

DRAFT MEETING MINUTES
Ad Hoc Vessel Monitoring System Committee
Pacific Fishery Management Council
7700 NE Ambassador Place, Suite 200
Portland, OR 97220
(503) 820-2280
October 7, 2003

Members Present:

Mr. Joseph Albert, National Marine Fisheries Service, Law Enforcement
LT Jordan Baldeuza, Enforcement Consultants, United States Coast Guard
LT Gregg Casad, Enforcement Consultants, United States Coast Guard
Mr. Mark Cedergreen, Pacific Fishery Management Council, Washington Charter Boat Operator
CAPT Mike Cenci, Enforcement Consultants, Washington Department of Fish and Wildlife
Ms. Kathy Fosmark, Groundfish Advisory Subpanel, Southern Open Access Representative
Mr. Tom Ghio, Groundfish Advisory Subpanel, California Fixed Gear Representative
Mr. Don Hansen, Chair, Pacific Fishery Management Council, California Charter Boat Operator
Mr. Bill James, Alternate for Mr. Kenyon Hensel, Groundfish Advisory Subpanel, Northern Open Access
Mr. Marion Larkin, Groundfish Advisory Subpanel, Washington Trawler
Mr. Dayna Mathews, Vice Chair, Enforcement Consultants, National Marine Fisheries Service
Mr. Rod Moore, Groundfish Advisory Subpanel Chair
Ms. Becky Renko, National Marine Fisheries Service, Northwest Region

Others present:

Mr. Mike Burner, Council Staff Officer, Pacific Fishery Management Council
LT Dave Cleary, Enforcement Consultants, Oregon State Police
Ms. Eileen Cooney, National Oceanic and Atmospheric Administration, General Council
Mr. Brian Corrigan, Enforcement Consultants, United States Coast Guard
Mr. Brad Pettinger, Oregon Trawl Commission; Astoria, Oregon
Dr. Don McIsaac, Executive Director, Pacific Fishery Management Council
Ms. Vicki Nomura, National Marine Fisheries Service, Fisheries Enforcement

TUESDAY, OCTOBER 7, 2003 - 8:30 A.M.

A. Call to Order and Administrative Matters

1. Roll Call, Introductions, Announcements, etc. Dayna Mathews/Joe Albert
2. Elect Chair

Due to the retirement of the former chair, Mr. Steve Springer, and the new membership of the Ad Hoc Vessel Monitoring Committee (VMSC), the group elected a new chair. Mr. Moore nominated Mr Hansen who was elected chair of the VMSC. Mr. Hansen requested that the group also elect a vice-chair. Mr. Dayna Matthews was nominated and elected as vice-chair.

3. Committee's Charge

Dr. McIsaac welcomed the group and summarized the Council's expectations from the committee. The Council has forwarded two major issues to the VMSC; requirements for vessels transiting/drifted in a closed area and expansion of the existing VMS program into additional fishery sectors.

4. Approve Agenda

Mr. Moore requested that agenda item E be expanded to include a GAP request that drifting and transit issues be addressed for all fishing sectors as there were concerns about the details of the transit rules for trawl fisheries.

B. *Update on the Existing Monitoring Program*

1. Final Rule Implementation

Becky Renko

The comment period for the proposed rule closed in July. Comment received included June Council meeting input and the GAP statement. A final rule has been prepared and was submitted to NMFS Headquarters in early September. The rule is expected to proceed to the Department of Commerce for filing in October.

Comments on the proposed rule were varied and include:

- VMS is unnecessary if a declaration system is in place, while others stated that declaration was not enough.
- A sunset clause should be added to the program rather than implementing indefinitely.
- Vessel operators should have the option to turn off the units when not fishing or participating in a fishery that does not require VMS.
- Transiting issues; many relative to fixed gear, not fair to have transit requirements for trawl and not fixed gear.
- Fixed gear vessels often work steep canyons on the shelf making it difficult to stay on one side of the line.
- The rule needs a requirement for back up units.
- Installation cost concerns and the common misunderstanding that VMS equipment needs to be installed by a certified installer.
- Trailering of small vessels and the development of geofencing at the shoreline (*i.e., a management line specified by coordinates at the coastline, inland of which, VMS would automatically shut down until the unit again crosses to the seaward side*).
- Requests for low cost and durable units.
- NMFS should pay and the program should not begin until money is available.
- Comment on when VMS should be effective; as soon as possible, whenever buyback is complete, and January 1, 2004.

In response to all comments received, NMFS added language to:

- Prohibit a transceiver from being used on more than one vessel but allows transfer from one vessel to the next.
- Allow legal trawl fishing within the trawl RCA-pelagic trawl fisheries.
- Clarify the consistency of VMS regulations in state and federal waters.

Additionally,

- Small vessel VMS issues are being worked on by enforcement, including geofencing.
- Transit requirements for the limited entry trawl sector remained the same.

Mr. Larkin asked if money becomes available, will it be the vessel owner's responsibility to replace the unit. Ms. Renko stated that NMFS would likely reimburse the original costs, up to a cap, but the vessel owner would be responsible for replacement costs.

2. Vessel Monitoring System (VMS)

Dayna Mathews/Joe Albert

Mr. Albert reported that the type-approval process is underway and the final list of VMS equipment will be in the final rule. The computer system at NMFS is on schedule for program implementation.

3. Declaration System

Dayna Mathews/Joe Albert

An interactive voice response telephone system has been developed. Participants will be prompted to enter information through codes. Confirmation of the declaration report and an identification number will be sent back. During business hours, a person can get a live person for questions. Computer systems at NMFS will eventually track declarations allowing operators to compare VMS track lines with declaration reports.

C. Transiting Requirements for Limited Entry Fixed Gear Vessels

1. Review of the Issue

Dayna Mathews

When comments on the proposed rule were being reviewed, it became apparent that transiting requirements for limited entry fixed gear vessels had been overlooked. NMFS had a few options; (1) change the rule and implement transiting requirements for fixed gear vessels in the final rule, or (2) bring the issue forward to the Council in September and address the issue during the process of developing the 2004 annual harvest specifications and management measures. Desiring additional public input on the issue, NMFS opted for the second option. At the September meeting, the Council referred the issue to the VMSC for further consideration. The VMSC is expected to report back to the Council at the November meeting allowing the Council the opportunity to submit recommended regulation changes during the comment period for the proposed rule on 2004 management measures.

2. Enforcement Concerns

State and Federal Enforcement Personnel

Enforcement personnel agreed that VMS track lines in an RCA need to either be explained by a declaration report or a clear transit signal. With the exception of gear stowage, the issues are very similar to the trawl fishery where transit requirements (no drifting) are in place. Enforcement does not feel that gear stowage is an issue for the limited entry fixed gear sector.

3. Industry Concerns

Tom Ghio

Industry representatives were most concerned with safety issues. Besides being further from port, drifting at night in areas deeper than the non-trawl RCA puts vessels in greater danger of bad weather and collision with cargo ships.

There were many questions about the ability to determine if a vessel is fishing or drifting from the VMS track line. Mr. Albert reported that the system will alert an agent when there is an infraction and the agent will have to make a judgement call on the vessel's activity (drifting, transiting, fishing). At this time, with a new system, it is unrealistic to expect an agent to determine fishing activity from drifting.

Enforcement personnel were asked how the transit requirements preserve the integrity of the RCA, if you see a questionable signal do you need to send out a visual sighting to prosecute? Mr. Mathews stated that an investigation would be initiated and would either go out to sea or meet the vessel at the dock. It was stated by the group that there will be vessels drifting in the area that are not required to have VMS. Mr. Mathews replied that vessels without VMS are not the issue, and that if a vessel you are tracking has a questionable signal then enforcement would have to take action.

A VMS program in Hawaii was cited as an example of a fishery where drifting and fishing activity can be determined through VMS and appropriately investigated. This and other VMS systems have the simplifying aspect that vessels are prohibited from the closed unlike our system which has provisions for transit and legal fishing activities in the RCA.

Industry was also concerned with how NMFS will prosecute a case. For example, if a trawl vessel snags a net and is forced to enter a closed area, would the vessel operator have an opportunity to explain the situation. Mr. Matthews state that it is unlikely that a case would be made on the VMS track alone and that enforcement will consider each situation and contact the vessel.

Industry representatives felt that this system helps enforcement efforts but does little for fishers. It was stated that VMS is a mitigating factor which allows depth based management and continued fishing opportunity.

Observers are now estimated to be on between 20-30% of the vessels and their role in confirming accidental infractions or legal activities could at some point be a means of allowing drifting. Enforcement is a secondary role for observers but their input could be used as a witness.

4. Recommendation to the Council

Committee Discussion

Mr. Moore identified two issues for the group to consider; (1) should fixed gear vessel transit requirements be treated like trawl, and (2) should this issue be addressed through the VMS rule process or the 2004 annual specifications. On the latter, the group agreed that as long as there is public notice and comment then it is not critical whether the issue is handled under the specifications or VMS rules.

Enforcement personnel recommended that drifting not be allowed. Vessel operators will need to change their behavior to allow open fishing opportunities to exist in this era of overfished species. Enforcement does not have the tools to check every vessel that is drifting and cannot handle at-sea declarations. Two-way communication units are expensive and the current program is not likely to provide a communication system.

Industry representative reiterated their concerns of safety and life. Coast Guard representatives reminded the group that rules requiring vessels to have 24 hour lookouts already exist.

Units will be made available that allow two-way communication. The units are more expensive but are available. More work would need to be done with the automated computer system to allow VMS transmitted signals and declarations from sea.

Some learning and expertise will need to develop to determine which track lines are truly problematic and which are simply drifting too close. There will be investigations into at-seas declaration systems for the future but at this time there is no way to accommodate this request.

The committee was unable to reach consensus on implementation of transit requirements in the limited entry fixed gear fishery.

D. Automated Identification System (AIS)

1. AIS Overview and Update

LT Gregg Casad

LT Casad read the official USCG statement on AIS. (Gregg, can you send to me please?)

Public comment has been extended on a proposed rule until January 5, 2004. There is an interim rule in effect until November that specifies ports and vessel categories under the program. Public meetings are planned in New Bedford, Connecticut and Seattle. The USCG was limited in their ability to discuss the program during the open comment period. The committee has requested that the USCG legal council determine who can speak about the interim final rule that is in effect.

AIS is only effective within 30 miles but can transmit much more information about a vessel than VMS. The costs are considerable and whether vessels will be required to carry both VMS and AIS systems is unclear. The proposed rule does not currently allow VMS as a surrogate for AIS but the final rule has not yet been written.

E. Expansion of the Monitoring Program

1. Criteria for Considering Fishery Sectors for Expansion

Committee Discussion

The committee discussed the following as possible fishery criteria for expanding the VMS program:

- Impacts to overfished species in RCA.
- The ability to define the fleet.
- Targeting of groundfish (need specific criteria for this)
- Commercial vessels with gear types that look like the LE fleet that target groundfish- fixed gear/longline. (rationale: they look like LE vessels which complicates enforcement efforts).

Additionally, the committee developed criteria for defining directed OA vessels for VMS implementation:

1. Commercial (non-charter)
2. Operating in the EEZ - any time during the year
3. Landing groundfish
4. with the following gear (prioritized)
 - longline
 - groundfish pot
 - trawl (excluding shrimp?)
 - Line (exclude salmon troll?)

Shrimp vessels were discussed and included and excluded several times. Questions surrounded whether or not these vessels can be easily be visually discernable. The use of excluders diminishes groundfish impacts and the need for VMS.

The salmon troll fishery was discussed as a candidate fishery as a line gear fishery. If the most important criteria for inclusion in the VMS program is impacts then salmon vessels could be considered for VMS. However, VMS cannot tell where rockfish are caught by a salmon vessel and salmon troll is not excluded from the closed area so VMS is less effective as an enforcement tool. The Council may, in the future, consider new regulations for reducing groundfish interactions, (i.e, closed areas, spread limits). The committee was split on whether to recommend VMS on salmon troll vessels and agreed to evaluate groundfish impacts from 2002 and/or 2003 before making a final recommendation.

The committee acknowledged that other open access fisheries such as the California setnet fishery also needs further review before a final recommendation can be made. The committee also had unresolved questions about federal jurisdiction over a vessel that fishes exclusively in state waters without a federal permit. State licensed vessels may require state-federal cooperation to require VMS units aboard state licensed vessels.

It was suggested that any vessel that lands a federally managed groundfish species for commercial purposes be required to carry VMS equipment because universal application is required to ensure the integrity of the RCAs. Enforcement personnel are in favor of developing the VMS program in

The committee also discussed VMS in the charter and private sectors of the recreational fishery. It was unclear to the group why a program should single out charter vessels. In some areas, private vessels are an equal if not greater percentage of the catch and effort than the charter industry. Like the salmon troll fishery, VMS could verify that the species on board a recreational vessel were caught in the appropriate area but these vessels can still participate in the RCA. The committee recommends an area by area evaluation of groundfish impacts by charter and private vessels before making a final recommendation.

F. Report of the Committee to the Council in November

1. Written Report - Mr. Mathews will draft for committee review.
2. Council Presentation - To be given by Mr. Matthews.

Committee Discussion

Committee adjourned at 3:30 P.M.