

<b><i>NATIONAL MARINE FISHERIES SERVICE POLICY 06-102</i></b> Effective on: June 2014	
To be reviewed on: December 13, 2022	
Law Enforcement	
Vessel Monitoring System Funding Prioritization Process	
<b>NOTICE:</b> This publication is available at: <a href="http://www.nmfs.noaa.gov/op/pds/index.html">http://www.nmfs.noaa.gov/op/pds/index.html</a>	
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<b>Type of Issuance:</b> Renewal	
<b><i>SUMMARY OF REVISIONS:</i></b> Renewed without changes in November 2017. This initial directive was put into effect on June 17, 2006, and last updated in June 2014.	

## I. Introduction

The Vessel Monitoring System (VMS) is a satellite-based location and communications system through which NOAA Fisheries Office of Law Enforcement (OLE) collects data from commercial fishing vessels for enforcement, management, and science purposes. Commercial fishing vessels are required to have an operational VMS under regulations that implement fishery management plans (FMPs) prepared under the Magnuson-Stevens Fishery Conservation and Management Act (MSA), 16 U.S.C. §§ 1801 *et seq.* See e.g., 50 C.F.R. § 622.28, VMS requirements for the Gulf reef fish fishery; 50 C.F.R. § 665.19, VMS requirements for the Western Pacific fisheries. VMS may also be a regulatory requirement under statutes that implement fishery conservation and management treaties to which the U.S. is a party. See e.g., 50 C.F.R. § 300.219, VMS requirements under the Western and Central Pacific Fisheries Convention Implementation Act.

VMS provides information for use in enforcing requirements such as open and closed seasons, protected areas, and international boundaries and obligations, as well as other fishery management and science requirements. VMS also provides an effective tool to supplement traditional enforcement activities; provides information to the U.S. Coast Guard in support of their homeland security operations; supplements scientific and assessment studies; supports national security initiatives; and enables fishing vessel operators to use the capabilities for private purposes, including obtaining weather and safety information.

OLE currently manages a grant that provides relief to fishermen for their initial VMS equipment purchases through cost reimbursement. This grant, and any reimbursement

under it, is subject to available funding.

## II. Objective

It is NOAA Fisheries' objective to develop and use VMS as efficiently and effectively as is practicable within the full scope of purpose and utility that the technology may allow. NOAA Fisheries' overall goal for VMS is to maximize the utility of VMS for fisheries management. This goal includes enforcing fishery management regulations as well as providing science data and information to support management decisions.

This Policy Directive sets out a process that NOAA Fisheries will use to determine which fisheries will have priority for reimbursement, should grant funds become insufficient to satisfy all expected reimbursement requests.

## III. Authorities and Responsibilities

This policy directive establishes the following authorities and responsibilities:

### *Policy for issuing reimbursement payments*

#### 1. Reimbursement payments are available for:

NMFS type-approved EMTUs purchased for the purpose of complying with federal fisheries laws and regulations. The EMTU must be type-approved for the applicable VMS- required fishery and must be purchased from an authorized EMTU dealer. The vessel owner or operator must have the EMTU properly installed by an authorized dealer or qualified marine electrician. A vessel is not in compliance with activation and registration procedures until OLE receives and processes the EMTU signal.

To be eligible for reimbursement, a vessel owner or operator must:

- A. be current with any payment owed to NOAA Fisheries for a civil monetary penalty; and
- B. satisfy all eligibility and process requirements set out in 73 F.R. 24955.

#### 2. NMFS will not reimburse for:

- A. Communications or transmission services;
- B. Repair costs; or
- C. The cost to replace a currently approved-for-use EMTU.
  - i. EXCEPTION: If NOAA Fisheries requires the purchase of a new EMTU before the end of an existing unit's service life, then reimbursement may be available, subject to all other reimbursement requirements<sup>1</sup>.

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<sup>1</sup> This may be the case, for example, where a regulation modifies VMS requirements such that fishermen must replace functioning EMTUs before the end of the unit's service life.

3. As of May 2014, the cap on individual reimbursement payments is \$3,100.00 per unit. This may be increased or decreased. Any repayment is subject to the availability of funds.
4. Reimbursement procedure:
  - A. Fishermen submit an EMTU reimbursement request form to the VMS Service Desk.
  - B. The VMS Service Desk evaluates the request and determines whether it satisfies the following requirements:
    - i. the owner or operator of the vessel has not been previously reimbursed for an EMTU on that vessel;
    - ii. the vessel owner or operator is current with any payment owed to NMFS for a civil monetary penalty;
    - iii. the EMTU was purchased to comply with VMS requirements under federal fisheries laws and regulations applicable to a fishery in which the vessel owner or operator holds a permit to fish;
    - iv. the EMTU is NMFS type-approved and was purchased from an authorized EMTU dealer
    - v. an authorized dealer or qualified marine electrician installed the EMTU; and
    - vi. OLE has received and processed the EMTU signal to confirm that the vessel is in compliance with activation and registration procedures.
  - C. If the VMS Service Desk determines that a request is ineligible for reimbursement, the VMS Service Desk will contact the vessel owner or operator with the basis for that determination.
  - D. If the vessel is deemed eligible, the VMS Service Desk will generate and document a confirmation number, which the applicant can provide to the Monitoring Grant grantee. The grantee will verify the confirmation number, perform additional inquiry into the history of reimbursement payments, and if everything is in order, will issue a reimbursement check to the vessel owner.

*Prioritizing Funding for Proposed VMS programs*

In uncommon circumstances, NOAA Fisheries may need to rank new or modified VMS implementations to prioritize reimbursement payments. If funding in the Monitoring Grant is available, NOAA Fisheries will make reimbursement available for all eligible EMTUs. However, there will likely be cases where OLE reasonably foresees that available reimbursement funds will be insufficient to reimburse all eligible fishermen that must comply with upcoming VMS implementation plans. In this case, NOAA Fisheries will prioritize the proposed VMS implementations. If funding is available, EMTU reimbursements will be based on VMS implementation priority, which will establish a necessary order of precedence for reimbursement payments.

The prioritization of fisheries' reimbursement funding will assist NOAA Fisheries' managers and Regional Fishery Management Councils in evaluating the impact and value of implementing VMS requirements in their fisheries.

*Process for Prioritization*

If OLE reasonably foresees a decrease in reimbursement funds that could trigger the need for reimbursement prioritization, NOAA Fisheries will use the following process to identify and implement priority reimbursements.

1. If no reimbursement funds are available in a given fiscal year, then no prioritization process will take place, and no reimbursement payments will be made.
2. Each year, through its divisional VMS Program Managers, OLE will solicit budgetary information on upcoming proposals for VMS implementation at the fishery, fleet and sector levels. OLE will request this information from the Regional Fishery Management Councils, the Atlantic Highly Migratory Species division in the Office of Sustainable Fisheries, NOAA Fisheries International Affairs, NOAA Office of Protected Resources and other relevant NOAA Fisheries Regional and Headquarters offices.
3. After the annual analysis and after June 1, OLE will notify the Leadership Council if it foresees the need for triggering the prioritization process.
4. If the prioritization process is triggered, OLE will further solicit detailed proposals for all recommended VMS implementations. Each NOAA Fisheries Region or relevant Headquarter office, working in partnership with the associated Fishery Science Center and Regional Fishery Management Council(s), will submit to OLE a proposed spending plan for each fishery with projected VMS requirements, to include the costs and benefits of implementation.

The proposed spending plan should be accompanied by a statement of exactly how the proposed implementation will benefit the associated fishery to include the benefits related to: enforcing the fishery management regulations, providing science data, and gathering information to support management decisions.

5. OLE will summarize and compile this information for Leadership Council review and analysis.
6. Leadership Council will analyze the benefits and costs of each proposed VMS implementation, and rank each proposal based on all prioritized criteria.
7. OLE will reimburse fishermen based on the Leadership Council's ranked order, and within budget constraints.

*Schedule for the prioritization process*

The VMS reimbursement prioritization process begins with the threshold condition:

OLE's identification of the potential for insufficient funding for all expected reimbursement requests.

OLE will perform its yearly review of upcoming VMS implementation proposals in the spring and will notify Leadership Council of the need to trigger the Prioritization Process by June 1 of that year. The Prioritization Process should be completed within 90 days.

IV. Measuring Effectiveness

This Policy Directive will be reviewed and updated as needed prior to the revision date, in accordance with the NMFS Policy Directive System procedures. OLE works with the monitoring grant on an ongoing basis, which will provide for continual evaluation of the effectiveness of and the adherence to this policy.

V. References

This policy directive is supported by 73 F.R. 24995, NOAA Award NA08NMF4370657, and 16 U.S.C. §1881a(a).

Signed

*Chris Oliver*

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*12/17/17*  
Date