

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Diana Hynek
Departmental Paperwork Clearance Officer
Office of the Chief Information Officer
14th and Constitution Ave. NW.
Room 6625
Washington, DC 20230

04/21/2006

In accordance with the Paperwork Reduction Act, OMB has taken the following action on your request for the extension of approval of an information collection received on 03/10/2006.

TITLE: Vessel Monitoring System for Atlantic Highly Migratory Species

AGENCY FORM NUMBER(S): None

ACTION : APPROVED WITHOUT CHANGE
OMB NO.: 0648-0372
EXPIRATION DATE: 04/30/2009

BURDEN:	RESPONSES	HOURS	COSTS(\$,000)
Previous	2,935,212	2,362	649
New	2,673,441	1,567	407
Difference	-261,771	-795	-242
Program Change		0	0
Adjustment		-795	-242

TERMS OF CLEARANCE: None

NOTE: The agency is required to display the OMB control number and inform respondents of its legal significance (see 5 CFR 1320.5(b)).

OMB Authorizing Official	Title
Donald R. Arbuckle	Deputy Administrator, Office of Information and Regulatory Affairs

PAPERWORK REDUCTION ACT SUBMISSION

Please read the instructions before completing this form. For additional forms or assistance in completing this form, contact your agency's Paperwork Clearance Officer. Send two copies of this form, the collection instrument to be reviewed, the supporting statement, and any additional documentation to: Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503.

1. Agency/Subagency originating request	2. OMB control number b. <input type="checkbox"/> None a. _____ - _____
3. Type of information collection (<i>check one</i>) a. <input type="checkbox"/> New Collection b. <input type="checkbox"/> Revision of a currently approved collection c. <input type="checkbox"/> Extension of a currently approved collection d. <input type="checkbox"/> Reinstatement, without change, of a previously approved collection for which approval has expired e. <input type="checkbox"/> Reinstatement, with change, of a previously approved collection for which approval has expired f. <input type="checkbox"/> Existing collection in use without an OMB control number For b-f, note Item A2 of Supporting Statement instructions	4. Type of review requested (<i>check one</i>) a. <input type="checkbox"/> Regular submission b. <input type="checkbox"/> Emergency - Approval requested by _____ / _____ / _____ c. <input type="checkbox"/> Delegated
7. Title	5. Small entities Will this information collection have a significant economic impact on a substantial number of small entities? <input type="checkbox"/> Yes <input type="checkbox"/> No
8. Agency form number(s) (<i>if applicable</i>)	6. Requested expiration date a. <input type="checkbox"/> Three years from approval date b. <input type="checkbox"/> Other Specify: _____ / _____
9. Keywords	10. Abstract
11. Affected public (<i>Mark primary with "P" and all others that apply with "x"</i>) a. ___ Individuals or households d. ___ Farms b. ___ Business or other for-profit e. ___ Federal Government c. ___ Not-for-profit institutions f. ___ State, Local or Tribal Government	12. Obligation to respond (<i>check one</i>) a. <input type="checkbox"/> Voluntary b. <input type="checkbox"/> Required to obtain or retain benefits c. <input type="checkbox"/> Mandatory
13. Annual recordkeeping and reporting burden a. Number of respondents _____ b. Total annual responses _____ 1. Percentage of these responses collected electronically _____ % c. Total annual hours requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____	14. Annual reporting and recordkeeping cost burden (<i>in thousands of dollars</i>) a. Total annualized capital/startup costs _____ b. Total annual costs (O&M) _____ c. Total annualized cost requested _____ d. Current OMB inventory _____ e. Difference _____ f. Explanation of difference 1. Program change _____ 2. Adjustment _____
15. Purpose of information collection (<i>Mark primary with "P" and all others that apply with "X"</i>) a. ___ Application for benefits e. ___ Program planning or management b. ___ Program evaluation f. ___ Research c. ___ General purpose statistics g. ___ Regulatory or compliance d. ___ Audit	16. Frequency of recordkeeping or reporting (<i>check all that apply</i>) a. <input type="checkbox"/> Recordkeeping b. <input type="checkbox"/> Third party disclosure c. <input type="checkbox"/> Reporting 1. <input type="checkbox"/> On occasion 2. <input type="checkbox"/> Weekly 3. <input type="checkbox"/> Monthly 4. <input type="checkbox"/> Quarterly 5. <input type="checkbox"/> Semi-annually 6. <input type="checkbox"/> Annually 7. <input type="checkbox"/> Biennially 8. <input type="checkbox"/> Other (describe) _____
17. Statistical methods Does this information collection employ statistical methods <input type="checkbox"/> Yes <input type="checkbox"/> No	18. Agency Contact (person who can best answer questions regarding the content of this submission) Name: _____ Phone: _____

19. Certification for Paperwork Reduction Act Submissions

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

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

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

- (a) It is necessary for the proper performance of agency functions;
- (b) It avoids unnecessary duplication;
- (c) It reduces burden on small entities;
- (d) It used plain, coherent, and unambiguous terminology that is understandable to respondents;
- (e) Its implementation will be consistent and compatible with current reporting and recordkeeping practices;
- (f) It indicates the retention period for recordkeeping requirements;
- (g) It informs respondents of the information called for under 5 CFR 1320.8(b)(3):
 - (i) Why the information is being collected;
 - (ii) Use of information;
 - (iii) Burden estimate;
 - (iv) Nature of response (voluntary, required for a benefit, mandatory);
 - (v) Nature and extent of confidentiality; and
 - (vi) Need to display currently valid OMB control number;
- (h) It was developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected (see note in Item 19 of instructions);
- (i) It uses effective and efficient statistical survey methodology; and
- (j) It makes appropriate use of information technology.

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

Signature of Senior Official or designee

Date

Agency Certification (signature of Assistant Administrator, Deputy Assistant Administrator, Line Office Chief Information Officer, head of MB staff for L.O.s, or of the Director of a Program or StaffOffice)

Signature

Date

Signature of NOAA Clearance Officer

Signature

Date

**SUPPORTING STATEMENT
VESSEL MONITORING SYSTEM FOR ATLANTIC HIGHLY MIGRATORY SPECIES
OMB CONTROL NO.: 0648-0372**

A. JUSTIFICATION

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

The purpose of this collection of information is to comply with the United States' obligations under the Atlantic Tunas Convention Act of 1975 (ATCA; 16 U.S.C. 971, attached), the Secretary of Commerce's obligations under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), Section 303b (attached), other domestic Federal regulations, and the implementing regulations at 50 CFR part 635 (attached).

ATCA requires the Secretary of Commerce to promulgate regulations adopted by the International Commission for the Conservation of Atlantic Tunas (ICCAT). As a member nation of ICCAT, the United States is required to collect biological statistics for research purposes (fishing effort and catch) and to implement a Vessel Monitoring System (VMS) program for vessels in certain fisheries. In addition to this requirement, the United States, as one of several member nations fishing for bluefin tuna and swordfish in the Atlantic Ocean, must abide by the specific quotas assigned by ICCAT. A VMS program is necessary to facilitate enforcement of a fishery closure if the quotas are reached.

VMS also aids the National Marine Fisheries Service (NMFS) Office of Law Enforcement in monitoring and enforcing closed areas implemented to reduce bycatch of juvenile swordfish, sharks, sea turtles, and other species in order to comply with the Marine Mammal Protection Act, the Endangered Species Act, and National Standard 9 (bycatch and bycatch mortality reduction) of the Magnuson-Stevens Act. There are currently five areas, totaling 158,580 square nautical miles, which are closed to fishermen fishing for Atlantic highly migratory species (HMS) with pelagic and bottom longline gear onboard. The Northeast Distant (NED) gear restricted area (approximately 2.6 million square nautical miles) also is monitored year-round with VMS, and an area of the Southeast is monitored during the right whale calving season for vessels fishing with shark gillnet gear. Traditional methods of surveillance by ships and planes would be ineffective in patrolling such large areas. VMS is designed to automatically report positions on all vessels carrying pelagic longline gear, bottom longline gear, or shark gillnet gear on board.

An installation and activation checklist must be submitted by the vessel owner to NMFS after installation of the VMS. Because there are several options for VMS hardware and satellite communications services that are provided by third parties after approval by NMFS, NMFS must obtain information regarding the individual vessel's VMS installation and service provider to ensure proper operation of the VMS unit. NMFS therefore requires that a certification be returned to NMFS.

For vessel owners who wish to turn their VMS units off for an extended period of time due to repairs after a hurricane season or other damage, NMFS requests vessel owners to submit voluntarily a form that allows NMFS Enforcement to document the purpose for turning the VMS

off. During that time they will identify any potential problems to enforcement personnel, locate them at sea and offloading HMS species without having VMS operational. To date, only six vessels have requested to have their VMS turned off for an extended period of time, and all have voluntarily submitted the form to NMFS Enforcement.

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 applicable NOAA Information Quality Guidelines.

A VMS unit is programmed to report the vessel's location every hour, 24 hours a day, while the vessel is away from port. This allows vessels to traverse closed areas or remain at sea after a fishery has closed as long as they do not commence fishing operations. NMFS uses this information to reduce costs and improve enforcement of time/area closures, to monitor the fleet during the closed period and to deter illegal fishing. NMFS also uses this information to increase efficiency of surveillance patrols, to provide probable cause for obtaining a search warrant in enforcement investigations, and to support enforcement of other regulations such as closed seasons once the quota has been reached.

The checklist indicates the procedures to be followed by the installers and, upon certification and return to NMFS, provides the Office of Law Enforcement with information about the hardware installed and the communication service provider that will be used by the vessel operator. Specific information that links a permitted vessel with a certain transmitting unit and communications service is necessary to ensure that NMFS will receive automatic position reports properly. In the event that there are problems, NMFS will have access to a database that links owner information with installation information. NMFS can then contact the vessel operator and discern whether the problem is associated with the transmitting hardware or the service provider.

As explained in the preceding paragraphs, the information gathered has utility. NOAA Fisheries 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 #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 NOAA Fisheries Service 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.

VMS is the best technology available at this time for monitoring vessel locations to aid enforcement efforts. The integrated Global Positioning System (GPS) provides a near real-time mechanism for submitting accurate position reports. VMS is considered much more accurate than logbooks for reporting geographical distribution of fishing effort for each trip. Logbooks

are submitted by fishermen seven days after offloading and only provide information regarding the start of a fishing set. Thus, logbooks do not meet the real-time needs of enforcement and could allow vessels to fish illegally in closed areas without prosecution. VMS, on the other hand, provides 24 reports each day for the duration of the trip. This allows enforcement to react immediately if a vessel is found fishing in a closed area.

Some vessel owners, in other fisheries, have taken advantage of this technology by linking personal computers to the VMS units so that communications with other vessels and port facilities can be improved. This has personal, business, and safety advantages for fishermen and may provide a platform for future electronic logbook reporting of both target and non-target species.

The installation checklist is available over the Internet. NMFS is considering the use of electronic submission of the installation report (fax or email).

4. Describe efforts to identify duplication.

Position reports at the start of each fishing set are required in the HMS logbook, and will therefore be duplicated. Position reports are not required in the shark fishing vessel logbook record, and will therefore not be duplicated. However, VMS position reports are automated and require no action on the part of the vessel operator. If electronic catch reporting is developed in the future, paper logbooks may become obsolete.

There are no alternate sources of such specific and near real-time vessel location and activity information. While VMS may be required in other fisheries, fishermen who have purchased a VMS unit can use it in multiple fisheries and the information is only reported once to enforcement.

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

All vessels of the United States and their owners that have permits for HMS, i.e., swordfish, sharks, and tuna, are considered small entities. Current VMS regulations require approximately 329 pelagic longline, bottom longline, and shark gillnet vessels to maintain VMS units at an annual average operation and maintenance cost of approximately \$1,365 (\$500/year maintenance and \$1.44/day for position reports). In an attempt to provide vessel owners with some flexibility, NMFS has published in the Federal Register type approvals for four different VMS units from two manufacturers ranging in price from \$1,660-2,900, and the option to choose from two satellite service providers. This provides vessel owners with some flexibility of choice and helps to minimize costs. Because this requirement is already in place for the fishery, most active vessels will not need new equipment and will only need to pay for the annual operation and maintenance costs. Only vessels that are not currently active in the fishery, or in the case of bottom longline gear, near the closed area, will need to purchase the units.

Vessels that have VMS on board could experience some economic benefits. They will be able to continue fishing up to the date of a closure and steam back after the closure, as long as they are not fishing. Arriving in port after a market glut caused by a closure has dissipated would have

significant positive economic benefits. Adverse impacts of mass offloading of the fleet, such as low prices, and lack of storage and transportation could be avoided as a result of the VMS program. In addition, current NMFS regulations require fishermen who fish in the South Atlantic to offload in the South Atlantic when the North Atlantic fishery is closed due to a regulation that prohibits possession of greater than the incidental catch limit of 15 swordfish during a closed period. Vessels with a VMS are permitted to transit the North Atlantic with greater than the incidental catch limit on board, as long as they are South Atlantic fish, caught when that fishery was open. This saves significant transport and shipping costs that result from fishermen having to offload South Atlantic swordfish south of 5 degrees N. latitude.

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

Using VMS to verify the location of a vessel is passive and automatic, requiring no reporting time on the part of the vessel operator. ICCAT recognizes the developments in satellite-based VMS and their possible utility, including better resource management and, thus, more effective and sustainable use of resources. More specifically, benefits for management include increased compliance and enhanced enforcement effectiveness regarding area restrictions, more timely data regarding fishing effort by areas, and more timely catch reporting. Other possible benefits of the VMS include increased vessel safety and dependable and confidential communications, which may improve fleet management.

Monitoring and enforcement are essential components of fisheries management. Monitoring fishing vessels facilitates enforcement of NMFS' conservation and management regulations by enabling detection of violations. Monitoring also promotes compliance by having a general deterrent effect. Lack of proper monitoring and enforcement makes it difficult to gauge the effectiveness of conservation and management measures. In the case of overfished stocks, enforcement is necessary to prevent further overfishing and subsequent decline to dangerously low stock levels. As a practical matter, it is very difficult for enforcement personnel to effectively monitor the full operational range of the U.S. pelagic longline fleet without having some method of detecting a vessel's location. With respect to pelagic longline time/area closures in particular, the size of the closed areas makes the likelihood of detection through conventional surveillance methods rather small.

The use and submission of a checklist is required only for the initial installation or when the hardware or communications service provider changes. Less frequent reporting would prevent NMFS and the vessel operator from confirming that the system is functioning properly.

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

VMS will be reporting positions 24 times a day, which is more frequently than OMB guidelines suggest. This frequency is required for the near real-time and accurate tracking of vessel activities. The requirement for 24 position reports per day is designed to allow NMFS to distinguish between a vessel that is setting gear, and a vessel that is traversing a closed area. Fewer reports would indicate that a vessel was in the area but would not indicate whether the vessel was setting gear or traversing the area. The time burden as a result of this frequency,

however, remains minimal because the position reports are automated and require no action on the part of the vessel operator.

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.

A Federal Register Notice (copy attached) solicited public comments on this collection. No public comments were received.

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

No payments or gifts are to be offered as part of this information collection.

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

All automated position reports received by NMFS will be treated as confidential data in accordance with the Magnuson-Stevens Act and NOAA Administrative Order 216-100.

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.

A total of 329 vessels are subject to the VMS requirement (Table 1). Based on the number of limited access permits for swordfish and tuna, an estimated 281 pelagic longline vessels are subject to the VMS requirement. Based on the number of limited access directed shark permits, an estimated 30 bottom longline shark fishing vessels and 18 shark gillnet vessels are also subject to the VMS requirement. Once the VMS is installed, no action is required on the part of the vessel operator except to turn the system on two hours before leaving port and verifying that the system is on. Once on, position reports are automatically sent from the VMS on an hourly basis. NMFS estimates a one-time burden of 5 minutes for completing a VMS installation and activation checklist during initial installation.

Table 1. Number of Vessels with HMS Limited Access Permits by Gear Type.

Type of Permit	Pelagic Longline	Bottom Longline	Gillnet	Total
Directed	190	30	18	238
Incidental	91			91
Total	281	30	18	329
Total w/ VMS units installed	129	14	18	161
Total that may still need VMS units installed	152	16	0	168

Pelagic Longline Vessels:

For the 152 vessels that may need to have a VMS unit installed, there will be a one-time installation of 4 hours/vessel for a total of 608 hours ($152 \times 4 = 608$), and a one-time submission of a checklist that will take approximately 5 minutes to complete for a total of 12.7 hours ($152 \times 5 \text{ min} = 760 \text{ min}$) ($760/60 = 12.7$ hours). For the 281 vessels that may be using pelagic longline gear there will be an annual maintenance of 2 hours/vessel for a total of 562 hours ($281 \times 2 = 562$). The estimated reporting time per position report is 0.3 seconds. Based upon the 0.3 seconds/report, the burden is 205 hours/year ($0.3 \times 24 \times 365 \times 281 = 738,468 \text{ sec}$) ($738,468/60/60 = 205$ hours) for pelagic longline vessels. **Therefore, the estimated aggregate annual collection burden in the first year is 1,388 hours ($608+12.7+562+205 = 1,388$).**

The number of respondents is 281. The total number of electronic responses each year is 2,461,560 (281 respondents*24 reports/day*365 days/year). There are also 152 one-time checklist responses, annualized to 51. **The total annualized responses are 2,461,611.**

Directed Shark Bottom Longline Vessels:

For the 16 directed shark bottom longline vessels that may need to have a VMS unit installed, there will be a one-time installation of 4 hours/vessel for a total of 64 hours ($16 \times 4 = 64$), and a one-time submission of a checklist that will take approximately 5 minutes to complete for a total of 1.3 hours ($16 \times 5 \text{ min} = 80 \text{ min}$) ($80/60 = 1.3$ hours). For the 30 directed shark bottom vessels there will be an annual maintenance of 2 hours/vessel for a total of 60 hours ($30 \times 2 = 60$). The estimated reporting time per position report is 0.3 seconds. Based upon the 0.3 seconds/report, 24 times/day, over the proposed 212 day shark bottom longline time/area closure, the burden is 12.7 hours/year ($0.3 \times 24 \times 212 \times 30 = 45,792 \text{ sec}$) ($45,792/60/60 = 12.7$ hours) for the 30 directed category bottom longline shark vessels. **Therefore, the estimated annual collection burden in the first year is 138 hours ($64+1.3+60+12.7 = 138$).**

The number of respondents is 30. The total number of electronic position reports each year is 152,640 (30 respondents*24 reports/day*212 days/year). There are also 16 one-time checklist responses, annualized to 6. **The total annualized responses are 152,646.**

Directed Shark Gillnet Vessels:

For the 18 shark gillnet vessels there will be an annual maintenance of 2 hours/vessel for a total of 36 hours ($18 \times 2 = 36$). The estimated reporting time per position report is 0.3 seconds. Based upon the 0.3 seconds/report, 24 times/day, over the 137 day right whale calving period, the

burden is 4.9 hours/year ($0.3 \times 24 \times 137 \times 18 = 17,755$ sec) ($17,755/60/60 = 4.9$ hours) for the 18 shark gillnet vessels. **The estimated aggregate annual collection burden in the first year is 41 hours ($36+4.9 = 41$).**

The number of respondents is 18. **The total number of responses (electronic reports) each year is 59,184 ($18 \text{ respondents} \times 24 \text{ reports/day} \times 137 \text{ days/year}$).**

The total burden for all 329 vessels combined is therefore 1,567 hours ($1,388+138+41$). The total annual responses are 2,673,441 ($2,461,611+152,646+59,184$).

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 #12 above).

Of the 329 vessels required to have VMS installed, 161 vessels have already purchased and installed their units, so the startup costs for these vessels have not been included in the annual cost burden estimates. However, communication and maintenance costs, which are ongoing, have been included for all vessels. Startup costs for the remaining 168 vessels that may need to purchase VMS units are included.

NMFS Office of Law Enforcement has approved four different VMS units (Table 2). The cost and capability of each type of unit is slightly different. Each vessel owner can choose from among these types the unit that best suit his/her needs. A VMS unit, including transceiver and antenna, is expected to cost from \$1,600 to \$2,900. The maximum estimated cost of \$400 for installation has been included in the unit prices. Communication costs for required automated position reports would be about \$1.39 per day (Table 3). Repair and maintenance costs may approach \$500 per year. Owners who choose VMS units with the capability to send and receive text messages would incur additional acquisition and operating costs not required by this collection.

Table 2. Current Equipment and Installation Costs

Cost for Thrane & Thrane TT3022D*	Cost for Thrane & Thrane TT3026M*	Cost for Thrane & Thrane TT3026S*	Cost for Skymate ST2500*	Average Cost
\$2,900	\$2,100	\$2,200	\$1,600	\$2,200

*Maximum estimated cost of \$400 for installation by a qualified marine electrician included.

Table 3. Current Communications Costs

Monthly Cost for Xantic** For Thrane Units	Monthly Cost for Telenor** For Trimble and Thrane Units	Monthly Cost for Orbcomm for ST2500 (\$149 Initial Activation Fee)	Average Monthly Cost	Average Daily Cost
\$50.40	\$36.00	\$38.99	\$41.79	\$1.39
Yearly Cost for Xantic	Yearly Cost for Telenor	Yearly Cost for Orbcomm + Activation	Average Yearly Cost	
\$604.80	\$432.00	\$616.88	\$551.22	

Total Annualized Capital/Startup Costs: Assuming the average installed cost of a VMS unit to be \$2,200, with a useful life of 5 years, the total startup costs for the fleet of 168 vessels without VMS, including a one-time postage fee of \$65.52 (168*\$0.39 = \$65.52) for returning checklists to NMFS, would be \$369,665.52 (2,200*168+\$65.52): annualized over a period of five years = **\$73,933.10 (\$369,665.52/5years)**.

Total Annual Costs

For pelagic longline vessels: Communications (\$551.22/year) (Table 2), and repair and maintenance costs (\$500/year) for the fleet of 281 vessels would total **\$295,392.82** (\$551.22+\$500*281).

For shark bottom longline vessels: Communications (\$320.16 over the 212 day shark bottom longline time/area closure), and repair and maintenance costs (\$500/year) for the 30 vessels would total **\$24,604.80** (\$320.16+\$500*30).

For shark gillnet vessels: Communications (\$206.90 over the 137 day right whale calving period), and repair and maintenance costs (\$500/year) for the 18 vessels would total **\$12,724.20** (\$206.90+\$500*18).

The total annualized cost for all three fleets combined would be \$406,654.92 (\$73,933.10 startup + \$332,721.82 operations and maintenance (\$295,392.82+\$24,604.80 +\$12,724.20)).

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

There would be no significant cost to the Federal government. NMFS is developing an integrated hardware and tracking system to manage the various VMS programs being developed for many other U.S. fisheries. Those costs are already covered by current programs of the Office of Law Enforcement and are extraneous to this collection. Given the current capacity of these systems, incremental costs specifically attributable to the HMS VMS program are negligible.

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

This information collection request consolidates two separate information collections. OMB

number 0648-0372 was approved for collection of information from all vessels issued HMS permits that have pelagic longline gear on board, and OMB number 0648-0483 was approved for collection of information from vessels with directed shark limited LAPs and with gillnet or bottom longline gear on board. Since the information being collected is identical for both of these collections, NMFS has received OMB approval to combine these two information collections under OMB number 0648-0372, with the annualized hours increasing by 181 and costs by 36,000.

The hours and costs have been further adjusted to reflect the recent re-estimates of the current number of vessels subject to the VMS requirement, the number of vessels that may have already purchased and installed VMS equipment, and any changes to VMS equipment, maintenance, or installation costs. Thus, hours have now decreased by a net of 795 and costs, by a net of \$242,000, since the merger of the two collections was requested.

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

No formal scientific publications based on this program are planned at this time. The data will be used for enforcement, management reports, and when drafting or evaluating fishery management plan amendments by NMFS. However, subsequent use of the data collected over a series of years may be included in scientific papers and publications. Position data will remain confidential and will only be revealed to the public in aggregated form.

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.

Not applicable.

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

There are no exceptions.

B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS

This collection does not employ statistical methods.

Vessel Monitoring Systems Certification Statement For The Highly Migratory Species Fisheries

INSTRUCTIONS: This Vessel Monitoring Systems (VMS) Certification Statement for the Highly Migratory Species (HMS) Fisheries is provided by the National Marine Fisheries Service (NOAA Fisheries) pursuant to the regulatory requirements of 50 C.F.R. § 635.69(a). This certification statement is applicable for the VMS providers currently approved for use in the HMS shark fisheries.

Installation checklists will be provided and revised if additional VMS providers are approved. Follow the checklist steps indicated by the vendor for the communications service and transmitting unit selected. The vessel owner or operator must follow the installation procedures when installing or re-installing a NOAA Fisheries-approved VMS unit. The vessel owner is responsible for all installation and activation costs. After completion of the installation and activation, the owner may confirm that NOAA Fisheries is receiving position reports by calling NOAA Office of Law Enforcement in St. Petersburg, Florida, at 727-824-5344, or by sending email to vms@noaa.gov.

The vessel owner must sign the statement certifying compliance with the installation procedures, and then submit the certification statement to the NOAA Office of Law Enforcement, 263 13th Avenue South, Suite 109, St. Petersburg, Florida 33701.

Vessel Name: _____ Vessel Doc. Number: _____

VMS Transmitting Unit Manufacturer: _____

VMS Communications Service Provider: _____

Certification:

In accordance with 50 C.F.R. § 635.69(a), as the owner of a vessel participating the HMS Fisheries, I hereby certify that the VMS system on my vessel has been installed in compliance with applicable procedures.

Vessel Owner Name: _____

Vessel Owner Signature: _____ Date: _____

Under the provisions of the Paperwork Reduction Act of 1995 (PL 104-13) and the Privacy Act of 1974 (PL 93-579), you are advised that disclosure of the information requested in the Vessel Monitoring System (VMS) certification statement is mandatory for the purpose of managing the Atlantic shark fisheries. The certification statement is used to ensure proper operation of the VMS unit. Reporting burden for the collection of information is estimated to average 4 hours per installation, including time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the information. The burden for submission of this certification statement is estimated at 5 minutes per response. Confidentiality of the information provided will be treated in accordance with NOAA Administrative Order 216-100. It is the policy of the National Marine Fisheries Service not to release confidential data, other than in aggregate form, as the Magnuson-Stevens Act protects (in perpetuity) the confidentiality of those submitting data. Whenever data are requested, NMFS ensures the information identifying the pecuniary business activity of a particular individual is not identified. Because you have been provided with a currently valid OMB control number for a collection of information subject to the requirements of the Paperwork Reduction Act, you are required to respond to, or be subject to penalty for failing to comply with, this collection of information. Send comments regarding this burden estimate or suggestions for reducing this burden to: NMFS, Office of Law Enforcement, 8484 Georgia Avenue, Suite 415, Silver Spring, MD 20910.

**Vessel Monitoring System Power Down Exemption Request
For Southeast Vessel Monitoring Systems (VMS)
Highly Migratory Species (HMS) Vessels**

Regulations implementing the requirements for the vessel monitoring system (VMS) within the Highly Migratory Species regulations allow for vessel owners to discontinue the use of VMS units if Pelagic longline gear is no longer on the vessel. In order for VMS program personnel to comply with this regulatory allowance and assist vessel owners with stopping VMS reporting, it is required for documentary purposes that vessel owners obtain a VMS power down exemption letter from the Office for Law Enforcement VMS program. To obtain this exemption letter, please fill out the appropriate information below and submit this form to the **NOAA/National Marine Fisheries Service, Office of Law Enforcement, 263 13th Avenue South, Suite 109, St. Petersburg, FL 33701.**

Vessel Information:

Vessel Name: _____ **Tuna Permit #:** _____

Official USCG #: _____
(or state registration #)

Vessel Landing/Homeport Location During VMS Power Down:

Exemption Period for this Request:

Date VMS to be Turned Off: _____

Date VMS to be Turned On: _____

Reason for VMS Power Down (optional): _____

Requestor: (Please Print) _____

Signature: _____ **Date:** _____

NOTE: VMS units must remain operational until a Letter of Exemption from the Office for Law Enforcement is received to stop a vessel's VMS from reporting. Upon receipt of the letter of exemption, the vessel owner may discontinue VMS operation for the period requested above. Vessel owners may request a continuation to the time period for this exemption through a written request to the Office for Law Enforcement, provided the minimum period of 30 days is met. Vessels that wish to leave the port specified above during the exemption period for fishing operations may do so, **provided they do not have:** (1) Pelagic longline gear on board the vessel, (2) Bottom longline gear on board during the period January 1 through July 31 in federal waters off the coasts of Virginia, North Carolina or South Carolina, or (3) Gillnet gear on board, regardless of location, during the period November 15 through March 31. Once the vessel meets any of the conditions of items (1), (2) or (3), the VMS unit must be once again powered on and the exemption is no longer valid.

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(b) A vessel, or a vessel carrying fish species subject to regulation pursuant to a recommendation of ICCAT, that is registered by any of the ICCAT contracting parties, and the vessel's catch, gear, and relevant documents, including fishing logbooks and cargo manifests, are subject to inspection under this subpart to verify compliance with ICCAT measures when landing or transshipping regulated species or when making a port call in the United States.

(c) The master of a vessel, or a vessel carrying fish species subject to regulation pursuant to a recommendation of ICCAT, must cooperate with an authorized officer during the conduct of an inspection in national and foreign ports. Inspections will be carried out so that the vessel suffers minimum interference and inconvenience, and so that degradation of the quality of catch is avoided.

§ 635.53 Reports.

(a) Apparent violations shall be reported by the authorized officer on a standardized ICCAT form or form produced by the national government which collects the same quality of information. The authorized officer must sign the form in the presence of the master of the vessel, who is entitled to add or have added to the report any observations, and to add his own signature. The authorized officer should note in the vessel's log that the inspection has been made.

(b) Copies of the report form must be sent to the flag state of the vessel and to the ICCAT Secretariat within 10 days. Flag states will consider and act on reports of apparent violations by foreign inspectors on a similar basis as the reports of their national inspectors in accordance with their national legislation. The vessel's flag state will notify ICCAT of actions taken to address the violation.

Subpart F—Enforcement

§ 635.69 Vessel monitoring systems.

(a) *Applicability.* To facilitate enforcement of time-area and fishery closures, an owner or operator of a commercial vessel permitted to fish for Atlantic HMS under § 635.4 and that fishes

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with a pelagic longline is required to install a NMFS-approved vessel monitoring system (VMS) unit on board the vessel and operate the VMS unit whenever the vessel leaves port with pelagic longline gear on board. A vessel is considered to have pelagic longline gear on board for the purposes of this section, when gear as specified at § 635.21(c) is on board.

(b) *Hardware specifications.* The VMS hardware must be approved by NMFS and must be able to perform all NMFS required functions. NMFS will file with the Office of the Federal Register for publication notification listing the specifications for approved VMS units. As necessary, NMFS will make additions and/or amendments to the VMS hardware type approval list to account for changes in specifications or new products offered by manufacturers. NMFS will file with the Office of the Federal Register for publication notification listing such additions and/or amendments.

(c) *Communications specifications.* The communications service provider must be approved by NMFS and must be able to provide all NMFS required functions. NMFS will file with the Office of the Federal Register for publication notification listing the specifications for approved VMS communications service providers. As necessary, NMFS will make additions and/or amendments to the VMS communications service providers type approval list to account for changes in specifications or new services offered by communications providers. NMFS will file with the Office of the Federal Register for publication notification listing such additions and/or amendments.

(d) *Installation and service activation.* When installing and activating the NMFS-approved VMS unit, a vessel owner or operator must follow procedures indicated on an installation and activation checklist obtained from NMFS. Re-installation shall require the same checklist. Upon completion of installation, the vessel owner must sign a statement certifying compliance with the installation procedures of the checklist and submit such certification to NMFS as indicated on the checklist. Vessels fishing prior to submission of

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the certification will be in violation of the VMS requirement.

(e) *Operation.* Owners or operators of vessels permitted, or required to be permitted, to fish for HMS that have pelagic longline gear on board, must activate the VMS to submit automatic position reports beginning 2 hours prior to leaving port and not ending until the vessel returns to port. While at sea, the unit must operate without interruption and no person may interfere with, tamper with, alter, damage, disable, or impede the operation of a VMS, or attempt any of the same. Vessels fishing outside the geographic area of operation of the installed VMS will be in violation of the VMS requirement.

(f) *Interruption.* When the vessel operator is aware that transmission of automatic position reports has been interrupted, or when notified by NMFS that automatic position reports are not being received, the vessel operator must contact NMFS and follow the instructions given. Such instructions may include but are not limited to manually communicating to a location designated by NMFS the vessel's position or returning to port until the VMS is operable.

(g) *Repair and replacement.* After a fishing trip during which interruption of automatic position reports has occurred, the vessel's owner or operator must replace or repair the VMS unit prior to the vessel's next trip. Repair or reinstallation of a VMS unit or installation of a replacement, including change of communications service provider shall be in accordance with the checklist provided by NMFS and require the same certification.

(h) *Access.* As a condition to obtaining a limited access permit for Atlantic swordfish, sharks or tunas, all vessel owners or operators using pelagic longline gear subject to the VMS provisions of this section must allow NMFS, the USCG, and their authorized officers and designees access to the vessel's position data obtained from the VMS at the time of or after its transmission to the vendor or receiver, as the case may be.

[64 FR 29135, May 28, 1999, as amended at 64 FR 37705, July 13, 1999; 65 FR 47238, Aug. 1, 2000]

EFFECTIVE DATE NOTE: At 66 FR 1907, Jan. 10, 2001, § 635.69 was stayed indefinitely, effective Oct. 1, 2000.

§ 635.70 Penalties.

(a) *General.* See § 600.735 of this chapter.

(b) *Civil procedures for Atlantic tuna.* Because of the perishable nature of Atlantic tuna when it is not chilled or frozen, an authorized officer may cause to be sold, for not less than its reasonable market value, unchilled or unfrozen Atlantic tuna that may be seized and forfeited under ATCA and this part.

§ 635.71 Prohibitions.

In addition to the prohibitions specified in § 600.725 of this chapter, it is unlawful for any person subject to the jurisdiction of the United States to violate any provision of this part, ATCA, the Magnuson-Stevens Act, or any other rules promulgated under ATCA or the Magnuson-Stevens Act.

(a) *General.* It is unlawful for any person or vessel subject to the jurisdiction of the United States to:

(1) Falsify information required on an application for a permit submitted under § 635.4 or § 635.16.

(2) Fish for, catch, possess, retain, or land an Atlantic HMS without the appropriate valid vessel permit, LAP, or EFP on board the vessel, as specified in §§ 635.4 and 635.32.

(3) Purchase, receive, or transfer or attempt to purchase, receive, or transfer, for commercial purposes, any Atlantic HMS landed by owners of vessels not permitted to do so under § 635.4, or purchase, receive, or transfer, or attempt to purchase, receive, or transfer, for commercial purposes, any Atlantic HMS without the appropriate valid dealer permit issued under § 635.4, except that this does not apply to a shark harvested from a vessel that has not been issued a permit under this part and that fishes exclusively within the waters under the jurisdiction of any state.

(4) Sell or transfer or attempt to sell or transfer an Atlantic tuna, shark, or swordfish other than to a dealer that has a valid dealer permit issued under § 635.4, except that this does not apply to a shark harvested from a vessel that

(B) minimize the mortality of bycatch which cannot be avoided;

(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors; and

(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery.

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(b) DISCRETIONARY PROVISIONS.--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may--

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to--

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone [or special areas,]* or for anadromous species or Continental Shelf fishery resources beyond such zone [or areas]*;

(B) the operator of any such vessel; or

(C) any United States fish processor who first receives fish that are subject to the plan;

(2) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the--

(A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);

(B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and

(C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery;

(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account--

(A) present participation in the fishery,

(B) historical fishing practices in, and dependence on, the fishery,

(C) the economics of the fishery,

(D) the capability of fishing vessels used in the fishery to engage in other fisheries,

(E) the cultural and social framework relevant to the fishery and any affected fishing communities, and

(F) any other relevant considerations;

(7) require fish processors who first receive fish that are subject to the plan to submit data (other than economic data) which are necessary for the conservation and management of the fishery;

(8) require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;

(9) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region;

(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

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(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research; and

(12) prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

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Sec. 971. Definitions

For the purpose of this chapter -

- (1) The term "Convention" means the International Convention for the Conservation of Atlantic Tunas, signed at Rio de Janeiro May 14, 1966, including any amendments or protocols which are or become effective for the United States.
- (2) The term "Commission" means the International Commission for the Conservation of Atlantic Tunas provided for in article III of the Convention.
- (3) The term "conservation recommendation" means any recommendation of the Commission made pursuant to Article VIII of the Convention and acted upon favorably by the Secretary of State under section [971c](#)(a) of this title.
- (4) The term "Council" means the Council established within the International Commission for the Conservation of Atlantic Tunas pursuant to article V of the Convention.
- (5) The term "exclusive economic zone" means an exclusive economic zone as defined in section [1802](#) of this title.
- (6) The term "fishing" means the catching, taking, or fishing for or the attempted catching, taking, or fishing for any species of fish covered by the Convention, or any activities in support thereof.
- (7) The term "fishing vessel" means any vessel engaged in catching fish or processing or transporting fish loaded on the high seas, or any vessel outfitted for such activities.
- (8) The term "Panel" means any panel established by the Commission pursuant to article VI of the Convention.
- (9) The term "person" means every individual, partnership, corporation, and association subject to the jurisdiction of the

United States.

- (10) The term "Secretary" means the Secretary of Commerce.
- (11) The term "State" includes each of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

Sec. 971a. Commissioners

- (a) Appointment and number; selection of Chairman; rules of procedure; term
 - (1) The United States shall be represented by not more than three Commissioners who shall serve as delegates of the United States on the Commission, and who may serve on the Council and Panels of the Commission as provided for in the Convention. Such Commissioners shall be appointed by and serve at the pleasure of the President. Not more than one such Commissioner shall be a salaried employee of any State or political subdivision thereof, or the Federal Government. Individuals serving as such Commissioners shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter [81](#) of title 5 and chapter [171](#) of title 28. The Commissioners shall be entitled to select a Chairman and to adopt such rules of procedure as they find necessary.
 - (2) Of the Commissioners appointed under paragraph (1) who are not governmental employees -
 - (A) one shall be appointed from among individuals with knowledge and experience regarding commercial fishing in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea; and
 - (B) one shall be appointed from among individuals with knowledge and experience regarding recreational fishing in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea.
 - (3)
 - (A) The term of a Commissioner shall be three years.
 - (B) An individual appointed in accordance with paragraph (2) shall not be eligible to serve more than two consecutive terms as a Commissioner.
- (b) Alternate Commissioners

The Secretary of State, in consultation with the Secretary, may designate from time to time and for periods of time deemed appropriate Alternate United States Commissioners to the Commission. Any Alternate United States Commissioner may exercise at any meeting of the Commission, Council, any Panel, or the advisory committee established pursuant to section [971b](#) of this title, all powers and duties of a United States Commissioner in the absence of any Commissioner appointed pursuant to subsection (a) of this section for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of United States Commissioners appointed pursuant to subsection (a) of this section who will not be present at such meeting.
- (c) Compensation

The United States Commissioners or Alternate Commissioners, although officers of the United States while so serving, shall receive no compensation for their services as such Commissioners

or Alternate Commissioners.

- (d) Travel expenses
 - (1) The Secretary of State shall pay the necessary travel expenses of United States Commissioners, Alternate United States Commissioners, and authorized advisors in accordance with the Federal Travel Regulations and sections [5701](#), [5702](#), 5704 through 5708, and 5731 of title 5.
 - (2) The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this subsection.

Sec. 971b. Advisory committee

- (a) There is established an advisory committee which shall be composed of -
 - (1) not less than five nor more than twenty individuals appointed by the United States Commissioners who shall select such individuals from the various groups concerned with the fisheries covered by the Convention; and
 - (2) the chairmen (or their designees) of the New England, Mid-Atlantic, South Atlantic, Caribbean, and Gulf Fishery Management Councils established under section 302(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)). Each member of the advisory committee appointed under paragraph (1) shall serve for a term of two years and shall be eligible for reappointment. Members of the advisory committee may attend all public meetings of the Commission, Council, or any Panel and any other meetings to which they are invited by the Commission, Council, or any Panel. The advisory committee shall be invited to attend all nonexecutive meetings of the United States Commissioners and at such meetings shall be given opportunity to examine and to be heard on all proposed programs of investigation, reports, recommendations, and regulations of the Commission. Members of the advisory committee shall receive no compensation for their services as such members. The Secretary and the Secretary of State may pay the necessary travel expenses of members of the advisory committee in accordance with the Federal Travel Regulations and sections [5701](#), [5702](#), 5704 through 5708, and 5731 of title 5.

- (b)
 - (1) A majority of the members of the advisory committee shall constitute a quorum, but one or more such members designated by the advisory committee may hold meetings to provide for public participation and to discuss measures relating to the United States implementation of Commission recommendations.
 - (2) The advisory committee shall elect a Chairman for a 2-year term from among its members.
 - (3) The advisory committee shall meet at appropriate times and places at least twice a year, at the call of the Chairman or upon the request of the majority of its voting members, the United States Commissioners, the Secretary, or the Secretary of State. Meetings of the advisory committee, except when in executive session, shall be open to the public, and prior notice of meetings shall be made public in a timely fashion.
 - (4)
 - (A) The Secretary shall provide to the advisory committee in a timely manner such administrative and technical support services as are necessary for the effective functioning of the committee.
 - (B) The Secretary and the Secretary of State shall furnish the advisory committee

with relevant information concerning fisheries and international fishery agreements.

- (5) The advisory committee shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this chapter, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the Convention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures.
- (6) The advisory committee shall, to the maximum extent practicable, consist of an equitable balance among the various groups concerned with the fisheries covered by the Convention and shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

Sec. 971b-1. Species working groups

The United States Commissioners may establish species working groups for the purpose of providing advice and recommendations to the Commissioners and the advisory committee on matters relating to the conservation and management of any highly migratory species covered by the Convention. Any species working group shall consist of no more than seven members of the advisory committee and no more than four scientific or technical personnel, as considered necessary by the Commissioner.

Sec. 971c. Authority of Secretary of State; cooperative enforcement agreements

- (a) Recommendations from Commission

The Secretary of State is authorized to receive on behalf of the United States, reports, requests, and other communications of the Commission, and to act thereon directly or by reference to the appropriate authorities. The Secretary of State, with the concurrence of the Secretary and, for matters relating to enforcement, the Secretary of the department in which the Coast Guard is operating, is authorized to take appropriate action on behalf of the United States with regard to recommendations received from the Commission pursuant to article VIII of the Convention. The Secretary and, when appropriate, the Secretary of the department in which the Coast Guard is operating, shall inform the Secretary of State as to what action he considers appropriate within five months of the date of the notification of the recommendation from the Commission, and again within forty-five days of the additional sixty-day period provided by the Convention if any objection is presented by another contracting party to the Convention, or within thirty days of the date of the notification of an objection made within the additional sixty-day period, whichever date shall be the later. After any notification from the Commission that an objection of the United States is to be considered as having no effect, the Secretary shall inform the Secretary of State as to what action he considers appropriate within forty-five days of the sixty-day period provided by the Convention for reaffirming objections. The Secretary of State shall take steps under the Convention to insure that a recommendation pursuant to article VIII of the Convention does not become effective for the United States prior to its becoming effective for all contracting parties conducting fisheries affected by such recommendation on a meaningful scale in terms of their effect upon the success of the conservation program, unless he determines, with the concurrence of the Secretary, and, for matters relating to enforcement, the Secretary of the department in which the Coast Guard is operating, that the purposes of the Convention would be served by allowing a recommendation to take effect for the United States at some earlier time.

- (b) Enforcement agreements

The Secretary of State, in consultation with the Secretary and the Secretary of the department in which the Coast Guard is operating, is authorized to enter into agreements with any contracting party, pursuant to paragraph 3 of article IX of the Convention, relating to cooperative enforcement of the provisions of the Convention, recommendations in force for the United States and such party or parties under the Convention, and regulations adopted by the United States and such contracting party or parties pursuant to recommendations of the Commission. Such agreements may authorize personnel of the United States to enforce measures under the Convention and under regulations of another party with respect to persons under that party's jurisdiction, and may authorize personnel of another party to enforce measures under the Convention and under United States regulations with respect to persons subject to the jurisdiction of the United States. Enforcement under such an agreement may not take place within the territorial seas or exclusive economic zone of the United States. Such agreements shall not subject persons or vessels under the jurisdiction of the United States to prosecution or assessment of penalties by any court or

tribunal of a foreign country.

Sec. 971d. Administration

- (a) Regulations; cooperation with other parties to Convention; utilization of personnel, services, and facilities for enforcement

The Secretary is authorized and directed to administer and enforce all of the provisions of the Convention, this chapter, and regulations issued pursuant thereto, except to the extent otherwise provided for in this chapter. In carrying out such functions the Secretary is authorized and directed to adopt such regulations as may be necessary to carry out the purposes and objectives of the Convention and this chapter, and with the concurrence of the Secretary of State, he may cooperate with the duly authorized officials of the government of any party to the Convention. In addition, the Secretary may utilize, with the concurrence of the Secretary of the department in which the Coast Guard is operating insofar as such utilization involves enforcement at sea, with or without reimbursement and by agreement with any other Federal department or agency, or with any agency of any State, the personnel, services, and facilities of that agency for enforcement purposes with respect to any vessel in the exclusive economic zone, or wherever found, with respect to any vessel documented under the laws of the United States, and any vessel numbered or otherwise licensed under the laws of any State. When so utilized, such personnel of the States of the United States are authorized to function as Federal law enforcement agents for these purposes, but they shall not be held and considered as employees of the United States for the purposes of any laws administered by the Director of the Office of Personnel Management.

- (b) Primary enforcement responsibility

Enforcement activities at sea under the provisions of this chapter for fishing vessels subject to the jurisdiction of the United States shall be primarily the responsibility of the Secretary of the department in which the Coast Guard is operating, in cooperation with the Secretary and the United States Customs Service. The Secretary after consultation with the Secretary of the department in which the Coast Guard is operating, shall adopt such regulations as may be necessary to provide for procedures and methods of enforcement pursuant to article IX of the Convention.

- (c) Regulations and other measures to carry out Commission recommendations

- (1)

- (A) Upon favorable action by the Secretary of State under section [971c](#)(a) of this title on any recommendation of the Commission made pursuant to article VIII of the Convention, the Secretary shall promulgate, pursuant to this subsection, such regulations as may be necessary and appropriate to carry out such recommendation.
- (B) Not later than June 30, 1991, the Secretary shall promulgate any additional regulations necessary to ensure that the United States is in full compliance with all recommendations

made by the Commission that have been accepted by the United States and with other agreements under the Convention between the United States and any nation which is a party to the Convention.

- (C) Regulations promulgated under this paragraph shall, to the extent practicable, be consistent with fishery management plans prepared and implemented under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).
- (2) To promulgate regulations referred to in paragraph (1) of this subsection, the Secretary shall publish in the Federal Register a general notice of proposed rulemaking and shall afford interested persons an opportunity to participate in the rulemaking through (A) submission of written data, views, or arguments, and (B) oral presentation at a public hearing. Such regulations shall be published in the Federal Register and shall be accompanied by a statement of the considerations involved in the issuance of the regulations, and by a statement, based on inquiries and investigations, assessing the nature and effectiveness of the measures for the implementation of the Commission's recommendations which are being or will be carried out by countries whose vessels engage in fishing the species subject to such recommendations within the waters to which the Convention applies. After publication in the Federal Register, such regulations shall be applicable to all vessels and persons subject to the jurisdiction of the United States on such date as the Secretary shall prescribe. The Secretary shall suspend at any time the application of any such regulation when, after consultation with the Secretary of State and the United States Commissioners, he determines that fishing operations in the Convention area of a contracting party for whom the regulations are effective are such as to constitute a serious threat to the achievement of the Commission's recommendations.
- (3) The regulations required to be promulgated under paragraph (1) of this subsection may -
 - (A) select for regulation one or more of the species covered by the Convention;
 - (B) divide the Convention waters into areas;
 - (C) establish one or more open or closed seasons as to each such area;
 - (D) limit the size of the fish and quantity of the catch which may be taken from each area within any season during which fishing is allowed;
 - (E) limit or prohibit the incidental catch of a regulated species which may be retained, taken, possessed, or landed by vessels or persons fishing for other species of fish;
 - (F) require records of operations to be kept by any master or other person in charge of any fishing vessel;
 - (G) require such clearance certificates for vessels as may be necessary to carry out the purposes of the Convention and this chapter;
 - (H) require proof satisfactory to the Secretary that any fish subject to regulation pursuant to a recommendation of the

Commission offered for entry into the United States has not been taken or retained contrary to the recommendations of the Commission made pursuant to article VIII of the Convention which have been adopted as regulations pursuant to this section;

- (I) require any commercial or recreational fisherman to obtain a permit from the Secretary and report the quantity of the catch of a regulated species;
 - (J) require that observers be carried aboard fishing vessels for the purpose of providing statistically reliable scientific data; and
 - (K) impose such other requirements and provide for such other measures as the Secretary may determine necessary to implement any recommendation of the Convention or to obtain scientific data necessary to accomplish the purpose of the Convention; except that no regulation promulgated under this section may have the effect of increasing or decreasing any allocation or quota of fish or fishing mortality level to the United States agreed to pursuant to a recommendation of the Commission.
- (4) Upon the promulgation of regulations provided for in paragraph (3) of this subsection, the Secretary shall promulgate, with the concurrence of the Secretary of State and pursuant to the procedures prescribed in paragraph (2) of this subsection, additional regulations which shall become effective simultaneously with the application of the regulations provided for in paragraph (3) of this subsection, which prohibit -
 - (A) the entry into the United States of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the Convention area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission; and
 - (B) the entry into the United States, from any country when the vessels of such country are being used in the conduct of fishing operations in the Convention area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the Convention area.
- (5) In the case of repeated and flagrant fishing operations in the Convention area by the vessels of any country which seriously threaten the achievement of the objectives of the Commission's recommendations, the Secretary with the concurrence of the Secretary of State, may by regulations promulgated pursuant to paragraph (2) of this subsection prohibit the entry in any form from such country of other species covered by the Convention as may be under investigation

by the Commission and which were taken in the Convention area. Any such prohibition shall continue until the Secretary is satisfied that the condition warranting the prohibition no longer exists, except that all fish in any form of the species under regulation which were previously prohibited from entry shall continue to be prohibited from entry.

- (6) Identification and notification. -
 - (A) Not later than July 1, 1996, and annually thereafter, the Secretary, in consultation with the Secretary of State, the Commissioners, and the advisory committee, shall -
 - (i) identify those nations whose fishing vessels are fishing, or have fished during the preceding calendar year, within the convention area in a manner or under circumstances that diminish the effectiveness of a conservation recommendation;
 - (ii) notify the President and the nation so identified, including an explanation of the reasons therefor; and
 - (iii) publish a list of those Nations identified under clause
 - (i) notify the President and the nation so identified,
 - (B) In identifying those Nations, the Secretary shall consider, based on the best available information, whether those Nations have measures in place for reporting, monitoring, and enforcement, and whether those measures diminish the effectiveness of any conservation recommendation.
 - (7) Consultation. - Not later than 30 days after a Nation is notified under paragraph (6), the President may enter into consultations with the Government of that Nation for the purpose of obtaining an agreement that will -
 - (A) effect the immediate termination and prevent the resumption of any fishing operation by vessels of that Nation within the Convention area which is conducted in a manner or under circumstances that diminish the effectiveness of the conservation recommendation;
 - (B) when practicable, require actions by that Nation, or vessels of that Nation, to mitigate the negative impacts of fishing operations on the effectiveness of the conservation recommendation involved, including but not limited to, the imposition of subsequent-year deductions for quota overages; and
 - (C) result in the establishment, if necessary, by such Nation of reporting, monitoring, and enforcement measures that are adequate to ensure the effectiveness of conservation recommendations.
- (d) Recommended Commission actions regarding large-scale driftnet fishing and conservation of Atlantic swordfish
 - (1) It is the sense of the Congress that the Secretary, in consultation with the Secretary of

State, should seek support for a recommendation by the Commission to ban large-scale driftnet fishing (as that term is defined in section 3(16) [11](#) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802(16))) in the Convention area.

- (2) The Secretary, in consultation with the Secretary of State, shall request the Commission to adopt recommendations necessary for the conservation and management of Atlantic swordfish. In making the request, the Secretary shall seek the establishment of an international minimum harvest size and a reduction in harvest levels to the extent necessary to conserve the stock. Until the Commission adopts all the conservation and management measures requested by the Secretary, the Secretary, within 3 months after each annual meeting of the Commission, shall notify Congress as to the nature and results of his request. These notifications shall identify those nations not acting to conserve and manage Atlantic swordfish, and recommend measures which could be taken to achieve effective international conservation and management of the stock.
-

Sec. 971e. Violations

- (a) In general

It shall be unlawful -

- (1) for any person in charge of a fishing vessel or any fishing vessel subject to the jurisdiction of the United States to engage in fishing in violation of any regulation adopted pursuant to section [971d](#) of this title; or
- (2) for any person subject to the jurisdiction of the United States to ship, transport, purchase, sell, offer for sale, import, export, or have in custody, possession, or control any fish which he knows, or should have known, were taken or retained contrary to the recommendations of the Commission made pursuant to article VIII of the Convention and adopted as regulations pursuant to section [971d](#) of this title, without regard to the citizenship of the person or vessel which took the fish.

- (b) Failure to furnish returns, records, or reports

It shall be unlawful for the master or any person in charge of any fishing vessel subject to the jurisdiction of the United States to fail to make, keep, or furnish any catch returns, statistical records, or other reports as are required by regulations adopted pursuant to this chapter to be made, kept, or furnished by such master or person.

- (c) Refusal of request to board and inspect vessel

It shall be unlawful for the master or any person in charge of any fishing vessel subject to the jurisdiction of the United States to refuse to permit any person authorized to enforce the provisions of this chapter and any regulations adopted pursuant thereto, to board such vessel and inspect its catch, equipment, books, documents, records, or other articles or question the persons onboard in accordance with the provisions of this chapter, or the Convention, as the case may be, or to obstruct such officials in the execution of such duties.

- (d) Importation of ineligible species or species under investigation

It shall be unlawful for any person to import, in violation of any regulation adopted pursuant to section [971d](#)(c) or (d) (FOOTNOTE 1) of this title, from any country, any fish in any form of those species subject to regulation pursuant to a recommendation of the Commission, or any fish in any form not under regulation but under investigation by the Commission, during the period such fish have been denied entry in accordance with the provisions of section [971d](#)(c) or (d) [11](#) of this title. In the case of any fish as described in this subsection offered for entry in the United States, the Secretary shall require proof satisfactory to him that such fish is not ineligible for such

entry under the terms of section [971d\(c\)](#) or (d) [\[1\]](#) of this title.

- (e) Sanctions

The civil penalty and permit sanctions of section [1858](#) of this title are hereby made applicable to violations of this section as if they were violations of section [1857](#) of this title.

- (f) Forfeiture

All fish taken or retained in violation of subsection (a) of this section, or the monetary value thereof, may be forfeited.

- (g) Applicability of other laws

All provisions of law relating to the seizure, judicial forfeiture, and condemnation of a cargo for violation of the customs laws, the disposition of such cargo or the proceeds from the sale thereof, and the remission or mitigation of such forfeitures shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under the provisions of this chapter, insofar as such provisions of law are applicable and not inconsistent with the provisions of this chapter.

Footnotes

[\[1\]](#) See References in Text note below.

Sec. 971f. Enforcement

- (a) Particular powers

Any person authorized in accordance with the provisions of this chapter to enforce the provisions of this chapter and the regulations issued thereunder may -

- (1) with or without a warrant, board any vessel subject to the jurisdiction of the United States and inspect such vessel and its catch and, if as a result of such inspection, he has reasonable cause to believe that such vessel or any person on board is engaging in operations in violation of this chapter or any regulations issued thereunder, he may, with or without a warrant or other process, arrest such person;
- (2) arrest, with or without a warrant, any person who violates the provisions of this chapter or any regulation issued thereunder in his presence or view;
- (3) execute any warrant or other process issued by an officer or court of competent jurisdiction; and
- (4) seize, whenever and wherever lawfully found, all fish taken or retained by a vessel subject to the jurisdiction of the United States in violation of the provisions of this chapter or any regulations issued pursuant thereto. Any fish so seized may be disposed of pursuant to an order of a court of competent jurisdiction, or, if perishable, in a manner prescribed by regulation of the Secretary.

- (b) International enforcement

To the extent authorized under the convention or by agreements between the United States and any contracting party concluded pursuant to section [971c](#)(b) of this title for international enforcement, the duly authorized officials of such party shall have the authority to carry out the enforcement activities specified in subsection (a) of this section with respect to persons or vessels subject to the jurisdiction of the United States, and the officials of the United States authorized pursuant to this section shall have the authority to carry out the enforcement activities specified in subsection (a) of this section with respect to persons or vessels subject to the jurisdiction of such party, except that where any agreement provides for arrest or seizure of persons or vessels under United States jurisdiction it shall also provide that the person or vessel arrested or seized shall be promptly handed over to a United States enforcement officer or another authorized United States official.

- (c) Bonds or stipulations

Notwithstanding the provisions of section [2464](#) of title 28, when a warrant of arrest or other process in rem is issued in any cause under this section, the marshal or other officer shall stay the

execution of such process, or discharge any fish seized if the process has been levied, on receiving from the claimant of the fish a bond or stipulation for the value of the property with sufficient surety to be approved by a judge of the district court having jurisdiction of the offense, conditioned to deliver the fish seized, if condemned, without impairment in value or, in the discretion of the court, to pay its equivalent value in money or otherwise to answer the decree of the court in such cause. Such bond or stipulation shall be returned to the court and judgment thereon against both the principal and sureties may be recovered in event of any breach of the conditions thereof as determined by the court. In the discretion of the accused, and subject to the direction of the court, the fish may be sold for not less than its reasonable market value at the time of seizure and the proceeds of such sale placed in the registry of the court pending judgment in the case.

Sec. 971g. Cooperation in carrying out Convention

- (a) Federal and State agencies; private institutions and organizations
The United States Commissioners, through the Secretary of State and with the concurrence of the agency, institution, or organization concerned, may arrange for the cooperation of agencies of the United States Government, and of State and private institutions and organizations in carrying out the provisions of article IV of the Convention.
- (b) Scientific and other programs; facilities and personnel
All agencies of the Federal Government are authorized, upon the request of the Commission, to cooperate in the conduct of scientific and other programs, and to furnish facilities and personnel for the purpose of assisting the Commission in carrying out its duties under the Convention.
- (c) Fishing operations and biological experiments
None of the prohibitions deriving from this chapter, or contained in the laws or regulations of any State, shall prevent the Commission from conducting or authorizing the conduct of fishing operations and biological experiments at any time for purposes of scientific investigation, or shall prevent the Commission from discharging any other duties prescribed by the Convention.
- (d) State jurisdiction; preemption by Federal regulations
 - (1) Except as provided in paragraph (2) of this subsection, nothing in this chapter shall be construed so as to diminish or to increase the jurisdiction of any State in the territorial sea of the United States.
 - (2) In the event a State does not request a formal hearing and after notice by the Secretary, the regulations promulgated pursuant to this chapter to implement recommendations of the Commission shall apply within the boundaries of any State bordering on any Convention area if the Secretary determines that any such State -
 - (A) has not, within a reasonable period of time after the promulgation of regulations pursuant to this chapter, enacted laws or promulgated regulations which implement any such recommendation of the Commission within the boundaries of such State; or
 - (B) has enacted laws or promulgated regulations which (i) are less restrictive than the regulations promulgated pursuant to this chapter, or (ii) are not effectively enforced. If a State requests the opportunity for an agency hearing on the record, the Secretary shall not apply regulations promulgated pursuant to this chapter within that State's boundaries unless the hearing record supports a determination under paragraph (A) or (B). Such regulations shall apply until the Secretary determines that the State is effectively enforcing within its boundaries measures which are not less restrictive than such

regulations.

- (e) Continuing review of State laws and regulations

To insure that the purposes of subsection (d) of this section are carried out, the Secretary shall undertake a continuing review of the laws and regulations of all States to which subsection (d) of this section applies or may apply and the extent to which such laws and regulations are enforced.

9. Refusals to Deal

Refuse to quote prices for export products, or to market or sell export products, to or for any customer in the export processed tomato market, or any countries or geographical areas in the export markets;

10. Market and Customer Allocation

Allocate geographic areas or countries in the export markets and/or customers in the export markets among members of the California Tomato Export Group;

11. Exclusive and Nonexclusive Export Intermediaries

Enter into exclusive and nonexclusive agreements appointing one or more export intermediaries for the sale of export products with price, quantity, territorial and/or customer restrictions. "Export Intermediary" means a person who acts as a distributor, sales representative, sales or marketing agent, broker, or who performs similar functions including providing or arranging for the provision of export trade facilitation services;

12. Meetings

Meet with members of the Certificate and manager of the Certificate present;

13. Non-Member Activities

a. Enter into agreements with non-members, whether or not exclusive, to provide export trade facilitation services;

b. Purchase tomatoes from non-members to fulfill specific export sales obligations, provided that CTEG and/or its members shall make such purchases only on a transaction-by-transaction basis and when the members are unable to supply, in a timely manner, the requisite products at a price competitive under the circumstances. In no event shall a non-member be included in any deliberations concerning any export activities and operations; and

14. Government Liaison

Advise and cooperate with the United States and foreign governments in:

a. Establishing procedures regulating the export of processed tomato products, and

b. Fulfilling the phytosanitary and/or funding requirements imposed by foreign governments for export of the processed tomato products.

CTEG may exchange the following information with and among the Members as necessary to carry out export trade activities and methods of operation:

1. Information about export sales and marketing efforts; selling strategies,

contract and spot pricing in the export markets;

2. Information regarding projected demand in the export markets;

3. Information about the customary terms of sales in export markets;

4. Information about export prices and availability of competitor's processed tomato products for sale in the export markets;

5. Specifications for processed tomato products by customers in the export markets;

6. Information about terms and conditions of contracts for sale in the export markets to be considered and/or bid on by CTEG and its members;

7. Information about the price, quality, source, and delivery dates of processed tomato products available for export by CTEG members;

8. Information about joint bidding and/or selling arrangements for export markets;

9. Information regarding terms, conditions, and specifications of particular export contracts for sale or to be considered and/or bid on by the CTEG;

10. Information about expenses specific to exporting to and within the export markets, sales and distribution networks established by CTEG or its members in export markets;

11. Information about export customer credit terms and credit history;

12. Information about United States and foreign legislation and regulations, including federal marketing order programs, affecting sales to the export markets;

13. Information about joint bidding or selling arrangements for the export markets and allocations of sales resulting from such arrangements among the members;

14. Information about expenses specific to exporting to and within the export markets, including without limitation, transportation, trans-or intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales, documentation; financing, customs, duties, and taxes;

15. Information about CTEG's or its members' export operations, including without limitation, sales and distribution networks established by CTEG or its members in the export markets, and prior export sales by members (including export price information);

16. Information regarding the forecasted quantity of processed tomatoes secured through contracts by each member for upcoming seasons;

17. Information regarding the potential available supply of processed

tomato products available for export and not committed to domestic markets in upcoming seasons; and

18. Information about global tomato crop supply, including planting intentions, growing conditions, weather, disease, transportation, consumer trends, health news, regulatory impacts and information that impacts on the availability, conditions and costs to foreign buyers.

Dated: December 1, 2005.

Jeffrey Anspacher,

Director, Export Trading Company Affairs.

[FR Doc. E5-6872 Filed 12-5-05; 8:45 am]

BILLING CODE 3510-DR-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Vessel Monitoring System for Atlantic Highly Migratory Species

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before February 6, 2006.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Chris Rilling, Highly Migratory Species Management Division (F/SF1), Office of Sustainable Fisheries, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910, phone (301) 713-2347 or Chris.Rilling@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

Vessels fishing for Atlantic highly migratory species (HMS) with pelagic longline, bottom longline, or gillnet gear on board are required to install and

operate a vessel monitoring system (VMS). VMS is required in these fisheries to aid in enforcement and protection of closed areas. These areas were closed to reduce bycatch in HMS fisheries, to aid in rebuilding overfished stocks, and to protect protected species such as right whales. The automatic position reports are required to be submitted on an hourly basis whenever the vessel is at sea. The placement of VMS units on fishing vessels allows the National Marine Fisheries Service (NMFS) to determine vessel locations and complements the Agency's efforts to monitor and enforce compliance with applicable regulations, including time/area closures. Vessel operators who are purchasing and installing a VMS unit for the first time are required to follow an equipment installation checklist and submit it to NMFS. The checklist provides information on the hardware and communications service selected by each vessel. NMFS uses the returned checklists to ensure that position reports are received and to aid NMFS in troubleshooting problems.

The regulations implementing the VMS requirements are at 50 CFR 635.69(a). Further information can be found in the final rules 68 FR 45619, 68 FR 74746, 69 FR 19979 and 69 FR 51010.

II. Method of Collection

Checklists will be submitted in paper form for vessels installing VMS for the first time. Position reports will be automatically sent electronically by the vessel monitoring system units.

III. Data

OMB Number: 0648-0372.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business and other for-profit organizations.

Estimated Number of Respondents: 329.

Estimated Time Per Response: 4 hours for VMS installation; 2 hours for annual maintenance of the equipment; 0.033 seconds per automated position report from the automated equipment, and 5 minutes to complete and return a one-time installation checklist.

Estimated Total Annual Burden Hours: 15,667.

Estimated Total Annual Cost to Public: \$775,251. This is a maximum figure based upon the total number of vessels in the fleet (329), VMS maintenance (\$500/year), and position reports (\$1.39/day).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information

is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: November 30, 2005.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E5-6850 Filed 12-5-05; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Large Pelagic Fishing Survey

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before February 6, 2006.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at dHynek@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Dr. Ronald J. Salz, (301) 713-2328 or ron.salz@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Large Pelagic Fishing Survey consists of dockside and telephone surveys of recreational anglers for large pelagic fish (tunas, sharks, and billfish) in the Atlantic Ocean. The survey provides National Marine Fisheries Service with information to monitor catch of bluefin tuna, marlin and other Federally-managed species. The catch monitoring in these fisheries and collection of catch and effort statistics for all pelagic fish is required under the Atlantic Tunas Convention Act and the Magnuson-Stevens Fishery Conservation and Management Act. The information collected is essential for the U.S. to meet its reporting obligations to the International Commission for the Conservation of Atlantic Tuna.

II. Method of Collection

Dockside and telephone interviews are used. In lieu of telephone interviews, respondents may also provide information via faxed logsheets or online via a Web tool.

III. Data

OMB Number: 0648-0380.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Individuals or households, business or other for-profit organizations.

Estimated Number of Respondents: 17,000.

Estimated Time Per Response: 8 minutes for a telephone interview; 5 minutes for a dockside interview; 1.5 minutes to respond to a follow-up validation call for dockside interviews; 1 minute for a biological sampling of catch; and 28 minutes for a headboat effort and catch survey; 6 minutes for North Carolina winter bluefin tuna dockside interview.

Estimated Total Annual Burden Hours: 2,371.

Estimated Total Annual Cost to Public: \$0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques