VMS-Enforcement Meeting
Summary
February 6, 2007

Safety, compliance, and VMS: Introduction

Rodney Avila, committee chairman, began the meeting by observing a moment of silence for the lost fishermen of recent vessel sinkings.

Everyone around the room introduced themselves (attendance attached).

OLE Presentation

Bill Semrau, VMS Program Manager in the Northeast, then gave a PowerPoint presentation showing the capabilities and limitations of current VMS (attached).

VMS Recommendations

Dave Goethal, a VMS user, described how the vendor supplies a confirmation code (for each declaration sent), but not to NMFS. Bill Semrau replied that this acknowledgement is not an approval from NMFS, but rather a reply from the VMS vendor that the declaration code was received and being forwarded to NMFS. Dave went on to describe how, in July, he phoned to get 10 DAS removed for a "blank" fishery. Bill said that, in the case of SkyMate vessels, a copy of the declaration code goes to two places; it is sent by the satellite provider to both SkyMate and to NMFS, Bill stated that there is a data latency problem with the satellite provider (ORBCOMM) which could result in declarations being received out-of-order. Bill said that he could not comment on why a blank code was transmitted to NMFS and would have to look into the issue.[1] Jon Pinkerton, National VMS Program Manager, said that they are aware of the data delivery problems and are working on a solution. He also said that NMFS will soon require all vendors to report in the same way.

Dave Goethal then asked how the build up of ice affects the VMS on smaller vessels, which are low to the water? Sally Beasley of SkyMate answered that the VMS unit must be 4 feet away from any obstructions. Dave replied that, on his boat for example, the VMS cannot be 4 feet from anything. Sally asked for his name and number so they could work out a solution.

Bill Semrau asked the Thrane & Thrane representative if icing and obstruction were issues with their units. Charlie Natoli replied that they have VMS requirements and that he would check on them.

Dave Goethal stated that a 24 hour operation is needed; that normal business hours are not viable. Bill Semrau explained it's just the VMS Team that works business hours, and VMS <u>can be</u> monitored 24/7 by on-duty <u>NMFS</u> OLE agents <u>and</u> the Coast Guard. Dave complained that a fisherman doesn't know who gets a VMS form. He wants to be able to talk to a person.

The VMS-Enforcement committee will produce a laminated sheet with prioritized points of contact: USCG, OLE hot line, and states' law enforcement. In terms of Safe Harbor messages, this sheet will instruct fishermen how to contact enforcement agencies by email, phone, and VHF radio.

Dave Marciano, a VMS user, asked: at what point will VMS become useful for counting DAS. He said the DAS count never matches up with the VMS start/end of a fishing trip; or, he gets all the starts but only 20% of the end-of-trips. He saw delays or lags as the problem. Bill Semrau stated that crossing the demarcation line starts the fishing trip in all fisheries, but it's really the first VMS ping after crossing that line. Furthermore, the

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[1] Bill subsequently researched the blank code problem and determined that NMFS had noticed the problem and determined it was the result of incorrect unit provisioning for Mr. Goethel's vessel by ORBCOMM. Provisioning includes a set of speed dials that determine where data is sent. In this case, the vessel had an incorrect speed dial for declarations.

emails to the VMS stating the start-of-trip are delayed several hours, for a reason. Additionally, system anomalies or bugs continue to be a problem with the new DAS II database implemented by (NERO) IRM, but they want to provide trip information to fishermen. Rodney Avila reiterated that the fishing trip starts at the first position (VMS ping) and not at the receipt of the email.

Eric Anderson, a VMS user, said that the three VMS Team members are great to work with, but that it's an antiquated system. Fishermen were more than patient, and tolerant of the start-up problems with their VMS. He stated that it shouldn't be a courtesy email; it should be required. He bemoaned the "fisherman is always at fault" attitude. He described the situation where the most restrictive permit drives your VMS polling: never declaring into the general category (scallop) IB fishery, but into multispecies, he was polled double (every ½ hour). Eric wanted the polling to be based on what your fishery declaration is. Bill Semrau stated that the NE regulations required reporting based on permit. Bill could not answer whether it was feasible to change the reporting rate by declaration and would have to research. He also felt that such a change is a management issue for NERO. Gene Martin, GCNE, said the minimum polling rate is paid for by the fisherman, and that NMFS needs to work on the discrepancy. Gene ended by stating that the amount of polling depends on the scallop regulations.

Jon Pinkerton, National VMS Program Manager, said they were never requested to change polling based on the declaration, but that 3 out of the 4 providers can do it. He responded to the issue of the courtesy DAS balance provided by OLE, and stated that it is the Regional Office's responsibility to track DAS. Eric Anderson said, if the system can evolve to allow the fisherman's review of his DAS, then that would be very important and helpful. Gene Martin, replying to the polling-by-declaration issue, stated that would not be allowed if the regulations don't allow it. Scallops, groundfish, monkfish, and herring all have different requirements in this regard. Eric countered that the agency determined the polling, not the council. Rodney Avila reminded everyone that the VMS-Enforcement committee can request such changes, to be made by the appropriate authorities.

Jim Kendall paraphrased the argument of a fisherman who holds two permits, but one is not used. He said some people suggest that the fisherman get rid of the unused permit; Jim questioned why. He wouldn't speak for the vendors, although he has worked for one of them, but he felt we need better than that kind of argument. Rodney Avila stated that the committee will make a recommendation. Todd Dubois, representing OLE, said they will look to fix the situation.

Phil Ruhle made, and Mike Leary seconded, the following MOTION:
The committee recommends that the council send a letter to NMFS requesting that they investigate change to VMS polling based on the declaration of fishery.
The motion passed 4-0, with 1 abstention.

Mike Leary asked what happens when an expected polling does not occur. Bill Semrau responded that it's typical across vendors for NMFS to miss a position report and that the

factors can vary. Bill also said that OLE has analyzed VMS outages for a six month period. Mike wanted to know, in those situations, do you (OLE) contact the vessel? Bill said that NMFS OLE is most concerned with lengthy outages and typically contacts vessels with these outages to check their VMS units for proper operation.

Carl Bouchard, a VMS user, counts his DAS, and gets emails both at his home and on the boat, normally. He was concerned about the email disclaimer, which says the DAS reported may not be the amount charged. Bill Semrau explained that the trip notification e-mails (trip start and end) are sent automatically by NMFS and that it is not the NMFS VMS system that determines the DAS charge; but rather the DAS database is a separate system that receives a daily feed of VMS trips and determines the DAS charge. He thought a web page to see the DAS charge would be a good idea. Carl questioned the different counting for fisheries. Bill answered that, for example, differential accounting is 2:1 in the GOM DA^2 for the entire trip, and 2:1 only while inside the SNE DA during the trip. Rodney Avila wanted to know if you could see your DAS charge on the web page, by using your PIN number. Bill wasn't sure since the DAS webpage has yet to be implemented.

Carl Bouchard shared the same frustration as Eric Anderson with respect to the double polling. He said it depends on which fishery you're in. Herring permit holders can turn off their VMS, and general category scallopers can too. He said his boat's been on the mooring for 7 days, and the battery is probably dead. All boats should be able to shut down; he wanted equity. Todd Dubois replied that OLE always recommended 24/7 polling. He understands the issue, but enforceability is what is important to NMFS OLE. Jon Pinkerton added that polling 24/7 or shutting down is the single biggest issue, world-wide. Carl said that a multispecies fisherman gets 24 DAS per year, and that's ridiculous! With the former call-in system, if you were caught, you paid your fine. A multispecies boat with 24 DAS is on the mooring for 335 days a year.

Dave Marciano said that polling across vendors is different as well; he has SkyMate. He asked if NMFS had looked at polling across vessels. If missed polls occur more on one vessel, is that vessel a target, and can that vessel find that out? Todd Dubois replied that OLE definitely looks at outages. Routine outages make a target, but there is no violation for a technical issue with the VMS. Dave finished saying he's not getting confirmation emails and has no idea how many DAS he used.

Phil Ruhle appreciated NMFS' effort to get DAS on the web page, but wanted to know what the timeline is. Bill Semrau said that OLE won't develop the web page. Mike Pentony replied that there is no timeline, that the IRM staff is currently working on it, and that it's a matter of getting the DAS II database on the web before fishermen can access it.

The committee recommends that the council send a letter to NMFS encouraging the completion of a DAS web-page as soon a possible.

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[2] Differential area

Phil Ruhle continued that he is trying to wrap up his fishing year with regards to DAS counting. He had more problems during the last month, such as trips with starts but no end, and trip ends but no starts. Craig Pendelton said that he is now shrimping, and during a trip he is ½ in and ½ out of the demarcation line. Phil agreed that's a problem, because he did the same a week ago and got an email message from last November.[3]

Dave Goethal asked how VMS information is shared with the Coast Guard, and what the failure rate is. He described a recent thunderstorm in which his VMS was off for 14 hours and he was assumed to be fishing. He asked again, when is the Coast Guard notified when the unit is off? Rodney Avila responded that VMS is not real-time, and it is not watched 24 hours a day. Bill Semrau replied that positional data is continually sent to the Coast Guard, but for enforcement purposes. With respect to safety, OLE doesn't have 24/7 coverage, and if they miss a signal, they cannot know why. He said the VMS Team usually calls the vessel when there are lengthy outages. Dave wanted this issue investigated, and a protocol established. Rodney thought that the committee would recommend something concerning NMFS to USCG communications.

Jim Kendall has advocated a Panic button in the past, but he said few fishermen took advantage of it. He thought that the industry was using the VMS units only marginally. When a vessel's VMS signal is lost, Boatracs is notified, but what is the cause? We need a Panic alarm, and Boatracs can speak to that. We cannot keep taking these losses. Bill Semrau indicated that the vendors can help in this regard.

Deb Foste, the Boatracs representative, indicated two Boatracs options. First, after 1 or 2 hours of outage, the vessel is called. Second, a Panic button can be installed for $65, and when it is used it sends a message to both Boatracs and Qualcomm. The owner must pre-determine how to handle such an event, that is, who is contacted next.

Charlie Natoli, the Thrane & Thrane representative, said that their VMS unit has a Distress monitor on the editor, which, when activated, gives the position, time, and vessel identity, or it can send an email.

Nick Ortyl, the Faria representative, said their unit can be set up with 5 email addresses or 5 phone numbers. You push a button to activate it.

Sally Beasley, the SkyMate representative, anticipated that in April they will provide a button that sends both voice mail and email. This will require a software upgrade, which must be installed by the operator.

Rodney Avila asked the Boatracs representative how many phone numbers their unit can notify. Deb Foste replied that the owner must decide how many.

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[3] Fishremen have been told to use the IVR Call-In system if they intend to (1) fish inside the VMS demarcation line or (2) in and out of the demarcation line on the same trip; reason is that VMS may start and end trips prematurely as the vessel crosses the line. Also, Phil's receipt of a trip notification e-mail from last November is likely related to an inadvertent problem caused by a VMS contractor recently that resulted in old trip e-mails being sent out. This was an isolated issue

Phil Ruhle recommended to the vendors that they need a button. We also need to prevent false alarms, as the Coast Guard already gets lots of false ERIPB signals.

The committee recommends that the council send a letter to all VMS vendors, including potential vendors, asking them to contact their clients and explain in detail how their safety features work, and encouraging fishermen to implement any needed procedures immediately (this may be done through the next billing cycle).

CAPT Joe McGuiness, USCG, stated that the EPIRB device is the primary emergency signal and may be turned on manually in the event of an emergency. It turns on automatically in the event of a catastrophe. Joe also said that false ERIRB signals are a problem, and implored the committee to assure that the Coast Guard won't get flooded with false alarms.

Jim Ruhle then said that the MAFMC won't go forward with VMS. He explained that VMS should be a two-way street. The Mid-Atlantic Council requires VMS on surf clam boats, but not on squid, mackerel, butterfish boats or anything else. He tried squid reporting using VMS and doesn't advocate it. AIS may be a better unit in the future, according to Jim.

Rich Canastra, Whaling City auction, flew from New Bedford in his plane, and said the air controllers could see him all the time. We need the same for boats. Rodney Avila replied that AIS will be that.

Todd Dubois understood the frustration. To use VMS as a tool, there are things now that allow less restriction in closed area operation. Jim Ruhle agreed in concept, but he still won't require it.

Jim Ford, Lisa Ann II, commended Boatracs. With everything that happened the other night; he got the email on the lost position of the Lady of Grace. You just need to be a little quicker, he stated. SkyMate and Boatracs may need to communicate. He was 60 miles from the Lady of Grace, and guesses he was the closest Boatracs vessel. He'd like to see the Coast Guard monitor both, more, because there was an 8 hour delay. Rodney Avila stated we must have a protocol, that one hour is not enough. Jim replied that he gets polled two times an hour.

Deirdre Casey, GCNE, asked, is polling increased if a Panic button is activated, and when does the Coast Guard react. Nick Ortyl of Faria said it is the vendor's choice.

Phil Ruhle said that all fishermen need notification in safe harbor situations. If you press the macro button, it sends a message and the screen shows phone numbers. Rodney Avila indicated that that is all available, and is dealt with on a case-by-case basis. The fishermen don't know about its availability. For example, send the macro on Boatracs and then call the Coast Guard when in.

Maggie Raymond, Associated Fisheries of Maine, questioned the safe harbor process. Rodney Avila compared the committee's desire for a sheet of contacts with OLE's case-by-case approach. He reiterated that not every captain knows it is possible to call-in to OLE for safe harbor permission. Maggie replied that the fisherman is still in violation, even if he cannot unload, and must still decide what he should do. Todd Dubois stated that regulations are not designed for every possibility, and fishermen must work with the agents. Maggie responded that it is helpful to know that Enforcement will accommodate this type of situation. Rodney felt that fishermen didn't understand the current procedure.

Phil Ruhle said that a Panic button is not a solution for safe harbor notification, and that a list of phone numbers (call USCG first, call OLE, call state agents) was needed.

Kurt Blanchard, Division of Enforcement, said that RI has a 24/7 dispatch center, and felt the states should be higher up on the list.

Carl Bouchard complained that it was hard to hear in the meeting room.

Phil Ruhle stated that, whether the vessel makes phone calls or sends emails, it needed confirmation.

Rodney Avila described his personal procedure: call the Coast Guard on VHF, call Massachusetts on the phone, and finally phone NOAA.

LCDR EJ Marohn, USCG, was concerned that the Coast Guard would be notified by 100's of boats. Rodney Avila said it wouldn't be a problem, and expected no more than 2 or 3 instances per year.

Other Business:

Eric Anderson said that we have had two late tragedies, and discussed VMS use today. We need a report from the Coast Guard on the AIS system, and other systems…to satisfy an investigation of other vessels in US waters. Jon Pinkerton replied that the recent Magnuson reauthorization requires it within 14 months. Eric felt that this VMS issue and Homeland Security overlap.

Jackie Odell, Northeast Seafood Coalition, delivered a hand-written note requesting the committee to ask NOAA for information concerning the penalty schedule (original attached), which states as follows:

- The committee should request from NOAA any information they may have relative to graduated penalty / fee schedules used as guidance for enforcement and legal council.
- The industry would like the committee to develop an incremental / graduated fee schedule for nominal violations of minimum mesh size, fish sizes, and possession limits with the specific purpose of assisting enforcement by setting forth a schedule that is consistent with the biological and behavioral benefits intended by the measures.
- A thoughtful designed set of graduated fee schedules will provide clear and defined thresholds for what constitutes a serious and intentional violation with economic motives as compared to inadvertent and biologically inconsequential violations.
- The industry believes this will benefit enforcement and the industry by removing much of the difficult subjective decisions done by enforcement personnel when regulations lack specific guidance from NEFMC.

Dave Marciano requested that the council take advantage of VMS. With VMS, permanent and rolling closures are not necessary, he said. Big and straight areas were needed for enforcement, but what about now? Differential counting of DAS is needed, not rolling closures. These closures should be re-looked, if spawning protection is the goal. Phil Ruhle agreed that future closed areas don't need straight lines, but maybe the current ones should stay that way. He thought VMS should allow more flexibility, in terms of drawing lines, and that we should redesign overall regulations, given VMS capabilities. Rodney Avila added that this committee could provide input to the species committees.

Todd Dubois was concerned that we have different gear and trip limit regulations, in different areas. He questioned how to enforce these different trip limits.

Phil Ruhle raised the issue of transit of closed areas and gear stowage.

The committee charged the staff to develop guidelines for how VMS effects all current regulations. This may be achieved by updating all enforcement analyses of all plan's regulations, not just the most recent.

Dave Goethal wanted no changes until the current system works. He found it hard to get information. We recently had changes to hardware, software, and the satellites! We should use what works now.

Ron Smolowitz, a gear designer, asked if the committee will comment on the turtle chain rule. He said that the description in the minutes from the committee's November 30, 2006 meeting were alright. He continued that that 14 inch measurement is a significant problem. Deirdre Casey responded that this is not a council rule. Ron answered that comment is the responsibility of the council.

Phil Ruhle asked if the turtle chain rule is under advisement. Mike Pentony said the rule is under ESA, and there is no review. Rodney Avila asked: NMFS cannot change this rule? Mike replied no, the agency may take action to end the rule, but it cannot change it. Rodney said he preferred a change in the measurement and not an end to the rule.

Ron Smolowitz said the fishing industry looked at options for measurement. The smallest turtle is two feet wide. He never tested the measurement, just the number of chains. NMFS eliminated public comment from the record, he said.

Jim Kendall thought it a dangerous measurement, and the Coast Guard should be concerned. He said that NMFS made a technical adjustment.

Phil Ruhle made, and Mike Leary seconded, the following MOTION:
The committee recommends that the council send a letter to NMFS asking that the turtle chain rule be evaluated to allow a description of the chain configuration to allow for safety reasons. [The committee feels that having a Coast Guard boarding officer stand under a scallop dredge to measure the turtle chains while a scallop dredge is suspended in the air and the vessel is rolling is un-safe]
The motion was approved 2 in favor, 0 against, and 3 abstentions.

Mike Pentony described most issues as being with enforcement, and not with the rule itself. Deirdre Casey acknowledged the issues raised, but said NMFS was not commenting because of an impending law suite.

Phil Ruhle reminded the committee that it had discussed MAFMC representation.
Phil Ruhle made, and Mike Leary seconded, the following MOTION:
The committee recommends that the MAFMC have a voting member on the NEFMC VMS-Enforcement committee.
This motion was approved 5 in favor, 0 against.

Closed session:

After the meeting adjourned, the six committee members met privately and approved new advisors.

Attendees: Rodney Avila, Phil Ruhle, Mike Leary, Todd Dubois, Joe McGuiness, E J Marohn, Michael Pentony, Kurt Blanchard, Harry Graff, Chuck Juliand, Kyle Overturf, Robert Taber, Moira Kelly, Charlie Natoli, Mitch MacDonald, Deirdre Casey, Dave Marciano, Jim Ruhle, William Semrau, Jon Pinkerton, Deb Foste, Sally Beasley, Nick Ortyl, Dave Goethal, Gene Martin, Craig Pendelton, Jim Ford, John Tulik, Ron Smolowitz, Jeffrey Marston, Jim Kendall, Paul Lane, Eric Anderson, Carl Bouchard, Maggie Raymond, Mike Russo, Rich Canastra, Jackie Odell, Rosanne Mizzoni, Mary Beth Tooley, Louis Goodreau

Attachments:

VMS presentation PPT
Odell note PDF