

Enforcement Committee Draft Report  
March 27 9am-1pm  
Hilton Hotel Iliamna Room  
Anchorage Alaska

Committee present: Cathy Coon (staff), Mike Gonzales, Roy Hyder (chair), Ken Hanson, Bill Karp, LT Alan McCabe, LCDR Lisa Ragone, Sue Salvesson, Herman Savikko, and Garland Walker

Others present: Guy Holt, Nicole Kimball, Darrell Brannan, Kevin Heck, Mike Adams, LT Doug Watson, and LT Pat Barelli

Bering Sea Habitat Conservation (BSHC)

The Enforcement Committee received a report from Cathy Coon, NPFMC staff and Melanie Brown, NOAA Fisheries, on the Bering Sea Habitat Conservation analysis. The Committee supports the release of the analysis for public review.

The Enforcement Committee discussed implementation issues associated with a proposed program for modification of trawl sweeps for non-pelagic trawl vessels fishing flatfish in the Bering Sea. Generally, the Committee believes this program possesses no compliance monitoring issues which would preclude effective monitoring of the program. However, the Committee recognized several issues which were felt needed to be addressed to increase effective enforcement of the program. If the NPFMC chooses to implement a gear modification program, the Committee recommends that industry, enforcement, the observer program and any other interested parties participate in discussions to develop agreed upon practical procedures, to aid in regulatory compliance.

The Committee believes a compliance monitoring approach similar to what is used to enforce bird avoidance gear requirements is appropriate. Observers may be a useful source of information on compliance with gross requirements of the program, such as general presence or absence of elevating devices. Non-compliance with gross program requirements could be reported via affidavits and debriefing, to be investigated by NOAA Enforcement. However, the Committee believes it is not appropriate for observers to be making compliance determinations on gear spacing or minimum elevation requirements.

US Coast Guard and NOAA Enforcement agents and officers would be able to conduct gross compliance monitoring of trawl sweep gear requirements by observing gear deployment during setting and hauling. If closer inspection is warranted to determine compliance, the vessel may be directed to haul the gear onto the trawl deck for inspection. Marking of the trawl ally to aid in determining gear spacing might be useful, especially if elevating devices of differing colors are used on port and starboard sweeps.

As elevating devices wear, likely greater on one side, the Committee recognized standards will need to be developed to determine when an elevating device is no longer compliant and requires replacement. The Committee supports efforts by NOAA Fisheries, Sustainable Fisheries Division staff and gear manufacturers to develop elevating devices which will clearly indicate when the gear has worn to a point when it is no longer in compliance with minimum elevation standards.

The Committee further discussed the changes to the status quo in terms of enforceability. Should an open area approach and/or closure areas be considered for the Bering Sea, the Committee reiterates their strong recommendation, as outlined in the precepts paper, that these areas be defined by straight lines following latitude and longitude, to the degree possible. This will aid both fleet compliance and enforcement.

The Committee noted that the analysis should be expanded to take into account enforcement and monitoring needs and issues. A specific recommendation is that the use of VMS to assist in the monitoring and enforcement of the open/closed areas discussed in the Alternatives and options of the analysis. Such analysis would include, the considerations of the costs and benefits of VMS in monitoring large expanses of open water, often with irregular shaped closure boundaries and little other enforcement resources in the area. The Committee recognizes that under Amendment 80, many of the participants in the flatfish directed fisheries will be required to operate VMS. However, opportunities exist for trawl vessels to target non-Amendment 80 flatfish species, where VMS might not otherwise be required. The Committee strongly believes a 100% VMS requirement is necessary to effectively enforce these requirements.

#### Charter Halibut moratorium and GHL

The Enforcement Committee received a report from Nicole Kimball and Darrell Brannan on the Charter Halibut moratorium analysis and reviewed the action memo for the GHL analysis. The Committee commended the components of the GHL analysis that addressed regulation and enforcement concerns.

The Committee discussed the potential problem of not having recognizable geographic boundaries for different communities operating under the CQE. Ms. Kimball indicated both incorporated and unincorporated communities in the analysis have boundaries defined by the US Census and either that location or a specific latitude and longitude could be noted in a logbook.

The Committee notes that any changes to the status quo regarding management of the charter halibut fleet as proposed requires building an effective enforcement presence to the fleet. This presence is a critical tool for enforcement such that regulatory compliance for this large of an industry (40,000 charter trips/year) is imperative. Means to promote regulatory compliance involves additional personnel to create a presence at the different ports where charter fishing occurs. This effective presence would build an expectation that the charter fleet may be boarded or inspected. The current analysis estimates the increase in personnel needed for enforceability but indicates that personnel could be redirected from existing sources. The Committee notes that this likely is not an option, but that additional resources would need to be provided for additional personnel. Some discussion of a cost recovery program for these increased costs of management was discussed.

#### Other business

The Committee received a status report from Garland Walker NOAA, GC on the recent litigation concerning AFA sideboards. The fine resulting from the litigation is an effective message from the agencies and Council in terms of enforcing the control limitations placed on the industry.

The Committee also received an update from LCDR Lisa Ragone and Guy Holt NOAA Fisheries Enforcement on a hearing requested by the Alaska Legislature's House Committee on Fisheries regarding VMS and AIS monitoring systems. The meeting was positive and productive in nature and was a forward step to foster collaboration between the different agencies, and served to dispel some of the misconceptions contained in the February letter from the State legislature to the Council.