

PART 18—[AMENDED]

1. The authority citation for part 18 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*

2. Amend § 18.30 by revising paragraphs (a)(4)(i), (a)(4)(iii), (a)(4)(iv), and (i)(1) introductory text to read as follows:

§ 18.30 Polar Bear sport-hunted trophy import permits.

(a) * * *

(4) * * *

(i) A copy of the Northwest Territories (NWT) or Nunavut Territory hunting license and tag number;

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(iii) A copy of the NWT or Nunavut Territory export permit; or

(iv) A certification from the Department of Resources, Northwest Territories, or the Department of Sustainable Development, Nunavut Territory,

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(j) * * *

(1) We have determined that the Northwest Territories and Nunavut Territory, Canada, have a monitored and enforced sport-hunting program that meets issuance criteria of paragraphs (d) (4) and (5) of this section for the following populations: Southern Beaufort Sea, Northern Beaufort Sea, Viscount Melville Sound (subject to the lifting of the moratorium in this population), Western Hudson Bay, M'Clintock Channel (only for polar bears lawfully taken on or before May 31, 2000), Lancaster Sound, and Norwegian Bay, and that:

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Dated: January 4, 2001.

Kenneth L. Smith,

Assistant Secretary Fish and Wildlife and Parks.

[FR Doc. 01-656 Filed 1-8-01; 11:37 am]

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 635**

[I.D. 110800A]

RIN 0648-AJ67

Atlantic Highly Migratory Species; Pelagic Longline Fishery Vessel Monitoring Systems

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; stay of effectiveness; request for comments.

SUMMARY: As ordered by the U.S. District Court for the District of Columbia on September 25, 2000, NMFS is undertaking further consideration of the scope of vessel monitoring system (VMS) requirements in the Atlantic pelagic longline fishery in light of any relevant conservation requirements. NMFS previously provided notice of the Court's ruling by distribution on the Highly Migratory Species Fax Network and in a mailing to permit holders. NMFS requests comments on options for implementing VMS requirements in the Atlantic pelagic longline fishery. As a result of the Court's order, NMFS delays the effective date of regulations regarding application of VMS requirements to the Atlantic pelagic longline fishery adopted as part of the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP), pending further ruling of the Court on the agency's reconsideration of this matter.

DATES: Effective October 1, 2000, 50 CFR 635.69 is stayed indefinitely. Written comments must be received on or before February 8, 2001.

ADDRESSES: Copies of the HMS FMP, accompanying regulations and supporting documents, and the Hawaii VMS Pilot Project Report can be obtained from Othel Freeman, 301-713-2347; fax: 301-713-1917. Written comments should be addressed to Jill Stevenson, Highly Migratory Species Division, NMFS, 9721 Executive Center Drive North, St. Petersburg, FL 33702 or by fax. Comments submitted via e-mail or on the Internet will not be accepted.

FOR FURTHER INFORMATION CONTACT: Jill Stevenson or Buck Sutter, 727-570-5447; fax: 727-570-5656; or e-mail at jill.stevenson@noaa.gov or buck.sutter@noaa.gov.

SUPPLEMENTARY INFORMATION:**Background**

NMFS published final regulations implementing the HMS FMP on May 28, 1999 (64 FR 29090). Those regulations require all pelagic longline fishermen to report hourly using a NOAA-approved VMS. In June 1999, after the final regulations were published, a coalition of commercial pelagic longline fishermen and dealers sued the Secretary of Commerce, challenging, among other measures, the VMS requirements of the final rule. On September 25, 2000, Judge Richard W. Roberts, U.S. District Court for the District of Columbia, issued an order that found that there was inadequate

evidence in the record to support fleet-wide application of the VMS requirements under national standards 7 and 8 of the Magnuson-Stevens Fishery Conservation and Management Act. The Judge indicated that "the Secretary failed to set forth a rational connection between the factual record and the choice to impose a blanket VMS requirement on all pelagic longline fishers, regardless of whether they are geographically located near a time/area closure...." Judge Roberts ordered that the agency further consider the scope of the VMS requirements in light of potential conservation benefits compared to costs.

In the biological and economic analyses of the HMS FMP that accompanied publication of the regulations, NMFS included information concerning fishery conservation benefits and the potential enforcement and communication benefits of VMS to both fishery managers and fishermen. Those benefits include increased communications for fishermen and real-time monitoring, which significantly improves enforcement of large offshore closed areas. For example, NMFS and the U.S. Coast Guard would be able to detect and to document unlawful incursions into closed areas. Without the VMS, such violations could only be detected with costly at-sea monitoring efforts. Monitoring the Atlantic pelagic longline fleet through the use of VMS would require only a small percentage of the cost of traditional surveillance methods.

Reconsideration of VMS Program

NMFS did not include in its original analyses supporting the rulemaking all of the background information that has been used by NMFS and fishery managers and enforcement agencies world-wide as a standard for application of VMS requirements. Pursuant to Judge Roberts' order, NMFS is now reviewing that background information and the results of VMS programs implemented in other fisheries around the world.

In addition, new circumstances that may influence NMFS's consideration of the scope of VMS requirements have arisen since the final regulations were published in 1999. Specifically, on August 1, 2000, NMFS published regulations establishing three new closed areas to reduce bycatch and incidental catch in the pelagic longline fishery in the Gulf of Mexico and the Southeast Atlantic Ocean off the coasts of South Carolina, Georgia, and Florida. Also, on October 13, 2000 (65 FR 60889), NMFS established one more closed area in the North Atlantic Ocean

to reduce the serious injury and mortality of threatened and endangered sea turtles incidentally caught in this fishery.

In addition to the fishing closures implemented under the HMS FMP and its Amendment 1, U.S. pelagic longline fishermen are also subject to closures in the Exclusive Economic Zones (EEZs) of other nations unless contractual arrangements have been made by vessel operators. Pelagic longline vessels are very mobile, with some vessels fishing in the South Atlantic Ocean (e.g., off the coasts of Namibia or Brazil). U.S. Atlantic pelagic longline vessels frequently traverse waters close to or within the EEZs of Canada, Mexico, the Bahamas, and other Caribbean nations on the way to high seas fishing grounds.

The United States supports recent international initiatives, including those undertaken by the International Commission for the Conservation of Atlantic Tunas (ICCAT) to eliminate illegal, unregulated, and unreported fishing activities. NMFS was recently informed at the 2000 ICCAT meeting that at least one U.S. longline vessel is fishing in the Mediterranean Sea. The fishing activities of that vessel have not been reported by that vessel to NMFS. Noting the obligation of every ICCAT Contracting Party to monitor the fishing activities of all vessels throughout the ICCAT management unit in order to comply with ICCAT conservation and management measures, it is clear that the United States must monitor pelagic longline activities ocean-wide.

Costs to Fishermen

NMFS also notes that VMS operating cost estimates have decreased by 25 to almost 50 percent since the HMS FMP economic analyses were completed. Currently, the cost of the VMS is approximately \$1,800 to \$3,800 per vessel for the initial purchase of the equipment, depending on which model is chosen by the vessel owner. Installation of the equipment could cost up to \$1,000, and communication charges for required automated position reports range \$1.00-5.00 per day. Repair and maintenance costs may approach \$1,000 per year.

NMFS has considered mitigating costs to pelagic longline fishermen, but

alternatives such as low-interest loans from the government and outright purchase by the agency were not adopted in the final regulations. The western Pacific pelagic longline VMS program was funded by the government as a pilot program solely for the purposes of testing the viability and effectiveness of VMS technology when utilized in longline fisheries. That study has been completed, and the study report is available from NMFS (See **ADDRESSES**).

The VMS requirement is imposed fleet-wide in the western Pacific pelagic longline fishery due to the mobility of that fleet. The program is successful and meets the enforcement and monitoring needs of NMFS and the United States Coast Guard (USCG), such as near-real time detection of unlawful incursions into closed areas. Considering the experience in the Western Pacific pelagic longline pilot program, NMFS has pursued the use of VMS in several other U.S. fisheries. Installation of a VMS unit is now required at the vessel owners' or operators' expense in the Western Pacific crustacean fishery, the Atlantic sea scallop fishery, and the Alaska Atka mackerel fishery.

The Atlantic pelagic longline VMS program would allow NMFS and USCG to monitor vessel position on a real-time basis anywhere in the Atlantic Ocean. This is particularly important for enforcement of time/area closures due to the mobility of this fleet. While some pelagic longline vessels are small and do not venture far from shore, many vessels are large enough to follow the migrations of swordfish and other HMS up and down the east coast, through the Caribbean, or even into the Eastern Atlantic Ocean, South Atlantic Ocean, and Mediterranean Sea. In light of this information and the Court's concerns regarding the necessity of a fleet-wide VMS program, NMFS is reconsidering the scope of the VMS program with respect to costs and benefits to the Atlantic pelagic longline fishery.

Request For Comments

NMFS requests comments on alternatives for implementing VMS requirements in the Atlantic pelagic longline fishery. Specifically, NMFS

requests comments on the scope of the program:

How can NMFS achieve the goal of effectively monitoring, on a real-time basis, the location of U.S. pelagic longline vessels?

Should NMFS apply VMS requirements fleet-wide in the Atlantic pelagic longline fishery in order to monitor all fishing activities?

Should NMFS impose VMS requirements only on certain sectors of the fleet based on geographic location of home port or other criteria?

Additionally, NMFS seeks input on the costs and benefits of a VMS program:

Should NMFS consider other alternatives for enforcing time/area closures and monitoring the fleet other than VMS and existing reporting strategies?

NMFS will consider comments received prior to the close of the comment period when responding to the Court. Send comments to NMFS at the specified location (see **ADDRESSES**).

Delayed Effective Date

The VMS requirement specified at 50 CFR 635.69 initially was to be effective September 1, 1999. On August 9, 1999, NMFS delayed the effective date of this final rule until January 1, 2000 (64 FR 43101). On October 14, 1999, NMFS again delayed the effective date of this final rule until June 1, 2000 (64 FR 55633). NMFS further delayed the effective date of this final rule until October 1, 2000 (65 FR 49941, August 16, 2000). NMFS now stays indefinitely the effectiveness and implementation of §635.69, the VMS regulations, pending the Court's ruling on the agency's reconsideration. NMFS will notify the public at such time as the stay is removed and an implementation date is specified or the regulations are amended pursuant to the direction of the Court.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: December 29, 2000.

Valerie Chambers,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.
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