Pilot Program, or the Category B (regular) DAS pilot program proposed under Framework 40A, operators are limited to very low landing limits for certain groundfish stocks that are in poor condition. If these landing limits are exceeded, vessel operators would be required to change the DAS being used to a Category A DAS. This notification (called “flipping” a DAS) must be made through the VMS and must occur before the vessel returns to port.

Vessels issued a limited access NE multispecies permit that are fishing under a NE multispecies Category B (regular) DAS would be required to use a VMS. For those vessels that do not currently possess a VMS, vessel owners would be required to purchase and install a certified VMS aboard their vessel. Vessels would be required to provide proof to the Regional Administrator (RA) that a certified VMS has been installed, including the installation receipt from a NOAA Fisheries-certified VMS vendor. Once installed, the VMS units of limited access NE multispecies DAS vessels would be polled twice per hour while operating on a Category B (regular) DAS. Limited access multispecies vessels would be required to declare their intention to participate in the Category B (regular) DAS pilot program through the VMS prior to leaving port. Collecting this information would be necessary to monitor the activities of vessels participating this program, assess the amount of fish harvested under the agreement, and to enforce compliance with the provisions outlined in Framework 40A.

Participants in the Category B (regular) DAS pilot program would be required to notify NOAA Fisheries of their intent to fish on a Category B (regular) DAS to assist in the deployment of observers. Notifications for the purpose of observer deployment would be required to be submitted at least 72 hours prior to each fishing trip into this area via a telephone call to the contracting company tasked with providing observer coverage. These notifications would be used by NOAA Fisheries to ensure that trips are included in the pool of vessels that would receive observer coverage. These vessels may then be requested to carry on board a NOAA Fisheries-approved observer or sea sampler. Such requests are made at the discretion of the Regional Administrator (RA) for the purpose of monitoring fishing activities, collection of data, and compliance as stated under 50 CFR 648.11.

Participants in the Category B (regular) DAS program are limited to very low catch limits for regulated groundfish stocks of concern (stocks that are in poor condition and for which fishing mortality must be carefully controlled as specified in Amendment 13). Vessels are only allowed to use Category B (regular) DAS if they remain below these limits. If a vessel exceeds these low limits for any stock, it would be required to “flip” the DAS it is using from a Category B

(regular) DAS to a Category A DAS. This “flip” would be accomplished by sending an electronic message to NOAA Fisheries using the installed VMS. The “flip” must take place before the vessel crosses the “VMS Demarcation Line” – a regulatory line that defines when a vessel is entering port and has stopped a fishing trip. This requirement to “flip” a DAS ensures that the additional effort from Category B (regular) DAS will be used to target healthy stocks and will not threaten the mortality objectives of Amendment 13. The requirement for a vessel to report this flip through the VMS facilitates the enforcement of this provision. Because the notice must be given before the vessel lands its fish, it provides an opportunity for the U.S. Coast Guard and NOAA enforcement agents to meet vessels at the pier and determine if they complied with the low landing limits required for the use of Category B (regular) DAS use.

#### **Framework 40A Special Access Programs (SAPs)**

SAPs are narrowly defined fisheries that allow for increased access to specific stocks that might otherwise be restricted. Access to these stocks is permitted through exemptions to regulations that, in the absence of such exemptions, would prevent the full utilization of the allowable catch for those specific stocks. In doing so, the social and economic impacts associated with management initiatives are lessened. These access programs allow for increased yield of target stocks without compromising the efforts to rebuild overfished stocks, end overfishing, minimize bycatch, or minimize impact on essential fish habitat (EFH).

Framework 40A would establish two SAPs that were originally submitted in Amendment 13, but disapproved by NOAA Fisheries: The Eastern U.S./Canada SAP Pilot Program and the CA I Hookgear Haddock SAP. The information collection burdens associated with these SAPs were previously considered in the OMB clearance of the information collection package submitted for measures contained within Amendment 13 to the FMP under OMB Control No. 0648-0489. The collection requirements for the Eastern U.S./Canada SAP Pilot Program and the CA I Hookgear Haddock SAP submitted under Framework 40A change the observer notification requirement so that it is required 72 hours before the start of the trip. Similar changes were made for the observer notification requirements for the U.S./Canada Management Area in a final rule published in the Federal Register on June 14, 2004 (69 FR 34900) and in another rulemaking consistent with the Administrative Procedures Act for the Closed Area II Yellowtail Flounder SAP that is currently being prepared by NOAA Fisheries. These changes provide more flexibility to fishermen planning trips, but do not alter the burden or cost estimates that were previously considered under OMB Control No. 0648-0489 or included with this information collection. These notifications are used by NOAA Fisheries to ensure that trips into the U.S./Canada Management Area are included in the pool of vessels that would receive observer coverage. These vessels may then be requested to carry on board a NOAA Fisheries-approved observer or sea sampler.

Framework 40A proposes to require vessels interested in participating in the CA I Hookgear Haddock SAP to declare their intent to participate in this SAP through a notification to the observer program contractor. This notification would be made in the form of a telephone call to the program and would be required by a specific date specified by the RA. The observer program would then use this information to determine the appropriate amount of observer coverage for this SAP.

Because SAPs allow for exemptions from the current regulations of a FMP, special permitting or Letters of Authorization (LOAs) are often required to ensure compliance and consistency with the purpose of the exemption. Special permits and LOAs provide a list of participants, their period of participation, and assist the agency in monitoring compliance with regulations governing these SAPs or exemption programs. However, neither of the SAPs mentioned below would be required to obtain a LOA. Instead, vessels would be required to use VMS in order to participate in the two SAPs and would declare their intention to fish in a specific area of a particular SAP via VMS prior to leaving the dock. This declaration provides the necessary verification that these vessels are participating in a SAP under Framework 40A. This information serves to document where a vessel intends to fish and what species the vessel would target prior to each particular trip. This information would be used to determine compliance with SAP provisions as well as the U.S./Canada Management Area agreement. Once installed, the VMS units of limited access NE multispecies DAS vessels are polled once per hour regardless of whether they are operating inside or outside of the U.S./Canada Management Area. However, when operating within CA I or CA II in the CA I Hookgear Haddock SAP or the Eastern U.S./Canada SAP Pilot Program, respectively, vessels would be polled twice per hour. Without a VMS on board, monitoring vessel position, vessel participation in a SAP, DAS usage, and species' TACs as defined in Framework 40A would not be possible.

Under Framework 40A, category B DAS may be used within the CA I or CA II SAPs. Accordingly, vessels may choose whether to use a category A or B DAS prior to each trip into a particular SAP. Therefore, prior to leaving the dock, limited access NE multispecies vessels fishing under a NE multispecies DAS within the Eastern U.S./Canada SAP Pilot Program or the CA I Hookgear Haddock SAP would be required to declare whether they are using a category A or B DAS for each trip. Since Category B DAS may be used in approved SAPs, the declaration of DAS category is required to ensure that DAS are accurately monitored and enforced and that compliance with the provisions of approved SAPs and their possession limit regulations are maintained. This DAS declaration has previously been considered for these SAPs under OMB Control No. 0648-0489.

As indicated above, Framework 40A would specify low landing limits for certain groundfish stocks that are in poor condition. If these landing limits are exceeded, vessel operators must change, or “flip,” the DAS being used to a Category A DAS. This notification must be made through the VMS and must occur before the vessel returns to port. Since these low landing limits apply to all vessels fishing under a Category B (regular) DAS, those vessels participating in the Category B (regular) DAS pilot program as well as those fishing in the CA I Hookgear Haddock SAP and the Eastern U.S./Canada SAP Pilot Program proposed within Framework 40A must “flip” their DAS to a Category A DAS should the low landing limits be exceeded. This “flip” must be done through a declaration via VMS. This declaration is necessary to document which category of DAS are being used on a particular trip and to enforce the low landing limits specified under Framework 40A.

**Specific details regarding these SAPs are as follows:**

1) Eastern U.S./Canada SAP Pilot Program: Framework 40A would allow all vessels issued a limited access NE multispecies DAS permit to participate in the Eastern U.S./Canada

SAP Pilot Program. Vessels must comply with specific gear requirements, there is a defined area and season, and catches are limited to a Total Allowable Catches (TACs). There is no limit to the number of trips a vessel may take under this SAP, unless the RA closes the SAP. These provisions are consistent with what was approved under OMB Control No. 0648-0489 for Amendment 13 with the exception of the DAS “flipping” provision.

2) CA I Hookgear Haddock SAP: Framework 40A would implement a SAP to allow limited access NE multispecies DAS vessels fishing with hook gear and vessels participating in the GB Cod Hook Sector to target haddock within Closed Area I (CAI) of the NE Multispecies FMP from October 1 - December 31 of the fishing year. The season could be extended by a future management action. The RA may close this SAP once the SAP’s cod bycatch or targeted haddock TAC is reached. Based on an experimental fishery, the number of trips into the area before the haddock TAC is caught is expected to be about 500 per quarter, or 2,000 per year if the season is extended to the entire year. Each trip is expected to last only one day. These provisions modify the season, the number of trips, the eligible participants, and the mandatory observer coverage provisions originally submitted in OMB Control No. 0648-0489 for Amendment 13.

### **Combined Trips to the Western U.S./Canada Area**

An informal understanding was reached between the U.S. and Canada regarding the management of GB cod, GB haddock, and GB yellowtail flounder resources found within the waters of both countries within an area known as the U.S./Canada Management Area. Provisions outlining the U.S. portion of the understanding were incorporated into Amendment 13 to the NE Multispecies FMP. The Amendment 13 implementing regulations do not allow a fishing vessel to fish inside and outside the Western U.S./Canada Area on the same trip. This practice is referred to in Framework 40A as making a combined trip.

Vessels issued a limited access NE multispecies permit that are fishing under a NE multispecies DAS and wishing to operate within the U.S./Canada Management Area are required to utilize a VMS. For those vessels that do not currently possess a VMS, vessel owners are required to purchase and install a certified VMS aboard their vessel. Vessels are required to provide proof to the RA that a certified VMS has been installed, including the installation receipt from a NOAA Fisheries-certified VMS vendor. Once installed, the VMS units of limited access NE multispecies DAS vessels are polled once per hour regardless of whether they are operating inside or outside of the U.S./Canada Management Area. Collecting this information is necessary to monitor the activities of vessels participating in the U.S./Canada Management Area, assess the amount of fish harvested under the agreement, and to enforce compliance with the provisions outlined in Amendment 13.

Limited access multispecies vessels intending to fish within the U.S./Canada Management Area are required to declare their intention to participate in either the Eastern or Western U.S./Canada Area through the VMS prior to leaving port. This information collection was previously approved under OMB Control Number 0648-0489. Framework 40A would allow vessels to fish in the Western U.S./Canada Area as well as areas outside of the Western U.S./Canada Area on the same trip. These vessels must declare their intention to do so using VMS prior to leaving

port. This declaration would be an additional area to consider when declaring their intent to fish within the Western U.S./Canada Area, but this would not increase the time burden for or additional costs to participants above that which was considered in the information collected under OMB Control Number 0648-0489 for Amendment 13. Therefore, an estimate of this burden is not included with this submission.

Participants in the U.S./Canada Management Areas (the Eastern and Western U.S./Canada Areas) under the U.S./Canada Resource Sharing Understanding, including those vessels participating in the CA II SAPs specified above, are required to notify NOAA Fisheries of their intent to fish in this area to assist in the deployment of observers. Under current regulations, notifications for the purpose of observer deployment must be submitted at least 72 hours prior to each fishing trip into this area via a telephone call to the contracting company tasked with providing observer coverage. These notifications are used by NOAA Fisheries to ensure that trips into the Agreement Management Areas are included in the pool of vessels that would receive observer coverage. These vessels may then be requested to carry on board a NOAA Fisheries-approved observer or sea sampler.

Many of the above collection requirements were approved in “Northeast Region Permit Family of Forms” (OMB Control No. 0648-0489). Framework 40A would make minor modifications to these requirements. As specified above, notifications for the purpose of observer deployment must be submitted at least 72 hours prior to each fishing trip into this area (versus five days as approved by OMB Control No. 0648-0489) via a telephone call to the contracting company tasked with providing observer coverage. While this change would make it easier for fishing vessels to plan fishing trips, it would not increase or decrease the reporting burden. In addition, the requirement for vessels to “flip” their DAS to a Category A DAS when participating in the CA I Hookgear Haddock SAP, the Eastern U.S./Canada SAP Pilot Program, or the Category B (regular) DAS pilot program was not included with the information collection burden estimate submitted under OMB Control No. 0648-0489. Therefore, the “flipping” provision contained within Framework 40A is in addition to the previous burden estimates included within the submission for Amendment 13.

**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 Quality Guidelines.**

The information requested would be used by several offices of NOAA Fisheries and the U.S. Coast Guard for the monitoring, implementation, and enforcement of the provisions outlined in Amendment 13 and Framework 40A.

As stated previously, Amendment 13 created three categories of DAS within the NE multispecies fishery. Category B DAS may only be used in specific circumstances. Also, vessels fishing under a Category B (regular) DAS must “flip” their DAS to a Category A DAS should they exceed the low landing limits for certain species. Therefore, it is important to determine which category DAS a vessel is using in order to accurately monitor compliance with the regulations. Vessels participating in the Category B (regular) DAS pilot program, the Eastern U.S./Canada

SAP Pilot Program, or the CA I Hookgear Haddock SAP would be required to declare which category DAS they would be operating under prior to each fishing trip. Should these vessels need to “flip” their DAS, they would be required to declare this through VMS. Those vessels participating in the SAPs every time they intend to operate under the requirements of these SAPs and/or “flip” their DAS must submit this information. This information would be used by NOAA Fisheries enforcement personnel to monitor and track DAS usage and insure compliance with the appropriate regulations.

Framework 40A would modify some of the provisions of the U.S./Canada Resource Sharing Understanding. Under this agreement, participating vessels are required to use VMS for all operations within the U.S./Canada Management Area, including the CA II Haddock SAP identified above. In addition, vessels electing to participate in the CAI Hookgear Haddock SAP, the Eastern U.S./Canada SAP Pilot Program, or the Category B (regular) DAS pilot program would be required to use VMS. Vessels not already possessing a VMS would be required to purchase and install a VMS unit meeting the criteria specified in the final rule for Amendment 13. Vessels would only be required to purchase a certified VMS unit one time. Vessels required to install a new VMS in order to participate in these programs would be required to submit documents to prove that an operational NOAA Fisheries-certified VMS unit has been installed. Once multispecies vessels chose to use VMS, they would be polled once per hour to determine geographic location regardless of the area they are fishing in. However, when fishing in either the CA CA II, or I vessels would be polled at a rate of twice per hour. Polling would continue 365 days per year, regardless of vessel activity, unless the VMS is turned off according to the VMS power down exemption process implemented under Amendment 13. Vessels participating in these programs would be required to notify NOAA Fisheries, via a telephone call, of their intent to fish in the above programs at least 72 hours prior to each trip for the purposes of providing adequate observer coverage on these trips.

The NOAA Fisheries Office of Law Enforcement would use proof of VMS installation and operation, geographic data obtained from the polling of vessels, as well as the area and DAS declaration information provided to participate in the SAPs and the Category B (regular) DAS pilot program to identify participants as well as enforce the program provisions. Vessels may participate in these programs multiple times throughout the fishing year. However, the RA may limit the number of trips into the SAPs or close areas under these SAPs under specific circumstances. Enforcement personnel to monitor compliance with effort and area restrictions would use DAS and area declaration information. This information is currently being used to track and monitor vessel position; DAS use; and the number of trips into the Closed Area II Yellowtail Flounder SAP.

NOAA Fisheries would use notifications of the intent to fish within the SAPs or the Category B (regular) DAS pilot program to ensure that these trips have adequate observer coverage. Vessels would be required to inform NOAA Fisheries of the vessel name, contact name for coordination of observer deployment, telephone number for contact, date, time and port of departure, and the area to be fished. NOAA Fisheries, or a contractor designated to implement the observer program, would use this information to select which vessels, in addition to all other eligible vessels operating outside of these programs, would be requested to carry NOAA Fisheries-approved observers or sea samplers during a specific trip. Observers would be used to monitor

vessel activity and to collect catch and discard data. Once again, this information is currently being used to deploy NOAA Fisheries-approved observers or sea samplers for vessels intending to fish within the Closed Area II Yellowtail Flounder SAP or the U.S./Canada Management Area approved under Amendment 13.

It is anticipated that the information collected would be disseminated to the public or used to support publicly disseminated information. As explained in the preceding paragraphs, the information gathered has utility. NOAA Fisheries would retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response #10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information would be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

**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 declaration of DAS category use would be accomplished electronically through the VMS when operating under the Category B (regular) DAS pilot program, the CA I Hookgear Haddock SAP, or the Eastern U.S./Canada SAP Pilot Program. Also, under the SAPs outlined in Framework 40A, vessels would be required to specify which area of a particular SAP they intend to operate in prior to leaving the dock. This can be accomplished electronically through the VMS. This incorporates the most advanced means of reporting this information to date. These requirements were previously approved under OMB Control No. 0648-0489.

**4. Describe efforts to identify duplication.**

NOAA Fisheries is aware of all related fishery management activities, and these requirements do not duplicate any in existence.

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

Only the minimum data to meet the requirements of the above data needs are requested from all participants. Since most of the respondents are small businesses, separate requirements based on the size of the business have not been developed.

NOAA Fisheries recently certified a new VMS vendor that is less expensive than the other certified VMS vendor currently being used by the fishing industry. In addition, this new VMS vendor uses hardware and software that more closely mirrors those used in home computers. These units are, therefore, more familiar to industry participants than the other certified vendor. This reduces the burden on the public by minimizing the need to learn to use unfamiliar hardware and software associated with VMS as well as minimizing costs associated with VMS.

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

The consequences of not conducting the collection of information described above would prevent these provisions of Framework 40A from being implemented. This collection of information is necessary for a variety of reasons specific to each particular provision. Failure to collect the above information or collecting it less frequently may compromise the ability of the provisions outlined in Framework 40A to provide opportunities to target healthy stocks without threatening the mortality objectives of Amendment 13. This may also prevent participants from participating in programs specified in Framework 40A such as the SAPs or the Category B (regular) DAS pilot program that would offset potential negative economic impacts caused by reductions in DAS that were adopted by Amendment 13.

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

Some of the requirements would not be consistent with OMB guidelines with regard to the reporting frequency. While OMB does not allow that respondents be required to report more often than quarterly, requirements for VMS polling requested with this submission would require more frequent reports. This information collection is required to be submitted twice per hour for vessels fishing in the U.S./Canada Management Area and/or the closed areas for the SAPs mentioned above. Polling of vessels twice per hour is required in order to accurately monitor vessel position and activity. This information would be used to by NOAA Fisheries Office of Law Enforcement to enforce provisions of the U.S./Canada Management Area, the Eastern U.S./Canada SAP Pilot Program, the CA II Yellowtail Flounder SAP, the CA I Hookgear Haddock SAP, and the Category B (regular) DAS pilot program, including those regarding areas fished, transiting of portions of CA II, and possession limits.

**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.**

The Council held many Council and Groundfish Oversight Committee meetings during the development of Framework 40A during the period January 2004 through May 2004 during which there were opportunities for public discussion of proposed management strategies. The Council approved the measures contained in Framework 40A, including those specified above, on May 12, 2004. The information collections contained in this submission are part of a proposed rule (RIN 0648-AS34) to implement management measures outlined in Framework Adjustment 40A to the NE Multispecies FMP. This rule announces the provisions specified above and solicits public comment on the program and the information collection requirements necessary to implement this program.

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

Neither payments nor gifts are given to the respondents.

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

All data would be handled in accordance with NOAA Administrative Order 216-100, Confidentiality of Fisheries Statistics, and would not be released for public use except in aggregate statistical form (and without identifying the source of data, i.e., vessel name, owner, etc.). In addition, any information submitted according to the provisions outlined in Amendment 13 would be considered confidential and would not be disclosed except as provided in Section 402(b) of the Magnuson-Stevens Act.

**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.**

There are no questions of sensitive nature.

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

The following information is summarized in Table 1 at the end of the text. There are approximately 997 individual respondents estimated under this submission. These respondents are included within the same pool of potential respondents considered under the previous information collection submission for Amendment 13 (OMB Control No. 0648-0489). This is because the 997 individual respondents for this action are a subset of the total number of individual limited access permit holders in the NE multispecies fishery (approximately 1,400). Due to duplication of participants in the various programs, affected entities were only counted once. Regulatory changes contained in this action alter previously approved burden estimates for several programs and would implement new burden estimates for new programs specified under Framework 40A. This submission provides an estimate of new burdens associated with revised or new programs, and updates burden estimates in previously approved submissions with the exception that the number of affected entities remains unchanged from previous estimates included in OMB Control No. 0648-0489.

Amendments 5 and 7 to the NE Multispecies FMP granted the RA the authority to require all NE multispecies vessels to purchase, install, and use a certified VMS upon notice. NE multispecies vessels may voluntarily use VMS, but to date, only 118 vessels have elected to do so. Although this has yet to be required of all NE multispecies vessels, previously approved information collection submissions for these actions included the burdens associated with requiring all NE multispecies vessels to purchase, install, and use a certified VMS unit. The number of vessels used in these burden estimates totaled 1,600 vessels, the number of NE multispecies vessels in the fishery at that time. Since that time, the number of NE multispecies vessels has declined and only 997 vessels are eligible to use Category B (regular) DAS. Therefore, the number of vessels

in the original burden estimates would likely include the additional group of vessels expected to participate in the Category B (regular) DAS pilot program under this submission that would be required to use a VMS. Therefore, the burden associated with purchase and installation of VMS for the participants the Category B (regular) DAS pilot program for this action has already been considered. As a result, for this action, the time burdens of one (1) hour for VMS installation and five (5) minutes (0.083 hours) for the proof of installation are included, but no number of entities is specified. The previous submission mentioned above also, therefore, considered the burden associated with purchase and use of a VMS in the CAI hook gear haddock SAP and the Eastern U.S./Canada SAP Pilot Program as only NE multispecies vessels would be eligible to participate in these SAPs.

In a previous submission for Amendment 13, available trip report data was used to obtain an estimate of the number of NE multispecies vessels (those using gear types associated with targeting groundfish, i.e., otter trawl, gillnet, longline) that have previously operated within the area defined as the U.S./Canada Management Area under Amendment 13. This resulted in an estimate of 400 vessels that would likely participate in the U.S./Canada Management Area and its associated SAPs. This number is likely to include the 118 NE multispecies DAS vessels that currently use VMS. As a result, these vessels were incorporated into the number used in further burden estimates associated with the Eastern U.S./Canada SAP Pilot Program and the U.S./Canada Management Area provisions under Framework 40A.

Once a NE multispecies DAS vessel elects to use VMS in order to fish the Category B (regular) DAS pilot program, these vessels would be polled for vessel position once per hour regardless of where the vessel operates. The most recent information collection burden estimate for the NE Permit Family of Forms (the renewal of OMB Control No. 0648-0202) assessed the burden for 52 NE multispecies vessels fishing with VMS. These 52 vessels are likely included within the 997 vessels eligible to participate in the Category B (regular) DAS pilot program under Framework 40A. Accordingly, for the burden associated with the automated VMS positional polling of vessels fishing in this program, a total of 945 vessels was used. The burden for the automated polling of vessel position is estimated to be five (5) seconds (0.001 hours) per poll. Therefore, the annualized burden for VMS positioning for this provision is 8,278 hours (24 polls/day x 365 days/year x 0.001 hours/poll x 945 vessels).

The previous submission under Amendment 13 (OMB Control No. 0648-0489) estimated that 400 vessels would be polled twice per hour every day of the year when operating in the U.S./Canada Management Areas and its associated CA II SAPs and the CA I Hookgear Haddock SAP. This is not consistent with the current policy to only poll vessels twice per hour when operating in closed areas or when operating in the U.S./Canada Management Area. The previous overall burden estimate of 3,504 hours, therefore, is too high. Assuming that these 400 vessels participated in five (5) trips per year with an average trip length of seven (7) days, 14,000 days would be fished in the U.S./Canada Management Area and its CA II SAPs (the CA II Yellowtail Flounder SAP under Amendment 13 and the Eastern U.S./Canada SAP Pilot Program modified under Framework 40A). Therefore, a total of 14,000 days would require VMS positional polling twice per hour under this revised estimate. This results in a revised annualized burden to vessels fishing within the U.S./Canada Management Area and the CA II SAPs under Amendment 13 of 336 hours (14,000 days x 24 polls/day x 0.001 hours/poll). The 2,090 DAS that would be used

in the Eastern U.S./Canada SAP Pilot Program under Framework 40A would likely be included in the 14,000 DAS estimated for the U.S./Canada Management Area and the CA II SAPs under Amendment 13. Therefore, the total revised burden estimate for the additional VMS positional polling for operations within the U.S./Canada Management Area and the CA II SAPs would be 336 hours, a reduction of 3,168 hours from the previous submission under OMB Control No. 0648-0489. Similarly, vessels participating in the CA I Hookgear Haddock SAP would only be polled twice per hour when fishing in CA I. For vessels participating in the CA I Hookgear Haddock SAP under this submission, the revised estimated annualized burden associated with the additional automated polling is 48 hours (24 polls/day x 2,000 days/year x 0.001 hours/poll). This represents a reduction of 5,112 hours from the previous submission under OMB Control No. 0648-0489 for this provision.

For the Category B (regular) DAS pilot program, the maximum number of trips possible is 4,000 in a year. It is possible, however, that a vessel could start a Category B (regular) DAS trip and not be able to stay within the low landing limits for stocks of concern. In this case, the vessel would have to change to a Category A DAS (“flip” a DAS) and report the change by VMS. Not only is there a collection burden associated with the DAS “flip,” but once a trip is “flipped” it no longer counts as a Category B (regular) DAS trip. The vessel may then choose to start another trip as a Category B (regular) DAS. It is not possible to know with any certainty how often vessels would “flip” DAS. This submission assumes that half of the Category B (regular) DAS would be flipped, creating a burden for an additional 2,000 Category B (regular) DAS declarations for a total of 6,000 declarations. These declarations are made through VMS. These declarations are expected to take five (5) minutes (0.083 hours) per response, including time to read through all of the menus and options presented. Therefore, the annualized burden of declaring into the Category B (regular) DAS pilot program for the maximum 6,000 trips per year is 498 hours (6,000 declarations x 0.083 hours/declaration). In addition, “flipping” a DAS would result in an additional reporting burden for the estimated 2,000 DAS “flips.” It is estimated that reporting a “flip” via VMS would take 5 minutes (0.0833 hours), for a total reporting burden of 166 hours.

Framework 40A creates opportunities to use Category B DAS in two SAPs and in the Category B (regular) DAS pilot program. Vessels using these programs would have to declare their intent to use a Category A or B DAS every time they wished to fish under one of the SAPs or the Category B (regular) DAS pilot program. In addition, these vessels would be required to declare the area in which they intend to fish prior to leaving the dock. These declarations are made through VMS. These declarations are expected to take five (5) minutes (0.083 hours) per response, including time to read through all of the menus and options presented. A previous submission accounted for the burden associated with the CAI hook gear haddock SAP, the Eastern U.S./Canada SAP Pilot Program, and fishing in the U.S./Canada Management Area. Framework 40A does not change the burden estimates for the Eastern U.S./Canada SAP Pilot Program or fishing in the U.S./Canada Management Area. The burden estimates for the CA I Haddock SAP, however, are re-estimated because analysis in FW 40A suggests the number of participants and trips in this SAP would not be as large as estimated in OMB Control No. 0648-0489.

Between 2001 and 2003, approximately 187 vessels with limited access NE multispecies permits specified on their permit applications that longline gear was their primary gear. Given that Framework 40A requires that all vessels exclusively use longline gear (i.e. longline or tub trawls) to participate in this SAP, the 187 vessels specified above provides an estimate of the potential number of vessels that may participate in the CA I Hookgear Haddock SAP under Framework 40A. Due to this requirement, it is speculated that several vessels may use hookgear that did not specify this as their primary gear on their permit application. Therefore, for this information collection, an estimate of 200 vessels was used to assess the information collection burden for vessels participating in the CA I Hookgear Haddock SAP.

Under Framework 40A, there is no limit to the number of trips that an individual vessel may take into the CA I Hookgear Haddock SAP. Instead, the CA I Hookgear Haddock SAP is limited by the haddock catch limitation and the specified season. Based on an experimental fishery conducted in 2003, the haddock catch allocated to this SAP would be taken in 500 days fished per quarter or less, or a total of 2,000 days fished on an annualized basis. As proposed in Framework 40A, this SAP would only take place in one quarter, but future actions may extend the season so the annualized number of trips is used in this analysis. Therefore, the total number of trips is estimated at no more than 2,000 days if the SAP is extended to a year round access program. Since each trip requires only one declaration for the intended area to be fished and the DAS category to be used, this amounts to a total of 2,000 declarations for this submission and an annualized burden of 166 hours. This represents a reduction of 2,181 hours from the original estimated annualized burden of 2,347 hours included in OMB Control No. 0648-0489.

Vessels fishing in the Eastern U.S./Canada SAP Pilot Program must remain within a low cod catch limit in order to use a Category B DAS. If a vessel exceeds the low cod catch limit, it must “flip” to a Category A DAS, creating an additional reporting burden. It is not possible to know how often this would be necessary. Analysis in Framework 40A estimates that the maximum number of DAS that would be fished in the Eastern U.S./Canada SAP Pilot Program is no more than 2,090. If half of these DAS must be “flipped” because the cod catch limit is exceeded, then it creates a burden of 1,045 declarations per year. It is estimated that declaring a “flip” via VMA would take five (5) minutes (0.0833 hours) for a total annualized burden of 87 hours. Unlike the Category B (regular) DAS pilot program “flip” provision, this practice would not result in additional trips into the Eastern U.S./Canada SAP Pilot Program since the number of trips is limited by a hard TAC on GB haddock and GB cod and any catch – regardless of the type of DAS used – is applied against those TACs.

Framework 40A would require vessels participating in the Category B (regular) DAS pilot program, the CAI Hookgear Haddock SAP, the Eastern U.S./Canada SAP Pilot Program, and fishing in the U.S./Canada Management Area, to notify NOAA Fisheries, or the contracting company tasked with providing observer coverage for Northeast fisheries, of their intent to fish within these programs at least 72 hours prior to each trip. The reporting burden for the CAI Hookgear Haddock SAP, the Eastern U.S./Canada SAP Pilot Program, and for fishing in the western U.S./Canada Area was estimated in a previous submission (OMB control number 0648-0489). The previous submission estimated a reporting burden for observer coverage declarations based upon the requirement to notify NOAA Fisheries or the contractor at least 5 working days prior to each trip. This requirement was modified to 72 hours for the U.S./Canada Management

Area and will soon be modified in a future rulemaking consistent with the Administrative Procedures Act for the CA II Yellowtail Flounder SAP approved under Amendment 13. This modification of the minimum reporting time is not expected to increase the number of declarations and does not, therefore, affect the reporting burden for observer coverage for the CA II Yellowtail Flounder SAP or the U.S./Canada Management Area. This submission updates the estimates for the CAI Hookgear Haddock SAP based on the fewer number of trips that are expected, but does not change the reporting burden for the Eastern U.S./Canada SAP Pilot Program.

For the Category B (regular) DAS pilot program, there are 997 vessels eligible to participate. The maximum number of DAS that can be used in the program is 1,000 per quarter, or 4,000 DAS on an annualized basis. This notification is expected to take approximately two (2) minutes (0.033 hours) per call. Each vessel is estimated to take approximately one (1) trip in the program during each quarter, resulting in an additional burden of four (4) responses per vessel every year. However, as specified above, this submission assumes that half of the Category B (regular) DAS (2,000) would be flipped to a Category “A” DAS. Therefore, an additional 2,000 observer notifications for trips into the Category B (regular) DAS pilot program per year. This results in a total of 6,000 observer notifications for this program per year, or approximately six (6) notifications per vessel per year. Therefore, this provision would result in an additional annualized burden of 198 hours (6 notifications/year x 997 vessels x 0.033 hours/notification).

A previous submission estimated that the requirement for vessels participating in the CA I Hookgear Haddock SAP to provide advance notice of a trip to the observer program would result in a burden of 933 hours. This estimate was based on 48 trips each by 589 participants. The CAI Hookgear Haddock SAP proposed in Framework 40A would likely result in no more than 2,000 trips. The revised estimate for the reporting burden associated with this advance notice requirement is 66 hours based on 2,000 notifications that take two (2) minutes (0.033 hours) per call, a reduction in the reporting burden of 867 hours.

Framework 40A also requires those vessels interested in participating in the CA I Hookgear Haddock SAP to notify the observer program of their intent to participate by a date to be specified by the RA. This notification would be in the form of a telephone call to the observer program contractor. This call is expected to take two (2) minutes (0.033 hours) per call. For the 200 participants expected to participate in this SAP under Framework 40A, this represents a burden of 7 hours annually.

**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 following information is summarized in Table 1 at the end of the text. It is difficult to accurately estimate the burden associated with the Category B (regular) DAS pilot program under this action since the frequency of participation would be determined entirely by the vessel owner. All participants in the program must use VMS. All vessels that do not currently possess VMS must obtain one under this provision. The cost of purchasing and installing a VMS, along with the associated operational costs, have already been considered in previous information

collection submissions for the pool of vessels expected to participate in these SAPs. In fact, the costs associated with these previous estimates for VMS unit purchase and installation (\$6,000) are higher than current cost estimates (\$3,600) and are considered to over-estimate the actual costs. Accordingly, the costs associated with the purchase, installation, and operation of VMS units are not included in this submission.

As stated previously, vessels operating within the U.S./Canada Management Area, the CA I Hookgear Haddock SAP, or the Eastern U.S./Canada SAP Pilot Program must use a VMS. These vessels would be polled twice per hour while operating within the closed areas or the U.S./Canada Management Area under these provisions. The costs of this increased polling were considered under a previous submission, but were all borne by respondents or recordkeepers under the operational costs associated with VMS. However, the NE VMS Program of NOAA Fisheries pays for polling in excess of the base VMS positional reporting requirements. For the NE multispecies fishery, the base VMS positional reporting rate is one (1) poll per hour. Therefore, the NE VMS Program would pay for the additional VMS positional polling requirements specified under Framework 40A and discussed below. In addition, the NE VMS Program also pays for any information submitted using VMS forms (i.e., area and DAS declarations). These costs were originally included as public costs under OMB Control No. 0648-0489 for Amendment 13. This information collection submission revises these costs and includes them as government costs in Section 14 below.

Currently, there are two certified vendors providing VMS services, Boatracs and Skymate. Under OMB Control No. 0648-0489, an estimated monthly operations cost of \$150 was used. This represents the monthly operating costs of the Boatracs VMS, a more conservative estimate for the monthly operating costs between the two VMS systems currently certified. This cost assumes a vessel positional polling rate of two polls per hour. Subtracting the charge for increased polling (\$0.07 per additional poll paid by the NE VMS Program) results in an average monthly cost of \$100 per vessel. This rate is a basic estimate and would vary from vessel to vessel based primarily upon the number of electronic messages sent and received by individual vessels. It represents a conservative estimate of the yearly operating costs to vessels for VMS operation. Because this action does not affect the number of electronic messages sent and received by an individual vessel except for the area, DAS category, and DAS “flipping” declarations specified below, it is estimated that the provisions within Framework 40A would not increase the basic monthly operational costs of VMS beyond that which was previously estimated.

The previous information collection under regarding the burdens associated with the provisions contained within Amendment 13 under OMB Control No. 0648-0489 inadvertently did not include VMS operational costs for vessels participating in the U.S./Canada Management Area, including the associated SAPs in CA II, or the CA I Hookgear SAP. Framework 40A would require all vessels participating in the Category B (regular) DAS pilot program to use VMS. It is estimated that a total of 997 vessels would be eligible to participate in this program. This number likely includes the vessels participating in the U.S./Canada Management Areas and the CA II Yellowtail Flounder SAP under Amendment 13 and the Eastern U.S./Canada SAP Pilot Program and the CA I Hookgear Haddock SAP proposed under Framework 40A.

The renewal of the NE Permit Family of Forms (OMB Control No. 0648-0202) assessed the operational costs of 52 NE multispecies vessels that were voluntarily using VMS. The 997 individual respondents likely to participate in the provisions included within Framework 40A includes the 52 vessels that are currently using VMS. However, the previous assessment for the 52 vessels used a monthly operating cost of \$150. Using the correct monthly operating cost of \$100 for vessels fishing in the NE multispecies fishery as specified above, the total annualized VMS operating costs for NE multispecies vessels fishing under the provisions of Amendment 13 and Framework 40A is \$1,196,400 (997 vessels x \$100/month).

The 997 possible participants in the Category B (regular) DAS pilot program may be requested to carry on board observers during trips into this area. Information obtained from observers aboard fishing trips within these SAPs is not considered information submitted by the vessel owner or operator, but rather information submitted by the observer to NOAA Fisheries. For the consideration of this submission, there are no additional costs to the public for observer coverage as specified in Amendment 13.

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

A full summary of the following information may be found in Table 2.

NOAA Fisheries Northeast Region currently operates a VMS system for the Atlantic sea scallop and NE multispecies fisheries. The ongoing (recurring) costs amount to \$300,000 a year and include staff costs, internet connection, training, travel and the annual costs for equipment and the back-up system (see Table 2). These costs are not expected to increase with the VMS requirement for the declaration of DAS category for vessels participating in approved SAPs or the Category B (regular) DAS pilot program under Framework 40A. This declaration is performed through the VMS and is automatically entered into computer databases.

As stated above, the NE VMS Program of NOAA Fisheries pays for VMS positional polling in excess of the base reporting rate for a particular fishery. Therefore, this program would pay for additional VMS positional polling resulting from the U.S./Canada Management Area and the CA II Yellowtail Flounder SAP under Amendment 13 and the Eastern U.S./Canada SAP Pilot Program and CA I Hookgear Haddock SAP under Framework 40A. This cost sharing was not included in the information collection estimates submitted under Amendment 13 (OMB Control No. 0648-0489) and all vessels bore the cost of two polls per hour every day of the year in their VMS operational costs. Assuming that these 400 vessels participated in five (5) trips per year with an average trip length of seven (7) days, 14,000 days would be fished in the U.S./Canada Management Area and its CA II SAPs. Assuming that each additional VMS positional poll costs \$0.07, this results in an annual cost of \$23,520 ( $\$0.07/\text{poll} \times 24 \text{ polls/day} \times 14,000 \text{ days}$ ) to the government for the additional polling costs associated with vessels operating in the U.S./Canada Management Area and the CA II SAPS. In addition, assuming that 2,000 days are used in the CA I Hookgear Haddock SAP, the annualized cost to the government for additional VMS positional polling is \$3,360.

Costs involved with the submission of form based data (i.e., area and DAS declarations via VMS) are paid by the NE VMS Program of NOAA Fisheries in addition to the cost of additional

VMS positional polling. These costs were originally borne by participating vessels in the previous submission (OMB Control No. 0648-0489). This action revises these estimates by subtracting public costs associated with the previous submission for Amendment 13 and adding the revised costs to the government along with any additional costs associated with area and DAS declarations for the provisions under Framework 40A.

Vessels participating in the Category B (regular) DAS pilot program, the CA I Hookgear haddock SAP, the Eastern U.S./Canada SAP Pilot Program, or those vessels fishing in the Western U.S./Canada Area and outside of the Western U.S./Canada Area according to the provisions proposed as part of Framework 40A would be required to declare via VMS their intent to fish in one of the programs specified and the category of DAS they intend to use while fishing within the program prior to leaving port for each trip. The reporting costs for fishing in the Western U.S./Canada area, the CAI hook gear haddock SAP, and the Eastern U.S./Canada SAP Pilot Program were provided in a previous submission. Each declaration into a program or the area to be fished and DAS to be used via VMS would cost \$0.50 per submission. For the Category B (regular) DAS pilot program, the maximum number of trips that can be taken each year is 6,000 (annualized), including an additional 2,000 trips due to DAS “flipping.” This results in an annualized costs associated with these declarations of \$3,000 (6,000 declarations x \$0.50/declaration). In addition, each DAS “flip” would also require a declaration via VMS. Once again, each declaration would cost \$0.50 per submission. The estimated 2,000 DAS “flips” expected from this program would result in an additional annualized cost of \$1,000 to participants. These costs would be considered new costs to the government as they are new requirements under Framework 40A.

Based on the revised estimate of the number of trips that are likely to be taken in the CA I Hookgear Haddock SAP, the annualized cost associated with the area and DAS declarations for these vessels amounts to \$1,000. The previous estimate included an annualized public cost of \$14,136 for this provision in OMB Control No. 0648-0489. Therefore, this action modifies the previous burden estimates in OMB Control No. 0648-0489 by reducing the annualized public costs by \$14,136 and adding an annualized cost of \$1,000 to the government. In addition, a total of 1,045 DAS are expected to be “flipped” for the Eastern U.S./Canada SAP Pilot Program. Each “flip” requires a declaration via VMS. Using an estimated cost of \$0.50 per submission, the 1,045 “flips” are expected to cost \$523 annually, a new burden estimate. Finally, the costs associated with the area and DAS declarations for vessels fishing in the U.S./Canada Management Area and the CA II SAPs were previously assessed as a public costs. However, since the NE VMS Program pays for these submissions, this submission subtracts the cost of this reporting, \$1,000 (2,000 declarations x \$0.50/declaration) from the public burden and adds a cost of \$1,000 to the government.

Participants in the Category B (regular) DAS pilot program would be required to notify the observer program contractor prior for NOAA Fisheries prior to each trip. The contractor or NOAA Fisheries will make a determination whether an observer will be required for that trip and will advise the vessel operator. It is expected that approximately 6,000 trips per year may be started in this program in this program. Each response is expected to require approximately 10 minutes (0.17 hours). A wage rate of \$25/hour was used to calculate the annualized cost to the government of \$25,550 (6,000 trips x 0.17 hours/response) for this program. Vessels

participating in the CAI Hookgear Haddock SAP must make a similar notification. The costs for that notification were estimated in a previous submission (OMB Control No. 0648-0489) to be \$120,156 (0.17 hours per response for 589 vessels making 48 trips per year). This submission revises that estimate to \$8,500 (based on a maximum of 2,000 trips at 10 minutes (0.17 hours) per response). This results in a reduction in estimated costs of \$111,656 for the administration of this program.

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

Amendment 13 met Magnuson-Stevens Act requirements to adopt formal rebuilding programs for overfished fisheries, and to end overfishing. The regulations required to reduce fishing mortality on several groundfish stocks will likely result in substantial negative social and economic impacts to the fishing industry. Accordingly, a number of provisions within Framework 40A strive to provide flexibility and opportunities for the industry to take advantage of stocks in better condition. The proposed data collection would be used to implement and manage the above proposed program changes resulting from new requirements specified under Framework 40A. While this submission modifies some of the information collection burdens associated with a previously approved information collection for the CA I Hookgear Haddock SAP and the Eastern U.S./Canada SAP Pilot Program under Amendment 13 (OMB Control No. 0648-0489), the revisions included with this action represent changes to the number of entities affected and the burden estimates resulting from changes to the proposed regulations governing these programs. Therefore, this action represents program changes for these provisions and not adjustments.

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

Results from this collection may be used in scientific, management, technical or general informational publications such as Fisheries of the United States that follows prescribed statistical tabulations and summary table formats. Data are available to the general public on request in summary form only; data are available to NOAA Fisheries employees in detailed form on a need-to-know basis only.

**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 will display the OMB control number and expiration date along with information relevant to the Paperwork Reduction Act of 1995.

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

All instances of this submission comply with 5 CFR 1320.9.

**B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS**

No statistical methods are employed in the information collection procedures.

**Table 1: Costs associated with the Permit Family of Forms (OMB Control # 0648-0489) as modified by Framework 40A to the NE Multispecies FMP**

Permit Requirement	# of Entities <sup>(1)</sup>	Items Per Entity	Total # of Items	Response Time	Total Burden	Cost to:	
						Public	Govt. <sup>(2)</sup>
<b>VMS Installation for Category B (regular) DAS Pilot Program Participants</b>							
VMS Purchase and Installation	0	1	0	1	0	\$0	\$0
VMS Proof of Installation	0	1	0	0.083	0	\$0	\$0
<b>Automated VMS Polling of Vessel Position</b>							
Category B (regular) DAS Pilot Program	945	8,760	8,278,200	0.001	8,278	\$0	\$0
U.S./Canada Area and CA II SAPs (including the Eastern U.S./Canada SAP Pilot Program)	400	840	336,000	0.001	-3,168	\$0	\$23,520
CA I Hookgear Haddock SAP	200	240	48,000	0.001	-5,112	\$0	\$3,360
<b>VMS Operational Costs<sup>(3)</sup></b>							
NE Multispecies Vessels <sup>(4)</sup>	945	N/A	N/A	N/A	N/A	\$1,196,400	\$0
<b>Area and DAS Declaration (time burden and message cost)</b>							
Category B (regular) DAS Pilot Program <sup>(5)</sup>	997	6	6,000	0.083	498	\$0	\$3,000
Category B (regular) DAS Pilot Program - DAS "flip" <sup>(5)</sup>	997	2	2,000	0.083	166	\$0	\$1,000
CA I Hookgear SAP Area and DAS Declaration (revised estimate) <sup>(5)</sup>	200	10	2,000	0.083	-2,181	-\$14,136	\$1,000
Eastern U.S./Canada SAP Pilot Program - DAS "flip" <sup>(5)</sup>	400	3	1,045	0.083	87	\$0	\$523
U.S./Canada Area and CA II SAPs (including the Eastern U.S./Canada SAP Pilot Program) <sup>(5)</sup>	400	5	2,000	0.0833	N/A	-\$1,000	\$1,000
<b>Observer Notification Requirements</b>							
Category B (regular) DAS Pilot Program	997	6	6,000	0.033	198	\$0	\$25,500
CA I Hookgear SAP (revised estimate)	200	10	2,000	0.033	-867	\$0	-\$111,656
<b>Declaration of Participation in the CA I Hookgear SAP</b>	200	1	200	0.033	7	\$0	\$0
<b>Totals<sup>(3)</sup></b>	<b>997</b>		<b>8,683,445</b>		<b>-2,094</b>	<b>\$1,181,264</b>	<b>-\$52,753</b>

(1) Counts affected entities only once.

(2) Assumes wage rate of \$25/hour.

(3) Assumes a monthly operational cost of \$150 per vessel.

(4) Includes the 400 vessels fishing in the U.S./Canada Management Areas and the CA II Yellowtail Flounder SAP under Amendment 13 as well as the provisions under Framework 40A.

(5) This number includes the 118 NE multispecies vessels that currently voluntarily use VMS.

**Table 2. Costs to the Government from VMS Monitoring.**

<b>VMS Monitoring</b>		
<b>Annual Costs</b>	Salary and Benefits <sup>1</sup>	\$230,000
	Internet Connection <sup>2</sup>	7,500
	Equipment <sup>3</sup>	20,000
	Back-up System <sup>4</sup>	38,960
	Software Licensing	3,500
	Supplies <sup>5</sup>	11,000
	Training and travel	8,000
	<b>Total ongoing costs</b>	<b>\$300,000</b>
<b>Start-up Costs</b>	Software adaptations	\$100,000
	<b>Total fixed costs</b>	<b>\$100,000</b>
	<b>Annualized Start-up Costs (at 5 year amortization)</b>	<b>\$20,000</b>
<b>Total Annual Costs<sup>6</sup></b>		<b>\$320,000</b>
<b>Previously Committed Costs</b>		<b>\$300,000</b>
<b>Total Annual Costs<sup>7</sup></b>		
<b>Net Annual Costs to Government from Herring VMS Monitoring</b>		<b>\$20,000</b>

**Source: Data supplied by NMFS, Office of Enforcement, Northeast Regional Center, and NMFS Headquarters**

1. Salary and benefits, three program support personnel.
2. 24-hour maintenance of secure Internet node at Gloucester, MA.
3. Lease and maintenance contract on CPU and monitor.
4. Lease and maintenance contract on CPU and monitor.
5. Optical storage disks, repairs and supplies associated with non-lease equipment (modem, router, printer, thermal paper, WORM drive).
6. Estimated by adding up annualized start-up costs (\$2,383) to total ongoing costs.
7. System operating costs currently funded to support program for the sea scallop fishery.

**ATTACHMENT 1:  
INFORMATION THAT MUST BE DISPLAYED ON FORMS  
USED TO COLLECT INFORMATION FROM THE PUBLIC**

**1. The policy reasons for collecting the information.**

This information will be outlined in a permit holder letter to be drafted at a later time. A summary of the information that will be presented in that letter is as follows:

This collection of information is necessary to implement and manage the provisions outlined in Framework 40A to the Northeast (NE) Multispecies Fishery Management Plan (FMP). Management measures under Framework 40A to the NE Multispecies FMP were developed to provide additional opportunities to target healthy stocks so that the Magnuson-Stevens Act requirement to attain optimum yield from the fishery can be met.

**2. The way in which the information will be used to further performance of agency functions.**

This information will be outlined in a permit holder letter to be drafted at a later time. A summary of the information that will be presented in that letter is as follows:

The information requested in the specified provisions will be used by several offices of NMFS to implement the specific provisions, including to track DAS usage, participation in special access programs, and vessel monitoring system operation, among others. Information collected through this information request would enable enforcement officials, including the U.S. Coast Guard, to monitor compliance with the provisions of the FMP, including those governing DAS usage and possession restrictions.

**3. An estimate of the average burden using the specified format.**

Since all information collected as part of this submission for provisions included within Framework 40A are submitted electronically via VMS, this information will be included in a permit holder letter to be sent to all vessels with a valid NE multispecies DAS permit once implemented according to the provisions of the Administrative Procedures Act.

**4. Whether responses are voluntary, required to obtain or retain a benefit, or mandatory.**

This information will be included in a permit holder letter to be sent to all vessels with a valid NE multispecies DAS permit once implemented according to the provisions of the Administrative Procedures Act.

**5. The nature and extent of confidentiality to be provided, if any.**

This information will be outlined in a permit holder letter to be drafted at a later time. A summary of the information that will be presented in that letter is as follows:

It is anticipated that the information collected will be disseminated to the public or used to support publicly disseminated information. As explained in the preceding paragraphs, the information gathered has utility. NOAA Fisheries will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. The information collection is designed to yield data that meet all applicable information quality guidelines. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to Section 515 of Public Law 106-554.

**6. A particular sentence involving the OMB Control Number.**

This information will be included in a permit holder letter to be sent to all vessels with a valid NE multispecies DAS permit once implemented according to the provisions of the Administrative Procedures Act.

# Magnuson-Stevens Fishery Conservation and Management Act

## Public Law 94-265

As amended through October 11, 1996

### SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS 16 U.S.C. 1853

95-354, 99-659, 101-627, 104-297

(a) **REQUIRED PROVISIONS.**--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall--

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are--

(A) necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interest in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify--

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3),

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing, and

(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States;

(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, and charter fishing in the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors;

(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;

(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;

(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan;

(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on--

(A) participants in the fisheries and fishing communities affected by the plan or amendment; and

(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants;

(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the

extent practicable and in the following priority--

(A) minimize bycatch; and

(B) minimize the mortality of bycatch which cannot be avoided;

(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors; and

(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery.

**97-453, 99-659, 101-627, 102-251, 104-297**

**(b) DISCRETIONARY PROVISIONS.**--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may--

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to--

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone [or special areas,]\* or for anadromous species or Continental Shelf fishery resources beyond such zone [or areas]\*;

(B) the operator of any such vessel; or

(C) any United States fish processor who first receives fish that are subject to the plan;

(2) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the--

(A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);

(B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and

(C) transshipment or transportation of fish or fish products under permits issued

pursuant to section 204;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery;

(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account--

(A) present participation in the fishery,

(B) historical fishing practices in, and dependence on, the fishery,

(C) the economics of the fishery,

(D) the capability of fishing vessels used in the fishery to engage in other fisheries,

(E) the cultural and social framework relevant to the fishery and any affected fishing communities, and

(F) any other relevant considerations;

(7) require fish processors who first receive fish that are subject to the plan to submit data (other than economic data) which are necessary for the conservation and management of the fishery;

(8) require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;

(9) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region;

(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research; and

(12) prescribe such other measures, requirements, or conditions and restrictions as are

determined to be necessary and appropriate for the conservation and management of the fishery.

**97-453, 104-297**

**(c) PROPOSED REGULATIONS.**--Proposed regulations which the Council deems necessary or appropriate for the purposes of--

(1) implementing a fishery management plan or plan amendment shall be submitted to the Secretary simultaneously with the plan or amendment under section 304; and

(2) making modifications to regulations implementing a fishery management plan or plan amendment may be submitted to the Secretary at any time after the plan or amendment is approved under section 304.