

NOTICE OF OFFICE OF MANAGEMENT AND BUDGET ACTION

Diana Hynek 09/28/2003
Departmental Paperwork Clearance Officer
Office of the Chief Information Officer
14th and Constitution Ave. NW.
Room 6625
Washington, DC 20230

In accordance with the Paperwork Reduction Act, OMB has taken the following action on your request for approval of a new information collection received on 08/13/2003.

TITLE: Vessel Monitoring System for Atlantic Shark Fisheries

AGENCY FORM NUMBER(S): None

ACTION : APPROVED WITHOUT CHANGE

OMB NO.: 0648-0483

EXPIRATION DATE: 09/30/2006

BURDEN:	RESPONSES	HOURS	COSTS(\$,000)
Previous	0	0	0
New	131,692	181	36
Difference	131,692	181	36
Program Change		181	36
Adjustment		0	0

TERMS OF CLEARANCE: None

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 SHARK FISHERIES**

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 Secretary of Commerce's obligations under the authority of the Magnuson-Stevens Act Fishery Conservation and Management Act (Magnuson-Stevens Act; attached), other domestic Federal regulations, and proposed regulations to amend 50 CFR part 635 (attached).

The VMS program will be used by NOAA Fisheries to reduce observer program costs and improve enforcement of existing and proposed time/area closures, to monitor the fleet during closed periods, to deter illegal fishing, to increase efficiency of surveillance patrols, to facilitate enforcement investigations, and to support enforcement of other regulations, such as closed seasons, once a quota has been reached.

The VMS program would aid NOAA Fisheries' Office of Law Enforcement in monitoring and enforcing the existing and proposed time/area closures effecting commercial shark fisheries. Currently, shark gillnet fishermen must comply with specific requirements in the Southeast U.S. Observer Area (from 32°00' N to 26°46.5' N and extending from the shore eastward to 80°00' W) and specific gear prohibitions in the Southeast U.S. Restricted Area (from 32°00' N to 27°51' N and extending from the shore eastward to 80°00' W), from November 15 - March 31. This time/area closure was implemented to minimize right whale interactions as part of the Atlantic Large Whale Take Reduction Plan and authorized under the Marine Mammal Protection Act.

Additionally, an area from 37°30' N (near Wachapreague Inlet, VA) to 33°0' N (near Cape Romain, SC), and extending out to 74°15' W has been proposed to be closed to directed category bottom longline shark fishing vessels from January 1 - July 31. This time/area closure is designed to reduce bycatch and mortality, to the extent practicable, of neonate and juvenile dusky and sandbar sharks in compliance with National Standard 9 of the Magnuson-Stevens Act. An average of 22 directed category shark permit holders have reported operating between 32° 00' N and 38° 00' N in 2000 and 2001.

If the proposed time/area closure off Virginia, North Carolina, and South Carolina is implemented, approximately 22 directed category bottom longline shark fishing vessels will be required to install and activate a VMS unit during the January 1 - July 31 time/area closure period and the 6 currently active shark gillnet vessels will be required to install and activate a VMS unit during the November 15 - March 31 right whale calving period .

If the proposed time/area closure off Virginia, North Carolina, and South Carolina is not implemented, NOAA Fisheries anticipates that only the 6 currently active shark gillnet vessels would be required to install VMS units and activate them during the November 15 - March 31

right whale calving period. Since there is no limit on the number of limited access permit holders that can use shark gillnet gear (the total number of vessels is limited, not the gear), it is possible that the number of vessels required to install VMS units during the right whale calving period could increase, although NOAA Fisheries does not believe that this fishery will expand. Traditional methods of surveillance by ships and planes would be ineffective in patrolling these large areas. VMS is designed to automatically provide periodic position reports on all vessels with transmitting units installed.

A certification statement (attached) must be submitted to NOAA Fisheries after installation of the VMS. Given that several VMS hardware and satellite communications services options have been approved by NOAA Fisheries, information regarding the individual vessel's VMS installation and service provider must be obtained in order to ensure proper operation of the VMS unit. NOAA Fisheries therefore requires that a certification statement be returned to NOAA Fisheries.

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

A VMS unit is programmed to provide a position report of the vessel's location every hour, 24 hours a day whenever the vessel is away from port. This allows vessels to traverse closed areas or remain at sea after a fishery has closed provided they do not commence fishing operations. This information will be used by NOAA Fisheries to reduce costs and improve enforcement of time/area closures, to monitor the fleet during the closed period, to deter illegal fishing, to increase efficiency of surveillance patrols, to facilitate enforcement investigations, and to support enforcement of other regulations, such as closed seasons once a quota has been reached.

The checklist indicates the procedures to be followed by the installers and the certification statement 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 automatic position reports will be received properly by NOAA Fisheries. In the event that there are problems, NOAA Fisheries will have ready access to a database that links owner information with installation information. NOAA Fisheries can then apply troubleshooting techniques to contact the vessel operator and discern whether the problem is associated with the transmitting hardware or the service provider.

It is not anticipated that the information collected will be disseminated, and the Information Quality Guidelines do not apply.

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 the existing system (i.e., self-reported logbooks) for reporting geographical distribution of fishing effort for each trip. Fishing vessel logbook records (NOAA FORM 88-186) are submitted by fishermen no later than seven days after offloading and provide limited information regarding the distribution of fishing effort. NOAA Fisheries is aware of significant problems with the accuracy of self-reported logbooks. Logbooks provide essentially one statistical grid location per species per trip and that information is not reported until after the trip is complete. VMS, on the other hand, provides 24 position reports each day for the duration of the trip. This also 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 improved communications with other vessels and port facilities can be made. 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 will be made available over the Internet as well as in hard copy. NOAA Fisheries is considering the use of electronic submission of the certification statement (fax or email).

4. Describe efforts to identify duplication.

Position reports are not required in the shark fishing vessel logbook record, and will therefore not be duplicated. 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. No other Federal, state or territory agencies collect this or similar information from these vessels.

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., sharks, swordfish, and tuna, are considered small entities. The proposed regulations would require shark fishing vessels to install VMS units at an initial average cost of approximately \$1,900-3,250 (\$1,600-2,500 per unit and \$300-750 installation fee), an average annual maintenance cost of approximately \$500/year, and approximately \$1.44/day for position reports. In an attempt to provide vessel owners with flexibility and help minimize costs, NOAA Fisheries has type-approved four VMS units from two manufacturers for use in the pelagic longline fisheries. No VMS units have been type-approved specifically for use in the Atlantic shark fisheries as of this date. Based on the range of VMS units commercially available, NOAA Fisheries expects any

VMS unit type-approved for Atlantic shark fisheries to be similar or identical to those type-approved for the pelagic longline fisheries.

Vessels that have VMS on board may experience some economic benefits. They will be able to continue fishing up to the date of a closure and steam back after the closure, provided they are not fishing. Arriving in port after a market glut caused by a closure could potentially result in positive economic benefits. Adverse impacts of mass offloading of the fleet, such as low prices, and lack of storage and transportation might be avoided as a result of the VMS program. The VMS program may also minimize transit/steaming costs by allowing transit through closed areas, if established.

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. More specifically, possible benefits for management include increased compliance with time/area restrictions, enhanced enforcement effectiveness, and improved catch/effort data collection. 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 NOAA Fisheries' 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 and may compromise their success. In the case of overfished stocks, success 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. directed category bottom longline shark fishing fleet. With respect to shark gillnet and shark bottom longline time/area closures in particular, the size of the closed areas significantly diminishes the likelihood of detection through conventional surveillance methods.

The use and submission of a certification statement is required only for the initial installation or when the hardware or communications service provider changes. Less frequent reporting would prevent NOAA Fisheries and the vessel operator from confirming that the system is functioning properly, would diminish the ability to monitor vessel activity, and may reduce confidence in the ability to detect closed area violations.

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 NOAA Fisheries

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 if 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 Notice of Proposed Rulemaking is being published at the time of this submission and will solicit public comment.

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 NOAA Fisheries 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.

An estimated 6 shark gillnet vessels and approximately 22 directed category bottom longline shark fishing vessels could be subject to the VMS requirement. Once the VMS is installed, no action is required on the part of the vessel operator except to verify that the system is on. While at sea, position reports will be automatically sent from the VMS on an hourly basis. NOAA Fisheries estimates a time burden of 5 minutes for completing the VMS certification statement during initial installation. For the estimated 6 shark gillnet vessels that will be required to install VMS, this amounts to an incremental burden of 0.5 hours. For the estimated 22 directed category shark fishing vessels that will be required to install VMS, this amounts to an incremental burden of 1.8 hours. These hours are incorporated into the estimates below.

Shark Gillnet Vessels Only:

For the estimated 6 vessels there will be a one-time installation of 4 hours/vessel for a total of 24 hours ($6*4=24$) and an annual maintenance of 2 hours/vessel for a total of 12 hours ($6*2=12$). 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 1.6 hours/year ($0.3*24*137*6=5918.4$) ($5918.4/60/60=1.6$) for the 6 shark gillnet vessels; however, as noted above, these reports are automatic, so no actual time burden is imposed on the vessel operator. The estimated aggregate annual collection burden in the first year is 38.1 hours ($0.5+24+12+1.6=38.1$).

The number of respondents is 6. A total of 6 certification statements will have to be submitted one time. The total number of electronic position reports each year is 19,728 (6 respondents*24 reports/day*137 days/year). The total number of annual responses for the first year is therefore 19,734 ($19,728+6$), and 19,728 for subsequent years. The percentage of these responses submitted electronically is 99.9% in the first year and 100% in subsequent years.

Directed Category Bottom Longline Shark Vessels:

For the 22 directed category bottom longline shark vessels there will be a one-time installation of 4 hours/vessel for a total of 88 hours ($22*4=88$) and an annual maintenance of 2 hours/vessel for a total of 44 hours ($22*2=44$). 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 9.3 hours/year ($0.3*24*212*22=33,580.8$) ($33,580.8/60/60=9.3$) for the 22 directed category bottom longline shark vessels; however, as noted above, these reports are automatic so no time burden is imposed on the vessel operator. Therefore, the estimated annual collection burden in the first year is 143.1 hours ($1.8+88+44+9.3=143.1$).

The number of respondents is 22. A total of 22 certification statements will have to be submitted one time. The total number of electronic position reports each year is 111,936 (22 respondents*24 reports/day*212 days/year). The total number of annual responses for the first year is therefore 111,958 ($111,936+22$), and 111,936 for subsequent years. The percentage of these responses submitted electronically is 99.9% in the first year and 100% in subsequent years.

13. Provide an estimate of the total annual cost burden to the respondents or record-keepers resulting from the collection.

No VMS units have been approved specifically for use in the Atlantic shark fisheries as of this date. NOAA Fisheries Office of Law Enforcement has type-approved four different VMS units for use in the pelagic longline fisheries. 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 suits his/her needs. Based on the range of VMS units commercially available, NOAA Fisheries expects any VMS unit type-approved for Atlantic shark fisheries to be similar or identical to those type-approved for the pelagic longline fisheries. The following cost analysis is based on the VMS units type-approved for the pelagic longline VMS program.

A VMS unit, including transceiver and antenna, is expected to cost from \$1,600 to \$2,500. Installation would cost approximately \$300-750 and communication costs for required automated position reports would average about \$1.44 per day. 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.

Shark Gillnet Vessels Only:

Total annualized capital/startup costs: Assuming the average installed cost of a VMS unit to be \$2,575, with a useful life of 5 years, the total startup costs for the 6 shark gillnet vessels, including a one-time postage fee of \$2.22 (6*\$0.37) for returning certification statements to NOAA Fisheries, would be \$15,452.22 ($\$2,575 \times 6 + \2.22), and the annualized startup over a period of five years would total \$3,090.44 ($\$15,452.22 / 5 \text{ years}$).

Total annual costs: Communications (\$197.28 over the 137 day right whale calving period), repair and maintenance costs (\$500/year) for the 6 vessels would total \$4,183.68 ($\$197.28 + \500×6).

Directed Category Bottom Longline Shark Vessels:

Total annualized capital/startup costs: Assuming the average installed cost of a VMS unit to be \$2,575, with a useful life of 5 years, the total startup costs for the approximately 22 directed category bottom longline shark fishing vessels, including a one-time postage fee of \$8.14 (22*\$0.37) for returning certification statements to NOAA Fisheries, would be \$56,658.14 ($\$2,575 \times 22 + \8.14), and the annualized startup costs over a period of five years would total \$11,331.62 ($\$56,658.14 / 5 \text{ years}$).

Total annual costs: Communications (\$305.28 over the proposed 212 day shark bottom longline time/area closure), repair and maintenance costs (\$500/year) for the 22 vessels would total \$17,716.16 ($\$305.28 + \500×22).

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

There would be no significant costs to the Federal government. NOAA Fisheries 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 Atlantic shark fisheries 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.

The hours and costs provided are for the creation of a new program, and therefore a program change.

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 NOAA Fisheries. 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 Shark Fisheries

INSTRUCTIONS: This Vessel Monitoring Systems (VMS) Certification Statement for the Highly Migratory Species (HMS) Shark 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 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 727-570-5344, or by sending email to vms@noaa.gov.

The vessel owner must sign the statement certifying compliance with the installation procedures, then submit the certification statement to the NOAA Office of Law Enforcement, 9721 Executive Center Drive North, Suite 130, St. Petersburg, Florida 33702.

Vessel Name: _____ HMS Permit 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 Shark 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.

Magnuson-Stevens Fishery Conservation and Management Act

Public Law 94-265

As amended through October 11, 1996

SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS 16 U.S.C. 1853

95-354, 99-659, 101-627, 104-297

(a) REQUIRED PROVISIONS.--Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall--

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are--

(A) necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interest in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;

(4) assess and specify--

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3),

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing, and

(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States;

(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, and charter fishing in the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors;

(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;

(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;

(8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan;

(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on--

(A) participants in the fisheries and fishing communities affected by the plan or amendment; and

(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants;

(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;

(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority--

(A) minimize bycatch; and

(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;

(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.

97-453, 104-297

(c) PROPOSED REGULATIONS.--Proposed regulations which the Council deems necessary or appropriate for the purposes of--

(1) implementing a fishery management plan or plan amendment shall be submitted to the Secretary simultaneously with the plan or amendment under section 304; and

(2) making modifications to regulations implementing a fishery management plan or plan amendment may be submitted to the Secretary at any time after the plan or amendment is approved under section 304.