The Vessel Monitoring System Committee (VMSC) met in Portland, Oregon on October 6, 2009 and elected Dayna Matthews, National Marine Fisheries Service (NMFS), Office of Law Enforcement (OLE) as its chair. After reviewing some basic elements of the VMS regulations, the VMSC made recommendations that follow below. Some of these recommendations are directed to the Council and require Council action. Other recommendations may be implemented directly by the enforcing agencies and were communicated to those agencies during the VMSC’s meeting. The VMSC recommendations for Council consideration of a specific modification to the VMS regulations are not necessarily endorsements of those modifications but rather reflect the committee’s opinion that the concerns reflected in the recommendations warrant a full vetting and evaluation during the Council process for setting the 2011-2012 groundfish specifications.

VMS Issues that the Council Should Consider for Further Evaluation:

- A VMS exemption and declaration process that would allow a vessel to turn off its VMS unit at the time it moves from an open access fishery for which VMS is required to a non-groundfish fishery (no groundfish is taken and retained, possessed or landed). This policy should be evaluated along with various ways it might be implemented (e.g. a minimum period of time for which the unit must be turned off or a maximum number of exemption declarations of this type during the year). Currently a vessel can request an exemption from the VMS requirements after the end of the year when the vessel owner provides a statement indicating that the vessel will stay out of the groundfish fishery for the entire following year.

- Exemption from the VMS requirement for those vessels that possess groundfish in Federal waters when they are only transiting between non-contiguous state waters (e.g. Bolinas to the Farallon Islands and back). This exemption should only be considered for the areas north of Point Conception.

- The necessity of requiring VMS units on salmon troll vessels retaining groundfish under ratio fishery regulations in the area north of Cape Falcon.

- Authorizing specific vessel activities that would be allowed while transiting a closed area and could be allowed within the gear stowage requirements. Examples might include: baiting hooks while transiting out and cleaning and untangling gear while transiting back.

- Evaluating the use of VMS technologies that could create flexibility for drifting in both the limited entry and open access fleets. Additionally, the Council should consider whether regulations can be modified to provide trawl vessels with such
flexibility based on the 100 percent observer coverage that is expected to be implemented as part of the trawl rationalization program. The analysis of this issue should compare the costs of alternative modifications to the VMS program such as increasing the ping rate or adding sensors that would detect gear deployment.

The VMSC also received recommendations from the public about specific adjustments to management lines that should be considered. The VMSC did not take a position on these adjustments but notes that individuals advocating for them will be bringing their requests to the Council.

**Recommendations for Operational Adjustments**

The following operational recommendations have been communicated to the agency representatives on the VMSC and do not require further Council action. NMFS should consider implementing the following:

- Augmenting the declaration procedure so that fishermen would be provided not only a confirmation number but also a record of the fishery for which the fishermen made the declaration. This would allow the fishermen to verify that the code they intended to enter was properly recorded.

- More widespread publication of the after hours number that fishermen should contact in the event of VMS unit failure.

- Improved notice about changes in the regulation. In particular, when a line is moved the specific way points that are changes should be clearly identified.

Another issue discussed by the VMSC was communication between enforcement personnel and vessel owners during investigations. The NMFS OLE informed the VMSC of a change in procedure that has been implemented based on last April’s Council meeting and exchange with the Groundfish Advisory Subpanel. Since last April, it has been the OLE’s new policy that vessel owners who have hired operators involved in a violation(s) will be contacted prior to the case package being presented to General Counsel for Enforcement Litigation (if in fact the vessel owner has not been previously contacted during the course of the investigation).

**Other Public Comment**

At the end of its meeting, the VMSC heard emotional testimony regarding the fines that are being imposed for violations of area closures and the devastating effects of some of those fines. The burdens of the fines and the costs to industry for legal defense are substantial. Testimony was given, and industry members of the VMSC strongly concurred, that the level of penalty is creating significant discontent in the fishery and that many independent fishermen are choosing to leave the fishery rather than risk the serious financial consequences that could result from a regulatory violation. Agency representatives noted the difficulty of striking the proper balance in that the consequences of the violations for the remainder of the fleet could themselves be serious.
For example, a single vessel fishing in a closed area could accidentally take a substantial portion of the fleet’s allocation of an overfished species and thereby cause a shutdown of the remainder of the fleet.

Next Steps

The VMSC recommends that the committee be reconvened when the Council receives the trawl rationalization regulations that it will consider in the deeming process. The VMSC meeting should be timed to allow the VMSC to comment on both the trawl rationalization regulations themselves and, based on the content of those regulations, on appropriate adjustments that should be considered for the 2011-2012 groundfish regulations. When the VMSC is reconvened, industry representation on the committee should be adjusted based on the trawl rationalization issues to be considered. In determining the appropriate committee representation, gear switching provisions and the interest that non-trawl vessels have in acquiring trawl permits and participating in the rationalization program would need to be considered.

PFMC
10/13/09