GROUNDFISH ADVISORY SUBPANEL STATEMENT ON
IMPLEMENTATION OF A VESSEL MONITORING SYSTEM

The Groundfish Advisory Subpanel (GAP) reviewed the proposed rule which would implement a Vessel Monitoring System (VMS) for the Pacific groundfish fishery. Along with the comments on the proposed rule, the GAP requests the Council develop a timetable for expanding the VMS system beyond limited entry vessels. A timetable would enable other user groups such as commercial passenger fishing vessels and open access vessels to begin planning how a VMS system can best be adapted for their fisheries.

The GAP developed the following comments to the proposed rule and requests they be submitted to NMFS along with any other comments prepared by the Council or Council advisory bodies. The comments are not listed in any order of priority, but rather reflect issues that were discussed by the GAP and which the GAP believes need to be reflected in a final VMS rule.

1. Transferability - The proposed rule makes no provision for the transfer of VMS units from one owner to another or one boat to another. We suggest a simple notification system whereby a unit owner can inform NMFS that he or she no longer owns or controls the unit. The same notification system would be used in the event of a catastrophic vessel loss where a unit cannot be recovered.

2. Implementation date - As proposed, the final rule would go into effect after a regulatory "cooling off" period, currently estimated to be in October or November 2003. However, NMFS and the Council are also implementing a Congressionally-mandated capacity reduction program involving the same vessels that will be required to carry a VMS unit. We recommend that implementation of the VMS requirement be delayed until after the capacity reduction program is completed. In this way, a vessel owner will not have to buy a VMS unit one month and then scrap it the next.

3. Rescission language - As written, the VMS program is perpetual, even though the need for the VMS program may disappear if future groundfish management systems rescind the existing closed areas. We recommend that a specific termination clause be included in the final rule which ends the requirement for carrying a VMS unit at such time as the Council deems it no longer necessary.

4. Installation requirements - The proposed rule requires that a VMS unit be installed according to procedures established by NMFS. Discussion with NMFS Office of Law Enforcement personnel indicates these procedures will include installation by a NMFS-certified installer. We believe the installation requirements should be limited to installation pursuant to manufacturer instructions. Certified installers are often not available in smaller ports, and this requirement can be both time-consuming and costly. We note that the Environmental Assessment/Regulatory Impact Review (EA/RIR) prepared for the proposed rule grossly underestimates installation costs, which can include compensation for travel time for an installer to visit a remote port.

5. Backup units - The proposed rule does not include provision for a vessel owner to purchase a backup unit which can be used in the event the regular unit goes out of service during an expanded fishing trip. We recommend the final rule contain a provision for bringing a backup unit on-line during the course of a fishing trip through use of a simple declaration. This would prevent trips from being interrupted and would ensure continuous enforcement capability.

6. Breakdown contingencies - The proposed is unclear on action to be taken in the event of a VMS unit failure during the course of a fishing trip. We recommend the rule specify that in the event a unit breaks down during the course of a fishing trip, the vessel will be allowed to finish the trip as long as the vessel operator notifies NMFS of the malfunction.

7. Timeline for expansion - We have requested the Council to develop a provisional timeline covering the expansion of VMS requirements to other segments of the fishery. At such time as a timeline is approved, the rule should be amended to reflect those future requirements, thereby giving potentially

affected parties an opportunity to begin planning.

8.  Shut-down provision for nongroundfish fishing - The proposed rule would establish a declaration system for those vessels that are legally fishing within the Rockfish Conservation area. We recommend that a vessel which has made a valid declaration and is legally permitted to fish in the Rockfish Conservation Area be allowed to shut down their VMS unit while fishing under the declaration.

9.  Requirements for when a unit must be operating - Numerous comments have been made during the development of the proposed rule regarding the requirement that the unit be continuously operating, even when a vessel is in port or has been hauled out on land. Specific examples were provided of vessels in the Pacific groundfish fishery that are trailered to and from launching sites; are hauled out of the water at the end of day trips and stored on land; or fish or stay within internal waters for extended periods, but move frequently enough to prevent the "sleep mode" from activating. We explored several options for dealing with these unique situations, including exempting specific fisheries or developing general criteria under which a vessel could qualify for an exemption. Our final recommendation, which we believe to be the most fair and cost effective, is that the requirement to have an operating VMS unit only apply when a vessel is outside of the Boundary Line. This is analogous to fishing vessel safety requirements which differentiate between vessels operating inside and outside of the Boundary Line.

10. Cost/benefit statements - The proposed rule as published in the *Federal Register* contains several deficiencies where it addresses costs and benefits of the rule. For example, the discussion under "VMS" (68 FedReg No. 99, page 27975) states that the cost of a VMS unit "ranges from approximately $2,000 to $6,000." This cost does not reflect installation expenses. However, the discussion under "Classification" (68 FedReg No. 99, page 27976) estimates the costs of "purchasing and *installing* (emphasis added) the unit would be between $800 and $3,800 per individual vessel." Aside from the underestimation of installation costs (see comment above on installation), it is impossible for the cost of purchase and installation to be less than the cost of purchase alone.

    Further, the same paragraph goes on to state that "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." The revenue estimates were derived from the estimated revenue increase that results from the use of depth-based management, not from a requirement to have a VMS unit. Although the Council's preferred option is to have a VMS in order to more efficiently enforce depth-based management, the requirement to have a VMS does not in itself generate any additional revenue for a vessel, as depth-based management can be (and is being) enforced without the use of VMS. The rule analysis needs to be changed to reflect the fact that there is no revenue gain to vessels resulting from a requirement to carry a VMS unit. Every vessel required to carry a VMS unit will face an economic loss of varying degrees. The existing cost/benefit analysis is completely erroneous.

11. Payment of cost - The Council preferred action on VMS included an assumption that NMFS would pay the cost of purchasing and possibly installing and operating VMS units. Public support for VMS was based on the same assumption, as noted in testimony and advisory body reports to the Council. The proposed rule stipulates that all costs for purchasing, installing, and operating a VMS unit will be borne by the vessel owner. Given the erroneous cost/benefit analysis performed as noted above and the assumptions made when the VMS program was approved, we recommend the final rule not go into effect until NMFS provides a means of purchasing VMS units for vessels required to have them.

PFMC
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