

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 02/28/2011

Department of Commerce
National Oceanic and Atmospheric Administration
FOR CERTIFYING OFFICIAL: Simon Szykman
FOR CLEARANCE OFFICER: Diana Hynek

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 12/20/2010

ACTION REQUESTED: Extension without change of a currently approved collection
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 201012-0648-011
AGENCY ICR TRACKING NUMBER:
TITLE: Expanded Vessel Monitoring System Requirement in the Pacific Coast Groundfish Fishery
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0573
The agency is required to display the OMB Control Number and inform respondents of its legal significance in accordance with 5 CFR 1320.5(b).

EXPIRATION DATE: 02/28/2014 DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	15,975	8,581	2,900,250
New	31,375	2,114	2,581,125
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	0
Change due to Agency Adjustment	15,400	-6,467	-319,125
Change Due to Potential Violation of the PRA	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official: Kevin F. Neyland
Deputy Administrator,
Office Of Information And Regulatory Affairs

List of ICs

IC Title	Form No.	Form Name	CFR Citation
VMS activation checklist, and purchase and position transmission costs	NA	VMS Installation and Activation Report	
VMS Exemption Reports			50 CFR 660.14
VMS Declaration Reports			

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 b. <input type="checkbox"/> None 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 _____ -6,467	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 or head of MB staff for L.O.s, or of the Director of a Program or Staff Office)

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT
VESSEL MONITORING SYSTEM REQUIREMENT
IN THE PACIFIC COAST GROUND FISH FISHERY
OMB CONTROL NO. 0648-0573**

A. JUSTIFICATION

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

This request is for renewal of this information collection.

The [Magnuson-Stevens Fishery Conservation and Management Act](#) (Magnuson-Stevens Act) established regional fishery management councils, including the Pacific Fishery Management Council (Council), to develop fishery management plans for fisheries in the United States (U.S.) exclusive economic zone (EEZ). The fishery management plans are intended to regulate fishing to ensure long-term productivity and achievement of optimum yield from these resources for the benefit of the nation. These plans are implemented by Federal regulations which are enforced by the National Marine Fisheries Service (NMFS) and the U.S. Coast Guard (USCG), in cooperation with State agencies.

Seven groundfish stocks are currently considered to be overfished: widow rockfish, bocaccio, darkblotched rockfish, cowcod, canary rockfish, Pacific Ocean perch, yelloweye rockfish, and petrale sole. Measures have been taken to protect the overfished stocks and to rebuild them to sustainable biomass levels. Large-scale, depth-based management areas*, referred to as Groundfish Conservation Areas (GCAs), are used to prohibit or restrict commercial groundfish fishing. These areas were specifically designed to reduce the catch of overfished species while allowing healthy fisheries to continue in areas and with gears where little incidental catch of overfished species is likely to occur.

GCAs are defined by points of latitude and longitude. The rockfish conservation areas (RCAs) are a sub-group of GCAs that are defined by points that approximate fathom curves for depth ranges where overfished rockfish species are commonly found. Deep-water fisheries between these points have been permitted in areas seaward of the RCAs, and nearshore fisheries have been permitted in areas shoreward of the RCAs. Vessels intending to fish in the deep-water slope fisheries are allowed to transit through the RCAs, providing their gear is properly stowed. Target fisheries with relatively low catch rates of overfished species, such as midwater trawling for pelagic species and pink shrimp trawling with finfish excluders, have been allowed to occur in the RCAs. Various state-managed fisheries where groundfish are incidentally taken also occur in the RCA; however, groundfish retention is restricted or prohibited within the RCAs.

In 2006, NMFS implemented additional closed area restrictions to protect bottom habitat from fishing gear impacts, as mandated by the Magnuson-Stevens Act. These areas are referred to as

*The GCAs and RCAs (closed areas) are latitude and longitude coordinates that create lines that have been designed to mimic depth-based contours. Certain fisheries with certain gears can only fish at certain depths. The depths that are "closed" are where the overfished species are frequently found.

Essential Fish Habitat (EFH) conservation areas. Like GCAs and RCAs, the EFH conservation areas will be defined by points of latitude and longitude.

Traditional enforcement methods (such as aerial surveillance, boarding at sea via patrol boats, landing inspections and documentary investigation) are especially difficult to use when the closed areas are large-scale and the lines defining the areas are irregular. Furthermore, when management measures allow some gear types and target fishing in all or a portion of the conservation area, while other fishing activities are prohibited, it is difficult and costly to effectively enforce closures using traditional methods. Scarce state and federal resources also limit the extent to which traditional enforcement methods can be used effectively.

To ensure the integrity of the GCAs and RCAs, a pilot Vessel Monitoring System (VMS) program was implemented on January 1, 2004 (OMB Control No. 0648-0478). The pilot program required vessels registered to Pacific Coast groundfish fishery limited entry (LE) permits to carry and use VMS transceiver units while fishing off the coasts of Washington, Oregon and California. The VMS program was expanded on January 1, 2007, to include all open access fisheries in addition to the limited entry fisheries. This expanded coverage of the VMS program enhanced state and federal enforcement's ability to monitor vessel compliance with GCAs, RCAs, and EFH conservation areas. This information collection, which was merged with OMB Control No. 0648-0478, Vessel Monitoring Program for the Pacific Groundfish Fishery, now covers both the limited entry and open access commercial groundfish fisheries. Regulations at [50 CFR 660.14](#) govern this program.

To support the VMS monitoring program, the following information must be submitted to NMFS: 1) VMS transceiver installation/activation certification reports, 2) hourly position reports, 3) exemption reports, and 4) declaration reports.

Installation/activation certification reports require vessel owners and operators to follow specific procedures when installing or re-installing a VMS transceiver unit. Upon activation the VMS installer must complete, sign, and return the certification form to NMFS. The form contains information on the VMS hardware and satellite communications services that are provided by private communications companies approved by NMFS.

Hourly position reports are automatically transmitted to NMFS via satellite once the VMS transceiver unit is installed and activated. Vessels that are required to have VMS must operate the mobile transceiver unit continuously 24 hours a day throughout the fishing year, except when a valid exemption report has been received by NMFS. The number of annual transmissions depends on the VMS transceiver that the vessel owner purchases and the number of fishing days per year in waters off the west coast. Many of the systems have a sleep function that automatically reduces the transmission reports when a vessel is in port. The sleep function allows for port stays without significant power drain or power shutdown. When the vessel goes to sea, the unit restarts and normal position transmissions automatically resume. Because the unit is continuously operable, NMFS may query the unit at any time to obtain a position report. There is no public burden counted for these reports, as they are completely automatic.

Exemption reports are optional. The exemption reports are sent by the vessel owner or operator when they want their vessel to be excused from the requirement to operate the mobile transceiver unit continuously 24 hours a day throughout the fishing year. Such exemptions are allowed only

for: vessels operating outside of the EEZ for more than 7 consecutive days, vessels that are continuously out of the water for more than 7 consecutive days, vessels that transfer the limited entry permit from the vessel and do not engage in any fishing off the west coast for the remainder of the year, vessels that depart the open access fishery for an extended period after the end of the fishing year, and for vessels that have had an emergency situation that resulted in vessel damage such as fire, flooding or other extensive physical damage that would require the VMS or power source to be disconnected. A vessel may be exempted from the requirement to operate the mobile transceiver unit continuously 24 hours a day if a valid exemption report is received by NMFS, Office for Law Enforcement (OLE) and the vessel is in compliance with all conditions and requirements of the exemption. An exemption report is valid until a second exemption report is sent to cancel the existing exemption.

Declaration reports are submitted to NMFS OLE by telephone and are valid until revised by the vessel operator. Vessel operators making declaration reports receive a confirmation number that verifies that the reporting requirements were satisfied. After a vessel has made a declaration report to NMFS and has been confirmed for a specific gear category, it cannot fish with any gear other than a gear type that has been declared for the vessel. If a vessel operator intends to use the vessel to fish in a different fishing category, a new declaration report must be submitted to revise the old declaration report.

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.

Installation/activation certification reports are used by NMFS Office of Law Enforcement (OLE) to confirm that a type-approved VMS unit was installed according to the prescribed procedures and that service has been arranged with an approved communications service provider. Activating the unit and requiring confirmation from NMFS OLE that automatic position reports are being received without error ensures the integrity of the monitoring program. Each VMS transceiver unit has a unique transmission signal that needs to be linked with a specific vessel for processing position reports.

Vessels registered to limited entry permits are required to have contact information on file with NMFS. However, vessels participating in the open access fisheries do not have federal permits. Therefore it is necessary to collect contact information from open access fishers. Having contact information is necessary to provide conformation and in the event that there are problems with the VMS reports. If there are transmission problems, NMFS will need to have ready access to contact information and installation information. NMFS can then apply troubleshooting techniques and as necessary, contact the vessel operator and discern whether the problem is associated with the transmitting hardware or the service provider.

Vessel owners are required to provide these reports following initial installation and after a reinstallation or when the hardware or communications service provider changes. A vessel is expected to submit a report the first time it participates in a fishery where VMS is required. Because the service life of a VMS unit is approximately 4 years, respondents are expected to submit 1 report every 4 years.

Hourly position reports will be used by NMFS to maintain the integrity of large geographical areas where fishing activities are restricted. On a broad level, the VMS vessel location reports are a cost effective tool used to facilitate enforcement of time/area closures in the fishery. The hourly position reports, are transmitted 24 hours per day throughout the fishing year (note: that some type-approved models have a sleep mode that automatically reduces the transmissions after an extended period of inactivity and resumes transmission when the vessel moves) and provide NMFS and USCG with real-time vessel location and activity information. Position information will also be used by NMFS fishery managers to evaluate fishing effort and determine whether further management measures are needed to protect low abundance species.

Exemption reports are sent by the vessel owner or operator when they want their vessel to be excused from the requirement to operate the mobile transceiver unit continuously 24 hours a day throughout the fishing year. Exemption reports are optional. The exemption reports allow flexibility to the industry participants while providing NMFS OLE with the information needed to determine why a position report is not being received from the vessel. Approximately 500 vessels are projected to send 2 exemption reports each per year.

Declaration reports are used by NMFS OLE to identify the fisher's intent to use the vessel to participate in a particular fishery with a specific gear. Because area restrictions are specific to the gear type and target fisheries, declaration reports are needed to adequately assess the vessel's activity in relation to the area restrictions. In addition to the groundfish fishery, there are numerous state and federal fisheries that occur in the EEZ off Washington, Oregon, and California. Because many of the groundfish vessels also participate in fisheries other than groundfish, during an enforcement flyover or from a VMS position report alone it is difficult to determine if they are fishing for groundfish or for a species and with a gear for which harvest is allowed in the closed area. Because groundfish regulations do not allow switching between fishing strategies on a single fishing trip, the declaration report can be used to affirm which regulations the participant is subject to on a particular fishing trip. Similarly, the declaration system assists the West Coast Groundfish Observer Program and NMFS OLE to know what vessels should have observer coverage. Therefore, a declaration report is necessary to identify what gear the vessel operator intends to use.

A single gear type is typically used for multiple trips, to reduce the reporting burden each declaration report will be valid until a new declaration is made or until an exemption report is received. This information will be used in combination with VMS to more efficiently and effectively direct the use of enforcement resources throughout the fishing year. Each vessel is estimated to send up to 20 declaration reports per year.

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. See response to Question 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. Although the information collected is not expected to be disseminated directly to the public, results may be used in scientific, management, technical or general informational publications. Should NOAA Fisheries Service decide to disseminate the information, it will be subject to the quality control measures and 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.

Installation/activation certification reports are available on the internet. Due to the need for the owner's signature, NMFS will use facsimile submission for the installation report. NMFS OLE will accept mailed submissions if the vessel owner prefers this method.

Hourly position reports are automatically sent from VMS transceivers installed aboard vessels. Once per hour, the unit automatically determines the vessel's location and transmits that position to a processing center via a communication satellite. The VMS transceiver units type-approved for use in the Pacific Coast groundfish fishery include models that automatically reduce the number transmissions, and thus the transmission costs after an extended period of inactivity by the vessel. In addition, vessel owners may choose to take advantage of the VMS technology by linking personal computers to VMS transceiver units to improve communication (by adding email capacity) and add other services such as newspapers or weather reports.

Exemption reports and declaration reports will be submitted by phone on a toll-free number. This form of reporting, available 24 hours per day, creates minimal burden for fishermen reporting, as well as for NMFS staff entering information into the database where it can be used in reports to monitor fishing activity. NMFS has prepared an example of a worksheet - not for submission to NMFS - that can be used by the caller to organize report information

4. Describe efforts to identify duplication.

There are no alternate sources of this information or duplicative requirements.

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

Most of the respondents qualify as small businesses. The burden on fishery participant was considered and only the minimum data needed to monitor compliance with regulations are being requested from respondents.

The VMS units that have been type-approved for this fishery range in costs and service features. This allows the vessel owner the flexibility in choosing the model that best fits the needs of their vessel. Vessels that have already purchased VMS transceiver units for other fisheries or personal purposes will be allowed to retain existing VMS transceivers, providing they are on the list of type-approved models and have been upgraded to the level required for the fishery.

The installation and activation reports request contact information from open access vessels only. Vessels participating in the limited entry fishery are required to have permits registered to the vessels. Contact information for vessels registered to limited entry permits will be obtained from the permits database. There are no federal permit requirements for open access fishery participants.

The submission of declaration reports was initially proposed to occur “per trip”. Following consultation with fishery participants, it was determined that the needs of NMFS OLE and the USCG could be met with less frequently made declaration reports. Therefore, it was determined that a declaration report identifying the type of gear being used by a vessel would remain valid until revised by the vessel operator or an exemption report was sent. This results in a significant reduction in the number of reports.

Following consultation with fishery participants prior to implementation of the pilot VMS program in the limited entry fisheries, it was determined that some vessels prefer to reduce the costs of reporting when leaving the EEZ off the coasts of Washington, Oregon, and California. Because a substantial number of permitted vessels also fish in waters off Alaska and in areas outside the EEZ, and because vessels are commonly pulled out of the water for extended periods, a VMS hourly report exemption option was added, which included an exemption report. During the development of the expanded VMS program additional exemptions were considered for: vessels that transfer the limited entry permit from the vessel and do not engage in any fishing of the west coast for the remainder of the year, vessels that depart the open access fishery for an extended period after the end of the fishing year, and for vessel that have had an emergency situation that resulted in vessel damage such as fire, flooding or other extensive physical damage that would require the VMS or power source to be disconnected. Exemption reports are optional. The exemption reports allow flexibility to the industry participants while providing NMFS OLE with the information needed to determine why a position report is not being received from the vessel.

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

Installation/activation certification reports -- The use and submission of installation/activation certification reports is required once for the initial installation, and again for a re-installation or when the hardware or communications service provider changes. Less frequent reporting would prevent NMFS and the vessel operator from confirming that the system is functioning properly.

Hourly position reports -- If the VMS was not operational, NMFS OLE agents and USCG would be tasked with monitoring closed areas via air and surface patrols. Because the USCG engages in multi-purpose missions, that include at sea surveillance of fisheries, homeland defense, search and rescue, and pollution response, monitoring efforts may be diverted from monitoring depth-based and EFH conservation areas. VMS provides a level of coverage that cannot be attained by these more traditional enforcement methods at a substantially lower cost.

A more liberal depth-based management regime is only possible if the integrity of the depth-based RCAs can be ensured. Without VMS it is likely that the depth-based management strategy will be discontinued. VMS is necessary to ensure the integrity of the RCAs. If this were the case, the management structure would revert back to very restrictive limits on healthy stocks in order to protect low abundance species.

Less frequent position reports would be ineffective in deterring the illegal activity. Along some areas of the coast, the RCAs and EFH areas are narrow or prime fishing grounds are near the boundary line. If reports were less frequently it would be possible for some vessels to fish within the restricted areas without being detected. This would undermine the integrity of the RCAs.

Exemption reports allow vessels to reduce or discontinue the VMS signal under specific conditions. If the reporting frequency were reduced, VMS signals would have to continue 24 hours per day throughout the calendar year. The reporting frequency has been reduced to the minimum amount needed to maintain the integrity of the RCAs.

Declaration reports are needed to determine if the vessels is engaged in a fishery that is allowed or prohibited in the closed area. The declaration reports allow traditional enforcement resources to be directed towards RCA or EFH conservation area incursions efficiently and effectively throughout the fishing year. The reporting frequency has been reduced to the minimum amount needed to maintain the integrity of the RCAs. In addition, the declaration reports are needed to identify a vessel's intent to participate in a fishery with a specific gear. Because groundfish regulations do not allow switching between fishing strategies on a single fishing trip, the declaration report can be used to affirm which regulations the participant is subject to on a particular fishing trip. Thus, the declaration report helps support enforcement efforts for participants that are not following the regulations for the fishery they have declared. Similarly, the declaration system assists the West Coast Groundfish Observer Program and NMFS OLE to know what vessels should have observer coverage. Therefore, a declaration report is necessary to identify what gear the vessel operator intends to use.

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

The collection is consistent with OMB guidelines.

8. Provide information on 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.

A Federal Register Notice published on October 7, 2010 (75 FR 62098) solicited public comments.

One comment was received. The comment, dated October 9, 2010, was from the U.S. Marine Mammal Commission and expressed strong support of the VMS program to implement spatial management measures for fisheries and to enforce those measures. The commenter noted that VMS is more accurate and less costly than some other alternatives such as aircraft overflights or the use of enforcement vessels.

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

No payments or gifts are provided under this program at this time.

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

Efforts were made in the design of the VMS program to ensure security of all individual vessel location data, including analysis and storage. The system includes measures to minimize the risk of direct or inadvertent disclosure of fishing location information. In addition, as stated on the forms, VMS data is considered confidential under [NOAA Administrative Order 216-100](#), Confidentiality of Fishery Statistics, and is subject to the confidentiality protection of Section 402 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.

No questions of a sensitive nature are asked.

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

Total burden hours and annual costs for the VMS unit installation and operation are presented in Table 1 below. Total annualized responses (activation reports, exemption reports, and declaration reports) are 31,375 (add values from Table 1 labeled 13b). Total annualized hours are 2,114 (add values from Table 1 labeled 13c).

Annualized hours with labor cost only (i.e. not associated with responses) are 7,500 (1,500 for installation of VMS units (4 hours installation annualized to 1 hour), and 6,000 for annual 2-hour VMS maintenance).

Total annualized hours for labor cost are $2,114 + 7,500 = 9,614$. Multiplied by \$30 per hour, total annualized labor cost is \$288,420.

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 Question 12 above).

Total annual cost burden for the VMS unit installation and operation are presented in Table 1 below. Total annualized capital expenses are \$937,500 (add values from Table 1 labeled 14a). Total annualized reporting expenses (for activation reports and transmission costs) are \$1,643,625 (add values from Table 1 labeled 14b). Total overall expenses are \$2,581,125.

Exemption and Declaration reports – Aside from the cost in time (see response to question 12) to summarize and call in a report, there will be no additional cost burden for respondents. All respondents are assumed to have access to a telephone. The telephone call will be placed through a toll-free number so the respondent will not pay for the call. All respondents are assumed to have access to a touch-tone telephone.

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

NMFS is required to ensure that VMS units have been installed properly and are operational. In addition, review of the data transmissions will be required to maintain the integrity of the restricted GCAs, RCAs, and EFH conservation areas. NMFS has one full-time employee (FTE) (GS-14, \$127,000) and four contract employees, at approximately \$55,000 who are dedicated to monitoring the system.

The estimated cost of the total program is \$437,000 for the first year and approximately \$400,000 in subsequent years. This cost includes the costs of continuing the telephone declaration system, supplies and equipment. The program has been operational since 2004 for limited entry participants and since 2008 for open access participants. The total annualized cost into the future is expected to remain approximately \$400,000.

15. Explain the reasons for any program changes or adjustments.

Adjustments: this renewal updates the estimated number of respondents: approximately 1,500 rather than approximately 2,000. Also, hours for VMS installation and maintenance are now counted as labor hours only, as there are no responses associated with them.

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

No formal scientific publications based on these collections are planned at this time. The data will be used for management reports and fishery management plan amendments and evaluations by NMFS and the Council. However, subsequent use of the data collected over a series of years may be included in scientific papers and publications.

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.

Not Applicable.

18. Explain each exception to the certification statement.

Not Applicable.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

No statistical methods are employed.

Table 1. Total burden hours and annual costs for the VMS unit installation and operation			
Installation/Activation			83i
Estimated VMS number of respondents	399 Limited Entry + est. 1,156 Open Access (578 active VMS units on OA vessels 12/2/2010 * 2 (because not all OA vessels active at any one time) = 1,156)	~1,500*	13a
Initial cost of VMS unit (vessel owner purchases type-approved model that best suits their need)		\$1,200 - \$3,800 (\$2,500)	
Cost of units for all respondents to purchase VMS transceiver unit**	(unit cost * 1,500 respondents)	\$3,750,000	
Annualized cost of transceiver unit for all respondents	(given 4 year service life)	\$937,500	14a
Annual number of installation/activation reports	(estimated at less than 1/4 of respondents per year)	375	13b
Hours per respondent to prepare installation/activation report		5 minutes	
Total hours for all respondents to prepare and submit installation/activation reports	(5 minutes * 1,500 respondents)	125	
Annualized hours for installation/activation reports per year	(5 minutes * 1,500 respondents/4 year service life)	31	13c
Annual cost to fax installation and activation reports	(\$3 per fax* 1,500 of respondents)/ 4 year service life)	\$1,125	14b
Hourly Position Reports – Cost only			
Estimated VMS number of respondents		1,500	
VMS position report transmission costs per respondent	(\$1-\$5/day * 365 days)	\$365 - \$1,825 (\$1,095)	
Annual VMS position report transmission costs for all respondents	(\$1,095 * 1,500 respondents)	\$547,500 - \$2,737,500 (\$1,642,500)	14b
Exemption Reports			
Estimated VMS number of respondents		1,500	
Annual number of exemption reports per year	(500 vessels at 2 times per year)	1,000	13b
Hours per response to prepare and submit exemption report		5 minutes	
Annual hours for all respondents to prepare and submit exemption reports	(5 minutes * 1000 reports)	83	13c
Declaration Reports			
Estimated VMS number of respondents		1,500	
Annual number of declaration report	(20 is the estimated average per respondent * 1,500 respondents)	30,000	13b
Hours per response to prepare and submit declaration reports		4 minutes	
Annual hours for all respondents to prepare and submit declaration reports	(4 minutes * 30,000 reports)	2,000	13c

*Since the number of vessels is not known exactly, we are choosing to use the approximate figure of 1,500.

** Vessels with VMS units have had them approximately 4 years and they will probably need replacing.

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7) Ask the operator to review the information in your declaration. Once you confirm that your declaration report is correct you may disconnect from the West Coast Groundfish Declaration Line.

Public reporting burden for this collection of information is estimated to average 4 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other suggestions for reducing this burden to Becky Renko, National Marine Fisheries Service/Northwest Region, at Becky.Renko@noaa.gov.

This information is confidential under Section 402 of the Magnuson-Stevens Fishery Conservation and Management Act. Notwithstanding any other provisions of the law, no person is required to respond to, nor shall any person be subjected to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number.

Vessel Monitoring Systems Installation and Activation Report for the Pacific Coast Groundfish Fishery

INSTRUCTIONS: This Vessel Monitoring System (VMS) Installation and Activation report for the Pacific Coast groundfish fishery is provided by the National Marine Fisheries Service (NMFS) pursuant to the regulatory requirements of 50 C.F.R. 660.14(d). The vessel owner or operator must follow the indicated procedures when installing or re-installing a type-approved VMS transceiver unit.

This VMS installation and Certification Report is applicable for the VMS transceiver units and communications service providers currently approved for use in the Pacific Coast groundfish fishery. As additional VMS transceiver units and communication service providers are approved, revised instructions will be posted on the NMFS, Office for Law Enforcement (OLE) web site at;

http://www.nmfs.noaa.gov/ole/nw_vms.html

and, on the NMFS Northwest Region web site at;

<http://www.nwr.noaa.gov/Groundfish-Halibut/Groundfish-Fishery-Management/Vessel-Monitoring-System/Index.cfm>

Follow the steps for the particular transceiver unit selected by the vessel owner. The vessel owner is responsible for all installation and activation costs. After the installation is complete and unit is activated, the owner must mail or fax the Installation and Activation Certification Report to NMFS, OLE, Northwest Division, 7600 Sandpoint Way NE, Seattle, WA 98115-6349. Fax (206) 526-6528.

INSTALLATION AND ACTIVATION

Begin by consulting the "Vessel Monitoring System, List of Approved Mobile Transceiver Units and Communications Service Providers for the Pacific Coast Groundfish Fishery". This list of type-approved transceiver units and communications service providers, which consolidates information published in the *Federal Register*, will be posted on the OLE and Northwest Region web sites. The list is also available from NMFS OLE by calling (206) 526-6135.

A VMS transceiver unit reimbursement opportunity may be available to fishing vessel owners and/or operators that have purchased an approved VMS transceiver unit in order to comply with fishery management regulations. To determine reimbursement eligibility, please review the information available from the Pacific States Marine Fisheries Commission web site, at;

http://www.psmfc.org/Vessel_Monitoring_System

Purchasing, installing and activating a new VMS transceiver unit:

Step 1: Contact the entities identified in the *Federal Register* Notice under “VMS Provider Addresses”. Indicate to the providers that you will be using the VMS transceiver unit for the Pacific Coast groundfish fishery and you would like to obtain purchase and installation information on the units they provide. Determine the transceiver unit and communications service provider that best suits your needs. Select which satellite system to use for the fishing vessel’s VMS.

Step 2: Install the VMS transceiver unit and antenna according to the installation instructions contained in the manual supplied by the manufacturer, or contact a marine electronics specialist or dealer to install the unit. **In order to be eligible for VMS transceiver unit reimbursement, a vessel owner and/or operator must have the VMS transceiver unit properly installed on the vessel by an authorized dealer or installer and activated utilizing a type approved communications provider.**

Step 3: Run the cable connecting the unit in the wheelhouse to the antenna mounted outside, through a solid, immovable and permanent part of the vessel such as a bulkhead, deck, or console.

Step 4: Turn on the power to the vessel transceiver.

Step 5: Confirm by phone, with your communications service provider’s Customer Service that periodic position reports are now automatically being sent to NOAA OLE.

Step 6: Once your transceiver unit is installed and activated and you have confirmed with your customer service provider that the unit is operational, fill out the “VMS Installation and Certification Report” and mail or fax it to NMFS.

VMS INSTALLATION AND ACTIVATION CERTIFICATION REPORT

The vessel owner must sign this statement certifying compliance with the installation procedures defined for VMS transceiver unit, then submit this certification to the National Oceanic and Atmospheric Administration, NMFS, Office for Law Enforcement (OLE), Northwest Division, 7600 Sandpoint Way NE, Seattle, WA 98115-6349. Fax (206) 526-6528. Before participating in a fishery requiring VMS transmissions, you must obtain a confirmation from NMFS OLE that the VMS transmissions are being received without error.

Vessel Name: _____

Documentation number: _____ Federal Groundfish Permit Number: _____

VMS Unit Manufacturer: _____ VMS Unit serial number: _____

INMARSAT Serial number (ISN): _____ INMARSAT mobile number (INM): _____

Is this VMS unit a primary or back-up unit? Primary Back-up

VMS Communications Service Provider: _____

(The information listed above should have been provided by the VMS unit manufacture)

Has the VMS Transceiver Unit you are registering been previously registered to another vessel that operated in marine waters off the coast of Washington, Oregon or California? Yes No

Note: Registering a VMS transceiver unit to more than one vessel at the same time is prohibited. If this VMS Transceiver Unit was previously registered to another vessel that operated in marine waters off the coast of Washington, Oregon or California, you must submit with this activation report and proof of ownership of the VMS transceiver unit or proof of service termination from the communication service provider.

Certification: In accordance with 50 C.F.R. 660.14(d), as the owner of a vessel participating in the Pacific Coast Groundfish Fishery, I hereby certify that the VMS system on my vessel has been installed in compliance with the applicable procedures and the manufactures instructions.

Vessel Owner Name: _____

Vessel Owner Signature: _____ Date: _____

PRA STATEMENT: Public reporting burden for the collection of information is estimated to average 4 hours per installation, including time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the information. The burden for submission of this VMS Installation and Activation Certification Report is estimated at 6 minutes per response. Send comments regarding this burden estimate or suggestions for reducing this burden to: NMFS, Office of Law Enforcement, Northwest Division, 7600 Sandpoint Way NE, Seattle, WA 98115-6349. The information collection described above is confidential under section 402 of the Magnuson-Stevens Act and under NOAA Administrative Order 216-100, Protection of Confidential Fisheries Statistics.

e-CFR Data is current as of December 1, 2010

Title 50: Wildlife and Fisheries

PART 660—FISHERIES OFF WEST COAST STATES

Subpart C—West Coast Groundfish Fisheries

§ 660.14 Vessel Monitoring System (VMS) requirements.

(a) *What is a VMS ?* A VMS consists of a NMFS OLE type-approved mobile transceiver unit that automatically determines the vessel's position and transmits it to a NMFS OLE type-approved communications service provider. The communications service provider receives the transmission and relays it to NMFS OLE.

(b) *Who is Required to Have a VMS ?* The following vessels are required to install a NMFS OLE type-approved mobile transceiver unit and to arrange for a NMFS OLE type-approved communications service provider to receive and relay transmissions to NMFS OLE prior to fishing:

(1) Any vessel registered for use with a limited entry permit that fishes in state or Federal waters seaward of the baseline from which the territorial sea is measured off the States of Washington, Oregon or California (0–200 nm offshore).

(2) Any vessel that uses non-groundfish trawl gear to fish in the EEZ.

(3) Any vessel that uses open access gear to take and retain, or possess groundfish in the EEZ or land groundfish taken in the EEZ.

(c) *How are Mobile Transceiver Units and Communications Service Providers Approved by NMFS OLE ?*

(1) NMFS OLE will publish type-approval specifications for VMS components in The Federal Register or notify the public through other appropriate media.

(2) Mobile transceiver unit manufacturers or communication service providers will submit products or services to NMFS OLE for evaluation based on the published specifications.

(3) NMFS OLE may publish a list of NMFS OLE type-approved mobile transceiver units and communication service providers for the Pacific Coast groundfish fishery in the Federal Register or notify the public through other appropriate media. As necessary, NMFS OLE may publish amendments to the list of type-approved mobile transceiver units and communication service providers in the Federal Register or through other appropriate media. A list of VMS transceivers that have been type-approved by NMFS OLE may be mailed to the permit owner's address of record. NMFS will bear no responsibility if a notification is sent to the address of record and is not received because the applicant's actual address has changed without notification to NMFS, as required at §660.25(b)(4)(i)(B).

(d) *What are the Vessel Owner's Responsibilities?* If you are a vessel owner that must participate in the VMS program, you or the vessel operator must:

(1) Obtain a NMFS OLE type-approved mobile transceiver unit and have it installed on board your vessel in accordance with the instructions provided by NMFS OLE. You may obtain a copy of the VMS installation and operation instructions from the NMFS OLE Northwest, VMS Program Manager upon request at 7600 Sand Point Way NE., Seattle, WA 98115-6349, phone: (206) 526-6133.

(2) Activate the mobile transceiver unit, submit an activation report at least 72 hours prior to leaving port on a trip in which VMS is required, and receive confirmation from NMFS OLE that the VMS transmissions are being received before participating in a fishery requiring the VMS. Instructions for submitting an activation report may be obtained from the NMFS, Northwest OLE VMS Program Manager upon request at 7600 Sand Point Way NE., Seattle, WA 98115-6349, phone: (206) 526-6133. An activation report must again be submitted to NMFS OLE following reinstallation of a mobile transceiver unit or change in service provider before the vessel may be used to fish in a fishery requiring the VMS.

(i) *Activation reports.* If you are a vessel owner who must use VMS and you are activating a VMS transceiver unit for the first time or reactivating a VMS transceiver unit following a reinstallation of a mobile transceiver unit or change in service provider, you must fax NMFS OLE an activation report that includes: Vessel name; vessel owner's name, address and telephone number, vessel operator's name, address and telephone number, USCG vessel documentation number/state registration number; if applicable, the groundfish permit number the vessel is registered to; VMS transceiver unit manufacturer; VMS communications service provider; VMS transceiver identification; identifying if the unit is the primary or backup; and a statement signed and dated by the vessel owner confirming compliance with the installation procedures provided by NMFS OLE.

(ii) *Transferring ownership of VMS unit.* Ownership of the VMS transceiver unit may be transferred from one vessel owner to another vessel owner if all of the following documents are provided to NMFS OLE: A new activation report, which identifies that the transceiver unit was previously registered to another vessel; a notarized bill of sale showing proof of ownership of the VMS transceiver unit; documentation from the communications service provider showing proof that the service agreement for the previous vessel was terminated and that a service agreement was established for the new vessel.

(3) *Transceiver unit operation.* Operate and maintain the mobile transceiver unit in good working order continuously, 24 hours a day throughout the fishing year, unless such vessel is exempted under paragraph (d)(4) of this section. The mobile transceiver unit must transmit a signal accurately indicating the vessel's position at least once every hour, 24 hours a day, throughout the year unless a valid exemption report, as described in paragraph (b)(4) of this section, has been received by NMFS OLE. Less frequent position reporting at least once every four hours is authorized when a vessel remains in port for an extended period of time, but the mobile transceiver unit must remain in continuous operation at all times unless the vessel is exempted under this section.

(4) *VMS exemptions.* A vessel that is required to operate and maintain the mobile transceiver unit continuously 24 hours a day throughout the fishing year may be exempted from this requirement if a valid exemption report, as described at paragraph (d)(4)(vii) of this section, is received by NMFS OLE and the vessel is in compliance with all conditions and requirements of the VMS exemption identified in this section and specified in the exemption report.

(i) *Haul out exemption.* When it is anticipated that a vessel will be continuously out of the water for more than 7 consecutive days and a valid exemption report has been received by NMFS OLE, electrical power to the VMS mobile transceiver unit may be removed and transmissions may be discontinued. Under this exemption, VMS transmissions can be discontinued from the time the vessel is removed from the water until the time that the vessel is placed back in the water.

(ii) *Outside areas exemption.* When the vessel will be operating seaward of the EEZ off Washington, Oregon, or California continuously for more than 7 consecutive days and a valid exemption report has been received by NMFS OLE, the VMS mobile transceiver unit transmissions may be reduced or discontinued from the time the vessel leaves the EEZ off the coasts of Washington, Oregon or California until the time that the vessel re-enters the EEZ off the coasts of Washington, Oregon or California. Under this exemption, the vessel owner or operator can request that NMFS OLE reduce or discontinue the VMS transmissions after receipt of an exemption report, if the vessel is equipped with a VMS transceiver unit that NMFS OLE has approved for this exemption.

(iii) *Permit transfer exemption.* If the limited entry permit has been transferred from a vessel (for the purposes of this section, this includes permits placed into “unidentified” status) the vessel may be exempted from VMS requirements providing the vessel is not used to fish in state or Federal waters seaward of the baseline from which the territorial sea is measured off the states of Washington, Oregon or California (0–200 nm offshore) for the remainder of the fishing year. If the vessel is used to fish in this area for any species of fish at any time during the remaining portion of the fishing year without being registered to a limited entry permit, the vessel is required to have and use VMS.

(iv) *Long-term departure exemption.* A vessel participating in the open access fishery that is required to have VMS under paragraph (b)(3) of this section may be exempted from VMS provisions after the end of the fishing year in which it fished in the open access fishery, providing the vessel submits a completed exemption report signed by the vessel owner that includes a statement signed by the vessel owner indicating that the vessel will not be used to take and retain or possess groundfish in the EEZ or land groundfish taken in the EEZ during the new fishing year.

(v) *Emergency exemption.* Vessels required to have VMS under paragraph (b) of this section may be exempted from VMS provisions in emergency situations that are beyond the vessel owner's control, including but not limited to: Fire, flooding, or extensive physical damage to critical areas of the vessel. A vessel owner may apply for an emergency exemption from the

VMS requirements specified in paragraph (b) of this section for his/her vessel by sending a written request to NMFS OLE specifying the following information: The reasons for seeking an exemption, including any supporting documents (e.g., repair invoices, photographs showing damage to the vessel, insurance claim forms, etc.); the time period for which the exemption is requested; and the location of the vessel while the exemption is in effect. NMFS OLE will issue a written determination granting or denying the emergency exemption request. A vessel will not be covered by the emergency exemption until NMFS OLE issues a determination granting the exemption. If an exemption is granted, the duration of the exemption will be specified in the NMFS OLE determination.

(vi) *Submission of exemption reports.* Signed long-term departure exemption reports must be submitted by fax or by emailing an electronic copy of the actual report. In the event of an emergency in which an emergency exemption request will be submitted, initial contact with NMFS OLE must be made by telephone, fax or email within 24 hours from when the incident occurred. Emergency exemption requests must be requested in writing within 72 hours from when the incident occurred. Other exemption reports must be submitted through the VMS or another method that is approved by NMFS OLE and announced in the Federal Register. Submission methods for exemption requests, except long-term departures and emergency exemption requests, may include email, facsimile, or telephone. NMFS OLE will provide, through appropriate media, instructions to the public on submitting exemption reports. Instructions and other information needed to make exemption reports may be mailed to the vessel owner's address of record. NMFS will bear no responsibility if a notification is sent to the address of record for the vessel owner and is not received because the vessel owner's actual address has changed without notification to NMFS. Owners of vessels required to use VMS who do not receive instructions by mail are responsible for contacting NMFS OLE during business hours at least 3 days before the exemption is required to obtain information needed to make exemption reports. NMFS OLE must be contacted during business hours (Monday through Friday between 0800 and 1700 Pacific Time).

(vii) *Valid exemption reports.* For an exemption report to be valid, it must be received by NMFS at least 2 hours and not more than 24 hours before the exempted activities defined at paragraphs (d)(4)(i) through (iv) of this section occur. An exemption report is valid until NMFS receives a report canceling the exemption. An exemption cancellation must be received at least 2 hours before the vessel reenters the EEZ following an outside areas exemption; at least 2 hours before the vessel is placed back in the water following a haul out exemption; at least 2 hours before the vessel resumes fishing for any species of fish in state or Federal waters off the States of Washington, Oregon, or California after it has received a permit transfer exemption; or at least 2 hours before a vessel resumes fishing in the open access fishery after a long-term departure exemption. If a vessel is required to submit an activation report under paragraph (d)(2)(i) of this section before returning to fish, that report may substitute for the exemption cancellation. Initial contact must be made with NMFS OLE not more than 24 hours after the time that an emergency situation occurred in which VMS transmissions were disrupted and followed by a written emergency exemption request within 72 hours from when the incident occurred. If the emergency situation upon which an emergency exemption is based is resolved before the exemption expires, an exemption cancellation must be received by NMFS at least 2 hours before the vessel resumes fishing.

(5) When aware that transmission of automatic position reports has been interrupted, or when notified by NMFS OLE that automatic position reports are not being received, contact NMFS OLE at 7600 Sand Point Way NE, Seattle, WA 98115-6349, phone: (206) 526-6133 and follow the instructions provided to you. Such instructions may include, but are not limited to, manually communicating to a location designated by NMFS OLE the vessel's position or returning to port until the VMS is operable.

(6) After a fishing trip during which interruption of automatic position reports has occurred, the vessel's owner or operator must replace or repair the mobile transceiver unit prior to the vessel's next fishing trip. Repair or reinstallation of a mobile transceiver unit or installation of a replacement, including change of communications service provider shall be in accordance with the instructions provided by NMFS OLE and require the same certification.

(7) Make the mobile transceiver units available for inspection by NMFS OLE personnel, USCG personnel, state enforcement personnel or any authorized officer.

(8) Ensure that the mobile transceiver unit is not tampered with, disabled, destroyed, operated, or maintained improperly.

(9) Pay all charges levied by the communication service provider as necessary to ensure continuous operation of the VMS transceiver units.

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SEC. 402. INFORMATION COLLECTION

16 U.S.C. 1881a

109-479

(a) COLLECTION PROGRAMS.—

(1) COUNCIL REQUESTS.—If a Council determines that additional information would be beneficial for developing, implementing, or revising a fishery management plan or for determining whether a fishery is in need of management, the Council may request that the Secretary implement an information collection program for the fishery which would provide the types of information specified by the Council. The Secretary shall undertake such an information collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for an information collection program is not justified, the Secretary shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this paragraph regarding a Council request shall be made within a reasonable period of time after receipt of that request.

(2) SECRETARIAL INITIATION.—If the Secretary determines that additional information is necessary for developing, implementing, revising, or monitoring a fishery management plan, or for determining whether a fishery is in need of management, the Secretary may, by regulation, implement an information collection or observer program requiring submission of such additional information for the fishery.

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(b) CONFIDENTIALITY OF INFORMATION.—

(1) Any information submitted to the Secretary, a State fishery management agency, or a marine fisheries commission by any person in compliance with the requirements of this Act shall be confidential and shall not be disclosed except—

(A) to Federal employees and Council employees who are responsible for fishery management plan development, monitoring, or enforcement;

(B) to State or Marine Fisheries Commission employees as necessary to further the Department's mission, subject to a confidentiality agreement that prohibits public disclosure of the identity of business of any person;

(C) to State employees who are responsible for fishery management plan enforcement, if the States employing those employees have entered into a fishery enforcement agreement with the Secretary and the agreement is in effect;

(D) when required by court order;

(E) when such information is used by State, Council, or Marine Fisheries Commission employees to verify catch under a limited access program, but only to the extent that such use is consistent with subparagraph (B);

(F) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act;

(G) when such information is required to be submitted to the Secretary for any determination under a limited access program; or

(H) in support of homeland and national security activities, including the Coast Guard's homeland security missions as defined in section 888(a)(2) of the Homeland Security Act of 2002 (6 U.S.C. 468(a)(2)).

(2) Any observer information shall be confidential and shall not be disclosed, except in accordance with the requirements of subparagraphs (A) through (H) of paragraph (1), or—

(A) as authorized by a fishery management plan or regulations under the authority of the North Pacific Council to allow disclosure to the public of weekly summary bycatch information identified by vessel or for haul-specific bycatch information without vessel identification;

(B) when such information is necessary in proceedings to adjudicate observer certifications; or

(C) as authorized by any regulations issued under paragraph (3) allowing the collection of observer information, pursuant to a confidentiality agreement between the observers, observer employers, and the Secretary prohibiting disclosure of the information by the observers or observer employers, in order—

(i) to allow the sharing of observer information among observers and between observers and observer employers as necessary to train and prepare observers for deployments on specific vessels; or

(ii) to validate the accuracy of the observer information collected.

(3) The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any information submitted in compliance with any requirement or regulation under this Act or the use, release, or publication of bycatch information pursuant to paragraph (2)(A).

(c) RESTRICTION ON USE OF CERTAIN INFORMATION.—

(1) The Secretary shall promulgate regulations to restrict the use, in civil enforcement or criminal proceedings under this Act, the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), and the Endangered Species Act (16 U.S.C. 1531 et seq.), of information collected by voluntary fishery data collectors, including sea samplers, while aboard any vessel for conservation and management purposes if the presence of such a fishery data collector aboard is not required by any of such Acts or regulations thereunder.

(2) The Secretary may not require the submission of a Federal or State income tax return or statement as a prerequisite for issuance of a permit until such time as the Secretary has promulgated regulations to ensure the confidentiality of information contained in such return or statement, to limit the information submitted to that necessary to achieve a demonstrated conservation and management purpose, and to provide appropriate penalties for violation of such regulations.

16 U.S.C. 1881a-1881b
MSA §§ 402-403

(d) **CONTRACTING AUTHORITY.**—Notwithstanding any other provision of law, the Secretary may provide a grant, contract, or other financial assistance on a sole-source basis to a State, Council, or Marine Fisheries Commission for the purpose of carrying out information collection or other programs if—

(1) the recipient of such a grant, contract, or other financial assistance is specified by statute to be, or has customarily been, such State, Council, or Marine Fisheries Commission; or

(2) the Secretary has entered into a cooperative agreement with such State, Council, or Marine Fisheries Commission.

(e) **RESOURCE ASSESSMENTS.**—

(1) The Secretary may use the private sector to provide vessels, equipment, and services necessary to survey the fishery resources of the United States when the arrangement will yield statistically reliable results.

(2) The Secretary, in consultation with the appropriate Council and the fishing industry--

(A) may structure competitive solicitations under paragraph (1) so as to compensate a contractor for a fishery resources survey by allowing the contractor to retain for sale fish harvested during the survey voyage;

(B) in the case of a survey during which the quantity or quality of fish harvested is not expected to be adequately compensatory, may structure those solicitations so as to provide that compensation by permitting the contractor to harvest on a subsequent voyage and retain for sale a portion of the allowable catch of the surveyed fishery; and

(C) may permit fish harvested during such survey to count toward a vessel's catch history under a fishery management plan if such survey was conducted in a manner that precluded a vessel's participation in a fishery that counted under the plan for purposes of determining catch history.

(3) The Secretary shall undertake efforts to expand annual fishery resource assessments in all regions of the Nation.

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SEC. 403. OBSERVERS

16 U.S.C. 1881b

(a) **GUIDELINES FOR CARRYING OBSERVERS.**—Within one year after the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations, after notice and opportunity for public comment, for fishing vessels that carry observers. The regulations shall include guidelines for determining—

(1) when a vessel is not required to carry an observer on board because the facilities of such 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; and

(2) actions which vessel owners or operators may reasonably be required to take to render such facilities adequate and safe.

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;

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(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, charter fishing, and fish processing 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, economic information necessary to meet the requirements of this Act, 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;

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(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 analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for—

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

(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; and

(C) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery;

(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;

16 U.S.C. 1853
MSA § 303

(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;

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

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(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate, taking into consideration the economic impact of the harvest restrictions or recovery benefits on the fishery participants in each sector, any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery and;

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(15) establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.

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;

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(2)(A) 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;

(B) designate such zones in areas where deep sea corals are identified under section 408, to protect deep sea corals from physical damage from fishing gear or to prevent loss or damage to such fishing gear from interactions with deep sea corals, after considering long-term sustainable uses of fishery resources in such areas; and

(C) with respect to any closure of an area under this Act that prohibits all fishing, ensure that such closure—

- (i) is based on the best scientific information available;
- (ii) includes criteria to assess the conservation benefit of the closed area;
- (iii) establishes a timetable for review of the closed area's performance that is consistent with the purposes of the closed area; and
- (iv) is based on an assessment of the benefits and impacts of the closure, including its size, in relation to other management measures (either alone or in combination with such measures), including the benefits and impacts of limiting access to: users of the area, overall fishing activity, fishery science, and fishery and marine conservation;

(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;

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(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 and take into account the different circumstances affecting fisheries from different States and ports, including distances to fishing grounds and proximity to time and area closures;

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(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;
- (F) the fair and equitable distribution of access privileges in the fishery; and
- (G) any other relevant considerations;

16 U.S.C. 1853
MSA § 303

(7) require fish processors who first receive fish that are subject to the plan to submit 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;

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(12) include management measures in the plan to conserve target and non-target species and habitats, considering the variety of ecological factors affecting fishery populations; and

(14)[sic]¹⁵ 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.

¹⁵ So in original.

P.L. 109-479, sec. 104(b), MSA § 303 note

16 U.S.C. 1853 note

EFFECTIVE DATES; APPLICATION TO CERTAIN SPECIES.—The amendment made by subsection (a)(10)¹⁶—

(1) shall, unless otherwise provided for under an international agreement in which the United States participates, take effect—

(A) in fishing year 2010 for fisheries determined by the Secretary to be subject to overfishing; and

(B) in fishing year 2011 for all other fisheries; and

(2) shall not apply to a fishery for species that have a life cycle of approximately 1 year unless the Secretary has determined the fishery is subject to overfishing of that species; and

(3) shall not limit or otherwise affect the requirements of section 301(a)(1) or 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851(a)(1) or 1854(e), respectively).

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SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.

16 U.S.C. 1853a

(a) **IN GENERAL.**—After the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, a Council may submit, and the Secretary may approve, for a fishery that is managed under a limited access system, a limited access privilege program to harvest fish if the program meets the requirements of this section.

(b) **NO CREATION OF RIGHT, TITLE, OR INTEREST.**—Limited access privilege, quota share, or other limited access system authorization established, implemented, or managed under this Act—

(1) shall be considered a permit for the purposes of sections 307, 308, and 309;

(2) may be revoked, limited, or modified at any time in accordance with this Act, including revocation if the system is found to have jeopardized the sustainability of the stock or the safety of fishermen;

(3) shall not confer any right of compensation to the holder of such limited access privilege, quota share, or other such limited access system authorization if it is revoked, limited, or modified;

(4) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested by the holder; and

(5) shall be considered a grant of permission to the holder of the limited access privilege or quota share to engage in activities permitted by such limited access privilege or quota share.

¹⁶ Section 104(a)(10) of P.L. 109-479 added section 303(a)(15).

(c) REQUIREMENTS FOR LIMITED ACCESS PRIVILEGES.—

(1) IN GENERAL.—Any limited access privilege program to harvest fish submitted by a Council or approved by the Secretary under this section shall—

(A) if established in a fishery that is overfished or subject to a rebuilding plan, assist in its rebuilding;

(B) if established in a fishery that is determined by the Secretary or the Council to have over-capacity, contribute to reducing capacity;

(C) promote—

(i) fishing safety;

(ii) fishery conservation and management; and

(iii) social and economic benefits;

(D) prohibit any person other than a United States citizen, a corporation, partnership, or other entity established under the laws of the United States or any State, or a permanent resident alien, that meets the eligibility and participation requirements established in the program from acquiring a privilege to harvest fish, including any person that acquires a limited access privilege solely for the purpose of perfecting or realizing on a security interest in such privilege;

(E) require that all fish harvested under a limited access privilege program be processed on vessels of the United States or on United States soil (including any territory of the United States);

(F) specify the goals of the program;

(G) include provisions for the regular monitoring and review by the Council and the Secretary of the operations of the program, including determining progress in meeting the goals of the program and this Act, and any necessary modification of the program to meet those goals, with a formal and detailed review 5 years after the implementation of the program and thereafter to coincide with scheduled Council review of the relevant fishery management plan (but no less frequently than once every 7 years);

(H) include an effective system for enforcement, monitoring, and management of the program, including the use of observers or electronic monitoring systems;

(I) include an appeals process for administrative review of the Secretary's decisions regarding initial allocation of limited access privileges;

(J) provide for the establishment by the Secretary, in consultation with appropriate Federal agencies, for an information collection and review process to provide any additional information needed to determine whether any illegal acts of anti-competition, anti-trust, price collusion, or price fixing have occurred among regional fishery associations or persons receiving limited access privileges under the program; and

(K) provide for the revocation by the Secretary of limited access privileges held by any person found to have violated the antitrust laws of the United States.

(2) WAIVER.—The Secretary may waive the requirement of paragraph (1)(E) if the Secretary determines that—

- (A) the fishery has historically processed the fish outside of the United States; and
- (B) the United States has a seafood safety equivalency agreement with the country where processing will occur.

(3) FISHING COMMUNITIES.—

(A) IN GENERAL.—

(i) ELIGIBILITY.—To be eligible to participate in a limited access privilege program to harvest fish, a fishing community shall—

- (I) be located within the management area of the relevant Council;
- (II) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;
- (III) consist of residents who conduct commercial or recreational fishing, processing, or fishery-dependent support businesses within the Council's management area; and
- (IV) develop and submit a community sustainability plan to the Council and the Secretary that demonstrates how the plan will address the social and economic development needs of coastal communities, including those that have not historically had the resources to participate in the fishery, for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

(ii) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section for any person who fails to comply with the requirements of the community sustainability plan. Any limited access privileges denied or revoked under this section may be reallocated to other eligible members of the fishing community.

- (B) PARTICIPATION CRITERIA.—In developing participation criteria for eligible communities under this paragraph, a Council shall consider—
- (i) traditional fishing or processing practices in, and dependence on, the fishery;
 - (ii) the cultural and social framework relevant to the fishery;
 - (iii) economic barriers to access to fishery;
 - (iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;
 - (v) the expected effectiveness, operational transparency, and equitability of the community sustainability plan; and
 - (vi) the potential for improving economic conditions in remote coastal communities lacking resources to participate in harvesting or processing activities in the fishery.

(4) REGIONAL FISHERY ASSOCIATIONS.—

(A) IN GENERAL.—To be eligible to participate in a limited access privilege program to harvest fish, a regional fishery association shall—

- (i) be located within the management area of the relevant Council;
- (ii) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;
- (iii) be a voluntary association with established by-laws and operating procedures;
- (iv) consist of participants in the fishery who hold quota share that are designated for use in the specific region or subregion covered by the regional fishery association, including commercial or recreational fishing, processing, fishery-dependent support businesses, or fishing communities;
- (v) not be eligible to receive an initial allocation of a limited access privilege but may acquire such privileges after the initial allocation, and may hold the annual fishing privileges of any limited access privileges it holds or the annual fishing privileges that is [sic]¹⁷ members contribute; and
- (vi) develop and submit a regional fishery association plan to the Council and the Secretary for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

(B) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section to any person participating in a regional fishery association who fails to comply with the requirements of the regional fishery association plan.

¹⁷ So in original.

(C) PARTICIPATION CRITERIA.—In developing participation criteria for eligible regional fishery associations under this paragraph, a Council shall consider—

- (i) traditional fishing or processing practices in, and dependence on, the fishery;
- (ii) the cultural and social framework relevant to the fishery;
- (iii) economic barriers to access to fishery;
- (iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or subregion;
- (v) the administrative and fiduciary soundness of the association; and
- (vi) the expected effectiveness, operational transparency, and equitability of the fishery association plan.

(5) ALLOCATION.—In developing a limited access privilege program to harvest fish a Council or the Secretary shall—

(A) establish procedures to ensure fair and equitable initial allocations, including consideration of—

- (i) current and historical harvests;
- (ii) employment in the harvesting and processing sectors;
- (iii) investments in, and dependence upon, the fishery; and
- (iv) the current and historical participation of fishing communities;

(B) consider the basic cultural and social framework of the fishery, especially through—

- (i) the development of policies to promote the sustained participation of small owner-operated fishing vessels and fishing communities that depend on the fisheries, including regional or port-specific landing or delivery requirements; and
- (ii) procedures to address concerns over excessive geographic or other consolidation in the harvesting or processing sectors of the fishery;

(C) include measures to assist, when necessary and appropriate, entry-level and small vessel owner-operators, captains, crew, and fishing communities through set-asides of harvesting allocations, including providing privileges, which may include set-asides or allocations of harvesting privileges, or economic assistance in the purchase of limited access privileges;

(D) ensure that limited access privilege holders do not acquire an excessive share of the total limited access privileges in the program by—

- (i) establishing a maximum share, expressed as a percentage of the total limited access privileges, that a limited access privilege holder is permitted to hold, acquire, or use; and
- (ii) establishing any other limitations or measures necessary to prevent an inequitable concentration of limited access privileges; and

(E) authorize limited access privileges to harvest fish to be held, acquired, used by, or issued under the system to persons who substantially participate in the fishery, including in a specific sector of such fishery, as specified by the Council.

(6) PROGRAM INITIATION.—

(A) LIMITATION.—Except as provided in subparagraph (D), a Council may initiate a fishery management plan or amendment to establish a limited access privilege program to harvest fish on its own initiative or if the Secretary has certified an appropriate petition.

(B) PETITION.—A group of fishermen constituting more than 50 percent of the permit holders, or holding more than 50 percent of the allocation, in the fishery for which a limited access privilege program to harvest fish is sought, may submit a petition to the Secretary requesting that the relevant Council or Councils with authority over the fishery be authorized to initiate the development of the program. Any such petition shall clearly state the fishery to which the limited access privilege program would apply. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the limited access program shall be eligible to sign a petition for such a program and shall serve as the basis for determining the percentage described in the first sentence of this subparagraph.

(C) CERTIFICATION BY SECRETARY.—Upon the receipt of any such petition, the Secretary shall review all of the signatures on the petition and, if the Secretary determines that the signatures on the petition represent more than 50 percent of the permit holders, or holders of more than 50 percent of the allocation in the fishery, as described by subparagraph (B), the Secretary shall certify the petition to the appropriate Council or Councils.

(D) NEW ENGLAND AND GULF REFERENDUM.—

(i) Except as provided in clause (iii) for the Gulf of Mexico commercial red snapper fishery, the New England and Gulf Councils may not submit, and the Secretary may not approve or implement, a fishery management plan or amendment that creates an individual fishing quota program, including a Secretarial plan, unless such a system, as ultimately developed, has been approved by more than 2/3 of those voting in a referendum among eligible permit holders, or other persons described in clause (v), with respect to the New England Council, and by a majority of those voting in the referendum among eligible permit holders with respect to the Gulf Council. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the individual fishing quota program shall be eligible to vote in such a referendum. If an individual fishing quota program fails to be approved by the requisite number of those voting, it may be revised and submitted for approval in a subsequent referendum.

(ii) The Secretary shall conduct a referendum under this subparagraph, including notifying all persons eligible to participate in the referendum and making available to them information concerning the schedule, procedures, and eligibility requirements for the referendum process and the proposed individual fishing quota program. Within 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary shall publish guidelines and procedures to determine procedures and voting eligibility requirements for referenda and to conduct such referenda in a fair and equitable manner.

(iii) The provisions of section 407(c) of this Act shall apply in lieu of this subparagraph for an individual fishing quota program for the Gulf of Mexico commercial red snapper fishery.

(iv) Chapter 35 of title 44, United States Code, (commonly known as the Paperwork Reduction Act) does not apply to the referenda conducted under this subparagraph.

(v) The Secretary shall promulgate criteria for determining whether additional fishery participants are eligible to vote in the New England referendum described in clause (i) in order to ensure that crew members who derive a significant percentage of their total income from the fishery under the proposed program are eligible to vote in the referendum.

(vi) In this subparagraph, the term ‘individual fishing quota’ does not include a sector allocation.

(7) TRANSFERABILITY.—In establishing a limited access privilege program, a Council shall—

(A) establish a policy and criteria for the transferability of limited access privileges (through sale or lease), that is consistent with the policies adopted by the Council for the fishery under paragraph (5); and

(B) establish, in coordination with the Secretary, a process for monitoring of transfers (including sales and leases) of limited access privileges.

(8) PREPARATION AND IMPLEMENTATION OF SECRETARIAL PLANS.—This subsection also applies to a plan prepared and implemented by the Secretary under section 304(c) or 304(g).

(9) ANTITRUST SAVINGS CLAUSE.—Nothing in this Act shall be construed to modify, impair, or supersede the operation of any of the antitrust laws. For purposes of the preceding sentence, the term ‘antitrust laws’ has the meaning given such term in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

16 U.S.C. 1853a
MSA § 303A

(d) AUCTION AND OTHER PROGRAMS.—In establishing a limited access privilege program, a Council shall consider, and may provide, if appropriate, an auction system or other program to collect royalties for the initial, or any subsequent, distribution of allocations in a limited access privilege program if—

(1) the system or program is administered in such a way that the resulting distribution of limited access privilege shares meets the program requirements of this section; and

(2) revenues generated through such a royalty program are deposited in the Limited Access System Administration Fund established by section 305(h)(5)(B) and available subject to annual appropriations.

(e) COST RECOVERY.—In establishing a limited access privilege program, a Council shall—

(1) develop a methodology and the means to identify and assess the management, data collection and analysis, and enforcement programs that are directly related to and in support of the program; and

(2) provide, under section 304(d)(2), for a program of fees paid by limited access privilege holders that will cover the costs of management, data collection and analysis, and enforcement activities.

(f) CHARACTERISTICS.—A limited access privilege established after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 is a permit issued for a period of not more than 10 years that—

(1) will be renewed before the end of that period, unless it has been revoked, limited, or modified as provided in this subsection;

(2) will be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have failed to comply with any term of the plan identified in the plan as cause for revocation, limitation, or modification of a permit, which may include conservation requirements established under the plan;

(3) may be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have committed an act prohibited by section 307 of this Act; and

(4) may be acquired, or reacquired, by participants in the program under a mechanism established by the Council if it has been revoked, limited, or modified under paragraph (2) or (3).

(g) LIMITED ACCESS PRIVILEGE ASSISTED PURCHASE PROGRAM.—

(1) IN GENERAL.—A Council may submit, and the Secretary may approve and implement, a program which reserves up to 25 percent of any fees collected from a fishery under section 304(d)(2) to be used, pursuant to section 53706(a)(7) of title 46, United States Code, to issue obligations that aid in financing—

(A) the purchase of limited access privileges in that fishery by fishermen who fish from small vessels; and

(B) the first-time purchase of limited access privileges in that fishery by entry level fishermen.

(2) ELIGIBILITY CRITERIA.—A Council making a submission under paragraph (1) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees under subparagraphs (A) and (B) of paragraph (1) and the portion of funds to be allocated for guarantees under each subparagraph.

(h) EFFECT ON CERTAIN EXISTING SHARES AND PROGRAMS.—Nothing in this Act, or the amendments made by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, shall be construed to require a reallocation or a reevaluation of individual quota shares, processor quota shares, cooperative programs, or other quota programs, including sector allocation in effect before the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006.

(i) TRANSITION RULES.—

(1) IN GENERAL.—The requirements of this section shall not apply to any quota program, including any individual quota program, cooperative program, or sector allocation for which a Council has taken final action or which has been submitted by a Council to the Secretary, or approved by the Secretary, within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, except that—

(A) the requirements of section 303(d) of this Act in effect on the day before the date of enactment of that Act shall apply to any such program;

(B) the program shall be subject to review under subsection (c)(1)(G) of this section not later than 5 years after the program implementation; and

(C) nothing in this subsection precludes a Council from incorporating criteria contained in this section into any such plans.

(2) PACIFIC GROUND FISH PROPOSALS.—The requirements of this section, other than subparagraphs (A) and (B) of subsection (c)(1) and subparagraphs (A), (B), and (C) of paragraph (1) of this subsection, shall not apply to any proposal authorized under section 302(f) of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 that is submitted within the timeframe prescribed by that section.

16 U.S.C. 1853a note, 1854
MSA §§ 303A note, 304

P.L. 109-479, sec. 106(e), MSA § 303A note

16 U.S.C. 1853a note

APPLICATION WITH AMERICAN FISHERIES ACT.—Nothing in section 303A of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), as added by subsection (a) [P.L. 109-479], shall be construed to modify or supersede any provision of the American Fisheries Act (46 U.S.C. 12102 note; 16 U.S.C. 1851 note; et alia).

P.L. 104-297, sec. 108(i), MSA § 303 note

EXISTING QUOTA PLANS.—Nothing in this Act [P.L.104-297] or the amendments made by this Act shall be construed to require a reallocation of individual fishing quotas under any individual fishing quota program approved by the Secretary before January 4, 1995.

SEC. 304. ACTION BY THE SECRETARY

16 U.S.C. 1854

104-297

(a) REVIEW OF PLANS.—

(1) Upon transmittal by the Council to the Secretary of a fishery management plan or plan amendment, the Secretary shall—

(A) immediately commence a review of the plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law; and

(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

(2) In undertaking the review required under paragraph (1), the Secretary shall—

(A) take into account the information, views, and comments received from interested persons;

(B) consult with the Secretary of State with respect to foreign fishing; and

(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 303(a)(6).

(3) The Secretary shall approve, disapprove, or partially approve a plan or amendment within 30 days of the end of the comment period under paragraph (1) by written notice to the Council. A notice of disapproval or partial approval shall specify—

(A) the applicable law with which the plan or amendment is inconsistent;

(B) the nature of such inconsistencies; and

(C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

If the Secretary does not notify a Council within 30 days of the end of the comment period of the approval, disapproval, or partial approval of a plan or amendment, then such plan or amendment shall take effect as if approved.

of a targeted survey, important details will be gathered regarding: (a) The information that drivers possessed prior to and during a storm, including knowledge of observed and forecast weather conditions; (b) sources of weather and road information; (c) any modification of travel and/or commute plans, based on event information; (d) anticipation and perception of storm impacts and severity; and (e) perception and behavioral response to messages conveyed by the NWS and UDOT, along with their satisfaction of information provided. Analyses of the information gathered will focus on driver knowledge, perceptions, and decisionmaking. Ultimately, the results of this survey will provide insight on how the Weather Enterprise may more effectively communicate hazard information to the public in a manner which leads to improved response (*i.e.*, change travel times, modes, etc.). With a sufficient level of behavior change, it should be possible to improve safety and reduce the costs associated with weather-related congestion and associated delays. Additionally, the project will shed light upon the interrelationship between meteorological phenomena, road conditions, and their combined impact on travel.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Voluntary.

OMB Desk Officer:

OIRA_Submission@omb.eop.gov.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482-0266, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to

OIRA_Submission@omb.eop.gov.

Dated: October 1, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010-25234 Filed 10-6-10; 8:45 am]

BILLING CODE 3510-KE-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Expanded Vessel Monitoring System Requirement in the Pacific Coast Groundfish Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before December 6, 2010.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Becky Renko, (206) 526-6110 or *Becky.Renko@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for a renewal of a currently approved information collection.

NOAA has established large-scale depth-based management areas, referred to as Groundfish Conservation Areas (GCAs), where groundfish fishing is prohibited or restricted. These areas were specifically designed to reduce the catch of species while allowing healthy fisheries to continue in areas and with gears where little incidental catch of overfished species is likely to occur. Because NOAA needs methods to effectively enforce area restrictions, certain commercial fishing vessels are required to install and use a vessel monitoring system (VMS) that automatically sends hourly position reports. Exemptions from the reporting requirement are available for inactive vessels or vessels fishing outside the monitored area. The vessels are also required to declare what gear will be used.

To ensure the integrity of the GCAs and Rockfish Conservation Areas (RCA), a pilot VMS program was implemented on January 1, 2004. The pilot program required vessels registered to Pacific Coast groundfish fishery limited entry permits to carry and use VMS transceiver units while fishing off the coasts of Washington, Oregon and California. On January 1, 2007, the VMS program coverage was expanded to include all open access fisheries in addition to the limited entry fisheries.

A change request to expand the available fishery declarations will be published as part of a final rule, RIN 0648-AY68, in late 2010. As stated in the proposed rule for RIN 0648-AY68 (75 FR 53380, August 31, 2010), the public reporting burden for the changes to the declaration reporting system are not expected to change the public reporting burden.

II. Method of Collection

The installation/activation reports are available over the Internet. Due to the need for the owner's signature, installation reports must be faxed or mailed to NMFS. Hourly position reports are automatically sent from VMS transceivers installed aboard vessels. Exemption reports and declaration reports are submitted via a toll-free telephone number.

III. Data

OMB Control Number: 0648-0573.

Form Number: None.

Type of Review: Regular submission (renewal of a currently approved collection).

Affected Public: Business or other for-profit organizations; individuals or households.

Estimated Number of Respondents: 1,500.

Estimated Time per Response: VMS installation: 4 hours; VMS maintenance: 4 hours; installation, exemption and activation reports: 5 minutes each; and declaration reports: 4 minutes.

Estimated Total Annual Burden Hours: 8,581.

Estimated Total Annual Cost to Public: \$2,900,250.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be

collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 1, 2010.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2010-25243 Filed 10-6-10; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-898]

Chlorinated Isocyanurates From the People's Republic of China: Notice of Extension of Time Limit for the Final Results of the 2008-2009 Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date:* October 7, 2010.

FOR FURTHER INFORMATION CONTACT: Brandon Petelin or Charles Riggle, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-8173 or (202) 482-0650, respectively.

SUPPLEMENTARY INFORMATION:

Background

On May 14, 2010, the Department of Commerce ("Department") published its preliminary results of review of the antidumping order on chlorinated isocyanurates from the People's Republic of China ("PRC").¹ This review covers the period June 1, 2008, through May 31, 2009. The final results of review are currently due no later than October 12, 2010.

Extension of Time Limit for Final Results of Review

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended ("the Act"), the Department shall issue the

¹ See *Chlorinated Isocyanurates from the People's Republic of China: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 75 FR 27302 (May 14, 2010) ("*Preliminary Results*").

final results of an administrative review within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the time period to a maximum of 180 days.

On September 17, 2010, the Department published a notice extending the time limit for the final results of this administrative review by 30 days, *i.e.*, until October 12, 2010.² The Department now finds that it is not practicable to complete the final results of the administrative review of chlorinated isocyanurates from the PRC before the current deadline due to complicated surrogate value issues, including the most appropriate methodology for valuing labor, for the final results. We find that additional time is needed to complete these final results. Therefore, in accordance with section 751(a)(3)(A) of the Act, we are extending the time period for issuing the final results of the administrative review by an additional 30 days. As a result, these final results are due on Wednesday, November 10, 2010, 180 days after the date on which the preliminary results were published.

This notice is published in accordance with sections 751(a)(3)(A) and 777(i) of the Act.

Dated: October 1, 2010.

Susan H. Kuhbach,

Acting Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2010-25301 Filed 10-6-10; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A-533-840, A-549-822]

Certain Frozen Warmwater Shrimp From India and Thailand: Notice of Extension of Time Limits for the Preliminary Results of the 2009-2010 Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Elizabeth Eastwood, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of

Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-3874.

Background

On April 7, 2010, the Department of Commerce (the Department) published a notice of initiation of the administrative reviews of the antidumping duty orders on certain frozen warmwater shrimp from Brazil, India, and Thailand covering the period February 1, 2009, through January 31, 2010. See *Certain Frozen Warmwater Shrimp from Brazil, India, and Thailand: Notice of Initiation of Administrative Reviews*, 75 FR 17693 (Apr. 7, 2010).

On July 9, 2010, the Department selected respondents for individual examination in the India and Thailand reviews and issued questionnaires to them.¹ See the July 9, 2010, memoranda from Elizabeth Eastwood to James Maeder entitled, "2009-2010 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from India: Selection of Respondents for Individual Review," and "2009-2010 Antidumping Duty Administrative Review on Certain Frozen Warmwater Shrimp from Thailand: Selection of Respondents for Individual Review." We received responses to these questionnaires in August and September 2010.

Extension of Time Limit of Preliminary Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination in an administrative review within 245 days after the last day of the anniversary month of an order or finding for which a review is requested. Consistent with section 751(a)(3)(A) of the Act, the Department may extend the 245-day period to 365 days if it is not practicable to complete the review within a 245-day period. The deadline for the preliminary results of these administrative reviews is currently November 1, 2010.² The Department determines that completion of the preliminary results of these reviews within the statutory time period is not practicable because it is examining: (1) An allegation of a particular market situation for the respondents in Thailand; and (2) a cost allegation from the petitioner for Apex Exports in India.

¹ The Department rescinded the administrative review of certain frozen warmwater shrimp from Brazil on June 10, 2010. See *Certain Frozen Warmwater Shrimp from Brazil: Notice of Rescission of Antidumping Duty Administrative Review*, 75 FR 32915 (June 10, 2010).

² The original due date for the preliminary results, October 31, 2010, is a Sunday.

² See *Chlorinated Isocyanurates from the People's Republic of China: Notice of Extension of Time Limit for the Final Results of the 2008-2009 Antidumping Duty Administrative Review*, 75 FR 56988 (September 17, 2010).