NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Date 12/29/2017

Department of Commerce
National Oceanic and Atmospheric Administration

FOR CERTIFYING OFFICIAL: Rod Turk
FOR CLEARANCE OFFICER: Jennifer Jessup

In accordance with the Paperwork Reduction Act, OMB has taken action on your request received 10/06/2017

ACTION REQUESTED: Extension without change of a currently approved collection
TYPE OF REVIEW REQUESTED: Regular
ICR REFERENCE NUMBER: 201710-0648-003
AGENCY ICR TRACKING NUMBER:
TITLE: NMFS Alaska Region Vessel Monitoring System (VMS) Program
LIST OF INFORMATION COLLECTIONS: See next page

OMB ACTION: Approved without change
OMB CONTROL NUMBER: 0648-0445
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: 12/31/2020 DISCONTINUE DATE:

BURDEN:	RESPONSES	HOURS	COSTS
Previous	83	130	67,793
New	1,529	5,101	2,398,768
Difference			
Change due to New Statute	0	0	0
Change due to Agency Discretion	0	0	0
Change due to Agency Adjustment	1,446	4,971	2,330,975
Change due to PRA Violation	0	0	0

TERMS OF CLEARANCE:

OMB Authorizing Official: Dominic J. Mancini
Deputy and Acting Administrator,
Office Of Information And Regulatory Affairs

List of ICs			
IC Title	Form No.	Form Name	CFR Citation
VMS maintenance, plus costs for installation, maintenance, troubleshooting and communication			50 CFR 679.28(f)
VMS check-in report	NA	VMS check-in report	
GOA Sablefish Longline Pot Gear Call in			50 CFR 679.42(k)(2)
Optional Area 4 halibut check in			50 CFR 679.7(f)(4)

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
DOC/NOAA/NMFS

2. OMB control number
a. 0648 - 0445
b. [ ] None

3. Type of information collection (*check one*)
a. [ ] New Collection
b. [ ] Revision of a currently approved collection
c. [✔] Extension of a currently approved collection
d. [ ] Reinstatement, without change, of a previously approved collection for which approval has expired
e. [ ] Reinstatement, with change, of a previously approved collection for which approval has expired
f. [ ] Existing collection in use without an OMB control number
For b-f, note Item A2 of Supporting Statement instructions

4. Type of review requested (*check one*)
a. [✔] Regular submission
b. [ ] Emergency - Approval requested by ____/____/____
c. [ ] Delegated

5. Small entities
Will this information collection have a significant economic impact on a substantial number of small entities? [ ] Yes [✔] No

6. Requested expiration date
a. [✔] Three years from approval date b. [ ] Other Specify:____/____

7. Title
NMFS Alaska Region Vessel Monitoring System (VMS) Program

8. Agency form number(s) (*if applicable*)

9. Keywords
Alaska / fishing / VMS

10. Abstract

NMFS Alaska Region requires use of the VMS when fishing under certain conditions in the following fisheries: Atka mackerel, pollock, Pacific cod, BSAI crab, BSAI Sablefish, Central GOA rockfish, Amendment 80 fleet, GOA longline pot Sablefish, and when operating within essential fish habitat (EFH) and habitat areas of particular concern (HAPC) in the Aleutian Islands and Gulf of Alaska.

The VMS transmitter automatically determines the vessel's position several times per hour using a Global Positioning System satellite. A communications service provider receives the transmission and relays it to NOAA Fisheries Office for Enforcement. The VMS transmitters are designed to be tamper-resistant and automatic. In most cases, the vessel owner is unaware of exactly when the unit is transmitting and is unable to alter the signal or the time of transmission. The VMS unit is passive and automatic, requiring no reporting effort of the vessel operator.

11. Affected public (*Mark primary with "P" and all others that apply with "x"*)
a. x Individuals or households
b. P Business or other for-profit
c. ___ Not-for-profit institutions
d. ___ Farms
e. ___ Federal Government
f. ___ State, Local or Tribal Government

12. Obligation to respond (*check one*)
a. [ ] Voluntary
b. [✔] Required to obtain or retain benefits
c. [ ] Mandatory

13. Annual recordkeeping and reporting burden

a. Number of respondents	1,139
b. Total annual responses	300
1. Percentage of these responses collected electronically	0 %
c. Total annual hours requested	5,101
d. Current OMB inventory	130
e. Difference	4,871
f. Explanation of difference	
1. Program change	
2. Adjustment	4,871

14. Annual reporting and recordkeeping cost burden (*in thousands of dollars*)

a. Total annualized capital/startup costs	310
b. Total annual costs (O&M)	2,089
c. Total annualized cost requested	2,399
d. Current OMB inventory	68
e. Difference	2,331
f. Explanation of difference	
1. Program change	
2. Adjustment	2,331

15. Purpose of information collection (*Mark primary with "P" and all others that apply with "X"*)
a. ___ Application for benefits
b. x Program evaluation
c. ___ General purpose statistics
d. ___ Audit
e. ___ Program planning or management
f. ___ Research
g. P Regulatory or compliance

16. Frequency of recordkeeping or reporting (*check all that apply*)
a. [ ] Recordkeeping
b. [ ] Third party disclosure
c. [✔] Reporting
1. [✔] On occasion 2. [ ] Weekly 3. [ ] Monthly
4. [ ] Quarterly 5. [ ] Semi-annually 6. [ ] Annually
7. [ ] Biennially 8. [ ] Other (describe) ____

17. Statistical methods
Does this information collection employ statistical methods
[ ] Yes [✔] No

18. Agency Contact (person who can best answer questions regarding the content of this submission)
Name: Scott A. Miller
Phone: (907) 586-7416

19. Certification for Paperwork Reduction Act Submissions

On behalf of this Federal Agency, I certify that the collection of information encompassed by this request complies with 5 CFR 1320.9

NOTE: The text of 5 CFR 1320.9, and the related provisions of 5 CFR 1320.8(b)(3), appear at the end of the instructions. *The certification is to be made with reference to those regulatory provisions as set forth in the instructions.*

The following is a summary of the topics, regarding the proposed collection of information, that the certification covers:

(a) It is necessary for the proper performance of agency functions;

(b) It avoids unnecessary duplication;

(c) It reduces burden on small entities;

(d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;

(e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;

(f) It indicates the retention period for recordkeeping requirements;

(g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):

- (i) Why the information is being collected;
- (ii) Use of information;
- (iii) Burden estimate;
- (iv) Nature of response (voluntary, required for a benefit, mandatory);
- (v) Nature and extent of confidentiality; and
- (vi) Need to display currently valid OMB control number;

(h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);

(i) It uses effective and efficient statistical survey methodology; and

(j) It makes appropriate use of information technology.

If you are unable to certify compliance with any of the provisions, identify the item below and explain the reason in Item 18 of the Supporting Statement.

Signature of Senior Official or designee	Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)	
Signature Alan Risenhoover signed 10/2/2017	Date 10/2/2017
Signature of NOAA Clearance Officer	
Signature BRABSON.SARAH.1365710488 Digitally signed by BRABSON.SARAH.1365710488 DN: c=US, o=U.S. Government, ou=DoD, ou=PKI, ou=OTHER, cn=BRABSON.SARAH.1365710488 Date: 2018.01.24 12:59:57 -05'00'	Date

DRAFT SUPPORTING STATEMENT
NMFS ALASKA REGION
VESSEL MONITORING SYSTEM (VMS) PROGRAM
OMB CONTROL NO. 0648-0445

INTRODUCTION

This action is a request for extension of an existing collection, with several corrections.

National Marine Fisheries Service (NMFS), Alaska Region manages the groundfish and crab fisheries in the exclusive economic zone (EEZ) of the Bering Sea and Aleutian Islands Management Area (BSAI) and the groundfish fisheries of the Gulf of Alaska (GOA) under fishery management plans (FMPs) for the respective areas. The North Pacific Fishery Management Council prepared, and NMFS approved, the FMPs under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq*. The Northern Pacific Halibut Act of 1982 at 16 U.S.C. 773–773k provides the Secretary of Commerce with the authority and general responsibility to carry out the requirements of the Preservation of the Halibut Fishery of the North Pacific Ocean and Bering Sea. Regulations implementing the FMPs appear at 50 CFR parts 679 and 680.

NMFS requires the owners and operators of selected vessels participating in federally managed groundfish and crab fisheries off Alaska to obtain, install, and maintain an operational, NMFS-approved Vessel Monitoring System (VMS). The VMS units integrate global positioning system and communications electronics in a single, tamper-resistant package to automatically determine the vessel's position several times per hour. The units can be set to transmit a vessel's location periodically and automatically to an overhead satellite in real time. The VMS unit is passive and automatic, requiring no reporting effort by the vessel operator. A communications service provider receives the transmission and relays it to NMFS, Office for Law Enforcement (OLE) who then provides VMS data access through vTrack to other government users after they sign a non-disclosure agreement. Vessel owners and operators also may have their vessel VMS data relayed to a third-party designee such as Marine Exchange of Alaska so that vessel owners can track their vessels and fleets.

A. JUSTIFICATION

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

Tracking of vessel location using VMS is required to monitor compliance with complicated time and area closures in the GOA and BSAI designed to protect Steller sea lion or essential fish habitat, to monitor compliance with area-specific catch allocations, and to monitor compliance with requirements to redeploy or remove fishing gear from commercial fishing grounds. Table 1 summarizes these VMS requirements by providing information about who has to provide vessel location information to NMFS through VMS, references for the regulatory requirements, and a brief explanation of the reason for the VMS requirement.

Table 1. VMS Requirements in the Federally Managed Fisheries Off Alaska.[1]

Who must carry an operational VMS?	Regulatory reference	Primary reason for the VMS requirement
Vessels that operate in an Federal reporting area when the vessel is authorized to participate in the Atka mackerel, Pacific cod, or pollock directed fisheries and the vessel's authorized species and gear type is open to directed fishing. These VMS requirements do not apply to vessels using jig gear.	§§ 679.7(a)(18), instructions for FFP application form, and 679.28(f)(6)(i)	To monitor compliance with time and area closures to protect Steller Sea lions.
Vessels named on a Federal Fisheries Permit or Federal Crab Vessel Permit while operating in the Aleutian Islands subarea or operating a federally permitted vessel[2] in adjacent State of Alaska waters. In addition, vessels using trawl gear in the Aleutian Islands must set their VMS to transmit vessel location at least 10 times per hour.	§§ 679.7(a)(21), 679.28(f)(6)(ii) 679.28(f)(7)	To monitor compliance with area closures to protect Essential Fish Habitat.
Vessels harvesting Crab Rationalization Program crab in the Bering Sea.	§ 680.23(d)	To monitor proper accounting of area-specific allocations.
Federally permitted vessels operating in the GOA with non-pelagic trawl or dredge gear on board.	§§ 679.7(a)(22), 679.28(f)(6)(iii)	To monitor compliance with area closures to protect Essential Fish Habitat.
GOA Rockfish Program — vessels assigned to a rockfish cooperative must use VMS at all times when operating in a reporting area off Alaska from May 1 until November 15; or until that rockfish cooperative has submitted a rockfish cooperative termination of fishing declaration that has been approved by NMFS. In addition, vessels assigned to a rockfish cooperative and subject to a sideboard limit must use VMS at all times when operating in a reporting area off Alaska from July 1 until July 31.	§§ 679.5(r)(7), 679.7(n)(3), 679.28(f)(6)(iv)	To monitor proper accounting of area-specific allocations.
Amendment 80 catcher/processors at all times while operating in the BSAI or GOA.	§§ 679.5(s)(7), 679.28(f)(6)	To monitor proper accounting of area-specific allocations.
Vessels operating in the Western and Central GOA (Federal reporting areas 610, 620, or 630) that receive and process groundfish from other vessels.	§§ 679.7(b)(4)(ii), 679.28(f)(6)(v)	To monitor compliance with area-specific processing caps in the Western and Central GOA and a requirement that Pacific cod harvested in the GOA may not be delivered to a vessel for processing in a different regulatory area.
Vessels fishing for IFQ sablefish in the Bering Sea or Aleutian Islands IFQ regulatory areas.	§ 679.42(k)(1)	To monitor proper accounting of area-specific allocations.
Vessels operating in a GOA IFQ regulatory area and using longline pot gear to fish IFQ sablefish or to retain halibut incidentally in longline pot gear.	§ 679.42(k)(2), Annual halibut management measures (82 FR 12730, 3/07/2017)	To monitor compliance with requirements to redeploy or remove pot gear from the fishing grounds within a specified time period.

[1] In addition to the Federal requirements, the State of Alaska also requires VMS for vessels using some gear types in parallel groundfish fisheries under 5 AAC 28.087(c).

[2] "Federally permitted vessel" is defined at §679.2 as a vessel that is named on either a Federal fisheries permit or a Federal crab vessel permit.

Who must carry an operational VMS?	Regulatory reference	Primary reason for the VMS requirement
OPTIONAL Any vessel that carries a transmitting VMS while fishing for halibut in Area 4A, 4B, 4C, or 4D, and until all halibut caught in any of these areas is landed, is exempt from vessel clearance requirements.	Annual halibut management measures (82 FR 12730, 3/07/2017) No. 15--Vessel Clearance in Area 4, No. (16)	To monitor proper accounting of area-specific allocations.

NMFS has determined that traditional methods of relying on industry reports, observer reports, and periodic surveillance by the U.S. Coast Guard and NMFS OLE are not adequate to monitor the complex, overlapping, and numerous closure areas, area-specific allocations to individuals and entities, and other regulatory limitations. These determinations were made through the rulemaking process for the various actions implementing VMS requirements. More information about the background and history of the Alaska Region's VMS requirements may be found on the Alaska Region web site (https://alaskafisheries.noaa.gov/fisheries/cwm) and in the proposed and final rules that implemented these VMS requirements.

VMS is generally acknowledged to be an essential component of monitoring and management for complicated, geographically widespread fishing closures. Given the large size and remoteness of the area in which Alaska fisheries occur, and the limited enforcement infrastructure available, determining a vessel's location depends crucially on VMS reports. When a VMS track is examined by a knowledgeable analyst, much information can be inferred about whether a vessel is actively fishing, the type of gear being used, and the fisheries that are open. This information can be useful for targeting vessels for more detailed observation. Information from VMS is used to identify where vessels are operating, to organize patrols so as to increase the number of fishing vessels visually examined, or to focus examination of vessels of greatest concern (because of past records of fishing violations or because of the location of fishing activity), and as evidence in prosecutions.

The VMS information is used to facilitate enforcement of area closures in certain fisheries and to check the accuracy of vessel position information reported by the vessel operator in the daily logbooks. The information not only provides real-time vessel location and activity information, but also can be used by NMFS to help ascertain the effects of fishing on threatened and endangered species of certain fisheries.

The VMS allows verification of where fishing is occurring in real time. VMS allows verification that vessels fishing in an area are permitted to fish in that area. It also helps ensure harvested fish are properly debited or reported because NMFS can track vessels as they arrive in port to offload the product. In addition, OLE also uses VMS to monitor compliance with requirements to redeploy or remove pot gear from the fishing grounds within a specified time period. VMS is used to track the management areas in which vessels are fishing on a given trip, and agents could then follow up with a dockside inspection to see what gear was returned to shore when making a landing. That information can be compared to the recorded number of pots that are registered to the vessel for that area, or areas, in the pot tag database.

2. <u>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</u>.

The VMS requirements impose burden and/or costs on the fishing industry in the following categories:

- purchase, install, operate, maintain, and replace VMS units ("VMS operation") in the following fisheries,
    - Atka mackerel, pollock, Pacific cod
    - BSAI crab
    - BSAI sablefish
    - GOA Dredge Gear scallop
    - Central GOA Rockfish
    - Amendment 80
    - BSAI IFQ sablefish
    - GOA IFQ sablefish pot gear

- register a new VMS unit with NMFS using the VMS fax registration form,
- call NMFS OLE 72 hours before leaving port and receive confirmation from NMFS that a new VMS unit is transmitting properly
- call NMFS OLE 72 hours prior to the first fishing trip of the year when (1) fishing for IFQ sablefish in the BSAI, (2) using longline pot gear to fish for IFQ sablefish in the GOA, and (3) fishing for halibut in Area 4 if a vessel operator is using VMS instead of the vessel clearance requirements.

a. VMS operation

NMFS OLE developed national standards for VMS transmitters, base stations, and communication service providers. These standards ensure that a vessel purchasing a unit for use in one region of the United States will not have to purchase a different unit to fish in another region. Refer to http://www.nmfs.noaa.gov/ole/docs/2016/2016_vms_type_approval.pdf for approved VMS units.

Prior to participating in operations requiring VMS, a vessel owner must obtain a NMFS-approved VMS transmitter and install it or have it installed on board the vessel. Depending on which brand of VMS is chosen, NMFS estimates the VMS units' price range is about $2,500 to $3,200. The VMS transmitter must be available for inspection by NMFS personnel, observers, or authorized officers. The vessel owner must ensure that the VMS transmitter is not tampered with, disabled, destroyed, or operated improperly; and must pay all charges levied by the VMS service provider agreement. Depending on which brand of VMS is chosen, the average monthly cost of a VMS service provider agreement is approximately $60 for 2 polls per hour and approximately $190 for 10 polls per hour.

NOAA established a VMS Reimbursement Program to offset the cost of purchasing a VMS unit for the purpose of complying with fishery regulations pursuant to the Magnuson-Stevens Act

(see http://www.psmfc.org/program/vessel-monitoring-system-reimbursement-program-vms). The Pacific States Marine Fisheries Commission in collaboration with NMFS OLE distributes the allocated reimbursement funds to eligible, confirmed vessel owners and operators. The reimbursement program is for eligible vessels that have not had a VMS unit installed before and reimburses the cost of the base unit of the first VMS unit up to $3,100. In 2016, 34 reimbursements were issued by the program and an additional 61 reimbursements have been issued to date in 2017. Many of these reimbursements were made because of requirements to upgrade or replace outdated VMS units. However, replacement of units that fail or are voluntarily upgraded over the next three year cycle of this information collection are *not likely to be eligible* for reimbursement due to the "one time" provisions of the reimbursement program. Thus, NMFS is estimating that 100 units will be replaced annually at a cost of $310,000 without reimbursement.

Questions regarding the VMS Reimbursement Request Form, VMS Reimbursement Program process, and reimbursement status can be directed to the Pacific States Marine Fisheries Commission by calling (503) 595-3100. Questions regarding regulations, compliance, reimbursement eligibility, type-approvals, and confirmation associated with the VMS Program can be directed to the NMFS OLE VMS Support Center at 1 (888) 219-9228.

Regulations at 50 CFR 679.28 require that the VMS be operational. VMS equipment failure may interfere with normal vessel operations until repairs can be made, and this may impose additional costs. If the VMS unit is not working, the vessel operator must contact NMFS OLE who will assist in troubleshooting the system to get it operational again. NMFS OLE treats equipment breakdowns on a case-by-case basis and tries to avoid interrupting a fishing trip already in progress.

Section 679.28(f)(7) requires operators of vessels named on a Federal Fisheries Permit (FFP) and using trawl gear in the Aleutian Islands reporting areas to harvest groundfish deducted from the Federal total allowable catch to set their VMS to transmit the vessel location at least 10 times per hour. This is necessary because of the extent and complexity of the trawl closures in these reporting areas. This requirement was implemented through a final rule published on November 25, 2014 (79 FR 70286).

The estimated total number of vessels required to have operational VMS units in the Alaska groundfish and crab fisheries (respondents) is 1,139, amended from 878. Data provided by NMFS OLE indicates that an average of 100 VMS unit per year can be expected to be installed via addition or replacement.

In this supporting statement, VMS transmissions are not counted as responses or included in the burden estimates, because they are automatic. The minimum number of VMS transmissions per day is 48 except when operating in the Aleutian Islands subarea when it is 240. The average monthly cost of data polling at the highest required rate is approximately $190. Thus, NMFS has assumed a daily cost of $7. The hourly charges for installation, maintenance, and troubleshooting by a qualified marine electronics technician vary by location: Seattle rates are approximately $115 per hour while Kodiak rates are approximately $135 per hour and Dutch Harbor rates are approximately $142 per hour based on responses to informal interviews. Thus,

the average of the high and low rates, $128 per hour, has been used to estimate this burden.

VMS Operation, Respondent	
Number of VMS Respondents Atka mackerel, pollock, Pacific cod (581) BSAI crab (73) BSAI sablefish (159) GOA Dredge Gear scallop (3) Central GOA Rockfish (53) Amendment 80 (21) BSAI IFQ sablefish (229) GOA IFQ sablefish pot gear (20)	1,139
Total VMS Transmissions VMS = minimum 48 transmissions per fishing day Atka mackerel, pollock, Pacific cod 180 fishing days per vessel x 48 x 581 = 5,019,840 BSAI crab 30 fishing days per vessel x 48 x 73 = 105,120 BS & AI sablefish 200 fishing days per vessel x 48 x 159 = 1,526,400 GOA scallop 230 fishing days per vessel x 48 x 3 = 33,120 Central GOA rockfish 200 fishing days per vessel x 48 x 53 = 508,800 Amendment 80 300 fishing days per vessel x 48 x 21 = 302,400 BSAI IFQ sablefish 200 fishing days per vessel x 48 x 229 = 2,198,400 GOA IFQ sablefish pots 200 fishing days per vessel x 48 x 20 = 9,886,080	9,886,080
Total Responses	
VMS installation, annualized: 33, maintenance, 1,139, troubleshooting, 57	**1,229**
Total Burden VMS installation (6 hr/yr) x 100 vessels, annualized to 200 hr VMS maintenance time (4 hr/yr x 1,139 vessels =4,556 hr) VMS Failure Troubleshooting (5% failure rate, 2 hr/failure x 57 = 285)	**5,041**
Burden and responses are not applicable for VMS transmissions	
VMS purchase w/o reimbursement (100 per year x $3,100)	**$310,000**
Total Miscellaneous Cost	
Technician payment of $128/hr x 5,041 (vessel owner is present for all of these operations, but pays technician)	**645,248**
Annual VMS transmission cost @ $7/day Atka mackerel, pollock, Pacific cod (581 x 180 x $7 = $732,060) BSAI crab (73 x 30 x $7 = $15,330)	**$1,441,720**

BS & AI sablefish (159 x 200 x $7 = $222,600) GOA scallop (3 x 230 x $7 = 4,830) Central GOA rockfish (53 x 200 x $7 = $74,200 Amendment 80 (21 x 300 x $7 = $44,100 BSAI IFQ sablefish (229 x 200 x $7 = $320,600 GOA IFQ sablefish pots (20 x 200 x $7 = $28,000	
Total miscellaneous costs	**$2,396,968**

b. VMS Check-In Report

Before participating in a fishery that requires VMS, the participant must fax a one-time VMS check-in report to NMFS OLE at (907) 586-7703. The information on this report enables OLE to verify that the VMS system is functioning and that VMS data can be identified as a specific vessel. This information collection is identified as a "check-in" report in NMFS regulations and as the "VMS fax" on the form which is available from the NMFS Alaska Region website and may be filled out on the screen and printed.

Because the VMS requirements have been in effect for some time, most of the participants have already purchased and checked in their VMS units; this check-in is required only once to obtain the signature of the VMS unit. Check in report data provided by NMFS OLE show that between 2015 and 2017, an average of approximately 100 check in reports are received annually due to replaced VMS units, moving of VMS unit from one vessel to another, or new participant required to check-in once. Any time that a VMS unit is replaced or moved from one vessel to another (as may happen with companies that own multiple vessels), the operator must submit another VMS check-in report.

VMS Check-In Report

Date
Vessel name
USCG documentation number ("official #")
Federal Fisheries permit number or Federal crab vessel permit number
Name and telephone number of contact person
VMS transmitter name and ID or serial number

VMS Check-In Report, Respondent	
Number of Respondents (new, moved or replaced VMS units per year)	**100**
Total Responses Frequency per year = 1	**100**
Total Burden Hours Hours per response 12/60 min = 0.2 hr x 100 =20 hr.	**20**
Total Personnel Cost ($37 x 20)	**$740**
Total Miscellaneous Costs (Fax $6 x 100)	**$600**

c. GOA Sablefish Longline Pot Gear Call in

NMFS requires all vessel operators using longline pot gear in the GOA sablefish IFQ fishery to use a VMS while fishing for sablefish IFQ. Vessel operators using longline pot gear to fish sablefish IFQ in the GOA are required to contact NMFS at 1-800-304-4846 (option 1) to confirm that VMS transmissions are being received from the vessel. The vessel operator is required to receive a VMS confirmation number from NMFS at least 72 hours prior to the vessel's first fishing trip of the year in the GOA sablefish IFQ fishery.

VMS Call In, Respondent	
Number of Respondents (GOA sablefish pot gear registrants)	**20**
Total Responses Frequency per year = 1	**20**
Total Burden Hours Hours per response 12/60 min = 0.2 hr x 20 = 4 hr.	**4**
Total Personnel Cost ($37 x 4)	**$148**
Total Miscellaneous Costs (phone fees $6 x 20)	**$120**

d. Optional Area 4 halibut check in

Any vessel that carries a transmitting VMS while fishing for halibut in Area 4A, 4B, 4C, or 4D, and until all halibut caught in any of these areas is landed, is exempt from vessel clearance requirements. This is optional part of the VMS program and NMFS OLE data for the recent three years shows an average of 180 Area 4 halibut calls per year.

VMS Check-In Report, Respondent	
Number of Respondents (average of 180 per year)	**180**
Total Responses Frequency per year = 1	**180**
Total Burden Hours Hours per response 12/60 min = 0.2 hr x 180 = 36 hr.	**36**
Total Personnel Cost ($37 x 36)	**$1,332**
Total Miscellaneous Costs (phone fee $6 x 180)	**$1,080**

<u>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</u>

Section 515 of Public Law 106-554 (the Information Quality Act) requires NMFS to ensure the quality, objectivity, utility, and integrity of information it publicly disseminates. Data submitted by VMS units is aggregated, synthesized, summarized, and presented in a non-confidential format to the public in reports and analyses of fishery conservation and management measures. Public dissemination of these data is governed by NOAA's information quality guidelines, which were issued on October 30, 2004 (http://www.cio.noaa.gov/services_programs/IQ_Guidelines_103014.html).

Reports and analyses prepared with VMS data generally fall under NOAA's information quality category "synthesized products." These products have been developed through analysis of

original data by applying methods that require some scientific evaluation and judgment; however, these methods of analysis generally are well documented and relatively routine. Therefore, peer review is generally not required for reports and analyses prepared using VMS data.

Reports and analyses undergo internal agency review by people familiar with the underlying data and fisheries being described. In addition, analyses presented to the North Pacific Fishery Management Council are reviewed by its Scientific and Statistical Committee.

Data from the VMS unit registration and annual check-in calls before fishing are maintained and used primarily by NMFS OLE to monitor compliance. This information may periodically be made available to the public in summary form as was done to prepare the projections used in this analysis. However, these data generally are not disseminated to the public.

3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological techniques or other forms of information technology.

The VMS collection-of-information is automated and integrates current information technology in the fishery management and monitoring process.

The VMS check-in report may be completed onscreen using fillable forms, downloaded, and printed from the NMFS Alaska Region website at https://alaskafisheries.noaa.gov/sites/default/files/vmsfax.pdf.

4. Describe efforts to identify duplication.

No other management agency requires the submission of VMS data from fishermen participating in the federally managed fisheries off Alaska. In general, Alaska Region information collections are prepared and reviewed by staff familiar with all of the information collection requirements for the region. Staff work together to develop information collection requirements for new programs. In addition, NMFS staff work closely with the staff of the Alaska Department of Fish and Game and the International Pacific Halibut Commission to reduce duplication in information collection requirements to the extent possible given overlapping jurisdictions and complex fisheries. Senior staff at the Alaska Region, NMFS headquarters, and the Department of Commerce General Counsel review all new and revised information collection requirements that are associated with rulemakings. This process minimizes the potential for duplication of information collection requirements for participants in the Federal fisheries off Alaska.

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

This collection of information does impact some small entities. NMFS has attempted to minimize the burden of the VMS requirements on small entities primarily through the VMS Reimbursement Program to offset the cost of purchasing a VMS unit. More information about this program is in the response to question 2a above.

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

The VMS is an integral part of the management of the fisheries in the Alaska Region for reasons described in more detail in the response to Question 1. The inability to collect vessel location through VMS would reduce NMFS's ability to monitor and enforce complex, overlapping, and numerous closure areas, area-specific allocations to individuals and entities, and other regulatory limitations In addition, the inability to specify the conditions under which VMS units are considered operable and reliable would prevent NMFS from offering VMS as a option to vessel clearance requirements.

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

No special circumstances exist.

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 was published on June 6, 2017 (82 FR 26062) to solicit public comments. The comment period ended August 7, 2017. We did not receive any comments on this notice.

We attempted to contact nine individuals to conduct a follow on survey. The nine potential respondents have all installed a VMS unit within the last year. Potential respondents were contacted via phone to obtain an e-mail address for transmission of the survey. Of the nine potential respondents, contact was only made with two and the survey was e-mailed to these two individuals.

Survey respondents made the following comments.

The 72 hour delay of a GOA sablefish trip with pot gear means that we lose three days of valuable fishing time.

Response: The one time per year (before first trip) 72 hour check-in requirement is in place to allow NMFS OLE time to verify gear type aboard pot sablefish vessels and to ensure that the vessel's VMS unit is transmitting properly, and is necessary for monitoring and enforcement in this fishery.

VMS seems to be an effective tool in managing the fisheries off Alaska. The instructions and

requirements are fairly clear.

Response: NMFS agrees with this comment

Hourly cost estimates are accurate; however you underestimate the number of hours necessary to cover paperwork. Further, you do not include costs to troubleshoot VMS units.

Response: NMFS has adjusted the personnel costs to reflect greater time required and has added a cost category for troubleshooting failed units. We have assumed a failure rate of 5% and five hours of troubleshooting time.

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

No payment or gift to respondents is provided under this program.

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

All VMS units include systems to minimize the risk of direct or inadvertent disclosure of vessel position. The information collected, including VMS transmissions—but not including information on the VMS check-in report—is confidential under section 402(b) of the Magnuson-Stevens Act (16 U.S.C. 1881a *et seq*.), and also under NOAA Administrative Order (NAO) 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

All information collected is part of a system of records: COMMERCE/NOAA #6: Fishermen's Statistical Data.

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.

This information collection does not involve information of a sensitive nature.

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

Total estimated unique respondents are 1,139, up from 878. Total estimated responses are 1,529. Total estimated burden hours for the collection of information are 5,101 hours estimated for VMS installation, maintenance and trouble-shooting, check in reporting, pot sablefish check in reporting, and Area 4 reporting.

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 estimated non-reimbursed purchase costs are $310,000. Total estimated installation and

maintenance costs for technicians are $645,248. Total transmission costs are $1,441,720. Costs for the additional information collections are $1,800. **The combined total estimated cost burden is $2,396,968**.

14. <u>Provide estimates of annualized cost to the Federal government</u>.

Alaska Region VMS data are monitored and interpreted by NMFS OLE. Currently, no officers are directly dedicated to VMS; however, a program manager, information technology technician, and enforcement technician work on VMS each day for some hours.

VMS operation, Federal Government	
Total responses	**1,139**
Total burden hours	**2,080**
80 hr per time period x 26 time periods per year = 2080 hr	
Total personnel cost (2080 hr x $37/hr)	**$76,960**
Total miscellaneous costs	**$0**

Total estimated burden hours: 2,080. Total estimated personnel costs: $76,960. Total miscellaneous costs: 0.

15. <u>Explain the reasons for any program changes or adjustments</u>.

Program adjustments are due to the difference between previous and current respondents and responses. This extension adjusts upward the number of respondents by 261*, using the most recently available permit data (2017) and has adjusted upward the cost estimates for inflation.

Costs in this submission reflect that the allocated reimbursement for VMS purchase has already been used for this period.

NMFS has also responded to public comment in adjusting burden hours upward as well as adding burden hours and technician costs for VMS unit failure troubleshooting that was identified in public comments and not previously tabulated.

Also, a major cost correction: previously, technician costs for installation and maintenance were not included.

* The previous ICR (1/17) had 63 unduplicated respondents. The sponsor for that ICR has since retired so we cannot trace what happened. The apparent degree of change related to this discrepancy is greater than in reality.

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

NMFS has no plans to publish the results of this information collection.

17. <u>If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons why display would be inappropriate</u>.

NA.

18. <u>Explain each exception to the certification statement</u>.

There are no exceptions to the certification statement.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.

OMB Control No. 0648-0445 Expiration Date: 11/30/2017

Please fax page 1 of this
completed form to:
NOAA Fisheries Service
Office For Law Enforcement
VMS Fax number: ***907-586-7703***

NOAA
Fisheries Service

VMS Fax

Note: Please register your VMS unit
with an approved service provider prior to using this fax.

Date:_____

Vessel Name:_____

U.S. Coast Guard Official #:_____

Alaska Federal Fisheries Permit #:_____

or

Alaska Federal Crab Vessel Permit #:_____

Contact Person: _____

Contact Telephone #: _____

VMS Transmitter Name and ID or serial #:_____

PUBLIC REPORTING BURDEN STATEMENT

Public reporting burden for this collection of information is estimated to average 12 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 aspect of this collection of information, including suggestions for reducing the burden, to Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802.

ADDITIONAL INFORMATION

Before completing this form please note the following: 1) NMFS cannot conduct or sponsor this information request, and you are not required to respond to this information request, unless the form displays a currently valid OMB control number; 2) This information is mandatory and is required to manage the VMS data collection program for groundfish under 50 CFR part 679 and CR crab fisheries under 50 CFR part 680, and under section 402(a) of the Magnuson-Stevens Act (16 U.S.C. 1801 et seq.) and 16 U.S.C. 1862(j) ; 3) Federal law and regulations require and authorize NMFS to manage commercial fishing effort; 4) Responses to this information request are not confidential.

PRIVACY ACT STATEMENT

Authority: The collection of this information is authorized under the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C 1801 et seq.

Purpose: In order to manage U.S. fisheries, the NOAA National Marine Fisheries Service requires tracking of vessel location using VMS. The collection of this information is required to monitor compliance with complicated time and area closures designed to protect Steller sea lions or essential fish habitat, to monitor compliance with area-specific catch allocations, and to monitor compliance with requirements to redeploy or remove fishing gear from commercial fishing grounds.

Routine Uses: The Department will use this information to facilitate enforcement of area closures in certain fisheries and to check the accuracy of vessel position information reported by the vessel operator in the daily logbooks. Disclosure of this information is permitted under the Privacy Act of 1974 (5U.S.C. Section 552a), to be shared with authorized Federal and State of Alaska law enforcement agencies or individuals in those agencies to coordinate fishery conservation, management, and monitoring responsibilities. Disclosure of this information is also subject to all of the published routine uses as identified in the Privacy Act System of Records Notice for COMMERCE/NOAA-6, Fishermen's Statistical Data (http://www.osec.doc.gov/opog/PrivacyAct/SORNs/noaa-6.html).

Disclosure: Furnishing this information is mandatory and is required to manage the VMS data collection program under 50 CFR part 679 (groundfish) and 50 CFR part 680 (crab). Failure to supply the information may result in action by NMFS Office of Law Enforcement.

eLandings, seaLandings, and tLandings are data entry components of the Alaska Interagency Electronic Reporting System (IERS), which is a collaborative program run by the National Marine Fisheries Service (NMFS) Alaska Regional Office, the Alaska Department of Fish and Game (ADF&G), and the International Pacific Halibut Commission (IPHC). eLandings, seaLandings, and tLandings provide the Alaska fishing industry with a consolidated electronic means of reporting production and landings of commercial fish and shellfish to multiple management agencies with a single reporting system. NMFS collects groundfish harvest and production data for fishery management plan species in the Exclusive Economic Zone (EEZ). ADF&G collects harvest data for groundfish species taken in State of Alaska waters and has responsibility for some fisheries in the EEZ, such as lingcod and black rockfish. ADF&G and NMFS cooperatively manage the Crab Rationalization Program fisheries in the Bering Sea and Aleutian Islands Management Area. NMFS and IPHC cooperatively manage Individual Fishing Quota (IFQ) for Pacific halibut and sablefish in both State waters and in the EEZ.

eLandings is a web-based application used by vessels and processors to report groundfish, crab, Pacific halibut, and sablefish production and landings data. Processors with limited internet access, such as the at-sea fleet, use eLandings client desktop software named seaLandings, provided by NMFS, and submit the required reports as email attachments or via direct transmit over the Internet. Once data are entered and submitted, the User must print daily through eLandings each landing report, production report, logbook report, and if an IFQ delivery, each IFQ receipt. The parties to the information must acknowledge the accuracy of the printed reports by signing them and entering the date signed. In addition, the User must make the printed copies available upon request of NMFS observers and authorized officers.

tLandings is a software application for tender vessels that records landings data on a USB flash drive and creates a printable fish ticket. The fish ticket is printed on board the tender vessel and signed by the delivering catcher vessel operator. When the tender vessel delivers to the shoreside processor, the shoreside processor uploads the landing information on the USB flash drive into eLandings.

Some of the benefits of IERS include improved data quality, automated processing of data, improved process for correcting or updating information, availability of more timely data for fishery managers, and reduction of duplicative reporting of similar information to multiple agencies.

II. Method of Collection

Methods of submittal include online and email. Clients with limited internet access, such as the at-sea fleet, use seaLandings client desktop software and submit landing reports as email attachments or over the Internet. The vessels use satellite communications, which may or may not include telephone, Internet, text messaging, email, and email attachment capabilities.

III. Data

OMB Control Number: 0648–0515.

Form Number(s): None.

Type of Review: Regular submission (extension of a current information collection).

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

Estimated Number of Respondents: 273.

Estimated Time per Response: 35 minutes for a tLandings landing report; 30 minutes for catcher/processor eLandings landing report; 18 minutes for active response and 5 minutes for inactive response for pilot catcher vessel trawl electronic logbook (eLog); 15 minutes for active response and 5 minutes for inactive response for catcher vessel eLog, catcher/processor eLog and mothership eLog; 15 minutes for eLandings registration; 10 minutes for eLandings/seaLandings landing report; and 20 minutes for at-sea response; and 10 minutes for shoreside and stationary floating processor response for eLandings/seaLandings production report.

Estimated Total Annual Burden Hours: 16,865.

Estimated Total Annual Cost to Public: $2,870 in recordkeeping/reporting costs.

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: June 1, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–11628 Filed 6–5–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Alaska Vessel Monitoring System (VMS) Program

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 August 7, 2017.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Scott Miller, (907) 586–7228.

SUPPLEMENTARY INFORMATION:

I. Abstract

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

Vessel Monitoring System (VMS) units integrate global positioning system (GPS) and communications electronics into a single, tamper-resistant package to automatically determine the vessel's position several times per hour. The units can be set to transmit a vessel's location periodically and automatically to an overhead satellite in real time. In most cases, the vessel owner is unaware

of exactly when the unit is transmitting and is unable to alter the signal or the time of transmission. The VMS unit is passive and automatic, requiring no reporting effort by the vessel operator. A communications service provider receives the transmission and relays it to the National Marine Fisheries Service (NMFS) Office of Law Enforcement and the U.S. Coast Guard. Enforcement of management measures, such as directed fishing closures and critical habitat no-fishing zones, relies heavily on the use of VMS.

II. Method of Collection

Automatic GPS position reporting starts after VMS transceiver installation and power activation on board the vessel. The unit is pre-configured and tested for NMFS VMS operations. Vessel operators who purchase and install a VMS on a vessel must fax a one-time VMS check-in report to NMFS. Thereafter, submittal is automatic by satellite.

III. Data

OMB Control Number: 0648–0445.

Form Number(s): None.

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

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

Estimated Number of Respondents: 83.

Estimated Time per Response: 12 minutes for VMS check-in report; 2 hours for VMS operation (includes installation and maintenance).

Estimated Total Annual Burden Hours: 130.

Estimated Total Annual Cost to Public: $67,793 in recordkeeping/reporting costs.

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: June 1, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–11627 Filed 6–5–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF411

Taking of Marine Mammals Incidental to Specified Activities; Dismantling of the Original East Span of the San Francisco-Oakland Bay Bridge

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; proposed incidental harassment authorization; request for comments and information.

SUMMARY: NMFS has received a request from the California Department of Transportation (CALTRANS) for an incidental take authorization to take small numbers of six species of marine mammals, by harassment, incidental to the dismantling of the original East Span of the San Francisco-Oakland Bay Bridge (SFOBB) in the San Francisco Bay (SFB), California. Pursuant to the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to issue an incidental harassment authorization (IHA) to incidentally take marine mammals during the specified activities.

DATES: Comments and information must be received no later than July 6, 2017.

ADDRESSES: Comments on the application should be addressed to Jolie Harrison, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910 and electronic comments should be sent to *ITP.Youngkin@noaa.gov.*

Instructions: NMFS is not responsible for comments sent by any other method, to any other address or individual, or received after the end of the comment period. Comments received electronically, including all attachments, must not exceed a 25-megabyte file size. Attachments to electronic comments will be accepted in Microsoft Word or Excel or Adobe PDF file formats only. All comments received are a part of the public record and will generally be posted online at *http://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm* without change. All personal identifying information (*e.g.,* name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

FOR FURTHER INFORMATION CONTACT: Dale Youngkin, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the application and supporting documents, as well as a list of references cited in this document, may be obtained at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, kill, or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has