

Enforcement Committee Agenda

April 2, 2013

1pm – 4pm

Fireweed Room, Hilton Hotel

Anchorage, Alaska

I. D-1(a) Initial review of Round Island transit analysis

Background

At the June 2012 meeting, the Council initiated a regulatory amendment to address a problem related to enforcement concerns with existing regulations. Currently, vessels with Federal Fishing Permits are prohibited from transiting between 3 and 12 nm around Round Island and Cape Pierce, between April 1 and September 30.

At the December 2012 meeting, the Council received an update from staff concerning consideration for transit corridors to be included in the regulatory amendment. One such corridor would be north of Round Island to allow tenders to support herring fisheries in the Togiak area and Amendment 80 vessels to transit from fishing grounds to lawful roadsteads to conduct transshipment operations. A primary consideration in developing any proposed management measures is avoiding disturbing walrus at a more recently developed walrus haulout at Hagemeister Island, and addressing transiting vessels that might be crossing the route that walrus take when moving south from Round Island to their feeding grounds in Bristol Bay. The other corridor request is through the federal walrus protection area at Cape Peirce. Currently, tenders can lawfully travel within State waters to Security Cove or other herring fishing areas in the proximity of Cape Peirce and Cape Newenham. A problem statement and alternatives were provided at the December meeting to address these corridor issues.

II. D-1(c) Review expanded discussion paper on retention of 4A halibut in sablefish pots

Background

In December 2012, the Council considered a proposal to the IPHC to redefine legal gear to include (sablefish) pots (single or longline) as legal gear in Area 4A. The redefining legal gear to allow this IPHC change would also require Federal rulemaking. The result of this action would only allow the use of sablefish pots fished in the Bering Sea and Aleutian Islands to retain only Area 4A halibut IFQs. The Council requested an expanded discussion paper to address four additional concerns:

1. Determine whether there is overlap in the spatial and/or temporal distribution of halibut longlining and sablefish pot fishing in the portion of Area 4A to which this proposal would apply.
2. Discuss the potential need for the following regulations:
 - a. Requiring the removal of sablefish pots from the fishing grounds up completion of the harvest of the vessel's sablefish IFQ, and at the end of the season.
 - b. Requiring radar reflectors or other gear markers at both ends of a longline pot string.
 - c. Prohibiting "pot sharing" while pots are in the water.
 - d. Prohibiting the modification of sablefish pot tunnels.
3. Discuss the physical and market condition of halibut incidentally caught in sablefish pots.
4. Provide a discussion of the experiences and lessons learned by the industry and managers in Areas 2A and 2B from allowing the retention of halibut incidentally caught in sablefish pots, including retention caps.

III. Revocation of VMS access for State fishery managers

Background

Recently ADFG fishery managers have had their direct access to the federal VMS database revoked by the NOAA Office of Law Enforcement HQ, despite having had an agreement in place since 2007. The agreement allowed individual managers/biologists to have access to VMS data through specific accounts. State enforcement continues to have access, so this issue only affects fishery managers in the regions (Dutch, Kodiak, etc.). Commissioner Campbell responded with a letter sent in December outlining the need for VMS access for managers/biologists (see letter attached at the end of agenda). NOAA OLE HQ responded stating that it was their policy through the Joint Enforcement Agreement with partner states only to provide direct access to state enforcement personnel, and it was determined that ADFG fishery managers' accounts had been provided in error (see letter attached at the end of agenda). Regional OLE staff has been helpful in trying to communicate the ADFG's need for VMS access to HQ staff, with no resolution.

The primary reasons ADFG managers need access to VMS data for multiple fisheries ADFG jointly coordinate and manage with NMFS (specifically crab, scallop, and Pacific cod):

- To assess fishery effort in-season and in anticipation of a closure (how many and which vessels are actively participating)
- To collect biological samples (tracking tenders or fishing vessels for delivery locations & ETA)
- To assess fleet distribution/harvest areas – we are authorized to close areas if we have concerns about localized depletion
- To verify vessels are staying out of closed waters, most notably for SSL
- To verify actual fishing locations to amend fish tickets if the fish ticket notes an erroneous statistical area

IV. Implementation recommendations for other VMS features for vessels already subject to VMS requirements

Background

The Council in December 2012 recommended that the Enforcement Committee assess the utility of features such as geo-fencing, increased polling rates, and declarations of species, gear, and area, for improving enforcement efforts and efficiency for vessels already subject to VMS requirements.

In the North Pacific, VMS is a relatively simple system that sends vessel identification and location at fixed 30-minute intervals. However, VMS units are capable of much more. A VMS unit may incorporate targeted species, gear, and area declarations, variable poll rates, geo-fencing, and transfer of data such as electronic log books.

Declarations

A declaration system requires a vessel operator to declare on their VMS unit which species is being targeted, the gear being used to target that species, and the area the vessel will be targeting these species. Creating a fishery declaration system would facilitate enforcement and compliance monitoring. Vessels may be permitted to participate in multiple fisheries that authorize numerous fishing gears. The declaration system would provide NOAA OLE with advance notice of the target fishery and the gear possessed onboard, which provides Enforcement with critical information concerning which regulations apply to that particular vessel during that trip. A declaration system is not currently utilized in the North Pacific region. One example of a declaration system currently in use is in the Northeast region. Vessels in

that region must declare target species, gear, and area to be fished and are not permitted to change this declaration while outside a VMS demarcation line.

Polling Rate

The rate at which VMS units send signals can be remotely programmed or altered. Units in North Pacific are programmed to report every 30 minutes but can be reprogrammed in response to pre-defined criteria. For example, a vessel can be monitored more frequently. Obviously, more frequent reports mean more data and therefore a more accurate picture of the vessel's activity, but also increased data management costs. NOAA OLE may sometimes program a VMS unit to report a vessel's position more frequently, for example, if it appears to be operating near a no-transit or no-fishing zone. In another example, increased polling rate may be needed when vessels are operating in medium or small no fishing zones. The required one poll every 30 minutes may not be sufficient enough to know if a vessel is transiting through a no fishing zone or if the vessel is fishing. In general, the average additional cost to the VMS user for each incremental additional poll, repeated over the entire month, is \$25.88.

Geo-fencing

A unique feature of VMS is the ability to use geo-fencing, which is setting a virtual perimeter for a geographic area. When used in conjunction with VMS, geo-fencing allows Enforcement to create an area which, when entered by a vessel equipped with VMS, will trigger an automatic increase in the polling rate. When the vessel exits the area, the polling rate will be reduced to the normal one poll every 30 minutes. Geo-fencing allows for alerts (general email or text message) to be sent to the agency or VMS user if deemed necessary. Increased polling as well as email alerts would result in higher VMS costs that may need be borne by industry using these areas.

Geo-fencing is a spatial management application not currently utilized in Alaska. However, its application has potential, for example in conjunction with EFH and HAPC conservation areas. Currently, VMS in Alaska is used to monitor fishing activities within EFH and HAPC conservation areas. A geo-fence creates an electronic spatial extension of specific area. The fence monitor is triggered when the electronic transmitter crosses the fence or boundary line. Importantly, more than one parameter can be linked to an individual VMS transmitter, including position, vessel characteristics, type, and speed. Of course, not all vessel behaviors warrant a closer look when operating within an area. A closer look could be triggered when a vessel of certain type enters a geo-fence and exhibits certain behavior, such as reduced speeds for fishing. In this instance, the vessel's speed would be at slower than normal transit speed (approximately 4 knots). Vessel type and behavior would alert OLE VMS observers for further investigation, if warranted. Lastly, the geo-fence would be activated when a vessel carrying VMS first crosses the boundary line and then at specific intervals, depending on the size of the area and the required confidence needed to adequately monitor vessel activities in each area, until the vessel departs the geo-fenced area.

Two-way communication

VMS units can also be used to communicate through electronic messages with shore-based fishery personnel, which could allow fishery participants to: communicate directly with NOAA OLE in the case of a power disruption; download updated software without removal of the device; communicate with manufacturers to remedy malfunctions; receive required software upgrades with little interference; communicate with vessel owners and processors; and send distress calls to monitoring companies in the event of an emergency. One example of the communication features of VMS is the transmitting of electronic logbooks. Currently, electronic logbooks are sent daily via email for those fleets required to transmit their electronic logbooks. However, electronic logbooks could be sent via the VMS units. Although not necessarily useful for fleets that currently have satellite communication capabilities,

transmitting electronic logbooks via VMS for smaller vessels that don't have satellite communication capabilities could be significant.

V. Update on definition of halibut charter guide

Background

In April 2012, the Council received a report from the NOAA Office of Law Enforcement highlighting a fishing practice in Area 2C that may allow anglers to circumvent charter halibut daily bag and size limits and allow operators to provide sport fishing guide services without the required Charter Halibut Limited Access Permit (CHLAP) for the Pacific halibut charter sector.

Beginning in 2011, law enforcement staff observed “unguided” halibut fishing to anglers, where guides provide assistance to anglers for compensation from adjacent vessels or shore, presumably to circumvent the Federal regulations that limit charter halibut anglers. In general, State regulations require that charter logbooks be filed for harvests by anglers receiving guide services from adjacent vessels or shore, because the state definition of “sport fishing guide services” does not require the guide to be aboard the vessel with clients. Based on this agency report, the Council requested a discussion paper to review the different Federal and State definitions of charter guide in order to determine if the current Federal regulatory definitions used to determine charter fishing are consistent with its intent for management of the charter halibut harvests

In February 2013, the Council reviewed interagency staff discussion paper and adopted a problem statement and alternatives and options for an analysis to revise Federal regulations to close this loophole. The Council adopted the No Action alternative for analysis, along with a second alternative to revise and clarify the federal definition of “sport fishing guide services”. The Council also adopted options to revise the definition to remove the language “by being onboard a vessel with such person;” and within the definition of sport fishing guide services define (a) compensation, and (b) assistance.



THE STATE
of **ALASKA**
GOVERNOR SEAN PARNELL

**Department of
Fish and Game**

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December 19, 2012

Director Bruce Buckson
US Department of Commerce/NOAA
Office for Law Enforcement
8484 Georgia Avenue, Suite 415
Silver Springs, MD 20910

Dear Director Buckson:

In October 2012, fishery managers with the Alaska Department of Fish and Game (ADF&G) were notified that their real-time access to the vessel monitoring system (VMS) through individual vTrack accounts was erroneously granted and their accounts were disabled. These accounts, some of which had been active for four or more years, were authorized through forms provided by the Office for Law Enforcement (OLE): State vTrack Account Activation/Change Form and Non-Disclosure Agreement. As an alternative, OLE has allowed state managers to participate in the State VMS data request process, in which data requests are responded to on a monthly basis. This system is not feasible or timely for inseason fishery management purposes.

ADF&G's original appeal for real-time access was requested, and subsequently granted, in the attached 2007 letter to the Alaska Regional Administrator, Dr. Balsiger, and OLE Special Agent-In-Charge Jeff Passer. Rationale for real-time access provided in that letter persists, as VMS data are a critical management tool to ensure that our shared fishery resources are managed sustainably. Please consider this letter as our formal request to have vTrack accounts reinstated as soon as possible for ADF&G fishery managers.

Harvesters will begin prosecuting Bering Sea opilio crab and federal/state Pacific cod fisheries on January 1, 2013. State regulations requiring VMS are at 5 AAC 28.087 *Management Measures in Parallel Groundfish Fisheries for Protection of Steller Sea Lions* (c) and 5 AAC 39.670 *Bering Sea/Aleutian Islands Individual Fishing Quota (IFQ) Crab Fisheries Management Plan* (c)(1). These state regulations, adopted specifically in response to the need for state and federal fishery coordination, require the use of VMS in parallel groundfish and all rationalized Bering Sea-Aleutian Islands crab fisheries. Access to VMS is necessary because management of the Bering Sea crab fisheries is deferred to the State of Alaska under the federal *Fishery Management Plan for Bering Sea/Aleutian Islands King and Tanner Crabs*. Harvests of Pacific cod in parallel and state waters fisheries utilize the same federal stock assessment process to

establish catch limits; therefore, it is important to ensure state managers are able to adequately control harvests in state waters. Real-time VMS access is vital to accomplishing this task.

ADF&G also relies upon the VMS database for inseason management of the Alaska scallop fishery. The scallop fishery in the exclusive economic zone off Alaska is jointly managed by the National Marine Fisheries Service and ADF&G under the federal *Fishery Management Plan for the Scallop Fishery off Alaska*. Inseason management of the scallop fishery is delegated to the State of Alaska in the federal fishery management plan.

In sum, real-time access to VMS data during multiple fisheries is critical to preventing over-harvest and localized depletion; ensuring that biological data, necessary for stock assessment and management purposes, is collected in a timely manner; and enforcing Steller sea lion protection measures.

Cooperation between our enforcement and management agencies has proven invaluable and will continue to be essential as staff and fiscal resources remain limited. We look forward to your response and resolution of this issue as soon as possible.

Sincerely,

Cora Campbell
Commissioner

Enclosure

cc: Mr. Tracy Dunn – Deputy Director, OLE Headquarters
Ms. Kelly Spalding – VMS Management Analyst, OLE Headquarters
Mr. Jim Balsiger – Regional Administrator, Alaska Region
Ms. Sherrie Myers – Special Agent in Charge, Alaska Division
Mr. Jeff Regnart – Director Commercial Fisheries, Alaska Department of Fish and Game



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Silver Spring, MD 20910

January 24, 2013

Commissioner Campbell
Department of Fish and Game
Office of the Commissioner
1255 West 8th Street
P.O. Box 115526
Juneau, Alaska 99811

RE: Federal VMS data access

Dear Commissioner Campbell,

I have had the opportunity to review your letter dated December 19, 2012, and while I appreciate the value ADF&G finds in federal VMS data for their fisheries management purposes, the NOAA Office of Law Enforcement (OLE) will not reinstate vTrack access for the ADF&G Biologists.

OLE offers direct access to VMS data, by way of vTrack accounts, to personnel in the fisheries law enforcement offices of our Joint Enforcement Agreement (JEA) partner States. We make VMS data available to State fisheries management offices by request without providing direct access to the System. This differentiated data-sharing practice holds true for all of our JEA partner states.

Following a comprehensive audit of our JEA partners' vTrack accounts in August 2012, it was determined that the accounts given to the ADF&G Biologists were given out in error, and in contrast with our data sharing policies. We apologize for the mistake.

We recognize the valuable role that VMS data plays in fisheries management, and we are prepared to deliver VMS data to you on a per request basis.

Sincerely,

Bruce Buckson
Director, NOAA Office of Law Enforcement

cc: Tracy Dunn, Jennifer Werner, Kelly Spalding, Jim Balsiger, Sherrie Myers, Jeff Regnart

