

**SUPPORTING STATEMENT
SOUTHEAST REGION VESSEL MONITORING SYSTEM (VMS)
AND RELATED REQUIREMENTS
OMB CONTROL NO. 0648-0544**

INTRODUCTION

This request is for renewal of this information collection.

The legislative authority to collect data from the various sectors of the economy that harvest marine resources in the exclusive economic zone is the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Under this authority the Secretary of Commerce has promulgated separate rules that require specific types of data submissions for the application process to obtain fishing permits and endorsements, and agency notification of certain activities through vessel monitoring systems (VMS).

The National Oceanic and Atmospheric Administration's (NOAA) National Marine Fisheries Service (NMFS) issued a rule, Regulation Identifier Number (RIN) 0648-AN09, to implement Amendment 18A to the Fishery Management Plan (FMP) for the Gulf of Mexico (GOM) Reef Fish Fishery. Amendment 18A was prepared by the GOM Fishery Management Council (Council). As described below, this required vessels to use a functional NMFS approved VMS. This rulemaking was codified in 50 CFR 622.9.

A. JUSTIFICATION

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

The Reef Fish Fishery Management Plan (FMP) contains several area-specific regulations in which fishing is restricted or prohibited in order to protect habitat or spawning aggregations, or to reduce fishing pressure in areas that are heavily fished. Unlike size, bag, and trip limits, where the catch can be monitored onshore when a vessel returns to port, area restrictions require at-sea enforcement. However, at-sea enforcement of offshore area restrictions is difficult due to the distance from shore and the limited number of patrol vessels, resulting in a need to improve enforceability of area fishing restrictions through remote sensing methods. In addition, all fishing gears are subject to some area fishing restrictions, but longlines and fish traps have more area restrictions than other gear types. Because of the sizes of these areas and the distances from shore, the effectiveness of enforcement through over flights and at-sea interception is limited. An electronic VMS allows a more effective means to monitor vessels for intrusions into restricted areas.

The VMS provides effort data and significantly aids in enforcement of areas closed to fishing. As a condition of authorized fishing for or possession of Reef Fish in or from the GOM Exclusive Economic Zone (EEZ), a vessel owner or operator subject to the requirements for a VMS in this section must allow NMFS, the United States Coast Guard (USCG), and their authorized officers and designees access to the vessel's position data obtained from the VMS. As a further aid to law enforcement officials, prior to departure for each trip, each vessel owner or operator must report their fishing activity (including but not limited to Reef Fish, Shark, Swordfish, Tuna, etc), and the gear onboard the vessel (including but not limited to Pelagic

longline, bottom longline, gillnet, etc). Additionally, if fishing activity is altered during a trip, notification of the changes must be given to law enforcement. Reporting of changes to fishing activity can be reported one of three ways, as described in the response to Question 3.

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.

Every vessel that is required to have a VMS unit must have that VMS unit on and properly functioning at all times, even when docked, and prior to each fishing trip, or during a trip if activity changes, a report of fishing activity must be submitted to NMFS VMS personnel. The units are on seven days a week, 24 hours a day and transmit once an hour unless the vessel has entered a NMFS-defined buffer zone of one nautical mile around areas with fishing restrictions. Once a vessel enters a defined buffer zone, the VMS unit reporting rate will be increased to every 15 minutes. If the vessel then departs the buffer zone and enters the restricted area, the VMS unit reporting rate will be increased to every 10 minutes until it departs the restricted area and/or the buffer zone. The VMS unit on the vessel provides enforcement benefits to NMFS and the fishery.

Two other requirements are completion and submission of the statement certifying compliance with the installation and activation checklist, and a power-down exemption request for when boats are out of the water, i.e. for maintenance/repairs in drydock.

As explained in the preceding paragraphs, the information gathered has utility. NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with NOAA standards for confidentiality, privacy, and electronic information. See response to Question 10 of this Supporting Statement for more information on confidentiality and privacy. The information collection is designed to yield data that meet all applicable information quality guidelines. Although the information collected is not expected to be disseminated directly to the public, results may be used in scientific, management, technical or general informational publications. Should NMFS decide to disseminate the information, it will be subject to the quality control measures and pre-dissemination review pursuant to Section 515 of Public Law 106-554.

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

The VMS position reports are all transmitted electronically. Reporting of changes to fishing activity can be reported either via an attached VMS terminal or through a NMFS call-in system: 1-888-219-9228. The fillable and printable checklist and power-down exemption request form are available at: <http://sero.nmfs.noaa.gov/vms/vms.htm>, and must be mailed to: NOAA/NMFS, Southeast Office for Law Enforcement, 263 13th Avenue South, Suite 109, St. Petersburg, FL 33701.

4. Describe efforts to identify duplication.

The Magnuson-Stevens Act's operational guidelines require each FMP to evaluate existing state and federal laws that govern the fisheries in question, and the findings are made part of each FMP. Each Fishery Management Council membership is comprised of state and federal officials responsible for resource management in their area. These two circumstances allow for identification of other collections that may be gathering the same or similar information.

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

Because all applicants are considered small businesses, separate requirements based on size of business have not been developed. Only the minimum data to meet the current and future needs of NMFS fisheries management and permitting programs are requested from all applicants.

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

The VMS units provide vessel characteristics data, and enforcement information to increase compliance in the fishery. The approved VMS provides automatic recording of positions at one hour intervals, and more frequently under certain circumstances, as described in the response to Question 2. A less frequent recording of positions would provide ineffective monitoring and not achieve the Council's intended benefits. Additionally, reporting of fishing activity aids law enforcement in identifying closed area violations depending on the declaration of activity.

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

Due to requirements described in the the response to Question 6, vessel position needs to be reported and transmitted more frequently than on a quarterly basis. Similarly, the need to monitor areas where fishing is restricted to certain gear types makes it necessary to collect fishing activity information on a by-trip frequency as opposed to quarterly. The collection is otherwise consistent with Office of Management and Budget (OMB) guidelines.

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

A Federal Register Notice was published on January 12, 2009 (74 FR 1177) soliciting comments on the continuation of this collection of information. No comments were received.

Previously, NMFS published a notice of availability of Amendment 18A, and the proposed and final rules to implement Amendment 18A, which included a notice of and request for comments on this data collection.

Because these data collection programs are part of fishery management plans, all aspects of the programs have been reviewed by both statistical and constituent advisory committees. Furthermore, comments and suggestions from fishermen are routinely submitted, reviewed, and considered. Experience with the various programs, some of which have been operating for many years, provides a continual feedback mechanism to NMFS on issues and concerns to the applicants. Amendment 18A did not raise an unusual amount of controversy during the Council development process. There are no major problems with Amendment 18A that have not been resolved.

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

There are no payments or other remunerations to respondents.

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

All data that are submitted are treated as confidential in accordance with the Magnuson-Stevens Act (16 U.S.C. 1881a, *et seq.*) and NOAA Administrative Order 216-100. This assurance of confidentiality is on the forms.

11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

No questions of a sensitive nature are asked.

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

Of the affected 882 vessels, all would have the burden of two hours for annual maintenance. In addition, it is estimated that 30% of the fleet will request a power down exemption annually, which will require an additional 10 minutes of burden time per vessel. Also, it is expected that 120 permit transfers will occur within a given year. Due to the several types of transfers, the time burden and cost burden will be described in detail below. Finally, as there was an annual average of 11,371 trips taken by 882 vessels for the time period 2004 - 2007, we are estimating the same number for this request, with a burden of one minute to report fishing activity prior to departure.

RESPONSES:

VMS

Annually: 264 power down requests

Fishing report responses: 11,371

Installation checklists: 120 (see transfers)

Total estimated annualized responses = 11,755.

TRANSFERS

Only a VMS that has been approved by NMFS for use in the Reef Fish Fishery of the Gulf of Mexico may be used, and it must be properly registered and activated with an approved communications provider for the new vessel. Additionally, it must be installed by a qualified marine electrician. When reinstalling and reactivating the NMFS-approved VMS, the new vessel owner or operator must: (1) follow procedures indicated on an installation and activation checklist, available from NMFS, Office for Law Enforcement, Southeast Region, St Petersburg, FL 33701; phone: (727) 824-5347; (2) submit to NMFS, Office for Law Enforcement, Southeast Region, St Petersburg, FL, a statement certifying compliance with the checklist, as prescribed on the checklist; and (3) submit to NMFS, Office for Law Enforcement, Southeast Region, St Petersburg, FL, a vendor-completed installation certification checklist, available from NMFS, Office for Law Enforcement, Southeast Region, St Petersburg, FL 33701; phone: (727) 824-5347.

An average of 120 transfers occurs in a year, broken down into three categories. The first is transfers of both the permit and the vessel to a new owner. There are an estimated 40 transfers of this type, involving only the burden of submitting a compliance checklist by the new owner, as the VMS will already be on-board and will have been installed by a qualified marine electrician. Therefore, burden time for these transfers is estimated to be 10 hours (40 transfers x 15 minutes for compliance checklist and certification), with no associated cost.

Transfers involving a new permit holder using a new boat will require the new owner to acquire a certified VMS unit, have it installed, and submit the activation and compliance check list. There are 40 transfers of this type in an average year. Therefore, burden hours are estimated at 170 for this type of transfer (40 transfers x 4 hours for installation + 40 transfers x 15 minutes for compliance check list).

The final type of transfer involves a permit holder transferring the permit to a new vessel. This will require the owner/operator to either move the NMFS-approved VMS unit from the old vessel to the new one or to purchase an entirely new unit. Burden hours for this type of transfer are estimated at 170 hours (40 transfers x 4 hours for installation + 40 transfers x 15 minutes for compliance checklist).

Total transfer burden hours: 350 (10 + 170 + 170).

ANNUAL RESPONSES AND HOURS:

1. 11,371 trips x 1 minute/60 minutes for fishing activity report = 11,371 responses and 190 hours
2. 882 vessels x 2 hours per year maintenance = 1,764 hours
3. 264 vessels x 10 minutes/60 minutes per year for power down exemption request = 264 responses and 44 hours
4. Total transfer responses and burden hours: 120 responses (checklists) and 350 hours (10 + 170 + 170)

Total estimated annualized responses: 11,755.

Total estimated burden hours: 2,348.

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).

A total of 882 vessels are required to have purchased and installed VMS units. Equipment costs, including installation by a qualified marine electrician, are \$3,500. However, other than the transfers listed below, all vessels have already completed this requirement. Yearly communication costs range from \$432 to \$617, depending on the communication provider chosen.

Total maximum estimated annualized capital/start-up costs other than for certain transfers (see below) = \$0,

Total maximum estimated annualized operations and maintenance costs = \$544,194 (882 vessels x \$617 in operations costs) + \$220,500 (882 vessels x \$250 in maintenance costs) = \$764,694.

TRANSFERS

For transfers involving the new permit owner acquiring both the permit and vessel, it is assumed that a NMFS-approved VMS unit will already be on board. For this type of transfer, there is expected to be no additional cost to the new owner. Transfers involving a new owner and a new vessel will require the purchase of a NMFS-approved VMS unit and installation by a qualified marine electrician. This type of transfer is expected to increase costs by \$140,000 (40 transfers x \$3,500). For transfers in which the same owner transfers the permit to a new vessel, costs are also expected to increase by \$140,000 (40 transfers x \$3,500). Communication costs for all three types of transfers are already calculated in total communication costs for the fleet as these are not additional permits, but merely the same number of permits owned by different individuals.

Total maximized estimated transfer costs = \$280,000 (\$140,000 x 2), annualized to \$93,333.

For the entire collection, estimated annual costs will be \$93,333 in start-up transfer costs + \$764,694 in operations and maintenance costs = \$858,027.

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

Federal Costs		
Annual Costs		
	Salary and Benefits ¹	\$200,000
	Internet Connection ²	\$137,400
	Equipment ³	\$2,000
	Software licensing	\$2,500
	Supplies	\$15,000
	Training and travel	\$5,000
	Total Annual Costs	\$361,900

¹ Salary and benefits for 3 program support personnel.

² Estimated at \$10/month/vessel.

³ Additional server and data center.

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

The changes in burden hours and costs are program changes resulting from attrition in the fishery, no longer counting the automatic VMS transmissions as responses and burden hours (only as costs) and the removal of start up costs except in the case of certain transfers.

Responses would have decreased from 10,054,892 to 7,737,995, based on the reduction of the number of affected vessels from 1,145 to 882. Based on the recent clarification from OMB that VMS automatic transmissions are not counted as responses and burden, they were further decreased to 11,755. Hours would have decreased to 4,144 based on fleet shrinkage but were further decreased to 2,348.

Costs were reduced from \$2,460,585 to \$858,027.

- Previous start-up costs were \$2,229,418, now reduced to \$93,333, due to VMS purchase now being required for only 80 transfer vessels per year, rather than 1,121 plus 318 transfers.
- However, recordkeeping/reporting costs which would have decreased, based on fleet shrinkage, instead increased from \$230,552 to \$764,694, as, in the initial request:
 - The \$250 annual maintenance cost was inadvertently omitted
 - The cost of VMS transmission, already an annual amount, was incorrectly divided by 3 (i.e. “re-annualized”) and
 - Only the 1,121 vessels still needing to install the VMS were counted for transmission costs, instead of all 1,145.

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

The results from this collection are not planned for statistical publication.

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.

The OMB Control Number will be displayed.

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

There are no exemptions to the certification statement in Item 19 of OMB 83-I.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

The collection does not employ statistical methods.