

Enforcement Committee Minutes June 5, 2018

The North Pacific Fishery Management Council's Enforcement Committee met on June 5, 2018 in Kodiak, Alaska.

Committee members in attendance included, Will Ellis (Co-Chairman), Steve Marx (Co-Chairman), Glenn Merrill, Brian McTague, Jennifer Ferdinand, LCDR Corrie Sergent, LT Yvonne Yang, and Jonathan Streifel. The committee was staffed by Jon McCracken.

Others in attendance included: Anne Maria Eich, Sarah Marrinan, Stephanie Warpinski, Sara Cleaver, Josh Keaton, Guy Holt, John Lepore, Jennifer Roberts, Jaclyn Smith, Brent Pristas, and Josh Boyle.

1. Voluntary Halibut Deck Sorting

Anne Marie Eich, NMFS staff, provided a presentation on the benefits and costs of a proposed regulatory amendment to allow halibut to be sorted on the deck of trawl catcher processors when operating in non-pollock groundfish fisheries off Alaska. This would allow Pacific halibut to be returned to sea from the deck prior to crossing the flow scale. The purpose of these regulations is to reduce the discard mortality of halibut aboard trawl catcher processors operating in non-pollock fisheries off Alaska. This reduction in discard mortality of halibut, if achieved, would increase the amount of time trawl catcher processors operating in non-pollock fisheries off Alaska could fish for groundfish before reaching the halibut prohibited species catch (PSC) limit. The objective of deck sorting is to minimize halibut bycatch to the extent practicable, which may provide additional harvest opportunities in the commercial halibut fishery.

The Enforcement Committee appreciated the review and presentation, as well as the opportunity to ask questions and exchange information between the NMFS staff. The Enforcement Committee explored the following information during presentation of the report:

- The committee identified some concern about the length of time the vessel would be required to retain video of the deck sampling station and whether the retention period was sufficiently long enough to allow for subsequent law enforcement review;
- The committee inquired whether the NMFS staff's analysis addressed the precise event that would trigger the start of the deck sorting period and whether this start time would be recorded by the observer;
- The committee asked about the observer's viability determinations, expressing concern about the potential for the operator or crew to place pressure on the observer to make a particular determination;
- The committee also inquired about notification of halibut deck sorting on a trip by trip basis, as opposed to haul by haul, would enable better responsiveness and planning by the observers.

2. C5 BSAI Halibut in Pots

Sara Cleaver, Sarah Marrinan, and Stephanie Warpinski provided a presentation on the action proposing to allow BSAI halibut in pots and the enforcement challenges associated with the action. The measure under consideration would allow retention of legal-sized halibut in pot gear in the BSAI, provided the operator holds sufficient halibut IFQ or CDQ for that IPHC regulatory area. The purpose of this action would be to allow for more efficient harvest of the halibut resource by decreasing the wastage of legal-sized halibut discarded in the BSAI sablefish pot fishery, and to allow for the possibility of reduced whale

depredation of halibut from hook-and-line gear by allowing operators that hold halibut IFQ/CDQ the opportunity to retain halibut in pot gear.

During the staff report, several enforcement related issues were raised. Presented below are a summary of those issues raised and the committee's response.

- I. Figure 1 of the analysis displays an overlay of the NMFS groundfish management areas that are referred to in Federal regulations and the Council's FMPs, and the IPHC regulatory areas for waters off Alaska. Halibut retention in sablefish pots is currently permitted in the GOA, but not in the BSAI. The proposed action suggests halibut retention in pot gear used to fish halibut or sablefish IFQ/CDQ would be permitted in the BSAI. Note that IPHC Area 4A encompasses parts of both BSAI and GOA. **The committee recommends the proposed action apply to the BSAI FMP management area and not the IPHC regulatory areas which would include part of the GOA in Area 4A.** From the Enforcement Committee's perspective, regulations should be as simple and straightforward as possible, and to the extent practicable, consideration should be given to ensuring consistency of management measures amongst the FMPs and regulatory areas (Enforcement Precepts, December 2015).
- II. The issue of how to distinguish between pots targeting IFQ species from pots targeting crab or Pacific cod was discussed, as retention of IFQ halibut and sablefish is not permitted when targeting crab or Pacific cod.. Since IFQ is associated with an individual vice a vessel, the committee recognized that having IFQ holders individually label their pots is realistically and financially unfeasible. In the GOA, identification of IFQ pots was necessary to comply with mandated pot limits which were approved to restrict grounds preemption, but ground preemption in the BSAI is not currently a known concern. Also, at-sea enforcement of a pot tag requirement to identify deployed IFQ pots would be impractical due to limited enforcement resources.
- III. Element 1, Option 2 (gear retrieval) would require removing pot gear from the fishing grounds after five to ten days (sub-options), if the vessel has unfished IFQ or CDQ onboard.
 - a. The committee/OLE discussed past history of gear conflicts in the BSAI. **The committee noted that gear conflicts are very limited in the BSAI relative to the GOA.**
 - b. Gear storage – **one member of the committee noted that weather events could complicate enforcement of time limits for gear storage.**
- IV. Element 2 and 4: Gear modifications
 - a. Element 2 would exempt vessels that are fishing IFQ halibut or sablefish from the requirement to have a tunnel opening no wider and no taller than 9 inches and biodegradable panels. This action hinges on the ability to target halibut with a larger tunnel opening. **Some members of the committee noted that development of regulations on how to define targeted halibut fishing, which is crucial for enforcement, could be challenging.**
 - b. Element 4: Escape mechanisms. **The committee agreed that consistent escapement requirements across federal and state fisheries are easier to enforce. The committee noted the upcoming discussion paper on discard of small sablefish may provide some use for this action, particularly the proposed escape rings.**
 - c. For purposes of enforcing gear modification, the committee discussed enforcement at the dock as a possibility. **The committee noted that, under some circumstances, it is difficult to prove the fishing gear encountered at the dock was used in a prohibitive manner. It was also noted that enforcement resources are limited, especially in remote locations.**

- V. Element 5 –Addresses NMFS authority and whether VMS and logbooks are useful tools for purposes of enforcing fishing closure areas. **It was generally noted by the committee that VMS is a basic system but is an effective tool for purposes of enforcing area closures.**

3. Review of the Terms of Reference

During the April 2018 Enforcement Committee meeting, the committee reviewed its Terms of Reference. During that review, the committee noted that Section 302(i)(2)(D) of the Magnuson-Stevens Fishery Conservation and Management Act requires all interested persons shall be permitted to present oral or written Statements regarding the matters on the agenda at meetings. At this meeting, the committee reviewed and approved changes to the Terms of Reference to allow only written public testimony regarding Enforcement Committee agenda items.