

ENFORCEMENT CONSULTANTS COMMITTEE (EC) REPORT ON  
VESSEL MONITORING SYSTEM PING RATE

The Enforcement Consultants (EC) met and discussed the NMFS Office of Law Enforcement (OLE) Report on Vessel Monitoring System (VMS) Ping Rate, the VMS Ping Rate Situation Summary, and the U.S. Department of Commerce, National Oceanic and Atmospheric Administration, Initial Decision and Order regarding the F/V RISA LYNN VMS case. Based on the ruling in this case, the EC strongly recommends that the Council consider increasing the VMS ping rate in the West Coast groundfish fishery from approximately once an hour to every 15 minutes.

The Administrative Law Judge ruling on the F/V RISA LYNN case concluded that the hourly VMS position reports in the case were insufficient to prove that the vessel was not operating in “continuous transit” through the closed area, as required by regulation. The ruling significantly diminishes our ability to prosecute VMS cases at a state or Federal level under the current one hour ping rate. Increasing the ping rate interval to every 15 minutes would provide enforcement with a more detailed and accurate picture as to the activity of a vessel in a closed area, as well as more thoroughly meeting the evidentiary needs identified by the court. The effective application of VMS to ensure the integrity of the Rockfish Conservation Areas (RCAs) is especially important due to constrained Federal and state enforcement resources. In addition to assisting in the prosecution of a violation, an increased ping rate and more effective prosecution of violations would protect the interest of a vessel that is operating legally.

The EC would like to address several industry concerns regarding increasing the VMS ping rate to every 15 minutes:

1. Cost – The NMFS OLE Report on the VMS Ping Rate provided a VMS cost summary by the provider. The cost summary shows that an increase to a 15 minute ping rate will increase a monthly bill by a range of \$25 to \$129. The average monthly provider increase for three of the approved providers used in the west coast is \$37.73 per month. It is important to keep in mind that the cost estimates are assuming that a vessel is actively fishing 30 days per month. An average fishing vessel fishes less than 30 days per month. All VMS providers except one, that are currently being utilized on the west coast, offer a “sleep mode” feature that will transmit only once per hour, as opposed to 4 times per hour. Devices approved on the west coast provide a range of options which allows operators to assess their needs with the devices available.
2. NMFS can internally increase the ping rate if needed – This statement is true. However, there are numerous mandated procedural hurdles which require days of process and review.
3. Drain on Battery - A 15 minute ping rate increase should not be a problem for a vessel tied up to a dock with electrical service. A vessel at the dock can incorporate the use of a charger or a battery tender to prevent vessel battery from discharging. Again, vessel owners should consult with their service provider and/or electronics retailers to determine the best unit for their particular need and application.

The EC also believes it may be beneficial to explore the potential use of data loggers or other technologies in concert with the analysis of increasing the ping rate.

Based on the F/V RISA LYNN court decision, the ability to enforce mandated closures such as RCAs, Essential Fish Habitat and Cow Cod Conservation Areas has been severely eroded. The EC strongly urges the Council to give serious consideration to exploring options to restore the effectiveness of VMS and other tools for effective enforcement, including increasing the VMS ping rate to 15 minute intervals for specified gear types and analysis of new technologies.

In reference to the list found in the NMFS OLE Ping Rate Report, Agenda Item H.1.b, the EC supports the list, but recommends removing salmon troll gear from the 15 minute ping rate requirement. We do not believe this gear type requires any ping rate modification.

In summary, the EC recommends the following:

- Increasing the VMS ping rate to 15 minute intervals for the gear types listed in the NMFS OLE Ping Rate Report, Agenda Item H.1.b (with the exception of salmon troll gear).
- Exploring new technology to augment VMS.

PFMC  
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