OMB Control Number: 0648-0789
Expiration Date: 11/30/20XX (OMB Pending)
Title: Type-Approval Requirements for Vessel Monitoring Systems

Information Collection: Revocation Response
CFR Citation: 50 CFR 600.1512-14

Type-Approval Revocation Process

(a) If at any time, a type-approved EMTU/EMTU-C, MCS, or bundle fails to meet requirements at §§ 600.1502 through 600.1509 or applicable VMS regulations and requirements in effect for the region(s) and Federal fisheries for which the EMTU/EMTU-C or MCS is type-approved, or if an MTU fails to meet the requirements under which it was type-approved, OLE may issue a Notification Letter to the type-approval holder that:

(1) Identifies the MTU, EMTU, EMTU-C, MCS, or bundle that allegedly fails to comply with type-approval regulations and requirements;

(2) Identifies the alleged failure to comply with type-approval regulations and requirements, and the urgency and impact of the alleged failure;

(3) Cites relevant regulations and requirements under this subpart;

(4) Describes the indications and evidence of the alleged failure;

(5) Provides documentation and data demonstrating the alleged failure;

(6) Sets a response date by which the type-approval holder must submit to NMFS OLE a written response to the Notification Letter, including, if applicable, a proposed solution; and

(7) Explains the type-approval holder's options if the type-approval holder believes the Notification Letter is in error.

(b) NMFS will establish a response date between 30 and 120 calendar days from the date of the Notification Letter. The type-approval holder's response must be received in writing by NMFS on or before the response date. If the type-approval holder fails to respond by the response date, the type-approval will be revoked. At its discretion and for good cause, NMFS may extend the response date to a maximum of 150 calendar days from the date of the Notification Letter.

(c) A type-approval holder who has submitted a timely response may meet with NMFS within 21 calendar days of the date of that response to discuss a detailed and agreed-upon procedure for resolving the alleged failure. The meeting may be in person, conference call, or webcast.

(d) If the type-approval holder disagrees with the Notification Letter and believes that there is no failure to comply with the type-approval regulations and requirements, NMFS has incorrectly defined or described the failure or its urgency and impact, or NMFS is otherwise in error, the type-approval holder may submit a written objection letter to NMFS on or before the response date. Within 21 calendar days of the date of the objection letter, the type-approval holder may meet with NMFS to discuss a resolution or redefinition of the issue. The meeting may be in person, conference call, or webcast. If modifications to any part of the Notification Letter are required, then NMFS will issue a revised Notification Letter to the type-approval holder. However, the response date or any other timeline in this process would not restart or be modified unless NMFS decides to do so, at its discretion.

(e) The total process from the date of the Notification Letter to the date of final resolution should not exceed 180 calendar days, and may require a shorter timeframe, to be determined by NMFS, depending on the urgency and impact of the alleged failure. In rare circumstances, NMFS, at its discretion, may extend the time for resolution of the alleged failure. In such a case, NMFS will provide a written notice to the type-approval holder informing him or her of the extension and the basis for the extension.

(f) If the failure to comply with type-approval regulations and requirements cannot be resolved through this process, the NMFS OLE Director will issue a Revocation Letter to the type-approval holder that:

(1) Identifies the MTU, EMTU, EMTU-C, MCS, or bundle for which type-approval is being revoked;

(2) Summarizes the failure to comply with type-approval regulations and requirements, including describing its urgency and impact;

(3) Summarizes any proposed plan, or attempts to produce such a plan, to resolve the failure;

(4) States that revocation of the MTU, EMTU, EMTU-C, MCS, or bundle's type-approval has occurred;

(5) States that no new installations of the revoked unit will be permitted in any NMFS-managed fishery requiring the use of VMS;

(6) Cites relevant regulations and requirements under this subpart;

(7) Explains why resolution was not achieved;

(8) Advises the type-approval holder that:

(i) The type-approval holder may reapply for a type-approval under the process set forth in § 600.1501, and

(ii) A revocation may be appealed pursuant to the process under § 600.1513.

Type-Approval Revocation Appeals Process

(a) If a type-approval holder receives a Revocation Letter pursuant to § 600.1512, the type-approval holder may file an appeal of the revocation to the NMFS Assistant Administrator.

(b) An appeal must be filed within 14 calendar days of the date of the Revocation Letter. A type-approval holder may not request an extension of time to file an appeal.

(c) An appeal must include a complete copy of the Revocation Letter and its attachments and a written statement detailing any facts or circumstances explaining and refuting the failures summarized in the Revocation Letter.

(d) The NMFS Assistant Administrator may, at his or her discretion, affirm, vacate, or modify the Revocation Letter and send a letter to the type-approval holder explaining his or her determination, within 21 calendar days of receipt of the appeal. The NMFS Assistant Administrator's determination constitutes the final agency decision.

Revocation Effective Date and Notification to Vessel Owners

(a) Following issuance of a Revocation Letter pursuant to § 600.1512 and any appeal pursuant to § 600.1513, NMFS will provide notice to all vessel owners impacted by the type-approval revocation via letter and Federal Register notice. NMFS will provide information to impacted vessel owners on:

(1) The next steps vessel owners should take to remain in compliance with regional and/or national VMS requirements;

(2) The date, 60-90 calendar days from the notice date, on which the type-approval revocation will become effective;

(3) Reimbursement of the cost of a new type-approved EMTU/EMTU-C, should funding for reimbursement be available pursuant to § 600.1516.

PRA Public Burden Statement

A Federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with an information collection subject to the requirements of the Paperwork Reduction Act of 1995 unless the information collection has a currently valid OMB Control Number. The approved OMB Control Number for this information collection is 0648-0789. Without this approval, we could not conduct this information collection. Public reporting for this information collection is estimated to be approximately 24 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information collection. All responses to this information collection are voluntary but required to retain type-approval status or appeal a revocation determination pursuant to 50 CFR §§ 600.1512–600.1514 and the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). The purpose of this collection is to allow VMS type-approval holders to submit written responses, proposed solutions, objections, or appeals to NMFS Office of Law Enforcement (OLE) following a Notification Letter of alleged non-compliance or a Revocation Letter. Send comments regarding this burden estimate or any other aspect of this information collection, including suggestions for reducing this burden, to the National Marine Fisheries Service, Office of Law Enforcement, 1315 East-West Highway, Suite 3301, Silver Spring, MD 20910, Attn: VMS Program Manager.