DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D.051403C]

RIN 0648–AQ68

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Amendment 17

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of an amendment to a fishery management plan; request for comments.

SUMMARY: NMFS announces that the Pacific Fishery Management Council (Council) has submitted Amendment 17 to the Pacific Coast Groundfish Fishery Management Plan (FMP) for Secretarial review. Amendment 17 would revise the Council's annual groundfish management process so that it would become a biennial process with a NMFS public notice and comment period prior to implementation of the biennial specifications and management measures. Amendment 17 is intended to ensure that the specifications and management measures process comports with a Court ruling to make the Council's development process for specifications and management measures more efficient, and to streamline the NMFS regulatory process for implementing the specifications and management measures.

DATES: Comments on Amendment 17 must be received on or before July 21, 2003.

ADDRESSES: Comments on Amendment 17 or supporting documents should be sent to D. Robert Lohn, Administrator, Northwest Region, NMFS, Sand Point Way NE., BIN C15700, Seattle, WA 98115–0070; or to Rodney McInnis, Acting Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213.

Copies of Amendment 17 and the Environmental Assessment/ Regulatory Impact Review (EA/RIR) are available from Donald McIsaac, Executive Director, Pacific Fishery Management Council, 2130 SW Fifth Ave., Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier (Northwest Region, NMFS), phone: 206–526–6140; fax: 206–526–6736 and; e-mail: *yvonne.dereynier@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Electronic Access

This **Federal Register** document is also accessible via the Internet at the Web site of the Office of the **Federal Register**'s Web site at: *http://www/access/gpo.gov/su__docs/aces140.html*.

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit fishery management plans or plan amendments to NMFS for review and approval, disapproval, or partial approval. The Magnuson-Stevens Act also requires NMFS, immediately upon receiving a fishery management plan or amendment, to publish notification in the **Federal Register** that the fishery management plan or plan amendment is available for public review and comment. At the end of the comment period, NMFS considers the public comments received during the comment period described above in determining whether to approve, partially approve, or disapprove the fishery management plan or plan amendment.

Amendment 17 is administrative in nature and is intended to revise Council and NMFS processes associated with the specifications and management measures. This annual process establishes harvest ''specifications,'' which are harvest levels or limits such as acceptable biological catches, optimum yields, or allocations for different user groups. Management measures, such as trip limits, closed times and areas, and gear restrictions are also set in the annual regulatory process. Since 1990, in order to use the most recent scientific information possible, the Council has annually developed its recommendations for specifications and management measures in a two-meeting process (usually its September and November meetings) followed by a NMFS final action published in the **Federal Register** and made available for public comment after the effective date of the action. In 2001, NMFS was challenged on this process in *Natural Resources Defense Council, Inc.* v. *Evans*, 168 F.Supp. 2d 1149 (N.D. Cal. 2001) and the Court ordered NMFS to provide prior public notice and allow public comment on the annual specifications. Amendment 17 would amend the FMP's framework for developing annual specifications and management measures to include time for NMFS to publish a proposed rule for the specifications and management measures, followed by a final rule.

In addition to needing to revise the notice and comment procedure associated with the specifications and management measures, the Council wished to take a new look at efficiency in the annual management process. Groundfish management workload levels have grown in recent years, particularly those associated with setting annual harvest levels for both depleted and healthy stocks. Because of the increasing workload associated with developing specifications and management measures, the Council and NMFS have had less time for addressing many other important groundfish fishery management issues. NMFS has recently asked all of the fishery management councils to consider how they might streamline their processes for developing regulatory recommendations. Amendment 17 responds to this request by setting the specifications and management measures process for biennial, rather than annual, development and implementation.

Public comments on Amendment 17 must be received by July 21, 2003, to be considered by NMFS in the decision whether to approve, disapprove, or partially approve Amendment 17. A proposed rule to implement Amendment 17 has been submitted for Secretarial review and approval. NMFS expects to publish and request public comment on proposed regulations to implement Amendment 17 in the near future.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 16, 2003.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–12885 Filed 5–21–03; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

50 CFR Part 660

[Docket No. 030430106–3106–01; I.D. 040103C]

RIN 0648–AQ58

Fisheries Off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Vessel Monitoring Systems

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS is proposing a rule that would require vessels registered to Pacific Coast groundfish fishery limited entry permits to carry and use mobile vessel monitoring system (VMS) transceiver units while fishing in the exclusive economic zone (EEZ) off the coasts of Washington, Oregon, and California. This action is necessary to monitor compliance with large-scale depth-based restrictions for fishing across much of the continental shelf.

This proposed rule also requires the operators of any vessel registered to a limited entry permit and any other commercial or tribal vessel using trawl gear, including exempted gear used to take pink shrimp, spot and ridgeback prawns, California halibut and sea cucumber, to declare their intent to fish within a conservation area specific to their gear type, in a manner that is consistent with the conservation area requirements. This action is intended to further the conservation goals and objectives of the Pacific Coast Groundfish Fishery Management Plan(FMP) by allowing fishing to continue in areas and with gears that can harvest healthy stocks with little incidental catch of low abundance species.

DATES: Comments must be received by July 21, 2003.

ADDRESSES: Send comments to, D. Robert Lohn, Administrator, Northwest Region, NOAA Fisheries, 7600 Sand Point Way, NE, Seattle, WA 98112, Attn: Becky Renko. Comments also may be sent via facsimile (fax) to 206–526–6736. Comments will not be accepted if submitted via e-mail or Internet.

Copies of the environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) prepared for this action may be obtained from the Pacific Fishery Management Council (Council) by writing to the Council at 7700 NE Ambassador Place, Portland, OR 97220, phone: 503–820–2280, or may be obtained from William L. Robinson, Northwest Region, NMFS, 7600 Sand Point Way N.E., BIN C15700, Bldg. 1, Seattle, WA 98115–0070. Send comments on collection-of-information requirements to the NMFS address above and to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), Washington DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Becky Renko or Yvonne deReynier (Northwest Region, NMFS) 206–526–6140.

SUPPLEMENTARY INFORMATION: This rule is accessible via the Internet at the Office of the Federal Register's Web site at *http://www.access.gpo.gpv/su-docs/aces/aces140.htm*. Background information and documents are available at the NMFS Northwest Region Web site at *http://www.nwr.noaa.gov/1sustfsh/gdfsh01.htm* and at the Council's Web site at *http://www.pcouncil.org*.

Specific Request for Comments

NMFS is specifically seeking comment on: the requirements to send declaration reports prior to leaving port; prohibition of vessels registered to limited entry permits with trawl endorsements from activities other than continuous transit through the Trawl Rockfish Conservation Area; and the requirement for continuous VMS position reports, particularly as it applies to small vessels that are regularly removed from the water.

Background

In general, a variety of methods are used to routinely monitor fishing fleets to ensure that vessel operators comply with fishery regulations. Traditional techniques used to monitor marine fisheries have been relatively limited and include monitoring from air and surface craft, through on-board observer programs, and by analyzing catch records and vessel logbooks. The efficiency of these traditional monitoring techniques can be enhanced by the addition of VMS and the use of declaration reports.

VMS is a tool that allows vessel activity to be monitored in relation to geographically defined management areas. VMS transceiver units installed aboard vessels automatically determine the vessel's position and transmit that position to a processing center via a communication satellite. At the processing center, the information is validated and analyzed before being disseminated for various purposes, which may include fisheries management, surveillance and enforcement. VMS transceivers automatically determine the vessel's position using Global Positioning System (GPS) satellites. Generally, the vessel's position is determined once per hour, but the position determinations may be more or less frequent depending on the fishery. VMS transceivers are designed to be tamper resistant. In most cases, the vessel owner is not aware of exactly when the unit is transmitting and is unable to alter the signal or the time of transmission. On September 23, 1993 (58 FR 49285)and March 31, 1994 (59 FR 15181) NMFS published VMS standards for transceiver units and service providers used for Federal fisheries management.

Information collected under a VMS program is subject to the confidentiality provisions of Section 402 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 6 U.S.C. 1881 a(b), and implementing regulations at 50 CFR part 600, Subpart E. These authorities specify in detail who may access and use the information and for what purposes.

Amendment 13 to the Pacific Coast groundfish FMP recognized the value of VMS systems in enforcing closed areas established to reduce bycatch levels. Amendment 13 also identified VMS as a technological tool that could be used to improve bycatch management by providing location data that can be used in conjunction with observer data collections.

Time and area closures have long been used in the Pacific Coast groundfish fishery to restrict fishing activity in order to keep harvests within sector allocations and at sustainable levels and to prohibit the catch of certain species. Until September 2002, geographically-defined areas tended to be in nearshore areas or defined by simple latitude and longitude lines. On September 13, 2002, NMFS took emergency action to implement the first depth-based management measures (67 FR 57973). This emergency rule restricted trawling north of 40°10′ N. lat., in the months of September-December 2002, to depths where darkblotched rockfish, an overfished species, was not expected to be encountered. These measures were taken to keep the total catch of darkblotched rockfish below the 2002 Optimum Yield level. The Darkblotched Rockfish Conservation Area was a depth-based management area based on bottom depth ranges where darkblotched rockfish commonly occur (100–250 fm). This large, irregularly-shaped geographical area was defined by a series of latitudinal and longitudinal coordinates which generally follow depth (fathom) contours. This area differed from previously closed areas because it extends far offshore making air and surface craft enforcement difficult.

For 2003, the Council sought a management strategy that would allow fishing to continue in areas and with gear that can harvest healthy stocks with little incidental catch of low abundance species such as bocaccio, yelloweye, canary and darkblotched rockfish. Measures must be taken to protect these

stocks and rebuild them to sustainable biomass levels. Therefore, the Council recommended that NMFS define additional management areas for the groundfish fishery that are based on bottom depth ranges where these low abundance species are commonly found. For 2003, large-scale depth-related closed areas, referred to as rockfish conservation areas or RCAs, are being used to restrict both commercial and recreational fishing across much of the Continental Shelf. Different RCAs are established for different gear types, as not all gear types encounter each overfished species at the same rate or in similar areas. For example, groundfish bottom trawling is banned in some RCAs (known as trawl RCAs); use of non-trawl gear -- such as limited entry and open access longline, pot or trap is banned in other RCAs (known as non-trawl RCAs).

Within the RCAs, fishing likely to result in the catch of substantial amounts of overfished species is banned, while other fishing is allowed. In addition, transit of the RCAs by fishing vessels headed for open areas seaward of the RCAs is allowed.

The depth-based management strategy associated with the RCAs is designed to allow fishing for healthy stocks to continue, while protecting overfished species. However, it presents new enforcement challenges, and requires new tools such as VMS to supplement existing enforcement mechanisms. NMFS and cooperating enforcement agencies (such as the U.S. Coast Guard and state marine law enforcement agencies) will continue to use traditional enforcement methods such as aerial surveillance and marine patrols that have proved effective in the past. Adding requirements for VMS and declaration reports will allow the enforcement agencies to continuously monitor vessels fishing in, and transiting through, the RCAs.

At its September 2002 meeting, the Council indicated that the information provided by a VMS program will be beneficial to managing the groundfish fishery, specifically, in maintaining the integrity of new, depth-based management measures. At this same meeting, the Council requested that NMFS further analyze a VMS program and develop implementing regulations.

At its November 2002 meeting, following public comment and Council discussion, the Council recommended that NMFS move forward with a proposed rule to implement a VMS program for the Pacific Coast groundfish fishery in 2003. During the initial phase of this program the Council recommended starting with requiring vessels registered to limited entry permits fishing in the EEZ off the Washington, Oregon, and California coasts to have VMS transceiver units. This is intended to be a pilot program that begins with the sector that is allocated the majority of the groundfish resources. In order to implement a VMS program effectively, the Council also recommended requiring the operator of any vessel registered to a limited entry permit; and any commercial or tribal vessel using trawl gear, including, exempted gear used to take pink shrimp, spot and ridgeback prawns, California halibut and sea cucumber, to declare their intent to fish within a conservation area specific to their gear type, in a manner that is consistent with the conservation area requirements.

Although the Council recommended that NMFS fully fund a VMS monitoring program, it is not possible at this time because neither state nor Federal funding is available for purchasing, installing, or maintaining VMS transceiver units, nor is funding available for data transmission. Because of the critical need to monitor the integrity of conservation areas that protect overfished stocks, while allowing for the harvest of healthy stocks, NMFS believes it is necessary to proceed with this rulemaking. To move this rulemaking forward at this time it is necessary to require fishery participants to bear the cost of purchasing, installing, and maintaining VMS transceiver units, VMS data transmissions, and reporting costs associated with declaration requirements. If state or Federal funding becomes available, fishery participants may be reimbursed for all or a portion of their VMS expenses.

Declaration Reports

Before the vessel is used to fish in any trawl RCA or the Cowcod Conservation Areas (CCA) in a manner that is consistent with the requirements of the conservation areas, a declaration report will be required from (1) any vessel registered to a limited entry permit with a trawl endorsement; (2) any vessel using trawl gear, including exempted gear used to take pink shrimp, spot and ridgeback prawns, California halibut and sea cucumber; and (3) any tribal vessel using trawl gear. In addition, declaration reports will be required from vessels registered to limited entry permits with longline and pot endorsements, before these vessels can be used to fish in any Non-trawl RCA or the CCA. The declaration report must be submitted before the vessel leaves port on the trip to fish in an RCA or CCA. Each declaration report will be valid until cancelled or revised by the vessel operator. The declaration report must state the type of fishing in which the vessel will engage. If the type of fishing changes, a new declaration report must be submitted.

During the period that a vessel has a valid declaration report on file with NMFS, it cannot fish with a gear other than a gear type that is within the gear category (50 CFR 660.303 (b)(5)) declared by the vessel. In addition, on any trip on which a vessel fishes in an RCA or CCA, the vessel cannot participate in any fishing that is inconsistent with the restrictions that apply within the RCA or CCA.

Declaration reports will be submitted to NMFS by using the VMS system or another approved method, such as email, facsimile or telephone, as identified by NMFS. Vessel operators making declaration reports will receive a confirmation notice or number that verifies that the reporting requirements were satisfied.

Declaration Requirements Example #1: If a vessel registered to a limited entry permit with a trawl endorsement leaves port on a trip to harvest Pacific whiting during the primary season, and the vessel is not used in another commercial fishery in the EEZ off the coasts of Washington, Oregon, or California during the year, a declaration report will be required before the vessel leaves port on its trip to harvest Pacific whiting with midwater trawl gear in the Trawl RCA. This is the only declaration report required for this vessel.

Declaration Requirements Example #2: If a vessel registered to a limited entry permit with a trawl endorsement is used to harvest pink shrimp inside the Trawl RCA from April to June; Pacific whiting inside the Trawl RCA from June to September; flatfish from areas not inside the Trawl RCA from September to December; and crab both inside the Trawl RCA and from areas not inside the Trawl RCA in December; the following declarations will be required: in April a declaration will be required to identify the gear as pink shrimp, spot and ridgeback prawn trawl gear; in June a declaration will be required to identify the gear as limited entry midwater trawl gear; in September a declaration will be sent to cancel the declaration to fish in a conservation area; in December a declaration will be sent identifying the gear type as crab or lobster gear. Each declaration report would be sent before the vessel leaves port on the first trip under that declaration.

VMS

Under this proposed rule, any vessel registered to a limited entry permit for the Pacific Coast groundfish fishery will be required to have an operating NMFS type-approved VMS transceiver unit on board while fishing in the EEZ off the states of Washington, Oregon and California. Type-approved VMS transceiver units may include but are not limited to, the following features: automatically generated position reports from transceivers with a fully integrated, tamper proof GPS, two-way communications for sending and receiving messages, global or near global coverage, delays between position transmission and receipt at processing center that averages 5 minutes, ability to add sensors and data input devices, sleep modes that detect lack of vessel movement (in port) and stop sending position reports (greatly reducing power consumption) until the vessel begins moving again, and visual or audible alarms for malfunctions.

Currently, the cost of a NMFS type-approved VMS transceiver unit, suitable for the Pacific Coast groundfish fishery, ranges from approximately $2,000 to $6,000. The charges for the transmission of VMS position data from these units ranges from $1.00 to $5.00 per day. NMFS is in the process of revising VMS standards for type-approved models and testing new, less expensive, VMS transceiver technologies for agency approval. NMFS intends to complete this approval process and provide the public with a list of type-approved transceiver units before NMFS implements a final rule requiring the use of VMS transceivers in the fishery. The cost for some of the VMS units that are being tested for type-approval are expected to be less expensive than the prices quoted above.

A list of VMS transceivers that have been type-approved by NMFS will be mailed to the permit owner's address of record. NMFS will also distribute installation and activation instructions for the affected vessel owners. The installation of the VMS transceiver is expected to take less than 4 hours and will be the responsibility of the vessel owners. Prior to fishing, the vessel owner will be required to fax an activation report to NMFS to verify that the unit was installed correctly and has been activated. This regulatory amendment will require that the vessel owner or operator of a vessel registered to a limited entry groundfish permit use a NMFS type-approved VMS transceiver at all times when participating in any and all fisheries in the U.S. West Coast EEZ. A vessel owner required to continuously operate a VMS transceiver, may choose to send an exemption report to discontinue transmissions during a period when the vessel will be continuously out of the water for more than 7 consecutive days, or if the vessel is operating seaward of the EEZ off Washington, Oregon, or California for more than 7 consecutive days.

The 2003 Annual Specifications and Management Measures

The 2003 Annual Specifications and Management Measures implemented gear restrictions that affect this rulemaking. When the annual specifications and management measures became effective on March 1, 2003 (68 FR 11182), it became unlawful to take and retain, possess, or land groundfish taken with limited entry groundfish trawl and open access exempted trawl gear in the Trawl RCA. The only exceptions are for exempted trawl gear that is used to harvest pink shrimp coastwide and prawns north of 4°10′ N. lat.; and for limited entry midwater trawl gear used to harvest yellowtail rockfish, widow rockfish or Pacific whiting during the primary whiting season. Similarly, recreational fishing for groundfish was prohibited within the Yelloweye RCA and directed fishing with non-trawl gear (open access or limited entry) was prohibited within the Non-trawl RCA. As it was in 2002, recreational and commercial fishing for groundfish continues to be prohibited within the CCA, except that recreational and commercial fishing for rockfish and lingcod is permitted in waters inside 20 fathoms (36.9 m).

Trawl vessels may transit through the Trawl RCA, with or without groundfish on board, provided all groundfish trawl gear is stowed either: (1) below deck; or (2) if the gear cannot readily be moved, in a secured and covered manner, detached from all towing lines, so that it is rendered unusable for fishing; or (3) remaining on deck uncovered if the trawl doors are hung from their stanchions and the net is disconnected from the doors. If a vessel fishes in an RCA, it may not participate in any fishing on that same trip that is inconsistent with the restrictions that apply within the RCA. In addition, a vessel is prohibited from having more than one type of trawl gear on board if it is trawling within an RCA and may only have trawl gear authorized for use within an RCA on board.

Classification

NMFS prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. The IRFA is available from NMFS (see **ADDRESSES**). A summary of the IRFA follows:

A description of the action, why it is being considered, and the legal basis for this action are contained in the SUMMARY and at the beginning of this section of this proposed rule. This proposed rule does not duplicate, overlap, or conflict with other Federal rules.

A range of five alternative actions were considered and analyzed. The alternative monitoring systems included: (1) the status quo, (2) a declaration system, (3) a basic VMS program with 1–way communications (the proposed action), (4) an upgraded VMS program with 2–way communications, and (5) the expanded use of fishery observers. Vessel plotters were recommended as a monitoring system by the industry. After consideration, it was determined that vessel plotters, which were designed as a navigational aid, would not be an adequate enforcement monitoring tool for depth-based management.

Under the status quo (Alternative 1) for 2003, large-scale depth-related closed areas, referred to as rockfish conservation Areas or RCAs, are being used to restrict both commercial and recreational fishing across much of the Continental Shelf. The depth-based management strategy associated with the RCAs is designed to allow fishing for healthy stocks to continue, while protecting overfished species. However, this management system presents new enforcement challenges, and requires new tools to supplement existing enforcement mechanisms. These measures would remain in place under all alternatives, with increased access allowed to restricted areas as conditioned by the different alternatives.

Declaration reports (Alternative 2) alone were not considered to be as effective as VMS in monitoring vessels location in relation to restricted areas. Much of the information collected by observers (Alternative 5) goes beyond the identified need and was by far the most expensive alternative.

A VMS program is an effective tool for monitoring vessel location. The two approaches to VMS were: a basic VMS system (Alternative 3–proposed action) and an upgraded VMS system (Alternative 4). The primary difference between the two alternatives was that the upgraded system uses two-way communications between the vessel and shore such that full or compressed data messages can be transmitted and received by the vessel, while the basic system only transmits positions to a shore station. It was determined that the

basic system was the minimum system that would maintain the integrity of the closed areas. However, this action will not preclude vessels from installing an upgraded VMS system.

A VMS program that identified the sectors of the groundfish fleet that would be required to have a VMS or observer monitoring system was considered. The alternative coverage levels ranged from limited entry vessels actively fishing off the West Coast to all limited entry, open access, and recreational charter vessels regardless of where fishing occurs. During the initial phase of this program the Council recommended starting with vessels registered to limited entry permits fishing in the EEZ off the Washington, Oregon, and California coasts to be required to have VMS transceiver units. This is intended to be a pilot program that begins with the sector that is allocated the majority of the groundfish resources. In addition, alternative approaches for funding the purchasing, installation, and maintenance of VMS transceiver units, as well as the responsibilities for transmission of reports and data were considered and included the following alternatives: Vessel pays all costs, vessel pays only for the transceiver, NMFS pays for initial transceiver, and NMFS pays all costs.

Although the Council recommended that NMFS fully fund a VMS monitoring program, it is not possible at this time because neither state nor Federal funding is available for purchasing, installing, or maintaining VMS transceiver units, nor is funding available for data transmission. Because of the critical need to monitor the integrity of conservation areas that protect overfished stocks, while allowing for the harvest of healthy stocks, NMFS believes it is necessary to proceed with this rulemaking.

Approximately 424 vessels that are registered to limited entry permits that operate in the EEZ off the states of Washington, Oregon or California would be required to carry and operate a NMFS type-approved VMS transceiver unit. All but 10 of the affected entities qualify as small businesses. Vessels required to carry VMS transceiver units will provide installation/activation reports, hourly position reports, and exemption reports. As this proposed rule was developed, the burden on fishery participants was considered and changes were made to ensure that only the minimum data needed to monitor compliance with regulations are being required.

In addition to VMS requirements, declaration report requirements would apply to vessels registered to limited entry permits with trawl endorsements (262 vessels); other vessels using trawl gear, including exempted gear used to take pink shrimp, spot and ridgeback prawns, California halibut and sea cucumber (299 vessels); and tribal vessels using trawl gear, before these vessel are used to fish in any trawl RCA or the CCA. In addition, declaration reports would be required from vessels registered to limited entry permits with longline and pot endorsements (167), before the vessel could be used to fish in any non-trawl RCA or the CCA.

The Council's VMS Committee initially considered declaration reports as ''per trip'' reports. Following consultation with fishery participants, it was determined that the needs of NMFS and the USCG could be met with less frequently made declaration reports. Therefore, it was determined that a declaration report identifying the type of gear being used by a vessel would remain valid until cancelled or revised by the vessel operator. This results in a significant reduction in the number of reports. Following consultation with fishery participants, it was determined that some vessels may prefer to reduce the costs of reporting when leaving the EEZ off the coasts of Washington, Oregon, and California. A substantial number of permitted vessels also fish in waters off Alaska and in areas seaward of the EEZ. In addition, vessels are commonly pulled out of the water for extended periods. To reduce the reporting burden on vessels outside the EEZ, an optional exemption report was proposed to allow vessels to reduce or discontinue VMS hourly position reports when they are out of the EEZ for more than 7 consecutive days.

The proposed measure (alternative 3), which would require limited entry vessels to purchase and operate a VMS in the EEZ off of Washington, Oregon, and California, is expected to increase the profitability of individual vessels that participate in the VMS program. To determine profitability, the Council compared the costs of purchasing and operating a VMS unit to the increase in revenue that would be obtained from expanded fishing opportunities under the depth management program. Since revenue data for individual vessels were not readily available, the Council used average annual revenue per vessel as a proxy. In the absence of vessel operating cost data, the Council considered only the cost of purchasing and maintaining a VMS unit and assumed other costs to be constant.

The VMS units that have been type-approved for this fishery range in costs and service features. This allows the vessel owner the flexibility in choosing the model that best fits the needs of his or her vessel. NMFS would pay for all costs associated with polling (when the processing center queries the transceiver, outside of regular transmission, for a position report). The costs of installation are minimal because the transceivers can be installed by the vessel operator. Vessels that already have VMS transceiver units installed for other fisheries or personal purposes could use their current unit, providing it is a model that has been type-approved for the Pacific Coast groundfish fishery and the software has been upgraded to meet the defined requirements.

The Council estimated that, under the proposed VMS measure, costs of purchasing and installing the unit would be between $800 and $3800 per individual vessel, and between $548 and $1698 per year to operate and maintain the unit. Revenues from expanded fishing were estimated to increase $26,000 per year for limited entry trawl vessels and $14,000 per year for limited entry longline and pot vessels, far exceeding the exceeding the estimated start-up and maintenance costs of the VMS.

While ex-vessel revenues appear higher on average for vessels likely to be required to use VMS under the depth-based management regime, it should be noted that fishing costs may also be higher, offsetting some of the apparent gain. Unfortunately, vessel cost data necessary to estimate this effect are currently not available. It is also important to keep in mind that using average revenues masks the variability of ex-vessel revenues in each vessel class. While on average, additional revenues appear greater than VMS-related costs, for some individual vessels in each class this will not be the case.

Alternative 4, which would implement a two-way VMS, would produce higher costs per vessel (year 1 at $3,878-$7,607; subsequent years at $1,063-$2,342) and would yield less profit, ceteris paribis, than the proposed VMS alternative. Alternative 5, which would implement observer coverage, would be very costly at $300 per day, or $36,000 per year assuming 10 fishing days per month, and would most likely produce economic losses for the majority of limited entry vessels.

Alternative 2, which would allow expanded fishing by use of declaration only, would be more profitable to limited entry vessels than the proposed VMS measure, since they would earn the same revenue at a minimal cost. However, the Council believes that

mandatory VMS will allow for better enforcement of fishing regulations and provide a more accurate database of fishing activity to better meet the conservation goals of the Pacific Groundfish FMP.

The proposed measure to require all trawl vessels to declare their intentions to fish is expected to have only a minimal impact on individual trawlers since the cost of a declaration is minimal.

Most vessels affected by this action have gross annual receipts of under $3.5 million and are defined as small entities under Section 601 of the Regulatory Flexibility Act, however, there are approximately 10 vessels defined as large entities operating in the limited trawl fishery. There could be some disproportionate economic impacts on small entities versus large entities for the group of limited entry vessels that are less than 40 ft (12.192 m) in length and have relatively low gross annual receipts. These include 90 limited entry vessels, comprised of 5 trawl vessels and 85 longline and pot vessels. Depending upon the cost of the VMS, some of these smaller vessels would be forced to pay a relatively larger share of their annual expenditures for purchase of the VMS compared to the larger vessels. All vessels that fish in conservation areas would increase their gross receipts by being able to fish in more productive areas, having the effect of increasing profitability and mitigating the cost of the VMS. This mitigation would be less for smaller vessels, due to their smaller catches and, therefore, income from groundfish.

This proposed rule contains collection-of-information requirements subject to review and approval by OMB under the Paperwork Reduction Act (PRA). These requirements have been submitted to OMB for approval. Public reporting burden for these collections is estimated to average as follows: 4 minutes for a declaration report; 4 hours for installation of a VMS transceiver unit; 4 hours for annual maintenance of a VMS transceiver unit; 5 minutes for an installation/activation report; 5 seconds for each automated hourly position report; and 4 minutes for an exemption report. These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

Public comment is sought regarding whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to NMFS (see **ADDRESSES**) and to OMB at the Office of Information and Regulatory Affairs, OMB, Washington, DC 20503 (Attn: NOAA Desk Officer).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless the collection of information displays a currently valid OMB Control Number.

NMFS issued Biological Opinions (BOs) under the Endangered Species Act on August 10, 1990, November 26, 1991, August 28, 1992, September 27, 1993, May 14, 1996, and December 15, 1999, pertaining to the effects of the groundfish fishery on chinook salmon (Puget Sound, Snake River spring/summer, Snake River fall, upper Columbia River spring, lower Columbia River, upper Willamette River, Sacramento River winter, Central Valley, California coastal), coho salmon (Central California coastal, southern Oregon/northern California coastal, Oregon coastal), chum salmon (Hood Canal, Columbia River), sockeye salmon (Snake River, Odette Lake), and steelhead (upper, middle and lower Columbia River, Snake River Basin, upper Willamette River, central California coast, California Central Valley, south-central California, northern California, and southern California). During the 2000 Pacific whiting season, the whiting fisheries exceeded the chinook bycatch amount specified in the Pacific whiting fishery's Biological Opinion's (whiting BO) (December 19, 1999) incidental catch statement estimate of 11,000 fish, by approximately 500 fish. In the 2001 whiting season, however, the whiting fishery's chinook bycatch was about 7,000 fish, which approximates the long-term average. After reviewing data from, and management of, the 2000 and 2001 whiting fisheries (including industry bycatch minimization measures), the status of the affected listed chinook, environmental baseline information, and the incidental catch statement from the 1999 whiting BO, NMFS determined in a letter dated April 25, 2002, that a re-initiation of the 1999 whiting BO was not required. NMFS has concluded that implementation of the FMP for the Pacific Coast groundfish fishery is not expected to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS, or result in the destruction or adverse modification of critical habitat. This action is within the scope of these consultations.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

Dated: May 15, 2003.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is proposed to be amended as follows:

PART 660—FISHERIES OFF THE WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

Subpart G—West Coast Groundfish Fisheries

2. In § 660.302, add " Address of record", "Groundfish Conservation Area or GCA", "Mobile transceiver unit", "Office for Law Enforcement", and "Vessel monitoring system or VMS", in alphabetical order to read as follows:

§ 660.302 Definitions.

Address of record means the business address of a person, partnership, or corporation used by NMFS to provide notice of actions.

* * * * *

Groundfish Conservation Area or GCA means a geographic area defined by coordinates expressed in degrees latitude and longitude, created and enforced for the purpose of contributing to the rebuilding of overfished West Coast groundfish species. Specific GCAs are referred to or defined at § 660.304(c).

* * * * *

Mobile transceiver unit means a device installed on board a vessel that is used for monitoring a vessel and for transmitting the vessel's position as required by this subpart.

Office for Law Enforcement (OLE) refers to the National Marine Fisheries Service, Office for Law Enforcement, Northwest Division.

* * * * *

Vessel monitoring system or VMS means a vessel monitoring system or mobile transceiver unit as set forth in § 660.359 and approved by NMFS for use on vessels that take (directly or

incidentally) species managed under the Pacific Coast Groundfish FMP, as required by this subpart.

3. Section 660.303 is revised to read as follows:

§ 660.303 Reporting and recordkeeping.

(a) This subpart recognizes that catch and effort data necessary for implementing the PCGFMP are collected by the States of Washington, Oregon, and California under existing state data collection requirements. Telephone surveys of the domestic industry may be conducted by NMFS to determine amounts of whiting that may be available for reallocation under 50 CFR 660.323(a)(4)(vi). No Federal reports are required of fishers or processors, so long as the data collection and reporting systems operated by state agencies continue to provide NMFS with statistical information adequate for management.

(b) Any person who is required to do so by the applicable state law must make and/or file, retain, or make available any and all reports of groundfish landings containing all data, and in the exact manner, required by the applicable state law.

(c) Any person landing groundfish must retain on board the vessel from which groundfish is landed, and provide to an authorized officer upon request, copies of any and all reports of groundfish landings containing all data, and in the exact manner, required by the applicable state law throughout the cumulative limit period during which a landing occurred and for 15 days thereafter.

(d) *Reporting requirements for vessels fishing in conservation areas*—(1) *Declaration reports for trawl vessels intending to fish in a conservation area.* The operator of any vessel registered to a limited entry permit with a trawl endorsement; any vessel using trawl gear, including exempted gear used to take pink shrimp, spot and ridgeback prawns, California halibut and sea cucumber; or any tribal vessel using trawl gear must provide NMFS with a declaration report, as specified at paragraph 660.303(d)(5), of this section to identify the intent to fish within the CCA, as defined at § 660.304, or any trawl RCA, as defined in the groundfish annual management measures that are published in the **Federal Register**.

(2) *Declaration reports for non-trawl vessels intending to fish in a conservation area.* The operator of any vessel registered to a limited entry permit with a longline or pot endorsement must provide NMFS OLE with a declaration report, as specified at paragraph (d)(5) of this section, to identify the intent to fish within the CCA, as defined at § 660.304, or any non-trawl RCA, as defined in the groundfish annual management measures that are published in the **Federal Register**.

(3) *When a declaration report for fishing in a conservation area is required*, as specified in paragraphs (d)(1) and (d)(2) of this section, it must be submitted before the vessel leaves port:

(i) On a trip in which the vessel will be used to fish in a conservation area for the first time during the calendar year;

(ii) On a trip in which the vessel will be used to fish in a conservation area with a gear type that is different from the gear declaration provided on a valid declaration report as defined at paragraph 660.303 (d)(6) of this section; or

(iii) On a trip in which the vessel will be used to fish in a conservation area for the first time after a declaration report to cancel fishing in a conservation area was received by NMFS.

(4) *Declaration report to cancel fishing in a conservation area.* The operator of any vessel that provided NMFS with a declaration report for fishing in a conservation area, as required at paragraphs (d)(1) or (d)(2) of this section, must submit a declaration report to NMFS OLE to cancel the current declaration report before the vessel leaves port on a trip in which the vessel is used to fish with a gear that is not in the same gear category set out in paragraph 660.303 (d)(5)(i) declared by the vessel in the current declaration.

(5) *Declaration reports will include*: the vessel name and/or identification number, and gear declaration (as defined in paragraph 660.303(d)(5)(i)). Upon receipt of a declaration report, NMFS will provide a confirmation code or receipt. Retention of the confirmation code or receipt to verify that the declaration requirement was met is the responsibility of the vessel owner or operator.

(i) One of the following gear types must be declared:

(A) Limited entry fixed gear,

(B) Limited entry midwater trawl,

(C) Limited entry bottom trawl,

(D) Trawl gear including exempted gear used to take pink shrimp, spot and ridgeback prawns, California halibut south of Pt. Arena, CA, and sea cucumber.

(E) Tribal trawl,

(F) Other gear including: gear used to take spot and ridgeback prawns, crab or lobster, Pacific Halibut, Salmon, California halibut, California sheephead, species managed under the Highly Migratory Species Fishery Management Plan, species managed under the Coastal Pelagic Species Fishery Management Plan, and any species in the gillnet complex as managed by the State of California.

(G) Non-trawl gear used to take groundfish.

(ii) Declaration reports must be submitted through the VMS or another method that is approved by NMFS OLE and announced in the **Federal Register**. Other methods may include email, facsimile, or telephone. NMFS OLE will provide, through appropriate media, instructions to the public on submitting declaration reports. Instructions and other information needed to make declarations may be mailed to the limited entry permit owner's address of record. NMFS will bear no responsibility if a notification is sent to the address of record and is not received because the permit owner's actual address has changed without notification to NMFS, as required at § 660.335 (a)(2). Owners of vessels that are not registered to limited entry permits and owners of vessels registered to limited entry permits that did not receive instructions by mail are responsible for contacting NMFS OLE during business hours at least 3 days before the declaration is required to obtain information needed to make declaration reports. NMFS OLE must be contacted during business hours (Monday through Friday between 0800 and 1700 Pacific Time).

(6) *A declaration report will be valid until* a declaration report to revise the existing gear declaration or a declaration report to cancel fishing in a conservation area is received by NMFS OLE. During the period that a vessel has a valid declaration report on file with NMFS, it cannot fish with a gear other than a gear type that is within the gear category (50 CFR 660.303 (d)(5)) declared by the vessel. After a declaration report to cancel fishing in the RCA is received, that vessel must not fish in a conservation area until another declaration report for fishing by that vessel in a conservation area is received by NMFS.

4. Section 660.304 is revised to read as follows:

§ 660.304 Management areas, including conservation areas, and commonly used geographic coordinates.

(a) *Management areas*

(1) *Vancouver.* (i) The northeastern boundary is that part of a line connecting the light on Tatoosh Island, WA, with the light on Bonilla Point on Vancouver Island, British Columbia (at 48°35′75″ N. lat., 124°43′00'' W. long.) south of the International Boundary

between the U.S. and Canada (at 48° 29′37.19'' N. lat., 124°43′33.19'' W. long.), and north of the point where that line intersects with the boundary of the U.S. territorial sea.

(ii) The northern and northwestern boundary is a line connecting the following coordinates in the order listed, which is the provisional international boundary of the EEZ as shown on NOAA/NOS Charts #18480 and #18007:

Point	N. lat.	W. long.
1	48°29′37.19″	124°43′33.19″
2	48°30′11″	124°47′13″
3	48°30′22″	124°50′21″
4	48°30′14″	124°54′52″
5	48°29′57″	124°59′14″
6	48°29′44″	125°00′06″
7	48°28′09″	125°05′47″
8	48°27′10″	125°08′25″
9	48°26′47″	125°09′12″
10	48°20′16″	125°22′48″
11	48°18′22″	125°29′58″
12	48°11′05″	125°53′48″
13	47°49′15″	126°40′57″
14	47°36′47″	127°11′58″
15	47°22′00″	127°41′23″
16	46°42′05″	128°51′56″
17	46°31′47″	129°07′39″

(iii) The southern limit is 47°30′ N. lat.

(2) *Columbia.* (i) The northern limit is 47°30′ N. lat.

(ii) The southern limit is 43°00′ N. lat.

(3) *Eureka.* (i) The northern limit is 43°00′ N. lat.

(ii) The southern limit is 40°30′ N. lat.

(4) *Monterey.* (i) The northern limit is 40°30′ N. lat.

(ii) The southern limit is 36°00′ N. lat.

(5) *Conception.* (i) The northern limit is 36°00′ N. lat.

(ii) The southern limit is the U.S.-Mexico International Boundary, which is a line connecting the following coordinates in the order listed:

Point	N. lat.	W. long.
1	32°35′22″	117° 27′49″
2	32°37′37″	117°49′31″
3	31°07′58″	118°36′18″
4	30°32′31″	121°51′58″

(b) *Commonly used geographic coordinates.*

(1) Cape Falcon, OR—45°46′ N. lat.

(2) Cape Lookout, OR——45°20′15'' N. lat.

(3) Cape Blanco, OR—42°50′ N. lat.

(4) Cape Mendocino, CA—40°30′ N. lat.

(5) North/South management line—40°10′ N. lat.

(6) Point Arena, CA—38°57′30'' N. lat.

(7) Point Conception, CA—34°27′ N. lat.

(c) *Groundfish Conservation Areas (GCAs).* In § 660.302, a GCA is defined as ''a geographic area defined by coordinates expressed in latitude and longitude, created and enforced for the purpose of contributing to the rebuilding of overfished West Coast groundfish species.'' Specific GCAs may be defined here in this paragraph, or in the **Federal Register**, within the harvest specifications and management measures process. While some GCAs may be designed with the intent that their shape be determined by ocean bottom depth contours, their shapes are defined in regulation by latitude/longitude coordinates and are enforced by those coordinates. Fishing activity that is prohibited or permitted within a particular GCA is detailed in **Federal Register** documents associated with the harvest specifications and management measures process.

(1) *Rockfish Conservation Areas (RCAs).* RCAs are defined in the **Federal Register** through the harvest specifications and management measures process. RCAs may apply to a single gear type or to a group of gear types, such as ''trawl RCAs'' or ''non-trawl RCAs''.

(2) *Cowcod Conservation Areas (CCAs).* (i) The Western CCA is an area south of Point Conception that is bound by straight lines connecting all of the following points in the order listed:

33°50′ N. lat., 119°30′ W. long.;
33°50′ N. lat., 118°50′ W. long.;
32°20′ N. lat., 118°50′ W. long.;
32°20′ N. lat., 119°37′ W. long.;
33°00′ N. lat., 119°37′ W. long.;
33°00′ N. lat., 119°53′ W. long.;
33°33′ N. lat., 119°53′ W. long.;
33°33′ N. lat., 119°30′ W. long.;
and connecting back to 33°50′ N. lat., 119°30′ W. long.

(2) The Eastern CCA is a smaller area west of San Diego that is bound by straight lines connecting all of the following points in the order listed:

32°42′ N. lat., 118°02 W. long.;
32°42′ N. lat., 117°50 W. long.;
32°36′42'' N. lat., 117°50 W. long.;
32°30′ N. lat., 117°53′30'' W. long.;
32°30′ N. lat., 118°02 W. long.;
and connecting back to 32°42′ N. lat., 118°02′ W. long.

(d) *Yelloweye Rockfish Conservation Area (YRCA).* The YRCA is a C-shaped area off the northern Washington coast that is bound by straight lines connecting all of the following points in the order listed:

48°18′ N. lat., 125°18′ W. long.;
48°18′ N. lat., 124°59′ W. long.;
48°11′ N. lat., 124°59′ W. long.;
48°11′ N. lat., 125°11′ W. long.;
48°04′ N. lat., 125°11′ W. long.;
48°04′ N. lat., 124°59′ W. long.;
48°00′ N. lat., 124°59′ W. long.;
48°00′ N. lat., 125°18′ W. long.;
and connecting back to 48°18′ N. lat., 125°18′ W. long.

(e) *International boundaries.* (1) Any person fishing subject to this subpart is bound by the international boundaries described in this section, notwithstanding any dispute or negotiation between the United States and any neighboring country regarding their respective jurisdictions, until such time as new boundaries are established or recognized by the United States.

(2) The inner boundary of the fishery management area is a line coterminous with the seaward boundaries of the States of Washington, Oregon, and California (the ''3–mile limit'').

(3) The outer boundary of the fishery management area is a line drawn in such a manner that each point on it is 200 nm from the baseline from which the territorial sea is measured, or is a provisional or permanent international boundary between the United States and Canada or Mexico.

* * * * *

5. In § 660.306, new paragraphs (z), (aa) and (bb) are added to read as follows:

§ 660.306 Prohibitions.

* * * * *

(z) *Vessel monitoring systems.* (1) Use any vessel registered to a limited entry permit to operate in the EEZ off the States of Washington, Oregon or California unless that vessel carries a NMFS OLE type-approved mobile transceiver unit and complies with the requirements described at § 660.359.

(2) Fail to install, activate, repair or replace a mobile transceiver unit prior to leaving port as specified at § 660.359.

(3) Fail to operate and maintain a mobile transceiver unit on board the vessel at all times as specified at § 660.359.

(4) Tamper with, damage, destroy, alter, or in any way distort, render useless, inoperative, ineffective, or inaccurate the VMS, mobile transceiver unit, or VMS signal required to be installed on or transmitted by a vessel as specified at § 660.359.

(5) Fail to contact NMFS OLE or follow NMFS OLE instructions when automatic position reporting has been interrupted as specified at § 660.359.

(aa) *Fishing in conservation areas.* (1) Fish with any trawl gear, including exempted gear used to take pink shrimp, spot and ridgeback prawns, California halibut south of Pt. Arena, CA, and sea cucumber; or with trawl gear from a tribal vessel or with any gear from a vessel registered to a groundfish limited entry permit in a conservation area

unless the vessel owner or operator has a valid declaration confirmation code or receipt for fishing in conservation area as specified at § 660.303(d)(5).

(bb) Operate any vessel registered to a limited entry permit with a trawl endorsement in a Trawl Rockfish Conservation Area (as defined at 660.302), except for purposes of continuous transiting, provided that all groundfish trawl gear is stowed in accordance with 660.322(b)(8) or as authorized in the annual groundfish management measures published in the **Federal Register**.

6. In § 660.322, new paragraph (b)(7) is added to read as follows:

§ 660.322 Gear restrictions.

(b) * * *

(7) Trawl vessels may transit through the trawl RCA, with or without groundfish on board, provided all groundfish trawl gear is stowed either:

(i) Below deck; or

(ii) If the gear cannot readily be moved, in a secured and covered manner, detached from all towing lines, so that it is rendered unusable for fishing; or

(iii) Remaining on deck uncovered if the trawl doors are hung from their stanchions and the net is disconnected from the doors.

7. Section 660.359 is added to subpart G to read as follows:

§ 660.359 Vessel Monitoring System (VMS) requirements.

(a) *What is a VMS?* A VMS consists of a NMFS OLE type-approved mobile transceiver unit that automatically determines the vessel's position and transmits it to a NMFS OLE type-approved communications service provider. The communications service provider receives the transmission and relays it to NMFS OLE.

(b) *Who is required to have VMS?* A vessel registered for use with a Pacific Coast groundfish limited entry permit that fishes in the EEZ off the States of Washington, Oregon or California is required to install a NMFS OLE type-approved mobile transceiver unit and to arrange for an NMFS OLE type-approved communications service provider to receive and relay transmissions to NMFS OLE, prior to fishing in the EEZ.

(c) *How are mobile transceiver units and communications service providers approved by NMFS OLE?* (1) NMFS OLE will publish type-approval specifications for VMS components in the **Federal Register** or notify the public through other appropriate media.

(2) Mobile transceiver unit manufacturers or communication service providers will submit products or services to NMFS OLE for evaluation based on the published specifications.

(3) NMFS OLE may publish a list of NMFS OLE type-approved mobile transceiver units and communication service providers for the Pacific Coast groundfish fishery in the **Federal Register** or notify the public through other appropriate media. As necessary, NMFS OLE may publish amendments to the list of type-approved mobile transceiver units and communication service providers in the **Federal Register** or through other appropriate media. A list of VMS transceivers that have been type-approved by NMFS OLE may be mailed to the permit owner's address of record. NMFS will bear no responsibility if a notification is sent to the address of record and is not received because the applicant's actual address has changed without notification to NMFS, as required at § 660.335 (a)(2).

(d) *What are the vessel owner's responsibilities?* If you are a vessel owner that must participate in the VMS program, you or the vessel operator must:

(1) Obtain a NMFS OLE type-approved mobile transceiver unit and have it installed on board your vessel in accordance with the instructions provided by NMFS OLE. You may get a copy of the VMS installation and operation instructions from the NMFS OLE Northwest, VMS Program Manager upon Request at 7600 Sand Point Way NE, Seattle, WA 98115–6349, phone: (206)526–6133.

(2) Activate the mobile transceiver unit, submit an activation report, and receive confirmation from NMFS OLE that the VMS transmissions are being received before participating in a fishery requiring the VMS. Instructions for submitting an activation report may be obtained from the NMFS OLE, Northwest VMS Program Manager upon request at 7600 Sand Point Way NE, Seattle, WA 98115–6349, phone: (206)526–6133. An activation report must again be submitted to NMFS OLE following reinstallation of a mobile transceiver unit or change in service provider before the vessel may participate in a fishery requiring the VMS.

(i) *Activation reports.* If you are a vessel owner who must use VMS and you are activating a VMS transceiver unit for the first time or reactivating a VMS transceiver unit following a reinstallation of a mobile transceiver unit or change in service provider, you must fax NMFS OLE an activation report that includes: Vessel name; vessel owner's name, address and telephone number, vessel operator's name, address and telephone number, USCG vessel documentation number/state registration number; if applicable, the groundfish permit number the vessel is registered to; VMS transceiver unit manufacturer; VMS communications service provider; VMS transceiver identification; and a statement signed and dated by the vessel owner confirming compliance with the installation procedures provided by NMFS OLE.

(ii) [Reserved]

(3) Operate the mobile transceiver unit continuously 24 hours a day throughout the calendar year, unless such vessel is exempted under paragraph(d)(4)of this section.

(4) *VMS exemptions.* A vessel that is required to operate the mobile transceiver unit continuously 24 hours a day throughout the calendar year may be exempted from this requirement if a valid exemption report, as described at paragraph (d)(4)(iii) of this section, is received by NMFS OLE and the vessel is in compliance with all conditions and requirements of the VMS exemption identified in this section.

(i) *Haul out exemption.* When it is anticipated that a vessel will be continuously out of the water for more than 7 consecutive days and a valid exemption report has been received by NMFS OLE, electrical power to the VMS mobile transceiver unit may be removed and transmissions may be discontinued. Under this exemption VMS transmissions can be discontinued from the time the vessel is removed from the water until the time that the vessel is placed back in the water.

(ii) *Outside areas exemption.* When the vessel will be operating seaward of the EEZ off Washington, Oregon, or California for more than 7 consecutive days and a valid exemption report has been received by NMFS OLE, the VMS mobile transceiver unit transmissions may be reduced or discontinued from the time the vessel leaves the EEZ off the coasts of Washington, Oregon or California until the time that the vessel re-enters the EEZ off the coasts of Washington, Oregon or California. Under this exemption, the vessel owner or operator can request that NMFS OLE reduce or discontinue the VMS transmissions after receipt of an exemption report, if the vessel is equipped with a VMS transceiver unit that NMFS OLE has approved for this exemption.

(iii) Exemption reports must be submitted through the VMS or another method that is approved by NMFS OLE and announced in the **Federal Register**. Other methods may include email, facsimile, or telephone. NMFS OLE will

provide, through appropriate media, instructions to the public on submitting exemption reports. Instructions and other information needed to make exemption reports may be mailed to the limited entry permit owner's address of record. NMFS will bear no responsibility if a notification is sent to the address of record and is not received because the permit owner's actual address has changed without notification to NMFS, as required at § 660.335 (a)(2). Owners of vessels registered to limited entry permits that did not receive instructions by mail are responsible for contacting NMFS OLE during business hours at least 3 days before the exemption is required to obtain information needed to make exemption reports. NMFS OLE must be contacted during business hours (Monday through Friday between 0800 and 1700 Pacific Standard Time).

(iv) Exemption reports must be received by NMFS at least 2 hours and not more than 24 hours before the exempted activities defined at paragraphs (d)(4)(i) and (ii) of this section occur. An exemption report is valid until NMFS receives a report canceling the exemption. An exemption cancellation must be received at least 2 hours before the vessel re-enters the EEZ following an outside areas exemption or at least 2 hours before the vessel is placed back in the water following a haul out exemption.

(5) When aware that transmission of automatic position reports has been interrupted, or when notified by NMFS OLE that automatic position reports are not being received, contact NMFS OLE at 7600 Sand Point Way NE, Seattle, WA 98115–6349, phone: (206)526–6133 and follow the instructions provided to you. Such instructions may include, but are not limited to, manually communicating to a location designated by NMFS OLE the vessel's position or returning to port until the VMS is operable.

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

(7) Make the mobile transceiver units available for inspection by NMFS OLE personnel, U.S. Coast Guard personnel, state enforcement personnel or any authorized officer.

(8) Ensure that the mobile transceiver unit is not tampered with, disabled, destroyed or operated improperly.

(9) Pay all charges levied by the communication service provider as necessary to ensure continuous operation of the VMS transceiver units.

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