

Enforcement Committee Minutes
March 27, 2012
NPFMC Conference Room
Old Federal Building 605 W. 4th Ave., Room #205
Anchorage, AK

Committee present: Roy Hyder (Chair), LT Anthony Keene, CDR Phil Thorne, Martin Loefflad, Ken Hansen, Garland Walker, Glenn Merrill, Sherrie Myers, Major Steve Bear, and Jon McCracken (staff)

Others present: Sarah Milton, Sally Bibb, John Gauvin, Paul McGregor, Guy Holt, Bob Alverson, Brent Paine, Brad Robbins, Keith Bruton, and Will Ellis

C-2 Initial review of BSAI chum salmon bycatch measures

Sally Bibb (NMFS) provided an overview of the alternatives included in the initial review draft of the BSAI chum salmon bycatch measures followed by a more comprehensive presentation of the enforcement section of the analysis.

The Committee noted that Amendment 91 monitoring measures have been in place since January 2011 and these monitoring requirements are substantive; in order to support a program designed to provide a full census of Chinook salmon bycatch in the Bering Sea pollock fishery. It was noted there has been good compliance with these monitoring requirements. However, the practice of “deckloading” pollock has created a significant concern during the implementation of Amendment 91, and the Committee expects these concerns to continue under any non-Chinook monitoring program. The Committee recognizes “deckloads” have been a historic practice in the pollock fishery. In practice, some catcher vessel operators set their final haul of a trip to fill their RSW tanks completely. In some cases, this final haul will exceed RSW capacity, resulting in having more fish in the codend than can be placed in the RSW tanks. As discarding of pollock is illegal under IR/IU regulations, the fish are brought in for delivery as a deckload, either in the codend, or dumped into the trawl alley.

It was noted during the Committee meeting, that current regulations require all salmon bycatch to be stored in an RSW tank prior to delivery to a processing plant. The intent of this requirement is to reduce the potential for any sorting of catch and discard of salmon from catch contained on deck. When the final codend cannot completely be placed in the RSW tanks, the result is the possibility of salmon remaining on deck and not being contained in the RSW tanks.

Recognizing this historic practice of deckloads and the requirement to store all salmon in an RSW tank prior to delivery to a processing plant, a compromise procedure to address this problem was developed during the first year of Amendment 91. As long as any fish that remained on deck and that could not be stored in the RSW tanks remained inside the codend and not loose on deck, NOAA considered the intent of the sampling program and regulations were being met. However, significant numbers of catcher vessel deliveries continue to arrive at the processors with large amounts of catch outside of a codend, and loose on deck. Loose fish on deck, which are not contained inside the codend, creates numerous problems. NMFS cannot assure that we have a complete and accurate census of the salmon bycatch when an observer is unable to verify that they were able to census all the salmon in a haul or delivery. The occurrence of significant amounts of loose fish on deck creates a situation whereby it is impossible for observers to assure that no salmon have been discarded at sea.

To address this issue, the Committee recommends the analysis include a discussion concerning the deckloading. The analysis should address the implications of prohibitions of deckloads as well as simply enforcing the existing requirements of delivering to shoreside processors or stationary floating processors

all salmon taken as bycatch in trawl operations stored in RSW tanks. The analysis should also address modification of the monitoring program regulations that are currently in place for catcher vessels to allow for example storing salmon bycatch in other secure locations approved in writing by NMFS. This approach could provide industry additional options (i.e., certain live tank set ups and codend deckloads with parameters for the vessel), while also affording NMFS the opportunity to better monitor salmon.

In addition to deckloads, the Committee noted the need to expand the current analysis to accommodate two housekeeping regulatory corrections that will improve monitoring and enforcement of both Chinook and non-Chinook salmon bycatch. The first housekeeping issue needing to be addressed in the analysis is the observer viewing of salmon in storage containers. Current regulations require that all salmon stored in the container must remain in view of the observer at the observer sampling station at all times during the sorting of each haul. The intent of this regulation is to ensure that no salmon are removed from the salmon storage container. However, in the instances where salmon are numerous or in cases where there is only one small salmon in a large salmon storage container, it can be difficult or impossible to see each individual salmon in the container. To better meet the intent of this regulation, the Committee felt that the analysis should describe modifying the regulations to require that the salmon storage container must remain in view of the observer at the observer sampling station at all times during the sorting of each haul would monitoring and enforcement of salmon bycatch.

The second housekeeping issue is the removal of salmon from observer sample area at the end of the haul or delivery. Currently no regulations exist that require all salmon be removed from the observer sampling area and the salmon storage location after the observer has completed their sampling and counting duties at the end of each haul or delivery for catcher processors or shoreside processing facilities. In order to avoid any confusion about which haul or delivery to attribute the salmon and to avoid double counting of salmon, the analysis should address the need to incorporate a requirement in the regulations to ensure that once the observer has completed their sampling of the salmon for the haul or delivery, that those salmon are promptly removed from the observer's area before the sorting of the next haul or delivery can begin.

C-3(a) Initial review of HAPC skate sites

Sarah Melton, Council staff, provided an overview of the revised alternatives presented in the analysis concerning designation of Habitat Areas of Particular Concern of egg concentration sites for several species of skates in the Bering Sea. To achieve effective enforcement of the HAPC areas, the Council modified Alternative 3 to establish a minimum size threshold for the areas to at least 5 nm to a side for areas smaller than 3 nm per side. For HAPC areas with at least 3nm per side, a buffer of 1 nm was added to the boundaries established in Alternative 2 in order to provide enough distance to allow VMS, as currently established in regulation, to be used as a tool to determine activity in the protected area in a legal setting. The intent of this modification to Alternative 3 was to allow for effective VMS tracking for enforcement.

The Committee noted information provided in the VMS discussion paper that is scheduled for April 2012 Council meeting notes that the VMS polling rate for a vessel can be increased. Currently, VMS reports a vessel identification and location generally 2 times per hour to the NOAA Fisheries Office of Law Enforcement. The Committee noted that increasing the poll rate for a vessel from the current default rate could be utilized to reduce the 1 nm buffer surrounding the HAPC areas noted in Alternative 3. The Committee also discussed the potential use of a geo-fence around the HAPC areas to also reduce or eliminate the 1 nm buffer. A geo-fence is a virtual perimeter for a real-world geographic area. When used in conjunction with VMS, geo-fencing allows enforcement to create an area which, when entered by a vessel equipped with VMS, will trigger an increased polling rate. When the vessel exits this area, the polling rate will be reduced to the normal rate. It was noted that the geo-fence boundaries in relation to the HAPC areas might need to be slightly larger to allow for ample time for the system to initiate the increased polling rate. Geo-fencing also allows for alerts (generally email) to be sent to the agency or

VMS user if deemed necessary. Increased polling as well as email alerts will result in higher VMS costs that may need be borne by industry using these areas.

The Committee discussed briefly the potential for using increasing polling rates, geo-fencing, or gear declarations via VMS to enforce a particular gear prohibition in a HAPC area. However, the Committee agreed that although VMS is currently required in many North Pacific fisheries and can be very versatile, current regulations in this region do not allow VMS to be used as a tool to differentiate gear types for purposes of enforcement. At this time, and based upon the current definitions in regulation, this gear determination requires an at-sea boarding.

Given the potential impacts to the industry from expanded HAPC areas in order to accommodate 1 nm buffers around these areas, the Committee recommends that the analysis be expanded to include information on improved use of VMS technology that can reduce the buffer surrounding the HAPC areas. Examples of VMS technology that should be included in the analysis are increasing the VMS polling rate for vessels operating in the Bering Sea, geo-fencing, and potential declarations for species or gear types.

C-6(b) Discussion paper on limiting other gear on jig vessels

Sarah Melton, Council staff, presented the discussion paper on limiting other gear on board vessels jigging for Pacific cod in the GOA. The discussion paper stems from a potential need to limit other gear on board vessels jigging for Pacific cod due to the new management and allocation structure implemented by Amendment 83. With separate sector allocations, there could be incentive to increase the duration of one sector's fishing season at the expense of another; specifically extending the duration of the longline or pot sector season by misreporting catch from these gear types as jig-caught and/or increasing the likelihood of attaining the jig quota and thereby receiving subsequent 'step-up' in the jig gear allocation.

After discussing the issue at length, the Committee agreed that enforcement of a jig only gear restriction is fairly straight forward and achievable. However, the Committee noted that when more flexibility is built into regulation to accommodate other gear types on board, the more difficulty it is to insure accurate catch reporting of Pacific cod by gear type. The Committee recognized there is an opportunity for jig vessels to operate other gear that was left on the fishing grounds during the previous fishing trip or left on the fish grounds by another vessel in order to circumvent a jig only gear carriage restriction. To address this issue, the Committee agreed that restriction of other gear on board jig vessels should also include operation standards to prevent jig vessels from operating fishing gear during a jig only fishing trip. Finally, the Committee noted that if the Federal approach for limiting multiple gears on board jig vessels is significantly different than the State approach, ensuring accurate accounting for Pacific cod catch for the individual gear types will be extremely difficult and confusing for the fishermen.

D-1(b) Discussion paper on VMS use and requirements

Jon McCracken, Council staff, presented an overview of the VMS discussion paper. The discussion paper was tasked by the Council to review the use of and requirements for VMS in the North Pacific fisheries and other regions of the U.S. The discussion paper included a description of VMS and its benefits, a review of the existing VMS requirements in the North Pacific, a summary of the most recent 2007 Council action related to expanding VMS requirements across the North Pacific, a summary of VMS coverage in the North Pacific, cost estimates for purchasing and operating VMS, and a review of VMS applications in other regions of the U.S.

The enforcement committee discussed this document, and agreed it presents a good overview of the current state of VMS use in the North Pacific and around the country, basic cost information for approved units in the North Pacific Region, and some of the potential additional benefits that may be gained if the program were expanded. The committee further noted that VMS is the primary, well established tool for monitoring compliance with some of the provisions of ever increasing regulatory complexity, and provides a secure, confidential, near-real time display for vessel locations for use by enforcement and

management personnel. It is especially useful in an environment when enforcement resources are likely to, at best, remain level or static and the number and complexity of regulations continue to increase.

The Committee noted the near complete rationalization of North Pacific fisheries from open access fisheries to various catch share approaches. A common component of all of these catch share programs, with the exception of the Halibut/sablefish IFQ Program, is a comprehensive suite of management and enforcement measures, necessitated by the needs for more precise and near real-time catch reporting and other accountability measures. VMS has been an important component of these M & E measures.

The committee recognized that VMS has been incrementally developed in the North Pacific Region, and since its first implementation we have learned a great deal about the system and its capabilities. At the same time, the council has not taken advantage of additional data sets capable of being collected and reported through this system beyond vessel identification and location.

The committee noted that there are concerns with accurate identification of the area fished for many of the vessels not currently carrying VMS units, and that a requirement for vessels to carry VMS units could address this concern for both U.S. enforcement personnel, and the International Pacific Halibut Commission. The committee also discussed that, given current council review of gear restrictions in various fisheries (e.g. – other gears carried on board jig vessels), the potential of target species and gear declarations via VMS could be beneficial in the Region.

If the Council chooses to expand this discussion paper, the committee suggests that the process would be greatly assisted through the development of a problem statement to guide and focus staff efforts. Any expanded discussion paper should detail additional capabilities of VMS systems available in the Region but not currently in use, to include:

- Targeted species, gear, or area declarations.
- Geo-fencing and the implications and cost ramifications to the fishing fleet and agency for use of this capability.
- Increased poll rates and the implications of this change to both the fishing fleet and enforcement agencies. (For example, potentially smaller closed areas, economic impacts to the fishing fleet and the agency, management benefits associated with increased polling.)
- Potential data transfer applications or electronic log books.

An expanded discussion paper would also benefit from further examining other potential technologies that may assist enforcement and compliance efforts with regards to catch accounting and area fished (for example, cameras, or other electronic monitoring tools that may accomplish the same goals). The committee further noted that should the council choose to expand the VMS program to IFQ vessels, this would establish equity with other catch share systems in the North Pacific Region, but noted that this process is slightly complicated by the fact that IFQ Halibut and Sablefish quota is issued to individuals and not vessels.