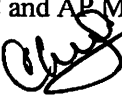


MEMORANDUM

TO: Council, SSC and AP Members
FROM: Chris Oliver 
Executive Director
DATE: January 29, 2008
SUBJECT: Groundfish management - VMS

ESTIMATED TIME 6 HOURS (all D-2 items)
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ACTION REQUIRED:

- (c) Discussion paper on VMS exemption for dinglebar gear (Council only)

BACKGROUND

An operable vessel monitoring system (VMS) is required on all federally permitted vessels in the Gulf of Alaska with mobile bottom contact gear onboard. Mobile bottom contact gear is defined as non-pelagic trawl, dredge, and dinglebar gear. The VMS requirement was implemented as part of a suite of measures to conserve and protect essential fish habitat, including a prohibition on fishing with mobile contact gear in the GOA Coral Habitat Protection Areas.

In April 2007, the Council requested a discussion paper that reviews the impacts of the VMS requirement on the dinglebar fishery for lingcod. The VMS requirement has been questioned because of the small numbers of operators, the small size of the vessels, the short period of the fishery, and the relatively small revenues generated. The paper (executive summary attached as Item D-2(c)(1)) reviews the history of the VMS requirement in the dinglebar fishery, describes the fishery, describes the utility of the VMS requirement, and provides cost estimates of compliance with the requirement.

The Council's action at this meeting is to review the discussion paper, and decide whether or not to proceed with development of a regulatory amendment analysis. The AP and Enforcement Committee received the report in December 2007 and their comments are provided below.

Extract from AP Minutes, December 2007

The AP recommends the Council direct staff to develop the current dinglebar discussion paper into an EA focused on providing an exemption to VMS requirements for this fleet. *Motion passed 17/0.*

Extract from Enforcement Committee Report, December 2007

The Enforcement Committee received a report from Cathy Coon regarding a potential VMS exemption for the lingcod dinglebar fishery. A VMS requirement for this fishery was implemented as part of the EFH regulations of 2006.

The Committee concurred that the dinglebar exemption is a policy decision. The Committee consensus was that VMS is a valuable tool for enforcement personnel, but specific to EFH and these specific coral closure areas, enforcement is not an issue due to the closure depths and the depths the fishery occurs. In general, however, the Committee strongly supports the utilization of an extensive VMS program for enforcing regulations.

Executive Summary

Introduction

In April 2007 the North Pacific Fishery Management Council (Council) requested a discussion paper reviewing the impact of the vessel monitoring system (VMS) requirement on the dinglebar fishery for lingcod in the Gulf of Alaska (GOA). 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.

A VMS requirement had been imposed on vessels with Federal Fishing Permits using dinglebar gear as part of a suite of measures meant to protect vulnerable bottom habitat features. The requirement has been controversial because of the small numbers of operators, the small size of the vessels, the short period of the fishery, and the relatively small revenues generated. This paper reviews the history of the VMS requirement in the dinglebar fishery, describes the fishery, describes the usefulness of the VMS requirement, and provides estimates of the costs of the requirement.

History of, and reason for, the requirement

VMS requirements were imposed on vessels with Federal fishing permits (FFPs) in the dinglebar fishery for lingcod in the GOA beginning July 28, 2006, to help enforce measures being adopted to protect certain categories of bottom habitat from gear damage under the Essential Fish Habitat (EFH) provisions of the Magnuson Stevens Fishery Conservation and Management Act. Dinglebar gear was believed to be capable of damaging bottom habitat because it is mobile and the heavy iron bar makes the gear contact the bottom.

Under EFH provisions, Habitat Areas of Particular Concern (HAPC) were identified in Southeast Alaska. Four of these areas are located in Southeast Alaska near the area where the dinglebar lingcod fishery takes place. These HAPCs are now considered the GOA Coral Habitat Protection Areas where all federally permitted vessels are prohibited from anchoring or fishing with bottom contact gear. The areas near the Fairweather Grounds and off Cape Ommaney cover 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.

These fishing restrictions involve 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. Because of this, VMS is very helpful in enforcing management regulations designed to limit transit or fishing in defined areas. Tracking the location of fishing vessels by VMS facilitates enforcement of the EFH and HAPC management measures.

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. An FFP is not required to fish for lingcod. However, rockfish are caught and retained as bycatch in lingcod fisheries, and rockfish are covered under the GOA groundfish FMP. Rockfish are the primary source of bycatch in this fishery. An FFP is required to harvest and retain rockfish. Moreover, State and Federal regulations require the retention of certain types of rockfish, including demersal shelf rockfish.

State regulations (5AAC 28.010 and 5AAC 28.171) require the full retention of demersal shelf rockfish and black rockfish for Alaska's Commercial Fishery Entry Commission (CFEC) permit holders fishing for groundfish in the Southeast District. The demersal shelf rockfish assemblage includes yelloweye, quillback, canary, tiger, copper, china, and rosethorn rockfish. A permit holder fishing for groundfish must retain, weigh, and report all demersal shelf rockfish and black rockfish taken. The Southeast District includes waters in the EEZ as well as state waters (ADF&G, news release)¹.

The fishery

The lingcod fishery takes place primarily in May and June each year. Fishermen typically fish for only one or two weeks. There is relatively little bycatch in this fishery; most bycatch is rockfish. Most vessels have Southeast Alaska home ports, although a few originate in Washington. Sitka appears to be the most important home port. Lingcod fishing is a relatively minor, but not trivial, source of annual revenue for these operations. In recent years participation in the fishery has ranged between six and twelve vessels. Vessels appear to be in the range of 40 to 50 ft length overall. There is high turnover among the vessels in the fishery. From 2001 to 2007, most vessels appear to have been active in only one or two years. Only two vessels operated in all seven years. Average revenues in 2007 were about \$15,900 for participating vessels; median revenues were about \$12,400.

An examination of landings records and VMS tracks indicates that eight vessels fished for lingcod with dinglebar gear in Federal waters off of Southeast Alaska in 2007. All of these carried transmitting VMS units. None of these appear to have been required to carry VMS units to comply with other regulations, thus the presence of VMS on these vessels can be attributed to their participation in this fishery. All of these vessels have applied for and received, or indicated an intention to apply for, reimbursements for the unit purchase costs.

Costs of the VMS requirement in 2007

The average cost of acquiring a VMS unit is estimated to be \$2,068 per vessel. This includes the costs of purchase and freight, installation, brackets, sales tax, initiation fees with satellite providers, and initialization costs with NMFS. Annual operating costs are estimated to be \$188 for vessels in this fleet. This covers a month of transmissions, plus repairs and maintenance. Vessels buying VMS to comply with this regulation are eligible for a reimbursement of the purchase costs from the Pacific States Marine Fisheries Commission (PSMFC). The PSMFC was ready to reimburse Alaska fishermen for purchase costs up to \$1,750. Based on a preliminary and partial review of reimbursement records, actual reimbursements are estimated to be about \$1,500.

The total costs of the VMS requirement in 2007 to the fishing operations subject to the regulation, after accounting for reimbursements, are estimated to be between \$6,800 and \$9,000. This includes the costs to persons buying and using the VMS, and the cost to persons who may have shifted out of the fishery due to the costs of the VMS requirement. Average costs for operations

¹ Under Federal regulations (50 CFR 679.20(j)), the operator of a catcher vessel that is required to have a Federal fisheries permit, or that harvests individual fishing quota (IFQ) halibut with hook and line or jig gear, must retain and land all demersal shelf rockfish that is caught while fishing for groundfish or IFQ halibut in the Southeast Outside District. However, this does not appear to apply to a vessel that only retains lingcod, since this is not a groundfish covered under the FMP, and an FFP is not required to fish for it.

acquiring VMS and participating in the fishery were about \$756 and the average costs for vessels shifting to another fishery to avoid the requirement were a maximum of about \$756 per vessel. A significant part of the costs for vessels with VMS was composed of acquisition costs, which would not recur every year. Thus average costs in future years are expected to be lower. Average revenues from the dinglebar ling cod fishery were about \$15,900 in 2007; median revenues were about \$12,400.

The total social costs of the regulation in 2007 were estimated to be between \$17,900 and \$20,200. The total social costs differ from the costs to the fishing operations themselves, because the units reimbursed by the PSMFC are a real social cost, and the sales tax paid by the fishermen is a transfer payment and not a real social cost.

Longer term costs for dinglebar operations

VMS is a permanent requirement in this fishery. Fishermen subject to the requirement would incur transmission and maintenance costs every year, and new acquisition costs as existing units wore out or became obsolete. The estimated present value of the requirement to a single vessel owner over a 20 year horizon was estimated to be about \$9,000 (this assumes the first purchase of a unit would be reimbursed, but that there would be no reimbursement for later unit purchases).