

## **Enforcement Committee Minutes**

Fireweed Room, Hilton Hotel, Anchorage, AK

December 4, 2012

**Committee:** Roy Hyder (Chair), Asst. Special Agent in Charge Ken Hansen, CAPT Phil Thorne, LT Anthony Kenne, Martin Loefflad, Glenn Merrill, Special Agent in Charge Sherrie Myers, Jon Streifel, Garland Walker, and Jon McCracken (staff)

**Others present included:** Susan Auer, Bill Tweit, Dan Hull, Diana Evans, Sam Cunningham, Jane DiCosimo, Steve MacLean, Jeff Hartman, Brad Robbins, Bruce Buckson (Director of Office of Law Enforcement), Doug Marsden, Paul MacGregor, Jackie Smith, Julie Bonnie, Bob Krugger, Mike Szymanski, Dennis Moran, Glenn Charles, Les Cockreham, Kevin Heck, Gerry Shanahan, Maura Sullivan, Sarah Melton

### **1. B-2 Halibut subsistence proposal**

Jane DiCosimo provide an overview of a proposal to allow immediate family members of SHARC holders to assist with subsistence halibut fishing activities on board the vessel from which the SHARC holder is subsistence halibut fishing.

The Committee spent time discussing some of the enforcement challenges associated with this proposal. One of the biggest challenges is clearly defining immediate family in regulation. Identifying the family member in the field may be difficult and therefore complicate enforcement by the need for follow up investigation to resolve questions about individual identity. It was also noted that the scope of the proposal will likely be difficult to quantify given there are different understandings of the meaning of immediate family. Another issue the Committee discussed was the increased work load that maybe necessary enforcing an immediate family member provision. In summary, if the Council elects to move forward with this proposal, the Committee recommends the analysis or discussion paper include the potential to identify immediate family members by advance registration and whether those family members would be required to comply with Alaska state residency requirements.

### **2. C-2(b) Initial review on BSAI Chum Salmon Bycatch**

Jeff Hartman provided an overview of the enforcement and monitoring section of the analysis that addresses the March 2012 Enforcement Committee recommendations. At the March 2012 Enforcement Committee meeting, it was recommended that the analysis include a discussion concerning “deckloading”, to include prohibiting deckloads as well as simply enforcing the existing requirements of delivering to shoreside processors or stationary floating processors all salmon stored in RSW tanks.

The Committee also recommended the analysis address proposed modification of the Amendment 91 monitoring program regulations that are currently in place for catcher vessels, to allow storing salmon bycatch in other secure locations approved in writing by NMFS. The Committee noted the need to expand the analysis to accommodate two housekeeping regulatory corrections that were felt would improve monitoring and enforcement of both Chinook and non-Chinook salmon bycatch.

At this meeting, the Committee noted the proposed changes in monitoring measures described in section 2.5 of the Draft RIR were the result of weekly and bi-weekly meetings of FMA, OLE and SF staff that oversaw Inseason implementation of the Amendment 91 Program. The committee viewed the storage container and removal of salmon regulations as minor housekeeping measures, and saw no enforcement or compliance concerns.

The Committee felt the suggested regulation change to redefine directed fishing for pollock was a means to address what was recognized as confusion in the fleet regarding when a CV offload was subject to Amendment 91 offload monitoring requirements, and supported this recommendation.

The Committee did not discuss the ATLAS software requirement in detail, but noted this was a recommendation arising from the Amendment 91 workgroup, who generally believed this requirement would improve quality and timeliness of data.

The Committee noted it was their understanding and reaffirmed their position that “deckloads” were a frequent and legitimate practice in the pollock CV fishery, and noted the existence of IR/IU regulations prohibiting discard of pollock. The Committee recognized the collaborative processes used to develop the current process for dealing with deckloads, and noted the recommendations for proposed deckloading regulations in the analysis are intended to simply codify the agreements and practices currently in place.

After hearing the presentation by Mr. Hartman, the Committee noted that the analysis adequately addresses the Committee’s March 2012 recommendations and supports the proposed recommendations concerning deckloads and other issues that were noted in the previous minutes.

### **3. C-2(c) Initial review on GOA Chinook Bycatch all trawl fisheries**

Diana Evans provided an overview of the initial review analysis on GOA Chinook Bycatch for all trawl fisheries. This analysis evaluates management measures to address Chinook salmon bycatch or prohibited species catch (PSC) in the GOA non-pollock trawl fisheries. The alternatives included in the initial review document are specific to the GOA non-pollock trawl fisheries occurring in the Western and Central GOA, and include setting Chinook salmon PSC limits for these fisheries, and requiring full retention of all salmon species.

Overall, the Committee felt that the initial review analysis adequately addresses the monitoring issues associated with the full retention alternative. In their discussions concerning this action, the Committee expressed concern regarding the monitoring and enforcement of a full retention requirement for Chinook salmon, given the level of observer coverage in the CV trawl fisheries. The requirement of full retention combined with current and future observer coverage levels in the GOA, could generate intentional biasing of Chinook bycatch at sea. This concern is reduced if the goal of the full retention requirement is to seek stock composition and genetic data, and not to be the basis of a cap monitoring program.

Additionally, the limited resources necessary to monitor and enforce a full retention requirement in the GOA make this alternative impracticable to enforce. Finally, the Committee noted that if a program is weak in its ability to be supported by adequate monitoring and enforcement then we lose voluntary compliance and credibility with the industry.

### **~~4. C-3(a) Recommendations for 2013 Charter Halibut (tentative)~~**

## **5. C-3(c) Discussion paper on retention of 4A halibut in sablefish pots**

Jane DiCosimo presented an overview of a proposal to allow fishermen with commercial IFQs for both halibut and sablefish to retain halibut in IPHC Regulatory Area 4A that were caught in sablefish pots. The Committee spent some time discussing the importance of this proposal in relation to halibut resource in area 4A. It was generally viewed by the Committee, that the continued high halibut usage and the potential to reduce halibut discards makes this proposal relevant.

From the Committee's perspective, the intent of this proposal is not to permit increased directed fishing of halibut with pot gear, but rather better use of the halibut resource. The Committee noted that if the Council felt the need to reduce potential for increased directed effort toward halibut bycatch, a management tool such as a "MRA" could be considered. This would not present undue enforcement or compliance challenges. It was noted that area 4A is subject to both halibut clearance requirements and a sablefish directed fishing requirement to operate VMS, so there are monitoring and enforcement tools already in use in the fishery.

In summary, the Committee felt that proposal does not present any obvious compliance or enforcement issues. The Committee noted that the action could potentially be a vehicle to rectify conflicting "check-in" procedures required under halibut and sablefish requirements. The proposal indicates the need to redefine the area by latitude and longitude, but the Committee does not believe this is necessary, since the proposal would apply to those sablefish areas of the BSAI overlapped by area 4A. (Pot groundfish gear is not authorized in the portion of 4A contained within the WGOA). The Committee noted that authorizing retention of halibut IFQ in the sablefish fishery in IPHC Regulatory Area 4A necessitates the need for independent real-time positional reporting using VMS.

## **6. D-1(b) Discussion paper on VMS**

Jon McCracken provided an update on the VMS discussion paper based on recommendations from the Enforcement Committee in October 2012. These additions to the discussion paper include an evaluation of previous search and rescue cases, and further refinement of the characterization of vessels that are not required to carry VMS. A copy of the October 2012 Enforcement Committee minutes are included in Appendix 4 of the December 2012 discussion paper.

After a brief discussion by the Committee, it was recommended by the Committee that the VMS discussion paper move forward for analysis. The Enforcement Committee stated that an objective of VMS is to provide improved independent, real-time, confidential positional reporting to enforce current and future management decisions, and VMS is a tried and true tool designed for this purpose. In addition, given the current constrained monitoring and enforcement resources, the need to maximize these enforcement and monitoring resources, and the increasing complexity necessary to manage the North Pacific fishery resource, VMS should be given full consideration.

If the Council elects to move this action forward for analysis and exemptions are desired to be included in the action, there was general agreement by Committee members that exemptions other than vessel length be considered. One such example noted by the Committee would be to exempt vessels that fish in only one regulatory area, on a per-trip or annual basis. In addition, the Committee noted that the action should also include a requirement for vessels that require an operational VMS in one area must have their VMS operational for the vessel's entire fishing trip.

## **7. D-2(c) Provide direction on Round Island Transit analysis scope, purpose and need**

At the June Council meeting, Committee discussion resulted in the Council initiating a regulatory amendment to address a problem related to enforcement concerns with existing regulations. Currently, vessels with Federal Fishing Permits are prohibited from transiting between 3 and 12 nm around Round Island and Cape Peirce, between April 1 and September 30. The Committee received an update from Steve Maclean concerning considerations for transit corridors to be included in the regulatory amendment. One such corridor would be north of Round Island to allow tenders to support herring fisheries in the Togiak area and Amendment 80 vessels to transit from fishing grounds to lawful roadsteads to conduct transshipment operations. A primary consideration in developing any proposed management measures is avoiding disturbing walrus at a more recently developed walrus haulout at Hagemeister Island, and addressing transiting vessels that might be crossing the route that walrus take when moving South from Round Island to their feeding grounds in Bristol Bay. The other corridor request is through the federal walrus protection area at Cape Peirce. Currently, tenders can lawfully travel within State waters to Security Cove or other herring fishing areas in the proximity of Cape Peirce and Cape Newenham.

Mr. Maclean indicated that US Fish and Wildlife Service (USFWS) released its 12-month finding and concluded that listing the Pacific walrus as threatened or endangered is warranted but precluded at this time by higher priority actions under the ESA. Therefore the agency has added Pacific Walrus to the candidate species list. By 2017, the USFWS will either begin to develop a proposed rule to list the Pacific walrus and define Critical Habitat for the species, or remove Pacific walrus from the candidate list. It is likely critical habitat will include areas around Round Island and The Twins, Cape Peirce, and Cape Newenham, in addition to the haulout at Hagemeister Island. It is also possible, though not certain, that transit corridors through the walrus protection areas, defined by time and species, could be considered when USFWS designates Critical Habitat for Pacific Walrus.

In general, when this action was presented to the Enforcement Committee in June 2012, the recommendation to initiate a regulatory amendment was not limited to just Togiak herring tenders. It was the intent of the Committee that Amendment 80 vessels historically transiting south of Round Island and through Hagemeister Strait to deliver yellowfin sole to trampers in the roadsteads in Hagemeister Strait or Togiak Bay also be included. The Committee also noted that the addition of Cape Peirce appears to be within the scope of the original recommendation concerning Round Island corridor. However, the Committee noted that there is a disparity between federal and state regulations relative to access to the waters surrounding these transit zones that causes enforcement challenges. The Committee recognized that VMS was the only practical method for monitoring and enforcing the few vessels that would be using these corridors, and therefore the Committee recommends that vessels using these corridors be required to have an operating VMS onboard. It was noted by the Committee that most vessels, if not all vessels, using these corridors are already required to operate VMS. There was also some discussion concerning the opening of these corridors, and the Committee agreed that an April through June opening would likely meet the greatest need.