

Draft Safe Harbor Protocol
VMS-Enforcement Committee
NEFMC

April 2007

One motion approved at the April 9, 2007 committee meeting asks NMFS-OLE to develop a protocol for Safe Harbor using VMS. Although this motion was not passed on to the Council, it will be on the table at the next meeting in June.

At the last meeting, GCNE made the argument that a safe harbor protocol should not be developed because OLE would be flooded with spurious requests. Additionally, NMFS said that anyone can seek safe harbor now, but **may be required to** forfeit any catch that violates possession limits. The protocol proposed below may resolve the first question, and allow the vessels seeking safe harbor to keep their catch until the trip ends, which is, of course, the purpose of the Safe Harbor protocol in the first place.

Additionally, GCNE indicated that there have been only a few safe harbor incidents in the past, obviating the need for such a protocol. The counter argument is that the penalty of forfeiting their catch has forced most vessels seeking safe harbor, never to do so.

- The safe harbor protocol will have a sunset provision of six months, after which it will be discontinued unless reauthorized.
- NMFS may suspend the safe harbor protocol at any time, for example, on a clear, calm day when it receives hundreds of safe harbor requests.
- A safe harbor declaration may be made for any reason (or, only for specified, pre-listed reasons, such as weather, injury, or breakdown).
- A safe harbor declaration may be made by VMS notification, by radioing the Coast Guard, or by telephoning the USCG, OLE, or the state into which safe harbor is sought.
- **An enforcement agent receiving a safe harbor declaration has the discretion to deny the request.**
- The vessel must use the same notification avenue to indicate that the safe harbor period has ended, and the vessel is about to continue its trip or is ending its trip (in the latter case, catch forfeiture for possession limit violations will apply).
- The vessel may not leave the safe harbor area until the second notification is made.
- Allowing a safe harbor declaration is advantageous to enforcement agencies for two reasons; a notification will give the enforcement agencies a location and time when the initial threat to the vessel is identified (and they may increase polling, or have assistance standing by), and will enable them to have an agent meet the vessel while it is in the safe harbor area.
- The safe harbor protocol is advantageous to the vessel because it eliminates the financial penalty for playing it safe, and it sends up a red flag whenever a fisherman perceives a threat to the vessel and makes the declaration.

- Any and all of the items in this protocol may be changed, removed, or added to before authorization or during re-authorization, but not during an authorized safe harbor period (of six months, or some other time period).