

SUMMARY: NMFS is proposing a rule that would require vessels registered to Pacific Coast groundfish fishery limited entry permits to carry and use mobile vessel monitoring system (VMS) transceiver units while fishing in the exclusive economic zone (EEZ) off the coasts of Washington, Oregon, and California. This action is necessary to monitor compliance with large-scale depth-based restrictions for fishing across much of the continental shelf.

This proposed rule also requires the operators of any vessel registered to a limited entry permit and any other commercial or tribal vessel using trawl gear, including exempted gear used to take pink shrimp, spot and ridgeback prawns, California halibut and sea cucumber, to declare their intent to fish within a conservation area specific to their gear type, in a manner that is consistent with the conservation area requirements. This action is intended to further the conservation goals and objectives of the Pacific Coast Groundfish Fishery Management Plan (FMP) by allowing fishing to continue in areas and with gears that can harvest healthy stocks with little incidental catch of low abundance species.

DATES: Comments must be received by July 21, 2003.

ADDRESSES: Send comments to, D. Robert Lohn, Administrator, Northwest Region, NOAA Fisheries, 7600 Sand Point Way, NE, Seattle, WA 98112, Attn: Becky Renko. Comments also may be sent via facsimile (fax) to 206-526-6736. Comments will not be accepted if submitted via e-mail or Internet.

Copies of the environmental assessment/regulatory impact review/initial regulatory flexibility analysis (EA/RIR/IRFA) prepared for this action may be obtained from the Pacific Fishery Management Council (Council) by writing to the Council at 7700 NE Ambassador Place, Portland, OR 97220, phone: 503-820-2280, or may be obtained from William L. Robinson, Northwest Region, NMFS, 7600 Sand Point Way N.E., BIN C15700, Bldg. 1, Seattle, WA 98115-0070. Send comments on collection-of-information requirements to the NMFS address above and to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB), Washington DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Becky Renko or Yvonne deReynier (Northwest Region, NMFS) 206-526-6140.

SUPPLEMENTARY INFORMATION: This rule is accessible via the Internet at the

Office of the Federal Register's Web site at <http://www.access.gpo.gov/su-docs/aces/aces140.htm>. Background information and documents are available at the NMFS Northwest Region Web site at <http://www.nwr.noaa.gov/1sustfsh/gdfsh01.htm> and at the Council's Web site at <http://www.pcouncil.org>.

Specific Request for Comments

NMFS is specifically seeking comment on: the requirements to send declaration reports prior to leaving port; prohibition of vessels registered to limited entry permits with trawl endorsements from activities other than continuous transit through the Trawl Rockfish Conservation Area; and the requirement for continuous VMS position reports, particularly as it applies to small vessels that are regularly removed from the water.

Background

In general, a variety of methods are used to routinely monitor fishing fleets to ensure that vessel operators comply with fishery regulations. Traditional techniques used to monitor marine fisheries have been relatively limited and include monitoring from air and surface craft, through on-board observer programs, and by analyzing catch records and vessel logbooks. The efficiency of these traditional monitoring techniques can be enhanced by the addition of VMS and the use of declaration reports.

VMS is a tool that allows vessel activity to be monitored in relation to geographically defined management areas. VMS transceiver units installed aboard vessels automatically determine the vessel's position and transmit that position to a processing center via a communication satellite. At the processing center, the information is validated and analyzed before being disseminated for various purposes, which may include fisheries management, surveillance and enforcement. VMS transceivers automatically determine the vessel's position using Global Positioning System (GPS) satellites. Generally, the vessel's position is determined once per hour, but the position determinations may be more or less frequent depending on the fishery. VMS transceivers are designed to be tamper resistant. In most cases, the vessel owner is not aware of exactly when the unit is transmitting and is unable to alter the signal or the time of transmission. On September 23, 1993 (58 FR 49285) and March 31, 1994 (59 FR 15181) NMFS published VMS standards for transceiver units and

service providers used for Federal fisheries management.

Information collected under a VMS program is subject to the confidentiality provisions of Section 402 of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 6 U.S.C. 1881 a(b), and implementing regulations at 50 CFR part 600, Subpart E. These authorities specify in detail who may access and use the information and for what purposes.

Amendment 13 to the Pacific Coast groundfish FMP recognized the value of VMS systems in enforcing closed areas established to reduce bycatch levels. Amendment 13 also identified VMS as a technological tool that could be used to improve bycatch management by providing location data that can be used in conjunction with observer data collections.

Time and area closures have long been used in the Pacific Coast groundfish fishery to restrict fishing activity in order to keep harvests within sector allocations and at sustainable levels and to prohibit the catch of certain species. Until September 2002, geographically-defined areas tended to be in nearshore areas or defined by simple latitude and longitude lines. On September 13, 2002, NMFS took emergency action to implement the first depth-based management measures (67 FR 57973). This emergency rule restricted trawling north of 40°10' N. lat., in the months of September-December 2002, to depths where darkblotched rockfish, an overfished species, was not expected to be encountered. These measures were taken to keep the total catch of darkblotched rockfish below the 2002 Optimum Yield level. The Darkblotched Rockfish Conservation Area was a depth-based management area based on bottom depth ranges where darkblotched rockfish commonly occur (100-250 fm). This large, irregularly-shaped geographical area was defined by a series of latitudinal and longitudinal coordinates which generally follow depth (fathom) contours. This area differed from previously closed areas because it extends far offshore making air and surface craft enforcement difficult.

For 2003, the Council sought a management strategy that would allow fishing to continue in areas and with gear that can harvest healthy stocks with little incidental catch of low abundance species such as bocaccio, yelloweye, canary and darkblotched rockfish. Measures must be taken to protect these