
Ecosystem Committee Minutes

Tuesday, February 3, 2009 4pm-6pm
Renaissance Madison Hotel, Marion Room, Seattle, WA

Committee: Stephanie Madsen (chair), Jim Ayers, Jon Kurland, Dave Benton (teleconf), John Iani, Bill Karp (for Doug DeMaster), Dave Fluharty, Diana Evans (staff), Bill Wilson (staff)

Others attending included: Melanie Brown, Libby Logerwell, Clayton Jernigan, Chris Krenz, Mike Levine, Caleb Pungowiyi, Jaime Karnik, Marilyn Heiman, Ray Koonuk

Arctic FMP

The Committee received a presentation from Dr Logerwell on the recent Beaufort Sea survey, and from Mr Wilson and Ms Brown, reviewing the EA/RIR/IRFA for the Arctic FMP, and the draft FMP itself.

The Committee recommends to the Council to identify Alternative 2, Option 3, as its preferred alternative, and to adopt the Arctic FMP consistent with this preferred alternative. The Committee noted that the adoption of the Arctic FMP will be of international importance. Adopting the FMP strengthens the State Department's position in international negotiations with respect to fishery management in the Arctic.

The Committee discussed the historic red king crab fishery that is accommodated under Alternatives 3 and 4 of the analysis. In support of Alternative 2, the Committee noted that State of Alaska waters would remain open to fishing, under the authority of the State fishery management system. A local commercial fishery could still be authorized in State waters, if appropriate. Additionally, in Federal waters, future fisheries can be explored under exempted fishing permits or surveys to assess the available resources. The Council can undertake a deliberative process for determining how a fishery might evolve, or be authorized, during which the needs of local residents in the Arctic region can be taken into account. The Committee noted that establishing the FMP provides the best mechanism for the goals and needs of local people to be addressed in the development of any future Arctic fishery.

The Committee would like to commend the staff who have prepared this analysis and developed the FMP, particularly Mr Wilson and Ms Brown. Additionally, the Committee appreciates the work of NOAA GC attorneys in reviewing and preparing the FMP.

Enforcement Committee Minutes

February 3, 2009

Renaissance Hotel, Seattle, WA

Committee present: Roy Hyder (Chair), Sue Salveson, LCDR Lisa Ragone, Herman Savikko, Matt Brown, Martin Loefflad, Ken Hansen, Susan Auer, and Jon McCracken (staff)

Others present: Jason Anderson, John Gauvin, LTJG Josh Boyle, Diana Evans (NPFMC), Melanie Brown (NMFS), Chris Oliver (NPFMC), and Jeannie Heltzel (NPFMC)

I. BSAI Trawl Gear Modification Update

Ken Hansen and John Gauvin presented a video of an at-sea demonstration of modified trawl sweeps that took place on the afternoon of January 9, 2009, onboard the F/V Vaerdal. The at-sea demonstration was determined to be the best way to resolve outstanding enforcement questions regarding enforceability of the proposed gear modifications. A report on the at-sea demonstration was prepared by Diana Evans, NPFMC staff and can be found as part of the action memo under D-2(d)(4).

Based on the results from the January 9, 2009, at-sea demonstration, the Enforcement Committee has revised their October 2008 recommendations concerning the enforcement of the modified trawl sweeps. Presented below are the October 2008 recommendations (underlined) and the revised recommendations.

1. For the purposes of enforcement, modified trawl sweeps should be of "standard" design, and such gear should be commercially manufactured by certified companies.

Following the at-sea demonstrations and discussions internally and with industry, the Committee believes the desired goals of the program can be achieved by specifying clear spacing and elevation requirements for the gear in regulations. At-sea enforcement of these standards appears straightforward. Compliance monitoring of the required devices would not be enhanced by requiring a standard design or certification requirements. Requiring a standard design and/or a certification process is cumbersome and would likely result in delay, greatly increased complexity, costs and resultant increased enforcement obligations, with uncertain upside gain.

2. Further, given the difficulty in checking bobbin spacing, it may be necessary to have several manufactured types of modified trawl sweep "units" (i.e., bobbins and sweep sold as a unit and intended for deployment as an integral unit) certified by NMFS.

The demonstration revealed that at-sea compliance monitoring of the use of compliant modified trawl sweeps was not particularly problematic. There is a likelihood that gear manufacturers and vessel owners will respond by manufacturing and purchasing gear of "standard" designs that comply with regulatory requirements, but the Committee does not feel enforcement of the regulations is enhanced by requiring a certification process.

3. Regulations should require the vessel to conduct visual inspections of the modified gear for any wear upon deployment and hauling of each set.

Vessel operators and owners are expected to be knowledgeable about and comply with all regulations applicable to their operations. The regulatory requirements for use of modified trawl gear are relatively straightforward and objective. Vessel operators and crew will have an opportunity to observe their gear at every deployment and haulback for compliance with required standards. The Committee believes a

relatively high expectation exists on the part of the vessel operator to insure their gear is in compliance with required specifications. As such, a specific requirement to inspect the gear for compliance seems redundant and unnecessary.

As with many new regulatory programs, NOAA Enforcement and USCG recognize there may be a learning period associated with the use of new gear. Industry has expressed concerns regarding the occurrence of gear that is damaged or otherwise out of compliance due to events immediately preceding the documentation by NOAA Enforcement or USCG authorized officers, or an observer. As with any other investigation, such an incident would be evaluated on a fact-specific basis.

4. Vessels using modified gear should be "endorsed" on their FFP (or other appropriate permit that is issued to them by NMFS) for such use.

Following the demonstration and further discussions, the Committee did not feel an endorsement on the FFP was necessary to effectively enforce this program. As stated, the Committee believes the proposed regulations are straightforward, and did not identify any substantive obstacles to compliance. The Committee notes the positive collaborations with industry on development of this program, and feels it is important to note that given the general reduction in compliance related elements recommended in this program, monetary penalty recommendations for egregious violations are expected to be high.

Finally, the Enforcement Committee recommends that the Council send a letter to Don Iverson, owner of Jubilee Fisheries; Bill Hayes, Captain of the F/V Vaerdal; and John Gauvin showing its appreciation for hosting the at-sea demonstration in addition to their time and effort in making the demonstration a success. With these efforts, the Enforcement Committee was able to determine that at-sea inspection and compliance with the standards can be achieved safely and successfully.

II. Vessel Capacity

The Enforcement Committee discussed this draft component of the proposed fixed-gear license recency action under Council consideration and provided preliminary comments on enforceability at the December Council meeting. The Council asked the Enforcement Committee to further analyze this component for enforceability issues. Addressing the Council's request, Ken Hansen prepared and presented a discussion paper to the Committee on the existing vessel capacity component.

In general, the Enforcement Committee agreed that utilizing vessel length, depth, and breadth measurements as reported on a vessel Certificate of Documentation to enforce a capacity limitation program (for both length-width ratio and a simple gross tonnage approach) appears feasible, but highly problematic. To be able to effectively enforce a vessel capacity limitation based upon vessel dimensions, the Committee recommends appropriate regulatory definitions for width (and depth for a simple gross tonnage approach) be developed. Based upon lessons learned in the development of the Length Over All (LOA) definition, developing regulations to be able to effectively measure and enforce depth and breadth measurements for purposes of a vessel capacity limitation will likely be a lengthy and complex process that could potentially burden the timeliness and effectiveness of the proposed vessel capacity limit action.

To provide more details to the Council, the individual agencies of the Enforcement Committee agreed to provide amplifying details regarding definitions for width and depth for a simple gross tonnage approach in addition to the complexities of enforcing the proposed vessel capacity limitation component to Jeannie Heltzel, (NPFMC analyst) in time for final action in April 2009.

III. Statement of Purpose for Enforcement Committee

The Committee briefly discussed the need for development of a purpose statement and operating guidelines for the Enforcement Committee. The Committee tasked staff to work with the Executive Director to prepare a draft purpose statement and operating guidelines to assist the Committee in this endeavor. The Committee will present to the Council the recommended purpose statement and operating guidelines for consideration and approval.