

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

This is a resubmission, with the final rule, RIN 0648-BE06, of a request for revision of an existing collection. Two changes were made in the final rule, but only to the regulations: one based on a public comment, and one, due to a technical correction. Details are in Question 8.

**BACKGROUND**

National Marine Fisheries Service, Alaska Region (NMFS) manages the groundfish fisheries in the exclusive economic zone (EEZ) of the Bering Sea and Aleutian Islands Management Area (BSAI) 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, 16 U.S.C. 1801 et seq. (Magnuson-Stevens Act). The Northern Pacific Halibut Act of 1982 (Halibut Act) 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 (Convention), signed at Ottawa, Ontario, on March 2, 1953. Commercial halibut fisheries operate within the Individual Fishing Quota (IFQ) Program, Western Alaska Community Development Quota (CDQ) Program, and through area-specific catch sharing plans. Regulations implementing the FMPs appear at 50 CFR part 679.

NMFS has management responsibility for certain threatened and endangered species, including Steller sea lions, under the Endangered Species Act (ESA) of 1973, 16 U.S.C. 1531, et seq. NMFS has the authority to promulgate regulations to enforce provisions of the ESA to protect such species. As the action agency, NMFS is responsible for conducting a section 7 consultation to insure that the Federal action of authorizing the Alaska groundfish fisheries is not likely to jeopardize the continued existence of an ESA-listed species or result in the destruction or adverse modification of its designated critical habitat. Under the provisions of section 7 of the ESA, NMFS Alaska Region Sustainable Fisheries Division is the action agency and consults with the NMFS Alaska Region Protected Resources Division on the impacts of groundfish fisheries for most ESA-listed species of marine mammals, including Steller sea lions.

Since listing Steller sea lions as an endangered species, NMFS has implemented a number of management measures, commonly known as Steller sea lion protection measures, to protect Steller sea lions from the potential effects of groundfish fishing. NMFS would strengthen Steller sea lion protection measures to insure that groundfish fisheries in the BSAI are not likely to jeopardize the continued existence of the western distinct population segment of Steller sea lions or destroy or adversely modify its designated critical habitat. Steller sea lion protection measures disperse catch of groundfish prey species in time (temporal dispersion) and space (spatial dispersion) through a variety of harvest limitations and closure areas. Many of these Steller sea lion protection measures apply specifically to Atka mackerel, Pacific cod, and pollock, which are particularly important prey species for Steller sea lions.

## INTRODUCTION

NMFS requires that vessel operators participating in groundfish fisheries in the BSAI comply with a range of monitoring requirements and restrictions. NMFS uses area, season, gear, operation type, and sector specific fishery closures to maintain catch within specified allocations. Traditional methods of monitoring compliance with fishing regulations do not fully meet NMFS's need to monitor fishing activities under protection measures.

Vessel Monitoring System (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. 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 NOAA Fisheries Office for Law Enforcement (OLE) and United States Coast Guard (USCG).

The VMS is generally acknowledged to be an essential component of monitoring and management for complicated, geographically widespread fishing closures. The VMS 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. When a VMS track is examined by a knowledgeable analyst, much information can be inferred: e.g., whether a vessel is actively fishing and the type of gear being used. When VMS tracks are compared with active, open fisheries vessels may be identified for closer scrutiny. Given the large size and remoteness of the area in which Alaska fisheries occur and the limited enforcement infrastructure available, determination of vessel location depends crucially on VMS reports.

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 also ensures that harvested fish are properly debited or reported, because NMFS can track vessels as they arrive in port to offload the product.

### A. JUSTIFICATION

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

The proposed action would establish Steller sea lion protection measures for the Atka mackerel, Pacific cod, and pollock fisheries in the Aleutian Islands subarea that spatially, temporally, and globally disperse fishing to mitigate potential competition for prey resources between Steller sea lions and these fisheries. Spatial and temporal fishery dispersion is accomplished through closure areas, harvest limits, seasonal apportionment of harvest limits, and limits on participation in a fishery. This action would require that vessel operators with a Federal Fisheries Permit (FFP) [see OMB Control No. 0648-0206] for a vessel using trawl gear that harvests groundfish deducted from the Federal total allowable catch (TAC) in the Aleutian Islands subarea set their VMS to transmit the vessel location at least 10 times per hour. This requirement is

recommended because of the extent and complexity of the proposed trawl closure areas in the Aleutian Islands reporting area.

**2. 1 Explain how, by whom, how frequently, and for what purpose the information will be used. 1 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.**

Enforcement of measures, such as critical habitat no-fishing and directed fishing closures, is heavily reliant on use of VMS. VMS is the primary enforcement tool for groundfish management in the Aleutian Islands and it is likely to become more important in the future. Use of VMS is likely to increase because the Aleutian Islands are a challenging environment to implement any other form of compliance monitoring. It is an expansive area, with low commercial fishing vessel densities. The management strategies for limiting catch of Steller sea lion prey species in proximity to Steller sea lion habitat, apply numerous and complex area closures. This vast management area is supported by a limited USCG and OLE presence.

Considering the current fiscal limitations, VMS has become a critical tool for monitoring and enforcement of area closures. VMS systems are small, tamper-resistant, transmitter-GPS combinations that send regular signals identifying the vessel and its location to ground stations via overhead satellites. These signals make it possible for OLE to monitor the locations of fishing vessels. The information helps OLE identify vessels that may have fished inside closed areas, permitting the targeting of investigative resources. VMS information is also used by NMFS in-season fishery managers to monitor fishing effort in a region or area, and plays an important role in determining when to close a fishery and when it can safely be left open.

**a. VMS operation [REVISED]**

This action would require that vessel operators with a Federal Fisheries Permit (FFP) [see OMB Control No. 0648-0206] for a vessel using trawl gear that harvests groundfish deducted from the Federal TAC in the Aleutian Islands subarea, set their VMS to transmit the vessel location at least 10 times per hour. This requirement is recommended because of the extent and complexity of the proposed trawl closure areas in the Aleutian Islands reporting area. Monitoring is further complicated by the overlap of proposed trawl closures with the existing closures.

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. Currently approved VMS units are posted at [http://www.nmfs.noaa.gov/ole/docs/2014/051414\\_noaa\\_fisheries\\_service\\_type.pdf](http://www.nmfs.noaa.gov/ole/docs/2014/051414_noaa_fisheries_service_type.pdf)

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. 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.

Regulations at [50 CFR part 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 OLE who 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.

For additional information and any questions, contact OLE Headquarters VMS Support  
 Phone: 888-219-9228  
 Fax: 301-427-0049  
 Hours of Operation: 7:00AM to 11:00PM (EST), Monday through Friday

Under this action, the operator of the vessel would be required to set the VMS unit to transmit at least 10 times per hour. The current transmission rate, commonly known as the polling rate, of 2 times per hour could allow vessels to fish in significant portions of these closed areas without detection. The increased polling rate would limit the ability of a vessel to operate inside or through a closed area undetected. Vessels using trawl gear have the capability of fishing through a closed area without detection if the polling rate of the transmission is less than 10 times per hour. Increasing polling rates will provide OLE and the USCG with the additional information needed to monitor potential accidental or intentional trawl vessel incursions into the often small, and irregularly shaped Steller sea lion critical habitat areas.

There are currently 4 NOAA type approved VMS units available for use in the Alaska Region, although as of July, 2011, no new installations of the GMPCS Thrane & Thrane Sailor TT-3026D VMS Gold are authorized by NOAA.

**Cost comparison for the VMS units with average costs for the different units and polling rates**

Company	Base Unit Cost (\$) With Data Terminal	1 poll/hr. \$/month	Annual Cost (\$) for 1 poll/hr.	2 polls/hr. \$/month	Annual Cost for 2 polls/hr.	Additional Data Cost/KB
CLS American Thorium	3,095.00	45.00	540.00	55.00	660.00	1.75
Faria WatchDog	3,195.00	40.00	480.00	54.52	654.24	1.70
GMPCS Thrane & Thrane	2,495.00	44.00	528.00	88.00	1,056.00	2.70
Skymate/Orbcomm (Gold Plan)	3,100.00	38.99	467.88			1.90
Skymate/Orbcomm (Platinum Plan)	3,100.00	38.99	467.88	73.99	887.88	1.40
<b>Average Cost</b>	<b>2,971.25</b>	<b>42.00</b>	<b>503.97</b>	<b>67.88</b>	<b>814.53</b>	<b>1.89</b>

Depending on which brand of VMS is chosen, increasing polling rates to 10 per hour from 2 per hour is likely to increase the average monthly cost of a VMS service provider agreement to approximately \$340 per month [(815 x 5 = 4,075/12 = 340).

**Estimated Cost to Trawl Vessels by increasing Polling rate in the Aleutian Islands based on 2010 data**

	Estimated hours and costs in dollars: Trawl Gear by Species		
	CV (all target species)	CP (Atka mackerel)	CP (fishing other than Atka mackerel)
Estimated months for projecting costs*	2 months	6 months	2 months
Estimated cost per Month	\$200	\$200	\$200
Estimated total Cost per year	\$400	\$1,200	\$400

\*Based on fishing activity by relevant vessels and adjusting upwards as necessary to account for VMS billing practices.

In some cases, vessels may have to replace VMS units, because existing units cannot be adjusted to do 10 pols per hour. NMFS estimates that three vessels may need to replace VMS unit with an estimated cost per vessel of about \$3,500.

NOAA does have a current VMS reimbursement program that is jointly managed by NOAA and the Pacific States Marine Fisheries Commission, but that is subject to future appropriations. This program provides for reimbursement of a maximum for \$3,100 per unit and covers the cost of the VMS transmitter unit. To be eligible for reimbursement, vessel owners/operators must purchase an approved VMS unit and have it installed on their vessel and activated. Upon completion of the installation and activation, the vessel owner/operator must contact the VMS Support Center to ensure the vessel is properly registered in the VMS system. Once this completed, NOAA OLE will issue the vessel a number that the vessel operator then includes on their reimbursement application with the Pacific States Marine Fisheries Commission. This reimbursement does not cover costs associated with tax, labor, and installation.

Corrected miscellaneous costs to include VMS service provider agreement (transmission costs) and maintenance/repairs.

<b>VMS operation, Respondent</b>	
<b>Number of VMS respondents</b>	<b>43</b>
Catcher vessels (all target species) = 27 (x 2 months)	
Catcher/processor (Atka mackerel) = 11( x 6 months)	
Catcher/processor (other than Atka) = 5 (x 2 months)	
<b>Total VMS transmissions (72,000; not counted as responses)</b>	
VMS = 240 transmissions per fishing day	
Catcher vessels (60 days x 240 = 14,400)	
Catcher/processor, other than Atka (60 days x 240 = 14,400)	
Catcher/processor, Atka (180 days x 240 = 43,200)	
<b>Total burden for maintenance and repairs = 2 hr x 43</b>	<b>86 hr</b>
<b>Total personnel cost</b>	<b>\$3,182</b>
Maintenance and repairs (37/hr x 86)	
<b>Total miscellaneous cost</b>	<b>\$185,725</b>
New VMS incl/installation (\$3500 x 3 = 10,500)	
VMS Service provider agreement – transmission costs (43 x 4075 = 175,225)	

<b>VMS operation, Federal Government</b>	
<b>Total responses</b>	<b>0</b>
<b>Total burden hours</b>	<b>0</b>
<b>Total personnel cost</b>	<b>0</b>
<b>Total miscellaneous costs</b>	<b>0</b>

**b. VMS check-in report (REVISED)**

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. This check-in report is required only once to obtain the signature of the VMS unit. 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. The VMS check-in report may be filled out on the screen, printed, and faxed to (907) 586-7703.

Only those vessel operators that purchased a new VMS will need to check-in. All other VMS units are identified.

**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</b>	<b>3</b>
<b>Total responses</b>	<b>3</b>
Frequency = 1	
<b>Total burden hours (0.6)</b>	<b>1 hr</b>
Hours per response = 12 min	
<b>Total personnel cost (\$37 x 1)</b>	<b>\$37</b>
<b>Total miscellaneous costs (18.15)</b>	<b>\$18</b>
Fax (\$6 x 3 = 18)	
Photocopy (0.05 x 3 = 0.15)	

<b>VMS check-in report, Federal Government</b>	
<b>Total responses</b>	<b>3</b>
<b>Total burden hours (0.6)</b>	<b>1 hr</b>
Hours per response = 12 min	
<b>Total personnel cost (\$37 x 1)</b>	<b>\$37</b>
<b>Total miscellaneous costs</b>	<b>0</b>

It is anticipated that the information collected be disseminated to the public or used to support publicly disseminated information. NMFS will retain control over the information and safeguard it from improper access, modification, and destruction, consistent with National Oceanic and Atmospheric Administration (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. Prior to dissemination, the information will be subjected to quality control measures and a pre-dissemination review pursuant to [Section 515 of Public Law 106-554](#).

**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.

Upon purchase of a VMS unit, the VMS check-in report may be completed onscreen using fillable forms, downloaded, and printed from the NMFS Alaska Region website <http://www.alaskafisheries.noaa.gov>. The VMS check-in report must be faxed to: NOAA Fisheries Office for Law Enforcement Fax number: 907-586-7703.

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

No duplication exists with other information collections.

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

One catcher/processor and 11 catcher vessels—were believed to constitute small entities. The estimated average gross revenue for these firms, in 2012, was about \$1.4 million. 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.**

The VMS is an integral part of the management of the fisheries in the Alaska Region. It would not be possible to carry out the mandates of the Magnuson-Stevens Act and other laws if approval to continue these previously approved collections were to be denied.

**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.**

NMFS published a proposed rule to implement Steller sea lion protection measures on July 1, 2014 (79 FR 37486). The comment period on the proposed rule ended on August 15, 2014. NMFS received 17 letters of comments on the proposed rule.

NMFS released the Final EIS in May, 2014 (79 FR 29759, Friday, May 23, 2014). NMFS received 2 letters of public comment on the Final EIS. All of the comment letters received are posted on <http://www.regulations.gov>, search term NOAA-NMFS-2012-0013.

The 19 letters received contained 44 unique comments on the proposed rule and 21 unique comments on the EIS. Note that while NMFS is not required to respond to comments received as a result of issuance of the final EIS, NMFS decided to provide responses as part of the decision-making process. The first 12 comments are on fishery management measures. The next comments, 13 through 31, are on Steller sea lion issues. Comments 32 through 48 are on economic issues; comments 49 through 51 are on community issues; comments 52 through 60 are on EIS alternatives, comments 61 through 65 are on additional issues. Comments after comment 12 are not listed in this analysis.

NMFS made two changes to the final rule. One change is in response to public comments and one change is a technical correction.

First, NMFS added the term “C season” to § 679.20(a)(7)(v)(B) to correct an inadvertent omission. This regulatory correction has no impact on the Steller sea lion protection measures but provides an accurate description of existing Pacific cod seasons.

Second, NMFS revised § 679.20(a)(7)(vii) to more accurately describe the process for setting the Pacific cod harvest limitation for Area 543. In the proposed rule, § 679.20(a)(7)(vii) said that NMFS would adjust the ABC by deducting the State guideline harvest level (GHL). This is not the case, NMFS does not adjust the ABC. NMFS modified this paragraph to explain that NMFS will first subtract the State GHL Pacific cod amount from the Aleutian Islands Pacific cod ABC. Then NMFS will determine the harvest limit in Area 543 by multiplying the percentage of Pacific cod estimated in Area 543 by the remaining ABC for AI Pacific cod. This correction does not change the process for setting the Pacific cod harvest limitation and would have no impact on the Steller sea lion protection measures.

Comments & Responses to the Proposed Rule	
<p><b>Comment 1</b> The proposed rule continues to reduce the Atka mackerel total allowable catch, restrict catch in Steller sea lion critical habitat, and spread the catch out temporally and spatially. Further, the majority of Steller sea lion critical habitat remains closed for Atka mackerel: 76 percent of critical habitat in 543; 93 percent in 542; and almost all of 541 except a small area southeast of Seguam Pass. These measures will reduce the operational efficiency of harvesters fishing under the provisions of the Amendment 80 Program. This is particularly true given current low permissible harvest levels, even if allowed catches are managed cooperatively among participants in the Amendment 80 Program.</p>	<p><b>Response</b> NMFS acknowledges the comment. Amendment 80 to the FMP identified participants using trawl catcher/processors in the BSAI active in groundfish fisheries other than Bering Sea pollock (i.e., the head-and-gut fleet or Amendment 80 vessels) and established a framework, known as the Amendment 80 Program, to regulate fishing by this fleet (72 FR 52668, September 14, 2007). The Amendment 80 Program created Amendment 80 quota share based on the historic catch of quota share species by Amendment 80 vessels, facilitated the development of cooperative arrangements (Amendment 80 cooperatives) among quota share holders, and assigned an exclusive harvest privilege for a portion of the TAC of quota share species for participants in Amendment 80 cooperatives. Chapter 8 of the EIS describes the factors affecting the operations of vessels in the Amendment 80 Program under this action.</p>



Comments & Responses to the Proposed Rule	
<p><b>Comment 2</b> The development of the Atka mackerel management measures by the Council's Steller Sea Lion Mitigation Committee was guided in large measure by the results of NMFS Fishery Interaction Team studies. The Atka mackerel management measures implemented by this action are intended to meet the goal of reducing the possibility of competition. These Atka mackerel management measures are responsive to the best available information and to the performance standards of the 2010 FMP BiOp (see ADDRESSES). The 2014 BiOp provides a relevant context for evaluating the exposure of Steller sea lion to potential constraining competition. Roughly 90 percent of the time during a year there will be only 1 or 2 vessels fishing Atka mackerel within a given management area (e.g., Area 542). With the removal of the "platoon" system under this action, the Atka mackerel fishery will be highly dispersed in time and space.</p>	<p><b>Response</b> NMFS acknowledges the comment. Chapter 8 of the EIS describes the operations of vessels fishing for Atka mackerel under this action.</p>
<p><b>Comment 3</b> Strike the term "Area 541" from the proposed rule at § 679.20(a)(8)(ii)(D) where it reads, "Any unharvested Atka mackerel A season allowance that is added to the B season is prohibited from being harvested within waters 0 nm to 20 nm of Steller sea lion sites listed in Table 6 to this part and located in Areas 541, 542, and 543." Any unused A season Atka mackerel should roll to B season and be available throughout the area open to fishing within Area 541. This will allow the fleet to disperse effort as was envisioned under this action. This change in regulation is also supported by NMFS research that showed little exchange of Atka mackerel inside and outside of 12 nm within Area 541.</p>	<p><b>Response</b> The regulations at § 679.20(a)(8)(ii)(D) are correct and NMFS made no changes to regulations in response to this comment. NMFS intended to prohibit the harvest of Atka mackerel TAC rolled over from the A season inside critical habitat in the B season in Areas 541, 542, and 543. This prohibition preserves the intent of the existing seasonal apportionment of Atka mackerel TAC, which is to temporally disperse harvest. Currently, in each management area 50 percent of the TAC is assigned to the A season and 50 percent to the B season, see § 679.20(a)(8)(ii)(C)(ii), with a limited ability for unused TAC in the A season to be rolled over to the B season under § 679.20(a)(8)(ii)(D). As explained in the preamble to the proposed rule, the purpose of this provision is to limit the amount of harvest that could occur in critical habitat to further protect Atka mackerel prey resources for Steller sea lions inside critical habitat (79 FR 37500). Unharvested Atka mackerel TAC from the A season can be harvested in the B season outside of critical habitat. This provision also provides for greater spatial dispersion of harvest away from Steller sea lion critical habitat.</p>
<p><b>Comment 4</b> The proposed rule would restore some productive fishing grounds and remove the no-retention regulations for the Pacific cod fishery. These measures provide some reduction in the impacts of Steller sea lion protection measures to the Pacific cod fishery relative to the 2010 Interim Final Rule. However, the amount of TAC available to the Pacific cod fishery in the Aleutian Islands will be only a small fraction of what was available and what was harvested prior to 2011 because of the decision to separate the BSAI Pacific cod into separate stocks with separate OFLs, ABCs, and TACs. With the adoption of separate Pacific cod TACs for the Aleutian Islands and Bering Sea, the new measures</p>	<p><b>Response</b> NMFS acknowledges the comment. Chapter 8 of the EIS describes the management of the Pacific cod fishery under this action.</p>

Comments & Responses to the Proposed Rule	
provide much better protection of the Pacific cod resource at the global scale than did the 2010 FMP BiOp RPA implemented in the 2010 Interim Final Rule.	
<p><b>Comment 5</b>  NMFS could alleviate the concern over the concentration of Pacific cod harvest in Area 543 and 542 by including re-consultation triggers in the final rule similar to the re-consultation triggers NMFS included in the 2010 Interim Final Rule which established non-trawl and trawl sector guideline harvest limits for Pacific cod by area. NMFS should consider re-consultation triggers as non-regulatory guideline harvest levels distinct for trawl and non-trawl sectors Pacific cod harvest in Areas 543 and 542 (and possibly 541). These re-consultation triggers could serve as an interim measure to address immediate concerns until superseded by Council action. Re-consultation triggers would ensure less concentration of harvest in these areas due to greater temporal dispersion of harvest by fixed gear (which is more temporally dispersed than trawl gear). Re-consultation triggers would also ensure harvest by non-trawl gear which fishes at a slower rate than trawl gear and where non-trawl gear is less likely to contribute to localized depletion.</p>	<p><b>Response</b>  NMFS included triggers for reinitiation of the section 7 consultation for Pacific cod harvest in Areas 541 and 542 as part of the RPA in the 2010 FMP BiOp. The Pacific cod ABC and TAC were specified as a combined BSAI TAC and ABC under the proposed action analyzed in the 2010 FMP BiOp. Because there were no limits on the amount of the BSAI Pacific cod TAC that could be caught in Areas 541 and 542, the RPA contained triggers to cue NMFS and the public that reinitiation of section 7 consultation should occur if fishing exceeded historical catch amounts in these management areas. NMFS considered these triggers important because the RPA and its implementing 2010 Interim Final Rule also closed Area 543 to directed fishing and prohibited retention of Pacific cod. With the closure of Area 543 to directed fishing and retention of Pacific cod prohibited under the 2010 Interim Final Rule, NMFS was concerned that harvest displaced from Area 543 would cause an increase in harvest in Areas 542 and 541. NMFS included a discussion of these triggers from the 2010 FMP BiOp in the preamble to the 2010 Interim Final Rule, however, as explained in that preamble, NMFS did not include these triggers in the implementing regulations (75 FR 77541).</p> <p>Similar triggers are not required under this action because the nature of the Pacific cod fishery and harvest limits have changed since the 2010 FMP BiOp. As of 2014, Pacific cod OFLs, ABCs, and TACs are specified separately for the eastern Bering Sea and Aleutian Islands. The amount of Pacific cod catch in the Aleutian Islands is expected to be substantially reduced relative to prior years when the OFL, ABC, and TAC was combined for the BSAI. Therefore, the potential for a shift of a substantial amount of fishing effort from one area of the Aleutian Islands is not present under this action, and the 2014 BiOp did not include an RPA and did not specify reinitiation triggers for the Pacific cod fishery.</p> <p>The reinitiation notice in section 10.0 of the 2014 BiOp noted that formal consultation may be required if the Aleutian Islands Pacific cod harvest is concentrated in Areas 542 or 543, as this would reflect a pattern not seen in the historical fishery data. The EIS and the 2014 BiOp anticipated that a larger proportion of the Aleutian Islands Pacific cod TAC is likely to be harvested by trawl gear than non-trawl gear and the Council did not recommend harvest limits.</p>
<p><b>Comment 6</b>  Make two changes to the regulations; (1) apportion the Aleutian Islands Pacific cod TAC between fixed gear and trawl gear for Areas 543, 542, and 541, and (2) apportion the Aleutian Islands Pacific cod TAC between</p>	<p><b>Response</b>  This final rule implements measures necessary to protect Steller sea lion prey. The changes proposed by the commenter to apportion the Aleutian Islands Pacific cod TAC between fixed gear and trawl gear and between the</p>

Comments & Responses to the Proposed Rule	
<p>the A and B season for Areas 543, 542, and 541. Without these changes, the proposed rule, in conjunction with separate management of Aleutian Islands Pacific cod and increasing State of Alaska guideline harvest level, could reduce fixed gear harvest opportunity in the Aleutian Islands and increase the proportion of trawl harvest of Pacific cod. The lack of an Aleutian Islands Pacific cod TAC apportionment between fixed gear and trawl gear for Areas 543, 542, and 541 will result in a decreased proportion of fixed-gear Pacific cod harvest in the Aleutian Islands and an increased proportion of trawl Pacific cod harvest in the Aleutian Islands. This means more Pacific cod harvest in the Aleutian Islands will be harvested by trawl gear that is more temporally compressed (February and March), fishes at a higher rate (than fixed gear), and is more likely to cause localized depletion. This is inconsistent with the stated intent of the proposed rule.</p>	<p>A and B seasons are not Steller sea lion protection measures. Apportioning the Aleutian Islands Pacific cod TAC between fixed gear and trawl gear and between the A and B season would require a separate regulatory amendment. NMFS cannot add this provision or an interim measure to the final rule because it not been considered, analyzed, or available for public comment. The Council could consider and analyze this proposal and make a recommendation to NMFS for a future regulatory amendment.</p> <p>NMFS notes that this action and other management actions limit the potential for localized depletion noted by the commenter. First, a separate Aleutian Islands Pacific cod TAC was established starting in 2014. This resulted in a substantial reduction in the Pacific cod available for harvest in the Aleutian Islands relative to management prior to 2014 (see Chapter 3 of the EIS for additional detail). This management action does have an impact on the amount of Pacific cod that can be effectively harvested by trawl and fixed gear in the Aleutian Islands. Given the existing and reasonably foreseeable Aleutian Islands Pacific cod TACs, it is likely that trawl vessels will be able to fully harvest this limited TAC before the Pacific cod aggregate and are available for harvest by fixed gear vessels. Second, this action limits the areas and amount of Pacific cod that can be harvested to limit the impacts of the Pacific cod fishery on Steller sea lion prey resource (see Chapter 5 of the EIS for additional detail).</p> <p>The Council and NMFS were aware of the impact of the Aleutian Islands Pacific cod TAC on the fixed gear fleet's harvest opportunities when the Council took action to split the Pacific cod TAC. The EIS analyzed the impacts of the proposed action and its alternatives with the understanding that a separate Pacific cod TAC would be implemented in 2014 (see Chapter 5 of the EIS). The 2014 BiOp acknowledged the impacts of the Pacific cod TAC split, including the fact that the trawl fishery would harvest the TAC, when it analyzed the proposed suite of Steller sea lion protection measures and found that the implementation of this final rule was not likely to jeopardize the continued existence of Steller sea lions and was not likely to destroy or adversely modify designated Steller sea lion critical habitat. Therefore, the final rule is consistent with the stated intent for this action.</p>
<p><b>Comment 7</b> The proposed regulatory text at § 679.20(a)(7)(v)(B) states, "Harvest of seasonal apportionments in the Amendment 80 limited access fishery. (1) Pacific cod ITAC assigned for harvest by the Amendment 80 limited access fishery in the A season may be harvested in the B seasons." This mistakenly omits a reference to the C season contained in paragraph (a)(7)(v)(A) that states, "Use of seasonal apportionments by Amendment 80 cooperatives. (1) The amount of Pacific cod listed on a</p>	<p><b>Response</b> NMFS agrees that this was an inadvertent typographical error and has made the change to the final rule § 679.20(a)(7)(v)(B) to correct this inadvertent omission. Section 679.20(a)(7)(v)(B) now reads, "Harvest of seasonal apportionments in the Amendment 80 limited access fishery. (1) Pacific cod ITAC assigned for harvest by the Amendment 80 limited access fishery in the A season may be harvested in the B or C seasons." The changes NMFS made to § 679.20(a)(7)(v) are</p>

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<p>CQ permit that is assigned for use in the A season may be used in the B or C season." We believe this was an inadvertent omission and the words "or C" belong in paragraph (a)(7)(v)(B)(1) so that it would read: "Pacific cod ITAC assigned for the harvest by the Amendment 80 limited access fishery in the A season may be harvested in the B or C seasons."</p>	<p>discussed in the preamble to the proposed rule (79 FR 37502). This regulatory correction has no impact on the Steller sea lion protection measures.</p>
<p><b>Comment 8</b> The management measures put forward in the proposed rule are, on the whole, a significant improvement over the measures that are currently in place from the 2010 Interim Final Rule, particularly in regards to the re-opening of Area 543 to Pacific cod fishing. The new measures are more consistent with the best available science on the impacts of groundfish fisheries on the Steller sea lions and reflect management measures developed and supported by the Council and its Steller Sea Lion Mitigation Committee.</p>	<p><b>Response</b> NMFS acknowledges the comment.</p>
<p><b>Comment 9</b> The Pacific cod fishery has been the primary basis of seafood processing in Adak and a mainstay of the local economy. Re-opening portions of critical habitat to fishing will provide more spatial dispersion of the fishery. Setting a separate TAC for Aleutian Islands Pacific cod is a precautionary measure that will protect the long term productivity of the Pacific cod stock. While these measures will result in less Pacific cod being available in the Aleutian Islands in the short run, the more conservative management of Aleutian Islands Pacific cod could provide the community of Adak with a more stable resource base in the long run.</p>	<p><b>Response</b> NMFS acknowledges the comment.</p>
<p><b>Comment 10</b> Prior to the 2014 BiOp, no analysis of a commercial pollock fishery in the Aleutian Islands had been undertaken since Congress allocated pollock to the Aleut Corporation in 2004. The 2014 BiOp takes the first hard look at the spatial distribution of the historic Aleutian Island pollock fishery in comparison to the telemetry data on Steller sea lion foraging locations. It also compares Steller sea lion dive profiles with pollock fishing depths. In both cases the 2014 BiOp finds the least overlap of any of the three prey species. Additionally, scat data presented in the 2010 FMP BiOp showed Aleutian Islands pollock had the lowest frequency of occurrence in Steller sea lion scat of the three prey species of concern. The statutory and regulatory provisions that limit the maximum amount of pollock TAC that may be harvested in the Aleutian Islands means that the pollock TAC in 2015 would be less than 50 percent of the Aleutian Islands pollock ABC. The commenter notes that Aleutian Islands pollock harvest is likely to be significantly less than the TAC because allocations provided to Community Development Quota (CDQ) groups (ie., 10 percent of the Aleutian Islands TAC) may be harvested in the Bering Sea, and regulations allocate</p>	<p><b>Response</b> NMFS agrees that the Aleutian Islands pollock TAC is likely to be substantially below the Aleutian Islands pollock ABC in the foreseeable future given existing statutory and regulatory provisions that limit the maximum Aleutian Islands pollock TAC to 19,000 mt (see regulations at § 679.20(a)(5)(iii) and Table 3 in this preamble). NMFS notes that although catch of Aleutian Islands pollock may be less than the TAC for the reasons noted by the commenter, NMFS does not have specific information indicating that catch will be consistently below the Aleutian Islands TAC. The EIS and the 2014 BiOp assumed that pollock catch in the Aleutians would equal the TAC for purposes of analyzing the effects of this action.</p>

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50 percent of the TAC remaining after allocation to CDQ groups to vessels less than 60 feet in length overall. These smaller vessels will have difficulty harvesting their pollock allocations due to the greater depths at which it is found in the Aleutian Islands.	
<p><b>Comment 11</b> The proposed rule to allow pollock fishing in some portions of critical habitat a full decade after 2004 legislation allocating Aleutian Islands pollock to the Aleut Corporation for the purpose of economic development on Adak will finally allow the realization of the Congressional intent.</p>	<p><b>Response</b> NMFS acknowledges the comment.</p>
<p><b>Comment 12</b> Reduce the TAC for the Bering Sea Aleutian Islands pollock fishery by 50 percent because it may be a cause in the Steller sea lion population decline. One of the Steller sea lion's primary food sources is pollock. Not having a stable food supply forces the Steller sea lions to travel farther and compete with other marine animals for different food resources. More frequent Steller sea lions sightings occur in areas of the Bering Sea that were previously uninhabited by sea lions have local residents wondering why.</p>	<p><b>Response</b> NMFS manages pollock in the Aleutian Islands separately from the Bering Sea. This proposed action changes management of the Aleutian Islands pollock fishery, as detailed in this preamble. The Aleutian Islands pollock TAC is greatly reduced from the ABC due to a number of factors described in Comment 10 and shown in Table 3 in this preamble. The Bering Sea pollock fishery is outside the scope of this action. The 2010 FMP BiOp analyzed the impacts of the Bering Sea pollock fishery on Steller sea lions and concluded that the management measures currently in place, including the management measures for the Bering Sea pollock fishery, are not likely to jeopardize the continued existence of Steller sea lions or destroy or adversely modify its designated critical habitat. The 2014 BiOP concluded management measures in this action for the Aleutian Islands pollock fishery are not likely to jeopardize the continued existence of Steller sea lions or destroy or adversely modify its designated critical habitat. NMFS notes that a wide range of factors can affect the distribution of Steller sea lions. The occurrence of Steller sea lions at a location may occur for reasons other than the lack of adequate prey resources in other locations.</p>

**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. As stated in the applicable regulations, the information collected, including VMS transmission – 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. 1801 *et seq.*); and also under [NOAA Administrative Order \(AO\) 216-100](#), which sets forth procedures to protect confidentiality of fishery statistics.

All information collected is part of a system of records: 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: 43, down from 48. Total estimated responses: 46, down from 48. Total estimated burden hours: 87, down from 3,745. Total estimated personnel costs: \$3,219, down from \$93,675.

**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 miscellaneous costs: \$185,743, down from \$740,145.

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

Total estimated responses: 3, down from 240. Total estimated burden hours: 1 hr, down from 1,625. Total estimated personnel costs: \$37, down from \$129,675.

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

**A program change** would require that vessel operators with an FFP for a vessel using trawl gear that harvests groundfish deducted from the Federal TAC in the Aleutian Islands subarea set their VMS to transmit the vessel location at least 10 times per hour. This requirement is recommended because of the extent and complexity of the proposed trawl closure areas in the Aleutian Islands reporting area.

VMS Operation (includes purchase, installation, transmission increase)

Capital costs: New VMS including installation ( $\$3500 \times 3$ ) = 10,500

Miscellaneous costs: VMS Service provider agreement – additional transmission costs for 43 vessels:  $3,260 \times 43 = \$140,180$  (adding  $4 \times 815$  to the current cost).

**The following adjustments were made.**

VMS Operation (includes transmission and maintenance)

This corrects the personnel costs. In previous analyses personnel was indicated as doing the installation as well as maintenance.

a decrease of 5 respondents and responses, 43 instead of 48

a decrease of 3,649 hr burden, 86 instead of 3,735 hr  
a decrease of \$90,218 personnel costs, \$3,182 instead of \$93,400  
a decrease of \$4,075 miscellaneous costs, \$35,045 instead of \$39,120 (starting point of \$815 per vessel in transmission costs)  
a decrease in 739,857 in capital costs, 0 instead of 739,857

VMS Check-in report.

a decrease of 45 respondents and responses, 3 instead of 48  
a decrease of 9 hr burden, 1 hr instead of 10  
a decrease of \$238 personnel costs, \$37 instead of \$275  
a decrease of \$270 miscellaneous costs, \$18 instead of \$288

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

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

**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.

**18. Explain each exception to the certification statement.**

In accordance with OMB requirements, the certification statement is 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 certification statement.

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

This collection does not employ statistical methods.