

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Chris Oliver
Executive Director *Chris*

ESTIMATED TIME
3 HOURS

DATE: September 25, 2006

SUBJECT: Extended Vessel Monitoring System (VMS) Coverage in the Alaska Region

ACTION REQUIRED:

Initial Review of RIR/IRFA to extend VMS coverage.

BACKGROUND:

In December 2005, the Council initiated an analysis to increase the number of commercial fishing vessels operating in the EEZ off Alaska that are subject to requirements to carry a transmitting VMS. A VMS combines a global positioning system (GPS) and a radio, and sends periodic signals to overhead satellites so the location of the vessel carrying it can be tracked.

In April the Council adopted final alternatives for analysis. A Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA) was sent to you in a Council mailing on September 19, 2006. The executive summary is attached as Item D-1(d)(1). Dr. Ben Muse (NMFS) will be on hand to present the results of his analysis.



The following information was obtained from the records of the
 State of California, Department of Public Safety, on the
 subject of [Name], [Address], [City], [State], [Date].
 [Name] was born on [Date] at [Place of Birth], [State].
 [Name] is a [Nationality] and is currently residing at [Address], [City], [State].
 [Name] has been married to [Name] on [Date] at [Place of Marriage], [State].
 [Name] has [Number] children, [Name] and [Name], both born on [Date] at [Place of Birth], [State].
 [Name] is currently employed as [Occupation] at [Company Name], [Address], [City], [State].
 [Name] has no criminal record in the State of California.

Executive summary

This action would increase the number of commercial fishing vessels operating in the EEZ off of Alaska that are subject to requirements to carry a transmitting vessel monitoring system (VMS).

A VMS combines a global positioning system (GPS) and a radio, and sends periodic signals to overhead satellites so the location of the vessel carrying it can be tracked. VMS systems are described in more detail in Chapter 3 of this RIR/IRFA.

This is a Regulatory Impact Review/Initial Regulatory Flexibility Analysis (RIR/IRFA). An RIR/IRFA provides assessments of the benefits and costs of the alternative ways of taking an action (the RIR), and the impacts of the alternatives on small entities (the IRFA).

NMFS does not believe that this action will have significant impacts on the human environment, and is preparing a categorical exclusion (CE) for this action to satisfy the requirements of the National Environmental Policy Act.

In December 2005, the Council adopted the following statement of purpose and need for this action:

The need is:

The broader application of VMS to meet the increasing management, enforcement, monitoring, scientific, and safety issues caused by the development of additional spatial/temporal fishing boundaries, rationalization programs, and other evolving management and enforcement requirements.

The purposes are:

1. To ensure/maximize the viability of the management, monitoring, and enforcement of additional spatial/temporal fishing boundaries and rationalization programs in the most cost-effective and efficient manner possible.
2. To enhance the scientific understanding of the impact of fishing activity on the marine environment in the most cost-effective and efficient manner possible.
3. To permit more cost-effective and productive use of observers.
4. To increase the safety of fishing operations

In April 2006, the Council adopted the following alternatives and options:

1. No action alternative.
2. Require a transmitting VMS on any vessel with any Federal fishing permit, including vessels with IFQ and/or CDQ halibut and/or sablefish on board, when it is operating. A transmitting VMS would also be required on any other commercial fishing vessel that operates in the EEZ with authorized fishing gear (other than hand troll gear, power troll gear, and troll gear, but including dingle bar gear) as defined in 50 CFR 679.2.
3. Vessels are subject to the requirements of Alternative 2, except that they are not required to have a transmitting VMS when operating in a State-managed fishery in State waters, unless a transmitting VMS is required under another federal program. For the purpose of this alternative, a State-managed fishery means a fishery in which the landings are not counted against a Federal total allowable catch (TAC).

4. Vessels are subject to the requirements of Alternative 3, except for vessels which are subject to the VMS requirement because they have IFQ and/or CDQ halibut and/or sablefish on board, and that fish only in State waters.

The following options may apply to alternatives two to four:

- Option: Fishing vessels not required to have a federal fishing permit would not be required to have a transmitting VMS on board if the vessel operator (a) transits the EEZ with their fishing gear stowed; and, (b) notifies the USCG and NOAA OLE of their intent to simply transit the EEZ (a new check-in/checkout requirement).
- Option: Vessels less than a certain length (LOA) would be exempted. Options include (1) less than 25 feet (2) less than 30 feet, and (3) less than 32 feet LOA.
- Option: Allows for phased implementation where vessels over 32 feet LOA would be required to have VMS in 2007 and vessels equal to or less than 32 feet LOA by 2008.
- Vessels with an FFP, operating in the EEZ, without authorized gear on board (other than hand troll gear, power troll gear, and troll gear, but including dingle bar gear) are exempt.

A set of five indices was used to describe the levels of VMS coverage under the alternatives and options. Two of the indices were input oriented: (1) number of vessels covered, and (2) number of vessel-months covered. Three of the indices were output oriented: (1) volume of EEZ retained groundfish covered, (2) volume of EEZ longline sablefish covered, and (3) volume of halibut covered. The following table shows the levels of these indices associated with the four different alternatives.

Vessels and "vessel-months" covered under each alternative (excluding options to exempt small vessels)

	Alt 1	Alt 2	Alt 3	Alt 4
Number of vessels	685	2,187	2,019	1,471
Number of vessel-months	4,017	10,220	7,571	6,044
Tons of EEZ groundfish (including longline sablefish)	1,945,974	1,954,574	1,954,574	1,954,574
Tons of EEZ Longline sablefish	6,690	14,594	14,594	14,594
Tons of halibut	12,489	26,693	26,693	24,428
Average gross revenues	\$2,006,560	\$730,988	\$787,738	\$1,060,543
Notes: vessel-months are the estimated number of months in which an individual vessel had retained catch in conditions requiring VMS under the alternative.				

Options to Alternatives 2, 3, and 4 exempt vessels 25 feet and under, 30 feet and under, and 35 feet and under, from the VMS regulations. These options can significantly reduce the VMS coverage in terms of numbers of vessels, although they have relatively little impact in terms of the production of EEZ groundfish, EEZ longline sablefish, or halibut, taken by vessels carrying a transmitting VMS unit.

Benefits of VMS coverage fell into five categories: (1) enforcement benefits, (2) in-season management benefits, (3) safety benefits, (4) scientific benefits, and (5) other benefits.

VMS can make it possible to leverage existing enforcement efforts. Knowledge about the location of the fleet can make it easier for the Coast Guard to enforce a wide range of safety and fishery regulations. VMS can play an important role in monitoring compliance with no-transit zones and no-fishing zones. VMS can help deter smuggling and misreporting of the type of QS harvested in rationalized fisheries. The three action alternatives under consideration all increase vessel and vessel-month coverage above status quo levels. Alternative 2 provides the largest level of coverage. Status quo coverage of vessels harvesting EEZ groundfish is already quite high, but Alternatives 2, 3, and 4 all lead to increases in coverage of EEZ longline sablefish and halibut.

VMS is used intensively by in-season managers to determine when to open and close fisheries. VMS provides in-season managers with useful information about the levels of effort active in particular areas at particular times. This has become very useful for gauging how much longer a given TAC will last, and therefore, how much longer a given fishery may be kept open without either exceeding the TAC, or leaving fish unharvested. Managers can also use VMS information to help determine locations of high by-catch, and to implement spatial closures to reduce bycatch. Bycatch rate reduction can make it possible to harvest larger proportions of available TACs. In-season management is strongly dependent on the output-oriented measures, and particularly, on the measure for EEZ retained groundfish. This measure is already very high under the status quo, and does not increase much under any of the three action alternatives. Alternatives 2, 3, and 4 do provide significant additional VMS coverage in EEZ longline sablefish fisheries, and in the halibut fishery. While additional VMS coverage in the halibut fishery may not provide large additional in-season management benefits, it may provide some benefits with respect to control of bycatch.

The Coast Guard is using VMS in search and rescue efforts (SAR). VMS can provide a useful additional source of location information when distress calls come in. VMS information is often received much more quickly than location information from EPIRBs. Moreover, VMS information can help improve Coast Guard situational awareness in an emergency, by providing information on the locations of nearby vessels that may be able to respond with assistance more quickly than the Coast Guard can in a particular situation. The value of VMS for this purpose depends heavily on the input-oriented indices, number of vessels, and number of vessel months. All three alternatives provide increases in these over the status quo. Alternative 2 provides the largest increases, Alternative 3 provides the next largest, and Alternative 4 provides the smallest increases.

Spatial data on fishing and the environment is very important for scientific research into the fishery and environmental, and social and economic impacts of fishing and changes in fishery regulations. Fish stocks, habitat, ecosystem impacts, and social and economic patterns of fishing activity have important spatial dimensions. VMS information is a useful supplement to self-reported spatial information, and to observer reports. Much of the extension of VMS coverage will be on smaller vessels with limited, or no current observer coverage. Alternatives 2, 3, and 4 are associated with increases in input-oriented indices of coverage above status quo levels. These increases, and the associated benefits, are greatest for Alternative 2, lesser for Alternative 3, and least for Alternative 4. None of the alternatives are associated with large increases in EEZ retained groundfish coverage, but all three are associated with similar increases in EEZ longline sablefish, and halibut, coverage.

Other benefits include the benefits vessel operators would receive from their private use of VMS systems. If these benefits were large enough, vessel operators would acquire VMS themselves without a regulatory requirement. However, if they must acquire a VMS unit to meet the regulatory requirements, they may find that additional features may justify the additional expense. Potential private applications include

monitoring of moored vessels, improved communications between the vessel and vessel owner, family or friends. Widespread use of VMS may also make it possible for NMFS to end other types of reporting requirements, such as check-in/check-out requirements. The benefits from this source appear to be closely associated with the input-oriented indices of coverage (numbers of vessels and vessel months).

It is difficult to estimate the average costs of installing and operating VMS. The fleet is diverse, and there are a variety of VMS packages available. There is no statistical information about the extent to which fishermen are paying list, or a negotiated or sales price, about the time requirements for installation, about the nature of the transmission packages they are buying, or the average number of days or months they are transmitting.

Under these circumstances, the individual vessel costs used here must be considered rough approximations to plausible average values. Operations believed to acquire a VMS unit are projected to incur \$1,600 in purchase and freight, \$239 for installation, \$60 for brackets, \$150 for initiation fees, \$114 for sales taxes, and \$11 for a notice to NOAA. Annual operation costs assume \$155 for a month of operation by vessels that already have VMS, \$56 for a month of operation by a vessel acquiring VMS, \$5 for drydock fees per month for months when a vessel acquiring VMS does not operate its VMS, and \$77 in annual maintenance and repairs.

Lost fishing time due to unexpected breakdown of VMS units may be another cost. Anecdotal information so far indicates that the number of breakdowns necessitating NOAA OLE involvement is relatively small. Moreover, NOAA OLE does not normally require a vessel to interrupt a fishing trip and return to port (although each case is handled individually). However, a vessel with a defective VMS will have to get it repaired before it leaves port. The potential for delays in leaving port, and disruption of fishing schedules, creates the potential for costs to fishermen.

The RIR presents detailed cost estimates, and compares them to 2004 gross revenues, for each Alternative, and for each of the small vessel exemptions under each alternative. Estimates are presented for all vessels, for those that already have VMS and will see the number of months of transmissions per year increased, and for those that will have to acquire VMS and begin to transmit each year.

Costs and revenues from the alternatives for vessels that must acquire VMS under the alternatives (excluding options to exempt small vessels)

	Alt 2	Alt 3	Alt 4
Number of vessels	1,502	1,334	786
Average number of new vessel-month transmissions	4.0	2.6	2.4
Average gross revenues	\$149,253	\$161,881	\$236,089
Average installation costs	2,174	2,174	2,174
Average annual costs	\$343	\$267	\$259
Ratio of average installation costs to average gross revenues	1.5%	1.0%	0.9%
Ratio of average annual costs to average gross revenues	0.2%	0.0%	0.1%

Ratios of average installation and average annual costs to average gross revenues can be considerably higher for smaller vessel classes under these alternatives.

An Initial Regulatory Flexibility Analysis (IRFA) was performed, pursuant to the Regulatory Flexibility Act. An IRFA examines the potential adverse economic impacts of an action on small entities.

The entities potentially regulated by this action are those (1) with Federal permits to fish in the EEZ off of Alaska, or (2) that have IFQ and/or CDQ halibut and/or sablefish on board, or (3) that do not have a federal permit, but that do operate in the EEZ (either fishing in a State managed fishery, or in transit through the EEZ). The number of small entities that may be affected by this action include (1) 2,046 vessels that fish in the EEZ, (2) 19 support vessels, and (3) potentially 526 vessels that fish in State managed fisheries other than salmon and herring, and that may desire to transit the EEZ.

The IRFA presents detailed cost estimates, and compares them to 2004 gross revenues, for each Alternative, and for each of the small vessel exemptions under each alternative. Estimates are presented for all vessels, for those that already have VMS and will see the number of months of transmissions per year increased, and for those that will have to acquire VMS and begin to transmit each year. This analysis parallels the analysis provided for all vessels in the RIR.

All the vessels that would acquire VMS for the first time under this alternative are small entities. A table summarizing the costs and revenues for these vessels under the alternatives without the small vessel exemptions, would look like the preceding table.

Enforcement Committee DRAFT Minutes

October 3, 2006 5:30pm

October 4, 2006 5:00pm

Grand Aleutian Hotel

Makushin Room

Dutch Harbor, Alaska

Committee present: Captain Mike Cerne, Cathy Coon (staff), Roy Hyder (chair), Bill Karp, Ken Lawrenson, LT Alan McCabe, Jeff Passer, LCDR Lisa Ragone, Sue Salvesson, Herman Savikko, Lauren Smoker, and Garland Walker.

1. Report on VMS Initial Review for EA/RIR (Ben Muse)

Dr. Ben Muse (NMFS AKR) provided an overview on the draft RIR/IRFA on Vessel Monitoring Systems. The document contains input provided by the Committee. The Committee commends Ben on the entire analysis and recommends to the Council that the document be released for public review.

The Committee discussed certain issues within the document pertaining to enforcement, and requests some amendments to the document for the next iteration.

The Committee recommends the document include some assessment of the value of the fisheries not covered by VMS. Currently the document contains a table that provides volume (in terms of metric tons) and the value of the fisheries may also provide some valuable information in the review.

The Committee discussed the options available to the Alternatives, and highlighted that a clarification may be warranted under the transit option. The analysis currently evaluates an exception to operating VMS on vessels while transiting the EEZ by requiring gear stowage and a check in call to NOAA OLE or U.S. Coast Guard. The Committee would like the Council to consider the gear stowage and the call to enforcement as an "either/or" situation instead of both being required. The Committee supports the gear stowage option and feels the "call in" is not necessary and may be difficult for vessels to comply with. A "call in" could also be man-power intensive to enforcement. The Committee noted that the gear stowage exemption would be consistent with current law that allows foreign fishing vessels to pass freely through the EEZ if they have their gear stowed.

Additionally, NMFS enforcement had a specific comment relative to law enforcement response to VMS failures. This pertains to Section 3.3 of the analysis. It was noted that there are no cases from Alaska to Hawaii and to U.S. western Pacific territories where enforcement has ever directed a vessel back to port when its VMS failed. They have always worked with vessels by telephone, fax, or radio contact to allow the vessel to complete a trip. It is important, however, to continue to give enforcement the authority to direct a vessel to port on a case-by-case basis if there is an overriding concern about compliance with other regulations.

Suggested Agenda Items for the next meeting

1. Halibut Charter (Captain Cerne)
2. MRA
3. VIP Appeal Analysis (NMFS staff)
4. VMS (February)
5. AIHCA Modification (February)

Southeast Alaska Fishermen's Alliance

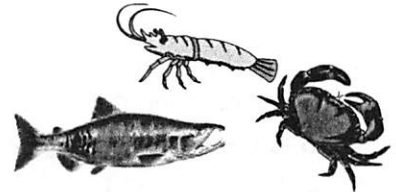
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September 28, 2006

Ms Stephanie Madsen, Chair
North Pacific Fishery Management Council
605 West 4th Ave, Ste 306
Anchorage, AK 99501

Dear Ms Madsen and Council Members,

Re: Groundfish Management D-1 (d) Initial Review VMS

Southeast Alaska Fishermen's Alliance (SEAFA) supports alternative one (status quo) in the draft RIR/IRFA for Extended VMS Coverage in the Alaska Region. Alternative 2 expands the coverage to all IFQ permit holders even in State waters. Satellite coverage in the inside waters of Southeast Alaska is sporadic at best which can be verified by any fisherman who tries to use a satellite phone or a satellite radio which often cuts in and out in many places. Southeast Alaska is a mountainous region with the inlets and passages meandering throughout.

We feel that requiring VMS on vessels that fish IFQ's for halibut or sablefish will significantly change the design of the IFQ program and in fact will go against the original problem statement and goals of the IFQ program. This action will tend to consolidate the fleet to fishing on fewer vessels equipped with VMS and other required Coast Guard vessel equipment. The original goals of the IFQ program included entry level participation by a variety of vessel class sizes, and by preventing consolidation within the vessel classes.

On page iv of the Executive summary it states that NMFS is preparing a categorical exclusion for this action. The impacts on the human environment have not been addressed in the RIR/IRFA. We believe that impacts to the human environment exist. Some aspects include the feeling of being guilty before being proven innocent by small vessel owners. Commercial fishermen have compared VMS to ankle bracelets used on prisoners. The consolidation that will occur with a VMS requirement will impact the economy of the coastal communities.

We object to the imposition and cost of VMS when there still exists the threat of open-ended allocation without compensation of halibut to the charter fleet. When VMS is expanded someone will figure out how to intercept the data and track where people are fishing for their own use.

We believe that VMS is best implemented on a program by program basis for a specific purpose or used as part of a person's penalty if convicted of a federal fisheries violation.

It appears in reading the RIR/IRFA that almost all the justifications for an expanded VMS coverage is for the groundfish fisheries in the EEZ and really is not appropriate justification for expanded coverage of the Halibut and Sablefish IFQ fishery.

In your problem statement you wanted to enhance the scientific understanding of the impact of fishing activity on the marine environment in the most cost-effective and efficient manner possible. Logbooks which are currently required are the most cost effective measure for the IFQ fisheries.

Alternative 2, 3 & 4 (with associated options) for expanded VMS coverage does not significantly increase the coverage of retained groundfish in the EEZ. The increase is in the coverage of vessels with halibut and sablefish IFQ's. This program has been in existence for many years, VMS does not provide any benefits to in-season management of the IFQ fisheries (page 47 RIR/IRFA). Length of season has not significantly changed in this time period.

One of the justifications is the improvement of safety by knowing what other vessel are in the area to provide assistance. But if know one is available to answer the radio or telephone the Coast Guard is not going to be able to ask them to provide assistance so it doesn't help. Unless as part of the VMS requirement is the requirement to hire a crewmember to do nothing but monitor the phone and radio 24 hours a day in which case you need to significantly change the economic costs of the analysis.

One of the sub-options of Alternatives 2, 3 & 4 is to exempt vessels less than 25 feet, 20 feet and 32 feet. In some of the analysis for this sub-option it is pointed out that the cost of the VMS would be more than the gross income for the boat. This really should be looked at in a poundage fashion and not length of vessel for the IFQ fisheries. There are vessels in the D class that fish significant number of IFQ shares while there are vessels in the C class that fish under 1,000 pounds of quota share that a requirement for VMS would make it impractical and uneconomical

to participate in this fishery with their vessel - they will either sell the shares or fish on another vessel.

Assume that Alternative 2 was adopted so that anyone who held IFQ was required to have VMS even in State waters - how do you handle the owner of IFQ's that fish on another vessel? Can you require a Chatham Blackcod permit holder to have VMS? In other words how do you tell what fishery the longline gear on board in state waters is for? Alternative 2 states that . . . "including vessels with IFQ and /or CDQ halibut and/or sablefish on board, when it is operating. How do you handle the situation where $\frac{1}{2}$ way through a fishing trip for salmon, the fisherman decides to fish for halibut because the salmon trip wasn't very profitable? Could you turn it on at the time you decide to fish? How do you tell by a VMS line on a map what fishery an individual/vessel is involved in? Under the proposed alternatives for expanded VMS coverage - will the inside "donut holes" be considered part of the EEZ?


The Coast Guard is still going to have to fly and run vessel patrols as VMS only tells you where the boat that is legally fishing is located at and does not address the ones who most likely are breaking the law. In reading the RIR/IRFA it admits that the Coast Guard has been working under decreased assets available for the use of domestic fisheries law, aging assets causing mechanical breakdowns and increased maintenance. The dispersed fishing activity is not the main reason for lack of reaching the target goal of boardings. The log book data can tell you where significant amounts of quota share are fished or cooperation with the fishing fleet could tell you where the fleet is most of the time. The commercial fishermen are not the enemy nor are most of us intentionally breaking the law. If violations are down in the fishery could it be that the call in notification of landing, logbooks and electronic reporting has decreased the ability to break the law. It seems that in the IFQ fisheries, mis-reporting 2C/3A halibut could be monitored by watching the boundary line.

In the section of analysis regarding the cost of VMS compared to gross revenues - commercial fisherman tend to look at participation in a particular fishery as whether that fishery is economical in costs vs potential income and not in terms of their overall gross income. For example, this analysis is not accurately reflecting the vessels that own small amounts of halibut/sablefish IFQ's regardless of vessel size versus the cost of initial purchase or the operating costs of a VMS. This is acknowledged on page 69 with the statement, "In the IFQ fisheries, some small operations may find it optimal to deal with the VMS requirement, not by buying a VMS, but by selling their QS. This may promote consolidation of QS and a reduction in the number of QS holders. QS holders may also deal with the costs by stacking QS on vessels, so that the QS would be fished by fewer vessels, and

overall VMS costs would be reduced." This will affect the local communities with less vessels participating in the fishery, less gear being bought, less fuel etc. The cost of the quota share would likely decrease under a requirement for VMS coverage and the ability of entry level participants to get started in the fishery will be decreased with the additional costs associated with VMS. These changes that would occur to the IFQ program would affect the NMFS loan program.

SEAFAs strongly encourages you to adopt alternative one (status quo) as the preferred alternative and not extend VMS coverage. Satellite coverage in Alaska is sporadic and should be considered in the analysis.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kathy H", followed by a long horizontal line extending to the right.

Kathy Hansen
Executive Director