

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

**INTRODUCTION**

National Marine Fisheries Service (NMFS) Alaska Region manages the groundfish fisheries in the exclusive economic zone (EEZ) of the Bering Sea and Aleutian Islands (BSAI) Management Area and Gulf of Alaska (GOA) under fishery management plans (FMPs) for groundfish in the respective areas. The North Pacific Fishery Management Council (Council) prepared, and NMFS approved, the FMPs under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), [16 U.S.C. 1801 et seq.](#) Regulations implementing the FMPs appear at [50 CFR part 679.28](#). The regulations are enforced by the NMFS Office for Law Enforcement (OLE) and the U.S. Coast Guard (USCG). One of the monitoring mechanisms is a requirement for use of a Vessel Monitoring System (VMS) for certain users of the marine fishery resources.

Participants in certain fisheries are required to purchase, install, and operate a NMFS-approved VMS to provide more precise information on vessel location. The VMS transmitter automatically determines the vessel's position several times per hour using a Global Positioning System (GPS) satellite. A communications service provider receives the transmission and relays it to OLE. 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. This action is a request for renewal of an existing collection.

NMFS has management responsibility for certain threatened and endangered species under the Endangered Species Act of 1973 ([ESA](#)), 16 U.S.C. 1531, *et seq.* In addition, NMFS has the authority to promulgate regulations to enforce provisions of the ESA to protect such species. To help ascertain the effects on threatened and endangered species of certain fisheries, NMFS needs to identify where vessels engaged in those fisheries are fishing.

The VMS vessel location reports are used to facilitate enforcement of the area closures in certain fisheries. The reports not only provide OLE and USCG real-time vessel location and activity information, but also can be used to check the accuracy of vessel position information reported by the vessel operator in the daily fishing logbooks required by regulations. The information provides a basis for determining whether changes in management are needed to protect sensitive species, for addressing fishery interaction problems, and for evaluating the impacts of potential changes. 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. There have been recent changes to the VMS units approved for Alaska fisheries. Following is a link to the *Federal Register* publication describing these changes. [[69 FR 19985 - Notice of NOAA-approved VMS for use by vessels participating in Alaska fisheries requiring VMS](#)]

According to a new Government Accountability Office (GAO) report, "COAST GUARD-- Observations on Agency Performance, Operations and Future Challenges," available at: <http://www.gao.gov/new.items/d06448t.pdf> "The Coast Guard reported that the performance measure for living marine resources—defined as the percentage of fishermen complying with federal regulations—was 96.4 percent, just below the target of 97 percent for fiscal year 2005. This result is similar to the fiscal year 2004 result of 96.3 percent. According to Coast Guard officials, the agency missed the fiscal year 2005 target because of a variety of economic conditions and variables beyond Coast Guard control, such as hurricane damage, high fuel costs, fewer days-at-sea allocations, and lucrative seafood prices in some fisheries—which created greater incentives for fishermen to violate fishery regulations. The Coast Guard conducted 6,076 fisheries boardings in fiscal year 2005, an increase of more than 30 percent since fiscal year 2004. However, it is important to note that the compliance rate is a conservative estimate of agency performance because the Coast Guard targets vessels for boarding, thereby making it more likely that they will find vessels that are not in compliance with fishery regulations. According to Coast Guard officials, a key contributor to targeting vessels is the vessel monitoring system, which has enhanced the agency's ability to target vessels by providing more timely information."

## A. JUSTIFICATION

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

VMS units integrate global positioning system (GPS) and communications electronics in a single, tamper-resistant package. The units can be set to transmit a vessel's location periodically and automatically to an overhead satellite in real time. The VMS system is an essential component of managing fisheries, because it allows verification of where fishing is taking place in real time. This, in turn, allows verification that vessels fishing in an area are permitted to fish in that area. The VMS also ensures that harvested fish are properly debited or reported, because NMFS can track vessels as they arrive in port to offload product.

Traditional methods of monitoring compliance with fishing regulations do not fully meet NMFS' need to monitor fishing activities under protection measure. An electronic VMS is generally acknowledged to be an essential component of monitoring and management for complicated, geographically widespread fishing closures.

### 2. Explain how, by whom, how frequently, and for what purpose the information will be used. If the information collected will be disseminated to the public or used to support information that will be disseminated to the public, then explain how the collection complies with all applicable Information Quality Guidelines.

The information obtained in this collection will not be disseminated to the public; it is primarily for use internally by OLE and USCG. The information will enable both agencies to effectively monitor any potential for violations of the protected areas.

## Steller Sea Lion Management

Under provisions of the Steller sea lion management actions, NMFS requires that VMS be used

by trawl and hook-and-line catcher vessels and catcher-processors participating in the directed pollock, Pacific cod, and Atka mackerel fisheries. The VMS must be transmitting when any of these three fisheries for which the vessel is endorsed is open, regardless of the target species. VMS provides real-time information on vessel location and can be useful for enforcing area closures and other elements of the fisheries management program.

The VMS units provide a cost-effective deterrent to closed area violations in the program of Steller sea lion protection measures, adopted in 2001. These closure areas are often complex and located in remote areas that are difficult to observe. In addition, large numbers of vessels are active in Alaska fisheries. These factors complicate enforcement of the closures and could seriously reduce the value of the protection measures without the use of VMS.

Most of the Atka mackerel, pollock, and Pacific cod are harvested in or near critical habitat in the BSAI and GOA. When critical habitat areas are closed, continued fishing for the three species takes place very close or adjacent to closed areas. Effective enforcement depends on the use of a VMS to accurately monitor vessels fishing near critical habitat when these areas are closed.

### **BSAI Crab Program**

A vessel that harvests crab in the BSAI crab fisheries, including Western Alaska Community Development Quota (CDQ) Program or Adak crab, is required to have VMS equipment transmitting under the following conditions: (a) the vessel is operating in any reporting area off Alaska; (b) the vessel has crab pots, crab pot hauling equipment, or a crab pot launcher onboard; and (c) the vessel has or is required to have an Federal Crab Vessel Permit (FCVP) for that crab fishing year.

### **EFH and HAPC**

NMFS requires vessels with a Federal Fisheries Permit (FFP) or FCVP to have VMS equipment transmitting while operating with bottom-contact gear (bottom trawl, dredge, pot, hook-and-line, dinglebar) in the GOA management area. NMFS requires vessels with an FFP or FCVP to use a VMS unit while operating in the Aleutian Islands management area (AI).

Tracking the location of fishing vessels by VMS is necessary for effective enforcement of the Essential Fish Habitat (EFH) and Habitat Area of Particular Concern (HAPC) management measures. Many of the proposed fishing restrictions involve relatively small areas dispersed over a large section of the EEZ, making surveillance by enforcement vessels or aviation patrols difficult with existing resources. Many of the measures to protect EFH from fishing impacts depend heavily on the strict regulation of the location of fishing activities targeting many of the target fisheries in Alaska.

Several gear types used in the Alaska fisheries have been identified as likely to disturb bottom habitat and would be restricted by this action to protect EFH and HAPCs. These gear types include pot, hook-and-line, dredge, dinglebar troll, and nonpelagic trawl gears. VMS transmission allows the tracking of a vessel at those times when the vessel is conducting fishing activities in or near an EFH or HAPC management area.

## **BSAI Sablefish Fishery**

Similar regulations under consideration in the sablefish fishery encourage vessels fishing for sablefish in the AI to carry VMS. These regulations do not impose requirements to carry the units, but they create incentives to do so by excusing vessels with them from an International Pacific Halibut Commission (IPHC) vessel clearance regulation requirement. Vessel clearances have been required by the IPHC since the 1960s to discourage illegal fishing and false reporting of catch harvested in IPHC areas. Because of the great distances involved in the Bering Sea (BS) and AI fishing areas, reduced levels of enforcement presence, and marginal weather, IPHC vessel clearances continue to be very important compliance tools to discourage illegal fishing and promote accurate catch reporting.

Misreporting is occurring in the BSAI sablefish fishery. To the extent that misreporting is occurring, sablefish biomass estimates would be affected, which would impact the total sablefish allowable biological catch or quotas. Anecdotal accounts suggest that participants in the BSAI sablefish fishery are reporting fish caught in the Western GOA reporting areas as fish caught in BSAI reporting areas. This misreporting may be due to increasing killer whale depredation of hooked sablefish in the BSAI, increased cost of traveling for fishermen to the BSAI, and higher prices paid for sablefish taken in the GOA than in the BSAI. All three potential events require close scrutiny of the BSAI sablefish fishery. The vessel VMS compensates for each of the three misreporting causes because the VMS shows the location of the vessel.

### **a. VMS operation**

Prior to participation in a fishery that requires VMS, a vessel owner must purchase a NMFS-approved VMS transmitter and install it or have it installed onboard the vessel. Installation time for a VMS unit is estimated to be less than two hours. A higher installation estimate of 6 hours/vessel is used, based on a worst-case scenario. This scenario provides that a suitable electrical hookup is not convenient to a location where the VMS unit can be installed.

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 communication service provider.

Various VMS packages are available from vendors with VMS units ranging in list price from \$1,200 to \$2,500 plus freight. Transmission costs range from daily costs of \$2.40 to \$5 per day to monthly costs of \$74 for transmissions. A dry dock fee of \$5 per month is estimated for those months without VMS transmissions. Repair costs would average about \$93 per year for vessels 32 feet and under and \$47 per year for larger vessels. This is a permanent program, and vessels would incur additional costs as they replace VMS units and antennas. **It is possible, however, that during fiscal year 2006, the participant could replace the VMS without cost through a national VMS reimbursement program for vessel owners. The details of this program will be available in late summer 2006 through the Alaska Region Web site at <http://www.fakr.noaa.gov>. A [notice](#) was published in the Federal Register on July 21, 2006.**

Regulations at 50 CFR part 679.28 require the VMS to be operational. VMS equipment failure may also 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 OLE; OLE will assist in troubleshooting the system to get it operational again. OLE treats equipment breakdowns on a case-by-case basis and tries to avoid interrupting a fishing trip already in progress.

<b>VMS operation, Respondent</b>	
<b>Number of VMS respondents</b>	<b>1,854</b>
Atka mackerel, pollock, Pacific cod (539)	
BSAI crab (200)	
AI EFH (124)	
GOA EFH (865)	
BSAI sablefish (126)	
<b>Total responses (VMS transmissions)</b>	<b>10,656,000</b>
VMS = 72 transmissions per fishing day	
Atka mackerel, pollock, Pacific cod (539)	
180 fishing days per vessel x 72 x 539 = 6,985,440	
BSAI crab (200)	
30 fishing days per vessel x 72 x 200 = 432,000	
AI EFH (124)	
20 fishing days per vessel x 72 x 124 = 178,560	
GOA EFH (865)	
20 fishing days per vessel x 72 x 865 = 1,245,600	
BS & AI sablefish (126)	
200 fishing days per vessel x 72 x 126 = 1,814,400	
<b>Total burden (14,800 + 1612 + 7416)</b>	<b>23,828 hr</b>
Time for each transmission is 5 sec	
10,656,000 x 5 = 53,280,000/3600 sec = 14,800 hr	
VMS installation time for each NEW VMS	
(6 hr one time charge) x 806 vessels added with last approved action	
=4836/3 year = 1612 hr	
VMS maintenance time (4 hr/yr x 1854 vessels =7416 hr)	<b>\$225,700</b>
<b>Total personnel cost \$25 x (1612 + 7416)</b>	<b>1,272,680</b>
<b>Total miscellaneous cost</b>	
Initial cost of 806 VMS units (\$1,500 x 806 = 1,209,000/3 yr= \$403,000)	
Annual VMS transmission cost @ \$5/day = 740,000)	
Atka mackerel, pollock, Pacific cod (539) 180 fishing days	
per vessel x \$5/day x 539 = 485,100	
BSAI crab (200) 30 fishing days per vessel x \$5/day x 200 = 30,000	
AI EFH (124) 20 fishing days per vessel x \$5/day x 124 = 12,400	
GOA EFH (865) 20 fishing days per vessel x \$5/day x 865 = 86,500	
BS & AI sablefish (126) 200 fishing days per vessel x \$5/day x 126 = 126,000	
Annual repair (\$70 x 1854=129,780)	

VMS data are monitored and interpreted by OLE. Currently, a VMS program manager, a VMS computer specialist, and an enforcement technician are on staff in the Regional Office to implement the existing VMS program. Because follow-up EFH investigations were anticipated based on VMS data, OLE intends to add two additional enforcement officers, one in Dutch Harbor and one in Kodiak. These officers would conduct dockside boardings and contacts to ensure compliance with EFH and VMS requirements, follow-up on suspected violations, patrol with USCG or other patrol units, and response to observer affidavits, among other EFH-related tasks. One-time costs for training these new officers on the complexities of the VMS database and software were required. Additional annual costs are incurred for office space, vehicles, and

related support for these additional staff. Annual salary and personnel costs for these two officers are estimated to be \$110,000 each. The OLE also intends to add a VMS technician position, costing about \$87,000 per year (salary and benefits).

Past experience with VMS regulations promulgated for monitoring of the Steller sea lion protection areas has demonstrated the need for dockside boardings to ensure understanding and compliance with new VMS requirements among the fleet and provide outreach efforts to VMS retailers and installers to address specific regulatory and implementation concerns. If additional personnel and/or funding for monitoring of EFH protection measures were not provided, any enforcement or compliance monitoring activities in support of EFH protection measures would likely occur at the expense of (*i.e.*, reduction of efforts in) other regulatory areas.

<b>VMS operation, Federal Government</b>	
<b>Total burden hours</b>	<b>7,488</b>
Full time = 80 hr per time period	
26 time periods per year	
26 x 80 = 2080 hr	
Enforcement (3 full time x 2080 = 6240)	
1 program manager @ \$33	
1 information technology technician @ \$27	
1 enforcement technician \$25	
Inseason Management (4 part time = 1248 hr)	
1 fisheries technician @ 15% = .15 x 2080 = 312 hr	
1 scales technician @ 10% = .10 x 2080 = 208 hr	
1 fisheries technician @ 20% = .2 x 2080 = 416 hr	
1 fisheries technician @ 15% = .15 x 2080 = 312 hr	
<b>Total personnel cost</b>	<b>\$213,200</b>
1 fisheries technician@ \$34/hr x 312 = 10608	
1 scales technician@ \$29/hr x 208 = 6032	
1 fisheries technician@ \$28/hr x 416 = 11648	
1 fisheries technician@ \$26/hr x 312 = 8112	
1 program manager @ \$33 x 2080 = 68640	
1 information technology technician @ \$27 x 2080 = 56160	
1 enforcement technician \$25 x 2080 = 52000	
<b>Total miscellaneous cost</b>	<b>\$87,000</b>
1 contract VMS technician @ \$87,000/yr	

**b. VMS check-in report**

Upon completion of purchase and installation of a VMS unit, the participant must register the VMS unit with an approved service provider. At least 72 hours before participation in a fishery that requires VMS, the participant must send a one-time VMS check-in report to OLE. The information on this report enables OLE to verify that the VMS system is functioning and that VMS data are being received. The VMS check-in report may be filled out on the screen, printed, and faxed to FAX (907) 586-7703.

Most of the participants have already checked-in their VMS units; this check-in is required only once to obtain the signature of the VMS unit. An estimated 5% of the vessels will need to check-in due to new VMS units, moving of VMS unit from one vessel to another, or new participant required to check-in once. Anytime 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
- VMS transmitter ID or serial number
- Vessel name
- USCG documentation number
- Federal Fisheries permit number or Federal crab vessel permit number
- Name and telephone number of contact person

<b>VMS check-in report, Respondent</b>	
<b>Number of respondents (1754 already checked in)</b>	<b>100</b>
Atka mackerel, pollock, Pacific cod (539)	
BSAI crab (200)	
AI EFH (124)	
GOA EFH (865)	
BS & AI sablefish (126)	
<b>Total responses (1 x 100/3 yr)</b>	<b>33</b>
Frequency of check-in responses = 1	
<b>Total burden hours</b>	<b>7</b>
Hours per response (12/60 min=0.2 hr)	
0.2 x 100 = 20/3 yr = 6.66	
<b>Total personnel cost (\$25 x 7)</b>	<b>\$175</b>
<b>Total miscellaneous costs</b>	<b>\$200</b>
FAX \$6 x 100 = 600/ 3 yr= 200)	

<b>VMS check-in report, Federal Government</b>	
Total responses	<b>100</b>
<b>Total burden hours (0.2 x 100=20)</b>	<b>20 hr</b>
<b>Total personnel cost (20 hr x \$25/hr)</b>	<b>\$500</b>
<b>Total miscellaneous costs</b>	<b>0</b>

**c. VMS malfunction notification.**

This action clarifies when a vessel operator must stop fishing because of VMS transmission problems. The paragraph currently specifies that fishing must stop if the vessel operator is informed by NMFS that the VMS is not transmitting properly. This action further requires that fishing must stop if the vessel operator determines that the VMS is not transmitting properly due to accident or unforeseen event. This revision ensures that fishing is stopped as soon as possible after either NMFS or the vessel operator determines that the VMS is not functioning properly. This is estimated to affect 5 percent of the VMS units in use, or **approximately 100 vessels.**

<b>VMS malfunction notification, Respondent</b>	
<b>Number of respondents</b>	<b>100</b>
<b>Total annual responses (1 x 100)</b>	<b>100</b>
<b>Total burden hours</b>	<b>3</b>
Hours per response (2/60 min=0.03 hr)	
0.03 x 100 = 3	
<b>Total personnel cost (\$25 x 3)</b>	<b>\$75</b>
<b>Total miscellaneous costs</b>	<b>\$50</b>
Email 0.50 x 100 = 50	

<b>VMS malfunction notification, Federal Government</b>	
<b>Total annual responses</b> (1 x 100)	<b>100</b>
<b>Total burden hours</b>	
Hours per response (2/60 min=0.03 hr)	<b>3</b>
0.03 x 100 = 3	
<b>Total personnel cost</b> (\$25 x 3)	<b>\$75</b>
<b>Total miscellaneous costs</b>	<b>0</b>

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

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

The VMS requirement integrates current information technology in the fishery management and monitoring process. The collection of information is automated and electronic. Many vessel owners take advantage of this technology by linking personal computers to VMS units to improve communication with other vessels.

NMFS is currently developing a program which would incorporate VMS information for position coordinates into an electronic logbook. An Internet data entry form for the VMS check-in report will be accomplished by NMFS in the near future.

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

None of the information collected as part of this information collection duplicates other collections. No similar, comparable programs exist that collect real-time vessel location information.

**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 not impose a significant impact on small entities.

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

Without VMS, NMFS is not able to enforce complex boundaries surrounding numerous areas

closed to transit or directed fishing. Failure to enforce regulations associated with these areas would adversely impact threatened and endangered species and would exacerbate impacts on essential fish habitats. Without VMS, monitoring capabilities in quota based fisheries such as rationalized crab and sablefish, NMFS anticipates that the incidence of misreporting, underreporting, and other forms of deliberate data fouling would increase. Such increases could adversely impact NMFS ability to develop accurate stock assessments and could also directly impact stocks through increased potential for overfishing.

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

The collection is consistent with Office of Management & Budget (OMB) guidelines except that the VMS reports more frequently than quarterly (multiple times per day). That frequency is necessary for enforcing regulations.

**8. Provide a copy of the PRA Federal Register notice that solicited public comments on the information collection prior to this submission. Summarize the public comments received in response to that notice and describe the actions taken by the agency in response to those comments. Describe the efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.**

In June 2005, the Council recommended that NMFS develop an analysis and alternatives to address the issue of broader VMS application in the GOA and BSAI in a manner that meets enforcement, monitoring, and safety issues. In December, 2005, the Council adopted a statement of purpose and need, and a set of alternatives for evaluation. In April 2006, the Council revised the set of alternatives. In addition to an alternative for a comprehensive VMS requirement on all commercial fishing vessels in the EEZ, the Council has requested the evaluation of several alternatives that exempt classes of vessels. NMFS Alaska Region is presently working on an Environmental Assessment (EA)/ Rapid Incident Response (RIR)/ Initial Regulatory Flexibility Analysis (IRFA), analyzing the environmental impacts, the benefits, and the costs of the Council's alternatives, and expects to present this analysis to the Council for initial review in October 2006. At that time the Council may recommend the release of the document for public review, with or without modifications, or the Council may request further analysis, and the opportunity to review it, before releasing the document for public review. If the Council releases the document for public review, it could take action in December 2006. The October Initial Review meeting will provide the opportunity for the public to comment on VMS at three separate presentations: the Science & Statistical Committee (SSC), the Advisory Panel (AP), and at the Council meeting itself. If the Council were to take final action on VMS during the October meeting, then the public would be afforded the opportunity for comment at the December Council meeting.

*In the meantime:* A Federal Register Notice (71 FR 25149, April 28, 2006; copy attached) solicited public comments on this submission; two were received. The final rule for EFH and HAPC (71 FR 36694, June 28, 2006) solicited and received public comments, including

comments on VMS. An Alaska Region Information Bulletin (06-48) solicited public comments; 9 were received. These comments, with NMFS responses, are listed below.

Comments focused mainly on concerns regarding: 1) the burden on smaller operations, 2) possible disruption of fishing and/or need for a backup system due to breakdowns, and 3) the appropriateness of requiring VMS for certain gear types.

NMFS' position, as expressed in the responses to comments: VMS is a very effective monitoring tool that is basically non-intrusive on a fishing vessel; it works without human assistance. The VMS costs are gradually decreasing while the efficiency of the units is increasing. And the VMS units are becoming more dependable, usually without the need to maintain a backup VMS at sea. OLE is obtaining more experience with interpreting the VMS signals and with providing troubleshooting over the telephone with the operator of a vessel having VMS problems. Very rarely does a vessel have to stop fishing because of a malfunctioning VMS. Although seen by many operators and owners of small vessels as a needless expense, the VMS units are improving NMFS' ability to manage and conserve fisheries. The purposes for requiring VMS in a fishery in a given area vary as much as one fishery from another fishery

*Comment 1:* VMS is a necessary tool for enforcement and fisheries management and also provides a tool to increase fishing opportunities. VMS is useful for large vessels fishing over vast areas but is not appropriate for small vessels operating in densely fished areas like Southeast Alaska. NMFS should investigate ways to ease the cost of VMS, especially for small vessels. Difficulties in implementing VMS should not delay the implementation of the EFH and HAPC regulations.

*Response:* In the GOA, VMS requirements in this rule apply only to vessels with an FFP or FCVP and mobile bottom contact gear on board. NMFS agrees that implementation of the EFH and HAPC regulations should not be delayed by difficulties in implementing VMS and that VMS is a necessary tool for fisheries management and enforcement. VMS is useful for tracking vessel locations for small and large vessels. VMS is important for enforcing EFH protection areas, which are impacted more by the gear type than the vessel size. The FRFA analysis shows that in most instances, the cost of VMS is reasonable for small vessels. Some vessels may have a very small portion of their income derived from fishing activities that require VMS, making the cost of VMS higher relative to the revenue from those fishing activities. It is up to the vessel owner and operator to determine if the income from a fishing activity requiring VMS justifies the expense for the VMS. In the past, NMFS purchased VMS units for some participants in the groundfish fisheries. For fiscal year 2006, NMFS has a national VMS reimbursement program for vessel owners who are required by regulations promulgated in 2006 to install and operate a VMS unit for the first time. The details of this program will be available in late summer 2006 through the Alaska Region Web site at <http://www.fakr.noaa.gov>.

*Comment 2:* The legal, enforcement, and conservation concerns regarding VMS on small vessels need to be resolved before implementing the requirement. What happens if the technology fails? For example, what happens if the VMS fails while the vessel is fishing? Would the vessel be required to stop fishing and leave gear on the grounds while returning to port for repair work? Gear left on the grounds could result in lost gear or significant dead loss

and the fishers would experience loss of fishing time while waiting for repairs. Jarring of the VMS unit on small vessels in poor weather may make the unit more likely to break down. In Southeast Alaska, repair locations are limited.

*Response:* The associated final rule revises § 679.28(f)(3)(iv) to require the vessel operator to stop fishing if either the operator or NMFS personnel determine that the VMS is not working properly. Further actions required of a vessel with a failed VMS unit depend on the situation, and the operator is encouraged to contact the OLE immediately to determine the appropriate action. NMFS does not expect the jarring of VMS units on small vessels to result in a rate of equipment malfunction any higher than the failure rate of any other device with an antenna and wires onboard.

*Comment 3:* Approximately 80 percent of the vessels holding halibut Individual Fishing Quota (IFQ) complete their quota fishing in one or two trips, and many would never go more than 3 nautical miles from shore. A large majority of these vessels are less than 60 feet (18.3 m) length overall (LOA) and most commonly are 40 foot (12.3 m) LOA longline-troll gear vessels. Requiring VMS for these vessels would be an unsupported and unjustified expense. This requirement would likely result in significant legal and conservation problems. We oppose the VMS requirement on small vessels, especially in Southeast Alaska where enforcement opportunities are high.

*Response:* See response to comment 1. The VMS requirement in the GOA does not include longline-troll gear vessels. Small vessels using mobile bottom contact gear (nonpelagic trawl, dredge, or dinglebar gears) could possibly adversely affect the Gulf of Alaska Coral Habitat Protection Areas (GOACHPAs). VMS is the most effective method to detect any fishing by these vessels in EFH and HAPC protection areas.

*Comment 4:* We oppose further imposition of VMS in fisheries management plans. No one has demonstrated the need for VMS to meet enforcement goals. If VMS is required, NMFS must bear the cost of acquisition, installation, maintenance, and broadcast or user fees.

*Response:* See Comments 1 and 3. When the VMS requirement was initiated in the Alaska Region, NMFS did reimburse the owner or operator for VMS for a period of approximately one year. This allowed some fishers to have two VMS units, one which they were reimbursed for and one which they purchased for backup. About 7.5% of the vessels that are required to have VMS actually have two units onboard the vessel. Furthermore, a new VMS reimbursement program by NMFS Enforcement is underway for 2006, to be announced mid-July by a *Federal Register* notice. To be eligible, participants must purchase a VMS unit in compliance with regulations during fiscal year 2006. Applications for reimbursement will be available September 1. This reimbursement program is funded by a grant of \$4.5 million to the Pacific States Management Commission for disbursement.

*Comment 5:* We oppose the use of VMS as an enforcement tool for EFH and HAPC areas. During the rule development for the GOACHPAs, we were under the impression that longline fisheries would be exempt from VMS requirements. Also, we thought that dinglebar gear should have been exempted because the effects on bottom habitat are no more than minimal,

the fishery is small and of a short duration, the FFP can be surrendered so the vessel is exempt from VMS requirements, and these vessels do not fish in GOACHPAs. A year round VMS requirement for dinglebar vessels (usually less than 60 feet (18.3 m) LOA) that participate in a short duration fishery is burdensome.

Dinglebar gear vessels should be exempt from VMS requirements because the impact on the GOA EFH of approximately four dinglebar-gear vessels is likely less than the longline fleet which is exempt from VMS. VMS is not needed for dinglebar gear vessels because the closure areas are mostly too deep to be fished by this gear type. Fishers have avoided the proposed protection areas in the past and are unlikely to fish these areas in the future. Enforcement tools for the GOACHPAs should be developed by working with the potentially affected vessels owners and operators.

*Response:* The EFH Environmental Impact Statement (EIS) notes that mobile bottom tending fishing gears have the greatest potential adverse effects on sensitive seafloor habitat features. Dinglebar gear has fewer potential adverse effects than certain other bottom tending mobile gears, such as bottom trawls. Dinglebar gear has a heavy weight deployed near the bottom in fisheries that target groundfish, such as lingcod throughout Southeast Alaska. This gear type has the potential to disturb sensitive bottom habitats. In the final EIS, NMFS proposed requiring the use of VMS on all fishing vessels with bottom contact gear in the GOA to ensure adequate enforcement. Following publication of the final EIS, the Council requested that NMFS exempt fixed gear vessels (including pot, jig, and hook-and-line gear) from the VMS requirement. The Council also requested that NMFS develop a separate comprehensive analysis of alternatives for applying VMS for all fishing vessels in the BSAI and GOA to address enforcement, management, and safety objectives. Because the VMS requirements recommended by the Council would promote very effective enforcement for the gears with the greatest potential to impact sensitive habitat features, NMFS followed the Council's recommendation and retained the VMS requirement only for vessels with mobile gear, including dinglebar gear.

*Comment 6:* We believe that NMFS is underestimating the cost of VMS to the participants in the fisheries where VMS is currently required. Most of the vessels have found it necessary to install a second back up VMS unit in order to not face fines or be prevented from fishing if the first unit quits working. We believe that the Council should have the ability to implement VMS requirements if necessary for the management of a specific fishery but VMS should not be mandatory across all federal fisheries. For some small boat fishermen, the cost of VMS would exceed the economic benefit of participating in a fishery.

*Response:* See responses to Comments 1, 3, and 4.

*Comment 7:* As a trawler in both Alaska and the Oregon, Washington trawl fishery, I have to deal with VMS. In my opinion, the real burden of the VMS is that if the unit stops working, then the Vessel is required to stand down until it is working again. We, as vessel boat owners and captains, have no way (real time) to tell if the VMS is transmitting or not. Even so, we are in violation and so guilty. I believe that this needs to be addressed and corrected.

*Response:* If the VMS unit is not working, the vessel operator must contact OLE.

OLE will assist in troubleshooting the system to get it operational again. While it is true that the vessel operator does not know whether or when the VMS is operating, in cases where an accident causes the VMS equipment to be obviously broken, e.g., the surrounding dome destroyed or the unit is knocked off its foundation, the vessel operator must contact OLE with this information. Otherwise, if a VMS is not transmitting, OLE will contact the vessel operator to determine the next step. OLE treats equipment breakdowns on a case-by-case basis and tries to avoid interrupting a fishing trip already in progress. Very rarely is a vessel caused to return to port for VMS repairs in the middle of a fishing trip.

*Comment 8:* While we understand the situation in certain fisheries that have facilitated the need for VMS, we are adamantly opposed to the encroachment on our rights, liberty and freedoms that will necessarily come with the imposition of this program on members of our fleet. Furthermore, we are not even inclined to believe that VMS is necessary for any Alaskan fisherman unless it is a voluntary program and those fishermen wish to be located at all times and in all places as a matter of concern for safety.

While we are commercial 58 foot salmon purse seiners in a state waters fishery inside 3 miles, many of our members also longline for halibut and black cod and would thus be unduly affected by the proposed requirements.

When the Federal government decides to equip all sport, charter and pleasure boats, hikers and kayakers in the Tongass, then we will welcome such an intrusion of privacy and immense cost per operation that this program will entail. Shipboard Environmental Data Acquisition System (SEAS) would also be more than willing to participate in any programs that might come from the diversion of funding from VMS programs. If NMFS or Homeland Security has funding surplus issues, we would, as I said before, be more than willing to help you find appropriate uses for that funding that could benefit either the fish or fishermen or either of our homes and communities. Many of us state waters salmon fishermen are struggling to survive. Another burdensome federal mandate is always a welcome shot in the face to those of us who are working on the front lines and feeding the world.

*Response:* See responses to comments 1, 3, 4, and 5.

*Comment 9:* I own a trawler in Alaska, with both VMS and Electronic Log Book (VVS) onboard the boat. I see the VMS system as not living up to the true potential of the VVS logbook system. Almost every vessel uses electronic charts that require a computer, meaning that vessels down to 32 feet or less are capable of having on board a VVS system at very little extra expense. NMFS was giving the software away for three years, and it has lowered the paper work load onboard our vessel. If all vessels were required to use it the “Paper Work Reduction Act” would be fulfilled.

The key to getting the most out of this system is the accountability of the log being e-mailed in at the end of each and every trip. The Ocean Logic system had its bugs but enforcement agents like the clean copies with no ambiguity about dates/time and signature. The carrot and stick approach to this should be no disc, no landing ticket. Then the data is in the hands of NMFS for “close to real time processing” rather than wading through the “yellow”

copies months later.

The cost of VMS for my vessel is approximately \$80 per month with SkyMate and allows me to track the vessel on the web and email, so the burden to me is low. I would be far happier if the burden were shared all the way down to the smallest commercial vessel fishing in Alaska for groundfish, salmon, halibut, herring, and charter boats to get a better handle on bycatch and marine mammal interaction.

*Response:* NMFS agrees that the potential for catcher vessel electronic logbooks to save data entry time and to improve accuracy of calculations is very promising. Electronic logbooks of the future will automatically incorporate the global positioning system coordinates right into the logbook information. Unfortunately, the OceanLogic software is no longer supported by the developer; however, NMFS encourages the software industry to develop similar software for use by catcher vessels. In addition, various NMFS regions, including Alaska, are working individually and in concert to develop a standard format and procedure for electronic logbooks that could be used in any region.

*Comment 10:* I am the owner/operator of a 53 ft steel boat. I fish GOA Pacific cod. I was required to purchase a VMS and have it installed by a professional. I was fortunate to get in on the time frame of being reimbursed for the equipment, but I was not compensated for the time and energy of the whole process. I find a mandatory monitoring system an insult to my integrity, and I am further opposed to a daily fee along with a yearly fee just for our account. I find the whole system to be ridiculous and having to pay for it is added insult to injury. We (the crew as well as myself) do not like the VMS system. Please consider erasing/deleting the program, especially on these small boats.

*Response:* The EIS analysis of this provision does not indicate to NMFS that costs of VMS are prohibitive. However, the placement of a VMS on small vessels does impose costs because of the limited space, the potential need for upgrading the electrical system to allow for the VMS operation, the daily cost of operation, and the total cost of the VMS requirement in relation to the income generated by fishing with a very small vessel.

*Comment 11:* I run a 58 foot trawler in the Shumagins. The remote nature of the fishery makes maintenance and professional help almost impossible. If strict enforcement were imposed, then it will be necessary for back-up units, as the originals get old. I personally don't believe the units are needed. The stocks are healthy, and its a bit overboard on costs for the whole program to operate effectively. I suggest incorporating the program into the onboard observer program.

*Response:* NMFS disagrees. Tracking the location of fishing vessels by VMS units would facilitate enforcement of the remote fishery locations, dispersed over a large section of the EEZ. With the advent of reimbursement for VMS purchased in 2006, the expense of acquiring a VMS unit is not a strong issue.

*Comment 12:* As a vessel owner/operator in the GOA IFQ fisheries, I would like to voice my opposition to the proposed VMS plan for our fishery. I am not aware if any study has been

done to assess the overhead costs as a whole in this fishery but I can assure you that there has been a steady increase, and the margins are decreasing exponentially. Drastic increases in fuel costs, insurance rates, bait prices, groceries etc. are making it difficult for some to make ends meet. We already participate in the NMFS mandatory observer program for vessels over 60 feet, which is quite costly as well. This fishery has a reputation as a well managed, renewable resource fishery, with a pretty clean record towards bycatch and conservation issues, as well as environmental impacts. I strongly believe that we do not need another costly monitoring program and ask that this VMS system not be forced into our fishery.

*Response:* See Responses to Comments 1 and 3. A new VMS reimbursement program by NOAA Fisheries Enforcement is underway for 2006, to be announced mid-July by a *Federal Register* notice. To be eligible, participants must purchase a VMS unit in compliance with regulations during fiscal year 2006. Applications for reimbursement will be available September 1. This reimbursement program is funded by a grant of \$4.5 million to the Pacific States Management Commission for disbursement.

**9. Explain any decision to provide any payment or gift 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 this assurance in statute, regulation, or agency policy.**

NMFS, OLE, and USCG have worked to ensure the confidentiality of all VMS transmissions and to ensure the security of all at-sea position data on individual vessels, including data analyses and storage. All VMS units include systems to minimize the risk of direct or inadvertent disclosure of vessel position. The VMS transmissions are considered confidential and are subject to confidentiality protection under section 402(b) of the Magnuson-Stevens Act. They are also confidential under NOAA Administrative Order 216-100, which sets forth procedures to protect confidentiality of fishery statistics.

**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: 1,854. Total estimated responses: 10,656,133, down from 10,656,269. Total estimated burden hours: 23,838, down from 23,882. Total estimated personnel costs: \$225,950, down from \$228,601.

**13. Provide an estimate of the total annual cost burden to the respondents or recordkeepers resulting from the collection (excluding the value of the burden hours in #12 above).**

Total estimated miscellaneous costs: \$1,272,930, up from \$1,144,612.

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

Total estimated burden hours: 7511, down from 7,649. Total estimated personnel costs: \$213,775, up from \$40,425. Total miscellaneous costs: \$87,000, up from \$80,000.

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

Check-in report responses decreased by 236 (from 269 to 33), with an associated decrease of 47 hours. VMS malfunction notification was added, increasing responses by 100 and adding 3 hours. There was a net decrease of 136 responses and 44 hours.

There was a net increase to respondents' total miscellaneous costs of \$128,368, due to adding the cost of repairing the VMS unit to VMS operation (\$129,780), adding \$50 for the VMS malfunction notification; and the decrease in check-in reports (- \$1,412).

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

No plans exist for publishing the results of the information collection that are discussed above.

**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.**

In accordance with OMB requirements, the control number and expiration date of OMB approval are shown on the VMS check-in report. The transmission of the VMS data is automatic and electronic, and therefore not possible to display the OMB expiration date. The VMS malfunction notification is an email.

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

There are no exceptions to the certification statement.

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

This collection does not employ statistical methods.