

**NWX-DOC CONFERENCING**

**Moderator: Cliff Hutt  
September 23, 2013  
1:00 pm ET**

Coordinator: Welcome and thank you for standing by. At this time all participants are in a listen-only mode. During the question-and-answer session, please press star 1 and record your name as prompted. Today's conference is being recorded. If you have any objections, you may disconnect at this time. I would now like to turn today's meeting over to Cliff Hutt. Thank you. You may begin.

Cliff Hutt: Thank you everyone for joining us. Today we're having a Webinar and conference call to take in public comment on a proposed rule to monitor reporting requirements for vessel monitoring systems for Atlantic HMS fisheries.

All right, currently three classes of HMS vessels are required to have VMS units onboard their boats, all pelagic, all vessels using pelagic longline gear, vessels with directed shark permits and gill-net gear onboard between the dates of November 15th and April 15th of each year.

And vessels issued directed shark permits that are using bottom longline gear and fishing between the latitude of 33 degrees north and 36 degrees 30

minutes north latitude, basically in the mid-Atlantic closed area when that area is closed which is generally from January 1 to the end of July.

Each VMS unit is required to be installed by a qualified marine electrician and the basic reporting requirements as they are now involve turning on the VMS unit and hailing-out at least two hours before leaving port.

That's to make your hail-out declaration indicating what species you're pursuing, what gear you're using. The vessels are currently required to hail-in no less than three hours before returning to port to land HMS.

They are required to provide hourly location signals while at sea and currently boats are allowed to turn their VMS units off upon returning to port. Since January 1 of this year we've been requiring vessels to utilize enhanced mobile transmitting VMS units.

These units were adopted to facilitate better communications between fishermen and NOAA Office of Law Enforcement to transmit location signals automatically on an hourly basis to allow for declarations of target species and gear types and to provide for e-mail communications while on the vessel.

The idea was all this would allow us to reduce the need for enforcement officers to board and inspect vessels at sea by allowing greater communications between the vessels and the office of law enforcement.

However, since implementing those rules we have gotten some comments and feedback from people both in the commercial fishing industry and from the NOAA Office of Law Enforcement for some needs changes, tweaks to the rules.

Some fishermen have found it burdensome to have to hail-out two hours before leaving port especially if they have gear that really doesn't require much prep time in advance of hitting the water. We've had reports from enforcement of some fishermen hailing-in several days in advance of landing because the current requirement is kind of open-ended.

As long as it's just three hours before landing, there's no kind of upper-end limit on when a hail-in can be issued other than, you know, after the hail-out so in some cases if vessels are out for multiple days if not weeks, they might issue their hail-in immediately after issuing their hail-out and this makes it difficult for law enforcement to coordinate boat inspections upon the vessels' return to port.

Some fishermen have also indicated that they find the hail-out and hail-in requirements burdensome when they are not targeting HMS species and we've also gotten indications that allowing fishermen to turn the units off when the vessel is at port is not consistent with other fisheries' regulations.

Other fisheries that are currently required to use VMS are generally required to provide 24/7 location reporting at all times whether the vessel is at sea or in port. To deal with these issues, we're proposing to require HMS vessels that are required to use VMS to provide hourly location signals at all times 24/7 whether the vessel is at sea or in port.

Unless the vessel operator obtains a documented exemption from NOAA Office of Law Enforcement which would be available in situations where the vessel is going to be in port or out of the water for an extended period of time such as when the vessel is going into dry dock or the fishermen just won't be fishing for a couple of weeks or more. That would be to allow, you know, for a reduced burden of cost when the individuals aren't fishing.

We are also proposing to allow fishermen to wait until leaving port to issue their hail-out which would be more consistent with other fisheries and, you know, because we'd be requiring hourly pings even when the vessel is at port it would make coming in and hailing-out two hours in advance redundant and unnecessary.

NMFS does not anticipate that going to these 24/7 reporting would result in a significant increase in reporting costs for most vessels as most VMS plans currently charge a flat fee, a flat rate for location ping reporting and these rates average about \$44 per month on average according to the data we have.

We are also proposing to in addition to requiring vessels to hail-in no less than three hours before landing, we also want to add to that that they are required to do so no more than 12 hours before returning to port so that would give vessels about a nine-hour window in which to issue their hail-in declaration and get into port. This would allow for better facilitation of dockside inspections with NOAA Office of Law Enforcement.

We also are proposing to provide fishermen the option to declare out of the HMS fishery. If the only fishery in which they're participating in that requires VMS reporting is an HMS fishery and they're going to go fish for something else, if they issue one of these declare-out declarations, they would then no longer be required to issue hail-out and hail-in declarations each time they go out to fish.

And this would be for any cases of a period of time encompassing two or more trips targeting non-HMS species. Now obviously if those other non-HMS species you're targeting are species that you're also required to do VMS

reporting for, you would still have to issue a hail-out declaration for that species.

In this case a hail-out and hail-in would not be required unless the vessel owner or operator incidentally catches an HMS species while fishing for something else in which case they would then be required to issue a hail-out declaration from sea and then issue a hail-in before landing if they wanted to bring that HMS species back in to land it.

They would still be required to provide the 24/7 location signals so issuing a declaration out of the fishery does not allow you to turn the unit off. It would still have to remain on so that you're providing the 24/7 hourly location pings.

And the vessel would still be bound to all other applicable HMS regulations that are tied to the permit so no going into closed areas or whatnot because you declared out of the HMS fishery.

We are currently requesting comment on all aspects of VMS data collection and reporting burden because we are doing a full renewal of our Paperwork Reduction Act authorization so this would include comments on the proposed change to 24/7 reporting unless the operator has a documented power-down exemption.

Comments on the option to declare out of fishery when not fishing for or retaining HMS for two or more trips, the proposal to modify the advanced time range from the hail-out and hail-in requirements, the time and costs associated with the installation of the units and the time and costs associated with the operation of the units and issuing transmissions.

So we're looking for public comment on all those things if anyone has any comments on them. Individuals can make comments by either submitting them electronically to regulations.gov. Go to the Website that's listed above, click on "Comment Now" and complete the required fields.

Comments can also be submitted by mail to the HMS Management Division addressed to Margo Schulze-Haugen, our Division Chief. They can also be sent to us by fax. They can be submitted over the phone and we ask that when submitting comments that commenters include the identifier NOAA-NMFS-2013-0132 so that we can keep track of them for this rule.

Additionally questions about the Atlantic HMS VMS regulations and the new proposed rule can be addressed to either myself, Clifford Hutt, or Karyl Brewster-Geisz at HMS headquarters in Silver Springs and questions about the VMS program in general can be submitted to Patrick O'Shaughnessy who is with the Southeast Office of Law Enforcement and he's the VMS Program Manager down there at the numbers provided.

And that's the end of the presentation and at this time we'll open it up to questions and comments.

Coordinator: Thank you. We will now begin the question-and-answer session. If you'd like to ask a question, please press star 1. Make sure your phone is unmuted and record your name slowly and clearly and to withdraw that request you may press star 2.

Once again for a question or a comment, press star 1. One moment while we standby for questions or comments. And we do have a question or comment coming from Greg DiDomenico. Your line is open.

Greg DiDomenico: Hello, this is Greg DiDomenico of Garden States Seafood Association. I have a few questions if you have the time and can indulge me. One of the questions is what exactly is this facilitating for law enforcement purposes?

Cliff Hutt: The broader - the whole - are we talking about VMS in general or the things specific to the current proposed rule?

Greg DiDomenico: The current proposal.

Cliff Hutt: Basically we want to get, you know, we wanted to make our reporting requirements more consistent with the other fisheries. A lot of our fishermen had indicated that having to show up two hours in advance was burdensome and in order to compromise, to get rid of that with, you know, OLE Office of Law Enforcement they wanted us to go to the 24/7 reporting.

Because the whole point of having them, the hail-outs, go out two hours before leaving port was to get at least a couple of location pings while the boat was still at the dock.

Greg DiDomenico: Yes, no, I'm very pleased that you guys have revised that original proposed rule in the reporting requirements. It's encouraging but we're trying to figure out the burden that this puts on people and the cost is for what reason, what is law enforcement trying to enforce? What's the issue?

Cliff Hutt: The issue is monitoring the position of vessels largely to make sure that they are not going into the closed areas.

Greg DiDomenico: Okay, okay, let me specify then. The people who are going to be burdened by this in my particular sphere of influence or under our organization are people with a shark LAP. There's no intention to harvest HMS species,

they're not going to be going into any closed areas. There seems to be - they're from New Jersey - they're not going to be fishing in Florida or anywhere else down south.

For those vessels that fit this particular case, what does law enforcement want to - what compliance, what issue, what regulation - are we looking to enforce?

Cliff Hutt: Greg, are these vessels with gill-net gear?

Greg DiDomenico: Yes.

Karyl Brewster-Geisz: Hi Greg, it's Karyl Brewster-Geisz. How are you?

Greg DiDomenico: Hey, Karyl, how are you?

Karyl Brewster-Geisz: So I think the rule you are looking for is the one where we reconsider the number of people using gill-nets and where they are located in regard to whether or not they need to use VMS and that action is being considered in a separate rulemaking from this. This rulemaking was just to look at the 24/7, the hail-in/hail-out, the declaring out of fishery.

Greg DiDomenico: So you're saying in a subsequent rulemaking we may be relieved of this?

Karyl Brewster-Geisz: So at the moment, yes, what we're proposing is that you could declare out of fishery but yes, those vessels would still need to have VMS and still report 24/7 and then we are considering in a separate rulemaking whether or not to change the scope of the VMS requirement for gill-net vessels.

Greg DiDomenico: Okay.

Karyl Brewster-Geisz: Did that answer your question?

Greg DiDomenico: Well, with the separate rulemaking, is one of the alternatives that they will not have to do this any longer?

Karyl Brewster-Geisz: That would be looking at the scope of that, yes.

Cliff Hutt: It may depend on like...

Karyl Brewster-Geisz: Yes, and there are other factors but yes, it would be looking at whether or not I think the main concern you were thinking of is the requirement that all gill-net vessels no matter where they are, if they have a directed shark permit need to have VMS...

Greg DiDomenico: Right.

Karyl Brewster-Geisz: ...and that would be the scope that we're looking at...

Greg DiDomenico: Okay.

Karyl Brewster-Geisz: ...in a separate rulemaking.

Greg DiDomenico: Now as it is now with this rule, they would have the option to issue that declaration out of fishery and they wouldn't have to hail-out or hail-in each trip anymore but they'd still have to have the unit on providing the hourly pings...

Cliff Hutt: Right but if they're not fishing period for extended period of time, they can contact the NOAA Office of Law Enforcement and get a documented

exemption that would allow them to turn off their units, a power-down exemption.

Greg DiDomenico: Okay. Karyl in this subsequent rulemaking, are you considering expanding it to all vessels who have HMS permits? Is that one option?

Karyl Brewster-Geisz: You mean expanding it to recreational permit-holders?

Greg DiDomenico: To the for-hire sector.

Karyl Brewster-Geisz: No, that isn't one of the things we're looking at.

Greg DiDomenico: Okay.

Cliff Hutt: We're more looking at reducing the number of vessels that would have to have it.

Greg DiDomenico: Great. Okay. Thank you very much.

Coordinator: Thank you and again as a reminder if you have a question or a comment, please press star 1. Make sure your phone is unmuted and record your name slowly and clearly for introduction and it is star 2 to withdraw that request. Our next question or comment comes from Terri Beideman. Your line is open.

Cliff Hutt: Welcome Terri.

Terri Beideman: Can you hear me?

Karyl Brewster-Geisz: Yes.

Terri Beideman: Yes. Can you flip back I don't know maybe three slides, I had a question.  
Okay.

Cliff Hutt: Any questions or comments?

Terri Beideman: Pardon me? No, I think it was the next one. No, maybe even the one before that.

Cliff Hutt: Could you tell me what we were talking about?

Terri Beideman: Yes, go ahead back to 6, I think. I'm sorry. I was trying to, okay, so you have the option to declare out and how does that actually happen? Maybe you described it, I might not have heard it.

Cliff Hutt: Okay. There's an option on the units for a declare out of fishery declaration that, I mean, some of the other fisheries currently already have this option where you issue a declaration out and basically that becomes your declaration and that stays your declaration until you make another one.

So if you're not fishing for HMS or in any other fisheries that require VMS, you can issue that declaration out of fishery and that'll remain your declaration until such time as you start fishing again for HMS or some other species, some other fishery that requires VMS reporting and you issue a declaration back into that one or a hail-out declaration saying I'm going out for swordfish with pelagic longline.

Terri Beideman: Okay, all right, so they could just declare out and let's say that they had monkfish permits.

Cliff Hutt: Yes.

Terri Beideman: And they opted out - declared out - of the fishery as on HMS and what I'm trying to reconcile is this we'd still be required to have the VMS on and providing locations and...

Cliff Hutt: Yes, because we still want to be able to monitor where the vessels are.

Terri Beideman: ...right, even though the monkfish fishery does not necessarily require it. Is that correct? I mean, I don't know but I'm assuming you know which ones require VMS tracking and which ones don't but...

Cliff Hutt: The purpose of the declare-out option was just to relieve the boats of the burden of having to hail-out and hail-in each trip. They would still be bound to all the other applicable HMS regulations so if you've got an HMS permit and you're not allowed into certain closed areas, even if you declare out, you're still not allowed to enter those closed areas.

Karyl Brewster-Geisz: And declaring-out doesn't tell us what species you're going to be targeting. All it does is it says you're not targeting HMS.

Terri Beideman: Okay, all right so you discussed a power-down exemption, okay, and I saw that you have a slide but, I mean, there is possibilities that people would actually have, you know, electrical problems, you know, my house does that on occasion. I don't know exactly how people are supposed to handle that, if it's just a really short-term thing.

I mean, this seems to work well if you know you're going into the boatyard and you're going to be there for three weeks or whatever but how would you handle like enforcement for, you know, I mean, I used to have to power-down the boat when I had a mechanic working on my generator.

You know, I had no juice going through anything so it wouldn't be pinging any VMS so...

Cliff Hutt: Terri, I mean, that happens sometimes, and enforcement is aware of that and they're usually pretty good about, you know, being cooperative in those situations. Usually they just ask that you contact them and let them know that something's wrong, explain why there might be a temporary, you know, loss of communication and they'll work with the vessel operator in those situations.

Terri Beideman: **But there's nothing in this rule that says that if that should happen that people have to do a certain thing and then their butt is covered more or less.**

Cliff Hutt: I mean, we really don't specifically cover that in this rule. That's just a general like day-to-day operations issue.

Terri Beideman: Right.

Cliff Hutt: Where you'd have to, you know, communicate with, you know, the office of law enforcement and coordinate with them. I mean, they've had cases where, you know, people have issues with the units and they just have them call in.

Terri Beideman: And I do know that NMFS is very aware that there are certain brands and providers of equipment that have problems and, you know, I know that you're aware of it that, you know, fishermen, you know, have purchased these so-called approved units and or actually been reimbursed for them in some cases and they are unreliable and you know that.

If you've heard that message many times, not just hear, so I'm wondering, you know, is the Office of Law Enforcement aware of these issues and willing to give flexibility, you know, people are human beings.

Not everybody that works upon boats or every fisherman for that matter, you know, is capable of assessing properly the situation and coming to termination (of a) malfunction rather than some attempt to (obfuscate) their activities.

Karyl Brewster-Geisz:        So Terri I think Pat O'Shaughnessy is on the phone as well so I'm hoping he can jump in and answer any of the questions you had about the short-term power-downs that might be needed. Pat?

Pat O'Shaughnessy:    Yes Terri, this is Pat O'Shaughnessy in the Southeast VMS office. Our current technicians work hand-in-hand with the owners and some of those problems and issues you're mentioning that would impact the 24-by-7 reporting, we're already dealing with the current reporting system.

So what would normally happen particularly with the 24-by-7 reporting is when a vessel stops reporting, we receive notice of that on reports that we run and if the owner isn't contacting our office to let us know why their unit may have gone off due to loss of power or work on a generator, it shows-up on our list and our VMS technicians are reaching out to the owner.

And those are always our first calls is to the owner to try to find out if the unit went off and they're not aware of it or if they're working on it and just didn't remember to call us so the first phone call isn't for an agent or state officer to show up at the vessel writing a ticket.

It's to try to find out what has happened to the unit or why there might be a reason why it has gone offline and stopped reporting and Matt Walia is our

current HMS technician and he deals with the owners on a daily basis and there are instances where the vessel does lose power.

There are instances where the owner did not know their unit had stopped reporting and by our notification to them, they can go down and find out what's up but that's how we handle those, you know, less than normal outages or known drydock periods or shipyard periods.

Terri Beideman: I don't know if I'm still on but I appreciate that explanation. It is my understanding at least from the folks I've talked to that your office is very helpful with all of this just trying to make sure that the regulations will work regardless of who's in your office.

But that was my intent, trying to see if we could get some discussion about that in the regulation so that there is that flexibility to address it at a less than critical stage. Anyway, so those are my questions although I'm sure that, you know, my folks won't necessarily be happy about having to put out any more money per day for signals.

I haven't had too many people really give me a lot of problem with this rule other than their big problem with some of the units that don't work well so they feel like, you know, they can't really afford to go get new ones and they're not worth it and I know you know about that.

Karyl Brewster-Geisz: Thanks, Terri.

Coordinator: Does that conclude the question or comment?

Cliff Hutt: I think so, ma'am.

Coordinator: Thank you and again as a reminder if you have a question or a comment, please press star 1. Make sure your phone is unmuted and record your name slowly and clearly for introduction. To withdraw that request, you may press star 2. Once again for a question or a comment, press star 1 and record your name. One moment while we standby for questions or comments, and we do have a question or comment coming from Greg DiDomenico. Your line is open.

Cliff Hutt: Welcome back, Greg.

Greg DiDomenico: What's the timeframe on the subsequent rulemaking regarding scope of this action?

Karyl Brewster-Geisz: This will be considered in the rulemaking we're doing regarding the Savings Clause for smoothhound sharks so that rulemaking is significant under OMB standards so it might take us a little longer than usual to get that proposed rule out.

Greg DiDomenico: And within that action, you're considering one alternative that would essentially lessen the scope of the one we're talking about right now?

Karyl Brewster-Geisz: It would lessen - it would reconsider - whether or not all gill-net fishermen no matter where they are need to have VMS onboard. That is not considered in this rule. This rule is assuming the scope stays the same as what it is in terms of number of fishermen.

Greg DiDomenico: Okay. Thank you.

Karyl Brewster-Geisz: Yes.

Coordinator: Thank you and again as a reminder if you have a question or a comment, it is star 1 and record your name and it is star 2 to withdraw that request. Again for further questions or comments, press star 1. One moment while we standby for questions or comments, and I'm currently showing no further questions or comments at this time.

Cliff Hutt: Does anyone else have anything they want to add or any additional questions?

Coordinator: And I'm showing no questions or comments from the phone.

Cliff Hutt: Okay, just to remind everybody, the comment period for this rule closes at the end of the month on September 30th so if you have any specific written comments you would like to submit, please do so by then.

Once again here's the slide with all the information on how you can contact or how you can submit comments and that's it. Thank you for joining us and thank you for your feedback.

Coordinator: That concludes today's conference call. Thank you for your participation. You may disconnect at this time.

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