

Enforcement Committee DRAFT Minutes
October 2, 2007 1-4 pm Iliamna Room
Hilton Hotel Anchorage, AK

Committee present: Cathy Coon (staff), Ken Hansen, Roy Hyder (Chair), Bill Karp, LCDR Lisa Ragone, Sue Salvesson, Herman Savikko, and Garland Walker.

Others present: Ron Antaya, Sally Bibb, Jane DiCosimo, LT Rebecca Dorval, Will Ellis, Mark Fina, Jay Ginter, John LePore, LT Scott Littlefield, Jim Richardson, and Gregg Williams.

Halibut Charter GHL 3A:

The Enforcement Committee received a report from Jane DiCosimo. The Halibut Charter GHL 3A analysis is scheduled for initial review at this meeting. The Committee discussed two enforcement concerns which are prohibition of skipper and crew retention & line limitation.

These skipper/crew and line limitations would be covered by federal regulations. Council is not scheduled to take final action until December. Rule making would need to occur after the Council action.

Ron Antaya (OLE) indicated that there currently is no federal or state definition for 'crew', and for this to be an enforceable regulation some criteria will need to be defined. The Committee also discussed that line limits would be very difficult to enforce effectively, especially if it applied only to halibut charters (since charter may be targeting non-halibut species).

Sue Salvesson indicated that NMFS is currently addressing similar issues as it proceeds to develop the proposed rule for the 2008 Halibut Charter 2C GHL management measures. The approach ultimately implemented for area 2C should be a model approach for area 3A.

Custom Processing for Crab – Definition of mooring or docking:

The Enforcement Committee received a report from Mark Fina regarding the definition of 'mooring' or 'docking' relative to custom processing for crab. An exemption for processor share use caps for docked or moored vessels at a docking community was addressed in the analysis. The Committee discussed if such a provision was enforceable, and indicated that since floating processors are required to file notification requirements to the State (statute section 16.05.685), indicating their location, prior to operating in the crab fishery, that the provision was enforceable. The Committee also noted that the exemption is limited in scope comparatively to the fishery overall which additionally makes the provision more manageable.

After the Fact Transfers of Rockfish and Crab:

The Committee received a report from Mark Fina on post delivery transfer provisions of Central Gulf rockfish and crab. While the two issues are separate many of the enforcement concerns can be discussed under one item.

Proposed provisions would allow quota share holders (IFQ or annual) to address overages in harvests to avoid penalties or violations. The Committee stressed that the intent leading to an overage (intentional vs. inadvertent) should not be a qualifier for enforcement or prosecution of an overage. Enforcement cannot be focused on the intention behind an overage, but on the fact an overage has occurred.

The committee supported a fixed date for annual reconciliation of quota accounts and overages, versus a deadline based upon the date of overage or other non-fixed accounting period. The committee also noted that providing a process for post overage balancing of accounts might contribute to increased accuracy of

landing data, by reducing the potential for fraudulent reporting to disguise or otherwise prevent detection of overage amounts.

The Committee noted that while the intent of the current problem statement is likely comprehensive enough to reflect that both intentional and unintentional overages would be covered, the problem statement should be modified to clearly reflect this intent and to be consistent with the analysis. That is, as long as an overage is ultimately cured pursuant to the after-the-fact transfer procedure, then the cause of the overage – intentional or unintentional – is not a consideration and no violation occurs. Conversely, an overage that is not ultimately cured pursuant to the after-the-fact transfer procedure will be treated as a violation of the quota regulations and the strict liability standard of the MSA will be applicable.

Western GOA Pollock trip limit:

The Enforcement Committee received a report from Jim Richardson on the Western GOA pollock trip limit analysis. The presentation focused on the definition of a calendar day and landing limits within Alternative 2.

The Committee discussed the enforcement differences of defining a calendar day between 12pm to 12pm to meet the time period of a fishery opener over a true calendar day from 12am to 12am (or 0001 hrs to 2400 hrs). The Committee noted that a calendar day defined as the latter would conflict with noon fishery time (noon to noon) but would provide easier tracking of compliance with the trip or landing limits, utilizing fish tickets.

The Committee also discussed the landing restrictions of 136 mt (300,000 lbs) per delivery day and the intent of the analysis. The current analysis discusses both harvest and landing restrictions at 136 mt/day. The Committee indicated that enforcing a daily harvest limit would be difficult; and practically enforced only through landings activity. However the landing provisions are easier to enforce through the fish tickets. If the overall intent of this analysis is to pace (or slow down efficiency) of the fishery, the Committee noted one enforceable method would be to add a provision that addresses the cumulative amount of pollock that could be landed by a vessel over the duration of a fishery opening. A landing limit, enforced on a fishing period basis (i.e. 300,000 pounds X total days of directed pollock fishing in the opener), could be easily monitored for compliance by utilizing fish tickets, and might increase flexibilities and efficiencies on the part of processors and vessels operators in harvesting and processing effort.

The Committee recommends the Council modify the language within Alternative 2 to the following:

- (a) Limit trawl catcher vessels in the Gulf of Alaska pollock fishery to landing no more than 136 metric tons, through any delivery means, in a calendar day - 12 AM to 12 AM (or 0001 hrs to 2400 hrs).
- (b) The cumulative amount of pollock harvested from any GOA regulatory area and landed by a catcher vessel cannot exceed the daily trip limit of 136 metric tons times the numbers of calendar days the directed pollock fishery is open in the area of harvest.

The Committee assumes no changes to tender vessel restrictions in areas 610 and 620 under the proposed action.

Suggested Agenda Items for December 2007:

BS Salmon Bycatch- Closure Configurations
Review draft rule for area 2C halibut (skipper/ crew and line limitations).
VMS dinglebar exemption
P cod sector split (t)