

Enforcement Committee Minutes

December 9, 2008

Hilton, Anchorage, Alaska

Committee present: Roy Hyder (Chair), Sue Salvesson, LCDR Lisa Ragone, Herman Savikko, Garland Walker, Jeff Passer, Matt Brown, Ken Hanson, Martin Loefflad, and Jon McCracken (staff)

Other present: Diana Evans, John Olson. John Gauvin joined the meeting via teleconference

I. BSAI Trawl Gear Modifications

John Gauvin presented a quick overview a sea trial demonstration of the modified trawl sweep gear for January 9th and 10th. The individual agencies that are represented on the Council's Enforcement Committee have been invited to participate in the demonstration, although the event is not hosted or sanctioned by the Council. The demonstration will take place aboard F/V Vaerdal, which is a 120 ft vessel captained by Bill Hayes.

Enforcement representatives planning to participate in the demonstration identified the following interests (although there might be others that come up during the demonstration):

- to observe the mechanics of fully deploying and hauling back the sweeps, including winding the sweeps on the net reel
- to see how easy or difficult it is to stop the deployment or haulback of gear prior to completion, to chain off the sweeps, and to physically measure the gear on the deck
- a representative available to discuss the proceedings during the demonstration (this might be the deck boss and/or John Gauvin)
- an opportunity for a debriefing with the captain at the conclusion of the demonstration (this could be on the journey back to shore, or after arriving onshore). This would give the participants a chance to discuss any potential problems that might envision from using the gear, etc.

Following the demonstration, Council staff will write up a summary of the demonstration and the enforcement discussions. This report will be discussed at the February Enforcement Committee meeting, and the Committee will then provide recommendations to the Council about the proposed trawl sweep modification issue.

The demonstration will help to address enforcement concerns about inspection of the gear at sea, to determine whether the gear being used meets the required standards. There are other, outstanding enforcement concerns (included in the Enforcement Committee's October minutes) about whether there is a need for primary verification that vessels are installing the appropriate gear, such as through the requirement for a manufacturer's certification. **The Committee expects that the demonstration will provide clarity about the importance or need for primary verification of the modified sweeps.** A discussion of all issues related to the proposed trawl sweep modification is anticipated for the February meeting.

II. Vessel Capacity for GOA Pacific Cod Sector Split and Fixed Gear Recency Actions

As part of the GOA Pacific cod sector split and fixed gear recency actions, the Enforcement Committee explored ways in which to determine vessel capacity for the purpose of restricting "Super 58" vessels.

Under regulations at 50 CFR 679.2, vessel length overall (LOA) is defined. Arguably, the regulatory definition of LOA is relatively straightforward. The NOAA Office of Enforcement has developed appropriate field procedures to measure vessel LOA dockside, and has investigated several attempts to misrepresent or alter vessel LOA, to comply with or circumvent regulatory programs where LOA is a factor.

The Enforcement Committee recognizes that length and width measurements currently reported on a vessel Certificate of Documentation (CoD) are based upon varying and inconsistent measurement criteria, are self reported, and thus may be inappropriate to rely upon for this proposed regulatory use.

Per the Advisory panel recommendation, a regulatory definition of vessel width would be necessary. In general, this definition would need to specify that width be the greatest straight line measure between the widest, outside points of the “shell” of the hull, measured above the waterline or main deck. (Discussions indicate there might be instances where the widest point of a vessel might be below the waterline. There may also need to be agreement or a definition of where the regulatory “waterline” occurs.) From a safety/vessel stability perspective, it is generally not advisable to impose limitations on the beam of a vessel.

Given the complexity of issues surrounding the development of clear and enforceable criteria for measurement of vessel width and associated capacity calculations, the committee recommends that NMFS work with the USCG and industry to develop draft regulatory criteria for measurement of vessel width that can be used by the regulated industry, enforcement personnel, and certified marine surveyors.

If a “tonnage” capacity standard is considered, the Enforcement Committee noted the determination of tonnage as indicated on a vessel USCG CoD is complex, considers spaces not directly related to vessel holding or processing capacity, and is in many cases self reported information. Additionally, there appears to be inconsistent enforcement of requirements to amend this measurement on the CoD if alterations are subsequently made to the vessel. This potentially heightens the concern for non-compliance with the letter or intent of a regulatory program where participation is based upon these measures.

All vessels less than 79 feet LOA may submit a Builder’s Certification and First Transfer of Title form (CG-1261) with its dimensions (length, beam, depth & tonnage) to the National Vessel Documentation Center, but these measurements are not routinely verified during USCG inspections.

The Committee noted alternatives exist to limit capacity, such as trip limits or vessel caps, and noted these approaches generally were easier to enforce compliance with program goals.