


MEMORANDUM

TO: Council, SSC and AP Members
FROM: Chris Oliver 
Executive Director
DATE: March 25, 2008
SUBJECT: Groundfish management - VMS

ESTIMATED TIME 4 HOURS (all D-2 items)
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ACTION REQUIRED:

- (c) Initial Review of VMS Exemption for Dinglebar Gear

BACKGROUND

In July 2006, vessel monitoring system (VMS) requirements were imposed on certain vessels fishing in the Gulf of Alaska with Federal fishing permits and with dinglebar gear on board, to help enforce the GOA Coral Habitat Protection Areas. These closure areas were implemented to protect certain types of bottom habitat from gear damage. Dinglebar gear is a variant of troll gear, and has a heavy iron bar attached to the line to keep the hooks close to the bottom. This gear is used in the fishery for lingcod off Southeast Alaska, and was believed to be capable of damaging bottom habitat because it is mobile and the heavy iron bar makes the gear contact the bottom.

In February 2008, the Council requested an analysis to look at exempting the dinglebar fishery for lingcod from the VMS requirement. The VMS requirement has been questioned because the threat posed to protected habitat may be small due to the small scale of the fishery, and indications that the fishery occurs at shallower depths than the coral habitat. The initial review draft of this analysis was mailed to the Council in mid-March, and the executive summary is attached as Item D-2(c)(1).

The Council's action at this meeting is to review the draft analysis, and decide whether to release the analysis for public review.

1 Executive Summary

Introduction

Vessel monitoring system (VMS) requirements were imposed on vessels in the Gulf of Alaska with Federal fishing permits (FFPs) and with dinglebar gear on board, effective July 28, 2006, to help enforce the GOA Coral Habitat Protection Areas, closure areas meant to protect certain types of bottom habitat from gear damage. Dinglebar gear is a variant of troll gear, and has a long, heavy, iron bar attached to the line to keep the hooks close to the bottom. It is used in the fishery for lingcod off of the coast of Southeast Alaska, and was believed to be capable of damaging bottom habitat because it is mobile and the heavy iron bar makes the gear contact the bottom.

All federally permitted vessels are prohibited from anchoring or fishing with bottom contact gear in the GOA Coral Habitat Protection Areas, which encompass five areas near the Fairweather Grounds and off Cape Ommaney, covering a total area of 13.5 square nautical miles. Dense thickets of *Primnoa* sp. coral have been identified in these areas by NMFS and the Alaska Department of Fish and Game (ADF&G) during survey work using submersible dives. These living habitat structures grow very slowly, are sensitive to disturbance by any bottom contact gear and anchoring, and have long recovery times. The closure areas are relatively small areas dispersed over a large section of the exclusive economic zone (EEZ), making surveillance by enforcement vessels or aviation patrols difficult with existing resources. VMS requirements make it possible to track vessel positions in real time with a high degree of accuracy. Because of this, they are very helpful in enforcing management regulations designed to limit transit or fishing in defined areas.

Lingcod is not a species covered in the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP). This fishery is managed by the State of Alaska. However, rockfish are caught and retained as bycatch in lingcod fisheries; rockfish are covered under the GOA groundfish FMP, and a Federal fishing permit is required to harvest and retain rockfish. The VMS requirement is consequently required for the lingcod fishery. The requirement is controversial, however, because of the small scale of this fishery (small numbers of operators, small size of the vessels, short period of the fishery, and relatively small revenues generated), and because preliminary evidence suggested that the fishery occurs at shallower depths than those at which the protected coral species are found.

Council Problem Statement

The Council requested a discussion paper to examine this issue in April 2007, and in February 2008 passed a motion initiating this analysis. The motion included the following problem statement:

Dinglebar fishermen fishing for lingcod are required to carry VMS to enforce regulations to prohibit fishing in HAPC. However, the threat they pose to Gorgonian corals protected within HAPC may be small, and insufficient to justify the costs of VMS. Log book evidence suggests that most dinglebar fishing takes place above 50 fathoms. Other evidence suggests that most protected Gorgonian corals occur below 80 fathoms.

Alternatives

The alternatives, as determined by the Council's February 2008 motion, are as follows:

- Alternative 1 Status quo; no change in current regulations
- Alternative 2 Redefine mobile bottom contact gear to exclude dinglebar gear (this would remove the requirement that dinglebar fishermen avoid HAPC and the requirement that vessels in the GOA with the gear on board carry VMS)
- Alternative 3 Exempt dinglebar fishermen from the VMS requirement

Impacts of the Alternatives

Elimination of the VMS requirement for vessels fishing with dinglebar gear is only likely to affect essential fish habitat and socio-economic factors. The alternatives have the potential to affect these resource components through alternatives that end effective enforcement of the restricted no-fishing zones for dinglebar gear, and a change in the cost of operating in the dinglebar fishery. Environmental impacts are discussed in Section 4.

With respect to the analysis of essential fish habitat impacts, logbook data on fishing depth and VMS data from the 2007 dinglebar fishery were correlated with information about bottom habitat to determine whether or not vessels were operating in areas that were similar to those in which fishing was prohibited. In 2007 the VMS information indicates that fishermen were fishing in the vicinity of, but not in, areas closed to fishing. Activity in those areas, of course, would have been illegal, and the VMS units themselves may have provided a deterrent effect.

Currently most dinglebar lingcod fishing appears to take place at depths shallower than 80 fathoms. Only limited amounts of protected coral are found at these depths. Of the five prohibited zones that comprise the GOA Coral Habitat Protection Areas, about a 0.5% of Fairweather FN1, about 9% of the Fairweather FN2 and about 14% of Fairweather FS1 are above 80 fathoms.

Dinglebar gear was fished shallower in the last five years than it was in the preceding five years. Logbook data suggests that in the earlier years a small portion of the dinglebar fleet was fishing at average depths between 80 and 110 fathoms. However, in the last five years the deepest fishing appears to be taking at about 70 to 80 fathoms. Since these are reported average depths, the current maximum depths can be assumed to be somewhat deeper than these. Major elements of several of the restricted areas fall into the range of depths from 80 fathoms to just under 90 fathoms. These include about 78% of Fairweather FN1, about 19% of Fairweather FN2, about 27% of Fairweather FS1, and about 75% of Fairweather FS2. However, an examination of the bottom types used by fishermen within areas open to fishing (based on a review of VMS data) indicates that dinglebar fishermen did not tend to fish areas similar to those within the restricted areas.

Based on this discussion, the analysis concludes that none of the alternatives are expected to have a significant adverse impact on the protected habitat. Alternatives 2 and 3, however, have an adverse impact.

The impacts on the socio-economic environment are analyzed in the Regulatory Impact Review (Section 7) and the Initial Regulatory Flexibility Analysis (Section 8). The primary impact of Alternatives 2 and 3 would be a reduction in the costs of operating VMS for the vessels involved and for society. The industry cost savings are estimated to be less than about \$9,000 a year, while the social cost savings are likely to be less than \$20,000 a year.

The table below summarizes the impacts of each alternative on essential fish habitat, the costs and benefits of each alternative, and whether the alternative meets the action objectives.

Summary of the impacts each alternative would have on groundfish target fisheries, enforcement, fishery management, and the Observer Program.

	Alternative 1	Alternative 2	Alternative 3
	No action	Redefine mobile bottom contact gear so as not to include dinglebar gear	Exempt dinglebar gear from the VMS requirement
<p>Does the alternative accomplish the objectives for this action? These are:</p> <ul style="list-style-type: none"> • Prevent damage to corals from the use of dinglebar gear • Ensure regulations regarding the protection of HAPC are applied to gear types that may impact HAPC. • Ensure regulations are applied without imposing undue costs on fishermen using dinglebar gear. 	<p>The status quo provides the most protection for the HAPC where fishing with bottom contact gear is prohibited. It ensures that the regulations are applied to gear types that may impact HAPC. It imposes ongoing costs on dinglebar fishermen.</p>	<p>The alternative provides the least protection for the HAPC where fishing with bottom contact gear is prohibited. It would no longer apply the no fishing regulations to the HAPC. This alternative would be associated with a reduction in costs to the fishermen similar to those in Alternative 3.</p>	<p>This alternative provides an intermediate level of protection for HAPC. Fishing in HAPC would continue to be prohibited, although VMS would no longer be used for enforcement. This alternative continues to apply protective regulations to HAPC. This alternative probably provides a reduction in costs to fishermen compared to Alternative 1, but not Alternative 2.</p>
<p>Impacts on essential fish habitat (Section 4.2.5)</p>	<p>This alternative has no adverse or significant impacts.</p>	<p>This would end the prohibition on the use of dinglebar gear within the protected areas, and would end the VMS requirement. This would have an adverse impact on the protected habitat because it would reduce the barriers to fishing in that area. However, based on the available information, it does not appear that dinglebar fishermen would have an incentive to fish in the areas. Because of this, the impact does not appear to be significant.</p>	<p>This action would have an adverse impact on the protected HAPC because it would reduce the barriers to fishing in that area, although not to the same extent as Alternative 2. However, based on the available evidence from logbooks and VMS, dinglebar fishermen do not appear likely to use dinglebar gear to fish in the restricted habitat areas or damage the protected corals. In the absence of such an incentive, VMS units would not be needed in a deterrent or enforcement role.</p>

	Alternative 1	Alternative 2	Alternative 3
	No action	Redefine mobile bottom contact gear so as not to include dinglebar gear	Exempt dinglebar gear from the VMS requirement
Costs of the alternative (Section 7.6.3)	This alternative would open up restricted HAPC to commercial fishing by dinglebar gear, which may come in contact with bottom features. Any protection provided by the deterrent effect of a prohibition itself would be lost. This increases the potential for damage to protected corals. The analysis found that fishermen do not appear to have an incentive to fish in these areas, therefore the increased potential for damage may be relatively small. While there would be an adverse impact, the EA determined that it would not be significant.	This alternative would open up restricted HAPC to commercial fishing by dinglebar gear, which may come in contact with bottom features. This increases the potential for damage to protected corals. The analysis found that fishermen do not appear to have an incentive to fish in these areas, therefore the increased potential for damage may be relatively small. However, they have shown the capability to fish at these depths in the past.	This alternative retains the prohibition on fishing in the protected areas, which may have some deterrent effect. Fishermen do not appear to have an incentive to fish in the protected HAPC areas. In the absence of such an incentive, VMS units would not be needed in an enforcement or deterrent role. While there would be an adverse impact, the EA determined that it would not be significant.
Benefits of the alternative (Section 7.6.3)	Dinglebar would remain prohibited gear in the restricted HAPC zones and vessels would still be required to carry VMS. Available evidence suggests that dinglebar fishermen would not have an incentive to use the HAPC, perhaps limiting the size of the benefit.	Would reduce industry costs by a maximum of about \$9,000 a year, and social costs by a maximum of \$20,000 a year.	Would reduce industry costs by a maximum of about \$9,000 a year, and social costs by a maximum of about \$20,200 a year.
Net benefits of the alternative (Section 7.6.3)	Because it is impossible to provide quantitative estimates of the incremental contribution of the VMS requirement to the present value of the ecosystem services provided by the protected coral habitat, it is impossible to provide a net benefit estimate.	Because it is impossible to provide quantitative estimates of the incremental contribution of the VMS requirement to the present value of the ecosystem services provided by the protected coral habitat, it is impossible to provide a net benefit estimate.	Because it is impossible to provide quantitative estimates of the incremental contribution of the VMS requirement to the present value of the ecosystem services provided by the protected coral habitat, it is impossible to provide a net benefit estimate.

3/25/08
From;
Matt Donohoe
PO Box 3114
Sitka Ak, 99835
907-747-6255

MAR 2 2008

To Whom It May Concern:

It has come to my attention that the North Pacific Management Council is revisiting the VMS requirements for the dingle bar lingcod fishery. It is my understanding that the "reason" for the requirement was to protect certain coral beds off the Fairweather grounds. All these coral beds are at 100 fathoms or deeper. No one I know fishes dingle bar gear much deeper than 60 fathoms. You cannot control the gear in deep water. To require lingcod fishermen to have a VMS visavis protecting deep water coral makes no sense.

I would like to make a few statements about dingle bar fishing and about the expense I had to go to get a VMS working in time for last years fishery.

- 1) Dingle bar gear is not bottom gear. You fish the gear off the bottom. If you fish too close to the bottom you lose your gear.
- 2) Requiring Lingcod fishermen to gear up with VMS in an area that had no history of use for this equipment, no expertise and no parts with less than a year notice was absurd.
- 3) The equipment I was forced to purchase came with the wrong antenna mounts and other hardware which I had to buy for top dollar locally. Of course it wasn't the right gear so I had to jury rig it.
- 4) It cost \$175 to hook it up plus it required computer expertise I didn't have.
- 5) If I shut off the unit I have to pay the \$175 again so I've been forced to pay SkyMate \$5 per month to, as they said, "put the unit to sleep". The unit is not "asleep". I have been tracked all over Southeast Alaska and monitored at the dock since I was forced to use the unit. I resent being SkyMate's unpaid guinea pig while they refine their system. I consider their tracking me a civil rights issue.
- 6) Bringing the VMS online, contrary to the information I received from enforcement, took over a hundred hours and many long distance phone calls. So much time was wasted in this inefficient process that it put my fishery in jeopardy.
- 7) I have a lot more to say about the VMS requirement and if the NPFMC wants to pay my way to a future meeting not during fishing season I would be happy to oblige.

Yours,



To:NPFMC

For:consideration at April 08 council meeting. VMS exemption for dinglebar gear.

I'm John Murray F/V Loran Sitka Ak.I've commercial fished since 1978 I am a troller who also longlines.

I support an exemption of VMS requirements for dinglebar gear.

1)a majority of effort in this fishery take place in depths which are not near the bottom depth of HAPC as noted in analysis.

2)there is a misconception that dinglebar gear is on the bottom gear,this is a misnomer.The gear make contact with the bottom very seldom.If you hit the bottom very often you will lose your bar,gear or whole line.

3)the dinglebar fishery was caught up in a catch-22 type deal to protect coral,its more like trolling for salmon.One doesn't drag on the bottom in hard ground.

4)I have lobbied the the Council,NMFS,USCG and state of Alaska to not place VMS on the small boat fleet.VMS might be needed in some locations or fisheries.But in most fisheries they are not.They are unnecessary and a burden to the mostly law abiding fisherfolk.

Thanks for your consideration on this matter.

John Murray 224Observatory St. Sitka Ak. 99835

John Murray

MAR 2 2008
NPFMC