

stocks and rebuild them to sustainable biomass levels. Therefore, the Council recommended that NMFS define additional management areas for the groundfish fishery that are based on bottom depth ranges where these low abundance species are commonly found. For 2003, large-scale depth-related closed areas, referred to as rockfish conservation areas or RCAs, are being used to restrict both commercial and recreational fishing across much of the Continental Shelf. Different RCAs are established for different gear types, as not all gear types encounter each overfished species at the same rate or in similar areas. For example, groundfish bottom trawling is banned in some RCAs (known as trawl RCAs); use of non-trawl gear -- such as limited entry and open access longline, pot or trap is banned in other RCAs (known as non-trawl RCAs).

Within the RCAs, fishing likely to result in the catch of substantial amounts of overfished species is banned, while other fishing is allowed. In addition, transit of the RCAs by fishing vessels headed for open areas seaward of the RCAs is allowed.

The depth-based management strategy associated with the RCAs is designed to allow fishing for healthy stocks to continue, while protecting overfished species. However, it presents new enforcement challenges, and requires new tools such as VMS to supplement existing enforcement mechanisms. NMFS and cooperating enforcement agencies (such as the U.S. Coast Guard and state marine law enforcement agencies) will continue to use traditional enforcement methods such as aerial surveillance and marine patrols that have proved effective in the past. Adding requirements for VMS and declaration reports will allow the enforcement agencies to continuously monitor vessels fishing in, and transiting through, the RCAs.

At its September 2002 meeting, the Council indicated that the information provided by a VMS program will be beneficial to managing the groundfish fishery, specifically, in maintaining the integrity of new, depth-based management measures. At this same meeting, the Council requested that NMFS further analyze a VMS program and develop implementing regulations.

At its November 2002 meeting, following public comment and Council discussion, the Council recommended that NMFS move forward with a proposed rule to implement a VMS program for the Pacific Coast groundfish fishery in 2003. During the initial phase of this program the Council recommended starting with requiring

vessels registered to limited entry permits fishing in the EEZ off the Washington, Oregon, and California coasts to have VMS transceiver units. This is intended to be a pilot program that begins with the sector that is allocated the majority of the groundfish resources. In order to implement a VMS program effectively, the Council also recommended requiring the operator of any vessel registered to a limited entry permit; and any 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.

Although the Council recommended that NMFS fully fund a VMS monitoring program, it is not possible at this time because neither state nor Federal funding is available for purchasing, installing, or maintaining VMS transceiver units, nor is funding available for data transmission. Because of the critical need to monitor the integrity of conservation areas that protect overfished stocks, while allowing for the harvest of healthy stocks, NMFS believes it is necessary to proceed with this rulemaking. To move this rulemaking forward at this time it is necessary to require fishery participants to bear the cost of purchasing, installing, and maintaining VMS transceiver units, VMS data transmissions, and reporting costs associated with declaration requirements. If state or Federal funding becomes available, fishery participants may be reimbursed for all or a portion of their VMS expenses.

Declaration Reports

Before the vessel is used to fish in any trawl RCA or the Cowcod Conservation Areas (CCA) in a manner that is consistent with the requirements of the conservation areas, a declaration report will be required from (1) any vessel registered to a limited entry permit with a trawl endorsement; (2) any vessel using trawl gear, including exempted gear used to take pink shrimp, spot and ridgeback prawns, California halibut and sea cucumber; and (3) any tribal vessel using trawl gear. In addition, declaration reports will be required from vessels registered to limited entry permits with longline and pot endorsements, before these vessels can be used to fish in any Non-trawl RCA or the CCA. The declaration report must be submitted before the vessel leaves port on the trip to fish in an RCA or CCA. Each declaration report will be

valid until cancelled or revised by the vessel operator. The declaration report must state the type of fishing in which the vessel will engage. If the type of fishing changes, a new declaration report must be submitted.

During the period that a vessel has a valid declaration report on file with NMFS, it cannot fish with a gear other than a gear type that is within the gear category (50 CFR 660.303 (b)(5)) declared by the vessel. In addition, on any trip on which a vessel fishes in an RCA or CCA, the vessel cannot participate in any fishing that is inconsistent with the restrictions that apply within the RCA or CCA.

Declaration reports will be submitted to NMFS by using the VMS system or another approved method, such as email, facsimile or telephone, as identified by NMFS. Vessel operators making declaration reports will receive a confirmation notice or number that verifies that the reporting requirements were satisfied.

Declaration Requirements Example #1: If a vessel registered to a limited entry permit with a trawl endorsement leaves port on a trip to harvest Pacific whiting during the primary season, and the vessel is not used in another commercial fishery in the EEZ off the coasts of Washington, Oregon, or California during the year, a declaration report will be required before the vessel leaves port on its trip to harvest Pacific whiting with midwater trawl gear in the Trawl RCA. This is the only declaration report required for this vessel.

Declaration Requirements Example #2: If a vessel registered to a limited entry permit with a trawl endorsement is used to harvest pink shrimp inside the Trawl RCA from April to June; Pacific whiting inside the Trawl RCA from June to September; flatfish from areas not inside the Trawl RCA from September to December; and crab both inside the Trawl RCA and from areas not inside the Trawl RCA in December; the following declarations will be required: in April a declaration will be required to identify the gear as pink shrimp, spot and ridgeback prawn trawl gear; in June a declaration will be required to identify the gear as limited entry midwater trawl gear; in September a declaration will be sent to cancel the declaration to fish in a conservation area; in December a declaration will be sent identifying the gear type as crab or lobster gear. Each declaration report would be sent before the vessel leaves port on the first trip under that declaration.