

SUMMARY MEETING MINUTES
Ad Hoc Vessel Monitoring Committee

Pacific Fishery Management Council
West Conference Room
7700 NE Ambassador Place, Suite 200
Portland, OR 97220-1384
December 18, 2002

Wednesday, December 18 - 8:30 A.M.

A. Call to Order

1. Introductions

Members Present:

LTJG Gregg Casad, Enforcement Consultants, United States Coast Guard
CAPT Mike Cenci, Enforcement Consultants, Washington Department of Fish and Wildlife
LT Dave Cleary, Enforcement Consultants, Oregon State Police
Mr. Brian Corrigan, Enforcement Consultants, United States Coast Guard
Mr. Tom Ghio, Groundfish Advisory Subpanel, California Fixed Gear Representative
LT Jorge Gross, Enforcement Consultants, California Department of Fish and Game
Mr. Don Hansen, Vice Chair, Pacific Fishery Management Council
Mr. Marion Larkin, Groundfish Advisory Subpanel, Washington Trawl Representative
Mr. Dayna Mathews, Enforcement Consultants, National Marine Fisheries Service
Mr. Rod Moore, Groundfish Advisory Subpanel Chair
Ms. Becky Renko, National Marine Fisheries Service, Northwest Region
Mr. Kelly Smotherman, Groundfish Advisory Subpanel, Oregon Trawl Representative
Mr. Steve Springer, National Marine Fisheries Service, Law Enforcement
On conference call:
Mr. Brett Schneider, Enforcement Consultants, National Marine Fisheries Service

Others present:

Mr. Mike Burner, Council Staff Officer, Pacific Fishery Management Council
Ms. Eileen Cooney, National Oceanic and Atmospheric Administration, General Council
Mr. Joe Easley, Oregon Trawl Commission; Astoria, Oregon
Mr. Bud Fleming, F/V Lucky Strike, Limited Entry Trawler; Sequim, Washington
Ms. Lucia Hendriks, Newport Dory Fleet; Newport Beach, California
Mr. Alan Hightower, Limited Entry Trawler; Port Townsend, Washington
Mr. Steve Joner, Makah Tribe
Mr. Steve Kupillas, Oregon Department of Fish and Wildlife; Newport, Oregon
Mr. Ken Lawrenson, Marine Safety Office, United States Coast Guard
Ms. Katie McHugh, Environmental Defense; Oakland, California
Dr. Don McIsaac, Executive Director, Pacific Fishery Management Council
Mr. Niel Moeller, National Oceanic and Atmospheric Administration, General Council
Ms. Vicki Nomura, National Marine Fisheries Service, Fisheries Enforcement
Ms. Dana Potts, North American Collection and Location by Satellite (NACLS), Largo, Maryland
On conference call:
Mr. Paul Ortiz, National Oceanic and Atmospheric Administration, General Council

A. Call to Order (continued)

2. Approval of Agenda
3. Committee's Charge

Dr. Don McIsaac welcomed the group and expressed the Council's appreciation for the work of the Ad Hoc VMS Committee. Foreseeing continued VMS Committee activity into 2003, he requested that the members formally appoint a chairperson. Steve Springer was elected chair by voice vote. The Committee decided to conduct the meeting in an open format with questions and comments from all attendees taken readily throughout the agenda.

B. Review of Council Recommendations from the November Council Meeting (9:00 A.M.)

Mr. Mike Burner provided the following summary of Council action from the November meeting in Foster City California on October 31, 2002.

The Pacific Fishery Management Council (Council) adopted the following motion relative to the implementation of a Vessel Monitoring System (VMS) plan at the November 2002 council meeting. The Council recommends that NMFS, in consultation with the Ad Hoc VMS Committee, prepare a proposed rule for a pilot VMS program for implementation at some point in 2003.

The proposed rule should include:

Monitoring System and Declaration Requirements: *The basic VMS transceiver and mobile communication system would be required equipment.*

A declaration for legal fishing incursions into Groundfish Conservation Areas (GCA) would be required for all federal groundfish limited entry, exempted trawl, and tribal trawl vessels; open-access line-gear would not be subject to the declaration requirements. Declarations would be required prior to leaving port and would remain in effect until the vessel changes its intent with another declaration.

Coverage: *Federal groundfish limited entry vessels that actively fish on the West Coast are required to carry an operating VMS unit.*

Expenditures: *The council recommends that NMFS fully fund all VMS requirements, or, if that is not possible, any vessels which have incurred VMS expenses be eligible for reimbursement as federal funding becomes available.*

Gear Type: *Only one groundfish gear type can be onboard when fishing in a GCA and no active fishing inconsistent with the regulations of the GCA may occur on the trip.*

Gear Stowage : *When transiting a GCA, trawl gear must remain below deck or covered on the deck of a vessel, or the net must be disconnected from the trawl doors and the trawl doors hung on their stanchions.*

Note: The motion did not specify a recommended date, subsequent to final rule making completion, that VMS equipment would be required to be on-board vessels and enforcement of the regulation provisions would begin.

It was noted that the Council recommendations are broad in scope and leave some issues to be resolved. In particular, several questions were raised regarding the declaration process, specific definitions were requested for phrases such as 'actively fish', and a need was identified for discussion on the rationale behind which vessels will be required to carry VMS units. It was stressed that the Council requested that NMFS, in conjunction with this Committee, resolve the details of implementation of this pilot VMS program and prepare a proposed rule for public review.

C. Review and Discuss Proposed Rules and Draft Environmental Assessment

Ms. Becky Renko prepared and provided for the group a draft proposed rule for review. The associated Environmental Assessment/ Regulatory Impact Statement/ Initial Regulatory Flexibility Analysis (EA) is nearly complete and rough drafts were made available to anyone in attendance by request. Reviewers of the EA were asked to send their comments to Ms. Renko at a later date. The group decided in the interest of time to first discuss questions and comments by major issue followed by a "page by page" review of the proposed rule to address specific details. These minutes capture the issues and questions raised during these discussions by major topic but, they do not attempt to record every suggested change to the language of the proposed rule. Those changes were recorded by Ms. Renko and will be reflected in the next draft of the rule.

Declaration Requirements

1. Generally, the goal is a declaration from any vessel whose activity in a GCA cannot otherwise be readily distinguished from illegal activity. For example, a limited entry midwater trawl vessel legally fishing in a GCA where bottom trawling is prohibited could appear from the air to be a trawl vessel fishing illegally. Likewise, a limited entry fixed gear vessel legally fishing for crab in a GCA where groundfish directed fixed gear is prohibited would be difficult to distinguish from an illegal vessel. These so called 'look alike' scenarios are the primary focus of the declaration program.
2. Declarations, like the GCA's, will need to be gear specific. A trawl vessel will be required to declare the one type of trawl gear to be used on the trip as well as the trawl restricted GCA where the legal incursion is intended to occur. Similarly, a limited entry fixed gear vessel will be required to declare if it intends to legally use fixed gear in a GCA area with fixed gear restrictions.
3. Vessels only transiting a GCA would not need to declare that intent so long as their activity appears (either visually or by plotted positions reported by satellite) to be consistent with transiting. Additionally, there are specific gear stowage regulations for transiting vessels (see Gear Requirements, page 4).
4. Declarations must be made prior to leaving port and vessels will be required to retain a confirmation report. While the declaration is in place, the vessel may have only the declared type of gear onboard and may not engage in any fishing activity that is inconsistent with the regulations for the declared GCA. Declarations would be required prior to leaving port and would remain in effect until the vessel changes its intent with another declaration.
5. The proposed rule will need to specify the approved methods for making a declaration (*i.e.* VMS transmission, facsimile, telephone, email).
6. The gear categories for the declaration report in the proposed rule need to be revisited. Principally, there was confusion about whether crab gear is considered open access gear. Open access gear usually refers to groundfish directed gear and does not include crab pots. New categories may be required to incorporate the variety of fisheries that many limited entry vessels participate in.

7. The proposed rule needs to specify exactly what information is required on a declaration report. Oregon and Washington implemented declaration systems at the end of 2002 and could help by relating what worked well and what did not.

Coverage

1. There was a discussion about which vessels would be required to carry VMS units. NMFS and the Committee members representing enforcement interests expressed a strong desire to follow the recommendation of the Council. The federal groundfish limited entry fleet is of a manageable size for the first year of VMS implementation and lands a substantial portion of the annual groundfish harvest.
2. Several participants had questions about the open access fleet not being required to carry VMS units. Open access vessels are often fishing in the same fisheries and areas as the limited entry vessels which are required to carry VMS. The West Coast groundfish fishery will be far and away the most complicated implementation of VMS in the nation and needs to be phased in. The Council and the states are currently working on ways to address issues of overcapitalization in the open access sector and VMS coverage will likely expand into this sector in the future.
3. The dory fleet from Newport Beach, California has requested an exemption from a VMS requirement primarily due to their limited range of activity and the complications of carrying a VMS unit on the relatively small and open boats. At this time, NMFS is interested in exploring ways to make VMS work for dory fishers rather than excluding them (see Downtime, Page 5).

Expenditures

1. Federal funding of VMS requirements have not been identified.
2. Dr. William Hogarth, Assistant Administrator for Fisheries at the National Marine Fisheries Service, National Oceanic and Atmospheric Administration (NOAA Fisheries), has spoken in favor of federal funding of this program.
3. VMS has been cited as an important tool in the defense of U.S. coasts under Homeland Security.
4. Capacity reduction is being considered for these fleets and some vessels will be required to install VMS units just prior to leaving the fishery, a waste of resources.

Gear Requirements

1. There needs to be some clarification of the gear requirements under the 2003 management measures. The current understanding from NMFS is that only one type of trawl gear can be onboard during any single fishing trip. NMFS and Council staff will review the Groundfish Management Team (GMT) recommendations and Council deliberations for clarification. Previous groundfish regulations allowed more than one type of trawl gear on board but restricted vessels to the lowest trip limit consistent with the gear carried. The GAP representatives on the Committee recommended that this policy be continued.
2. The declaration requirements for legal incursion into otherwise restricted GCA's for the declared gear type require there be only one type of trawl gear onboard.
3. When transiting a GCA, trawl gear must remain below deck or covered on the deck of a vessel, or the net must be disconnected from the trawl doors and the trawl doors hung on their stanchions.

Drifting Into or Overnight Drifting within GCA's

1. Questions were raised about vessels that may drift into a GCA while operators are working their gear. Will vessel operators be required to remain on the legal side of a management line at all times or can they drift across while working the gear?
2. Similarly, vessels may enter the trawl restricted GCA's to overnight. If gear is disconnected or stowed as per gear regulations for transiting is the vessel in violation if it spends the night? Drifting in the zone is not transiting the zone. Can we address this with a separate declaration for night activity? (see number 4 below).
3. It was suggested that VMS may not be able to accommodate many fishing behaviors, traditions, or customs. Fishers may be required to alter more than gear operations such as finding safe anchorages in areas outside of GCA's or adjusting tows or sets so that the vessel is assured of staying in legal waters as the gear is worked.
4. A definition for 'transiting' such as a required speed or a minimum time in a GCA was discussed. How could enforcement officials handle a vessel that seemed to linger or overnight in a GCA? One of three ways: 1) Dispatch a plane or vessel to investigate, 2) flag the VMS track for further investigation, or 3) modify the declaration system so that the vessel could notify NMFS of their intention. Could we establish a hotline or a two-way VMS notification of intent to overnight in closed area? Some felt that the transit regulations were not intended to include overnight drifting and the idea of a declaration system for overnight activity would be too cumbersome and complicated to operate and enforce.
5. The group agreed on establishing a mechanism for informing NMFS of unforeseen problems which may lead to a vessel being in a GCA. An example provided by fishers in the group was debris caught in the net that forces a vessel to drift while the net is freed. NOAA could provide a phone recording system that allows fishers to notify of trouble. In more dire circumstances, the VMS position data and the notification system could add a measure of safety.

Downtime

1. Does the unit need to be on at all times, can operator turn it on and off? The enforcement community, being burdened with the responsibility of ensuring the integrity of GCA's, was in favor of VMS operation 365 days a year (see Reporting Requirements, below).
2. Vessel operators were interested in minimizing reporting costs by identifying periods when the vessel is not engaged in the groundfish fisheries such as trailer transit, prolonged fishing for non-groundfish species, or dry dock.
3. The dory fleets do not have constant power source and boats are often transported by trailer. Do we need new provisions for dory fleets to turn off the unit? Enforcement felt that the relatively low power requirements of VMS units could allow dory vessels to operate VMS 365 days a year unless that vessel was to be removed from the water for a long period of time.
4. The group agreed that the proposed rule should include language that allows vessel owners to notify NMFS of long term periods of inactivity for repairs or storage.

Definitions

1. 'Actively Fish' - Participation in any fishery out to 200 nautical miles off Washington, Oregon, and California (WOC)?
2. Need specific gear definitions, what is 'open access' gear (non-trawl groundfish gear)? Is crab or salmon gear open access gear? (No?) These definitions likely already exist and can be cited or repeated.

3. 'Trip' - generally considered vessel activity from port to port and is defined in groundfish regulations at 50 CFR 660.302 as "the period of time between landings when fishing is conducted".
4. Is setting gear same as fishing? For example, if a vessel sets crab gear for another vessel on the way out to participate in a groundfish fishery is that vessel considered to be crab fishing?
5. 'Transit' - does this need to be defined in the proposed rule? Without a definition of 'transit' can a trawl vessel remain in the GCA indefinitely so long as the gear is properly stowed or disconnected?

Reporting Requirements

1. Frequency of position reporting has not been determined. Hourly reporting has been used for estimates of transmission costs but units have been tested and can report more frequently. There may also be a need for a less frequent report which confirms no movement of a vessel at port.
2. What is the rationale for requiring 365 days a year reporting for a vessel that is actively fishing in the WOC for only part of the year? The enforcement community, being burdened with the responsibility of ensuring the integrity of GCA's, was in favor of VMS operation 365 days a year.
3. Vessels will need to notify NMFS upon activation of a new VMS transceiver and get a confirmation of proper function. Reactivation of a unit after service will require the same notification and confirmation procedure.
4. Currently, limited entry vessels that spend a large portion of the year in Alaska but return to fish within 200 nm of WOC will need to keep their VMS operating 365 days a year. There are examples from less complicated VMS programs where vessels that leave the fishery for long periods can get a waiver from the VMS requirement. This has not been established for this program.
5. Unlike any other fishery in the nation, the majority of vessels WOC participate in several fisheries and when they are engaged in non-groundfish fisheries the transmission costs are wasted.
6. Will the system be monitored in real time (24/7)? Yes, the system will be operating in real time but there may not be personnel staffing the equipment 24/7.

VMS Units and Equipment

1. Will there be a range of units to choose from? Yes, however, if federal funding is identified and NMFS funds the purchase of VMS transceiver units, NMFS would likely select a lower cost unit and contract with that vendor for a bulk price (see VMS Equipment and the Type-Approval Process, page 7)
2. Will there be an alarm that signals the operator that the unit is no longer functioning properly? Some units signal that unit is in sleep mode and then signals that power is off and the unit is operating on backup battery. If a VMS unit did not have an alarm and the vessel operator was unaware or malfunction, an ensuing investigation may discover why the unit failed; tampering, mechanical failure, vessel trouble or emergency. In other VMS programs, the USCG investigates lost signals as a safety issue.
3. Is sleep mode considered operating? Yes, and the power supply to the unit should be maintained.
4. Who is responsible for repairs and are they reliable? What does vessel do while unit is repaired, are replacement units available? NMFS needs to address this issue. In some other programs temporary units are provided during repairs. At this time, vessel operators are responsible for the cost of repairs.

5. Accuracy of units was reported by some attendees with experience with VMS as only being accurate within 100 meters which may not be adequate. Any unit approved for use will need to meet all of the national VMS standards including accuracy.

Confidentiality

1. Is data collected used for only enforcement or will data be used for other purposes such as fishery management? Yet to be determined. Will access to VMS data operate like PACFIN where a board decides how information is applied/shared? Currently, in other VMS programs, information is kept within enforcement. There are plans in WOC to share the information with USCG and the states. There may also be a desire to share the info with biologists/managers but that would not likely occur without confirming this intent with the Council and industry representatives. There were strong objections raised by the GAP representatives and public participants over allowing any information sharing beyond the confidentiality limits imposed by the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA). It was requested that language be included in the proposed rule requiring vessel owners/operators consent for use of data beyond enforcement. That type of language could not be committed to but perhaps the rule could include the language from the MSFCMA concerning confidentiality as requested by the GAP.

Enforcement

1. Will vessels be immediately ticketed if a vessel track is suspect or will an investigation occur first? An investigation would ensue.
2. Will VMS alone verify a violation or will visual confirmation be required? There are complexities for WOC groundfish fisheries that do not exist in other VMS programs around the nation. No other programs have declaration provisions for fishing activities in otherwise restricted areas. Ticketing issues need to be addressed.
3. Who's responsibility is the VMS requirement, the vessel operator or owner? Installation appears to be the responsibility of the owner. Operation of vessel and VMS is the responsibility of owner or operator. What about those who lease permits? Need to specify that owners of permitted vessels need to install units rather than permit owners. NMFS will look to other examples of fishery enforcement for who is responsible for fishery regulation infractions, operators, owners, or both.
4. Equitable enforcement of VMS requirements is desired. State vs federal or state by state enforcement of the same regulations can vary thereby creating unfair situations.
5. Timeliness of enforcement activity was also a concern. If there is an infraction, how long until the vessel operator is notified of a possible infraction or failure of the system? As a means to avoid long periods of time between identification of a possible problem and notification of the vessel, NMFS will strive to recommend that the national VMS steering group require two-way communication when they renew national VMS standards. NMFS will strive to minimize delays in notifying vessels of possible infractions. Shoreside contact information (*i.e.* fish plants, home ports) may help if a vessel cannot be directly contacted. Additionally, the vessel would likely be met upon return to port.

D. Results from Recent Vessel Tracking Trials

Mr. Steve Springer reported the preliminary results of recently conducted trials of two VMS transceiver units aboard the NOAA research vessel Miller Freeman during a training mission from Seattle to San Diego and back. Both units utilize geostationary INMARSAT satellites for transmission of position reports. One unit was an INMARSAT-D+ system now manufactured by

Japan Radio Corporation (JRC) and the other was an INMARSAT-C system manufactured by Thrane and Thrane. Several operating parameters were tested including varied time intervals between position reports. The trial was successful and both units performed as expected. The INMARSAT-C system is capable of a wide-range of programmable settings and would allow two-way email communication if a computer is added to the system. The cost of this unit, not including the computer, is roughly \$1,800. INMARSAT-D+ system is less expensive at approximately \$800 but, the unit is less flexible in its programmability and allows only ship to shore position report transmission. Both units have internal differential Global Positioning Systems (GPS) and sleep modes with communication costs around \$0.04 per transmission or \$1.00 per day with hourly reporting. NMFS is preparing a report of the trial results.

E. VMS Equipment and the Type-Approval Process

Mr. Steve Springer reported on the method and time line of the type-approval process to identify VMS units which meet NMFS standards and manufactures that can produce enough reliable units to meet the needs of the fleet. The first step is to get the NMFS VMS standards and type-approval forms published in the *Federal Register* and out to manufactures. This is expected to happen in mid-January, 2003. Vendors and manufactures are then given time to report, among other things, the specifications and capabilities of their respective VMS units. If their units meet the NMFS VMS standards, NMFS requests transceiver units for 90 day trials aboard vessels. A list of approved vendors/units which meet the requirements and pass the trials are ultimately provided to vessel operators/owners. If federal funding is identified and NMFS funds the purchase of VMS transceiver units, NMFS would likely select a lower cost unit and contract with that vendor for a bulk price. If vessel operators/owners are required to fund the VMS units they would have a variety of units to choose from but bulk pricing would not be feasible unless vessel owners made an arrangement to buy in bulk.

Units in the trial will likely be a mix of technologies currently being used in other fisheries and some that are new. Most of the systems on the market are "plug and play" making installation quick and easy. Concern was raised about equipment warranties and reliability. Mr. Springer was uncertain whether the type-approval process will require a minimal warranty. However, the type-approval forms will request information regarding warranties and he stated that, in his experience, manufactures have stood behind their equipment. Ms. Dana Potts of NACLS reported that their ARGOS systems have a one year warranty, cost around \$2,000, are similar to INMARSAT units in size. Additionally, there are a variety of software packages for shoreside and onboard systems. Transmission costs are \$5.00 per day and use is unlimited. There is a two-day backup battery if power is lost. The transceiver unit goes to sleep after 10 hours of no vessel movement and can transmit a confirmation of no movement at preprogrammed intervals. Ms. Potts provided brochures on the ARGOS system.

F. Next Steps in the Process/Future Meetings

Ms. Renko will revise the proposed rule and EA per discussions at this meeting. EA will be available in early January. The proposed rule is scheduled to be published in the *Federal Register* in early February with the public comment period running into April. There was discussion of holding another Ad Hoc VMS Committee meeting before the April Council meeting. It was decided that Ad Hoc VMS Committee members already planning to attend the March Council meeting on non-groundfish business will get together to assess progress. Under this scenario, implementation of the pilot VMS program is not likely before July or August.

It was requested that the issue of sharing data between federal and state enforcement agencies be resolved quickly. The state enforcement programs in the WOC are concerned about this issue and, they desire guaranteed full access to VMS information relative to vessels fishing off of their shores.

The Ad Hoc VMS Committee will likely meet at least once more in late 2003 to assess the performance of the 2003 pilot VMS program and to discuss future VMS programs.

ADJOURN

PFMC

3/21/2003