

North Pacific Fishery Management Council

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North Pacific Fishery Management Council Enforcement Committee June 7, 2016 Minutes

The North Pacific Fishery Management Council's Enforcement Committee met on June 7, 2016 in Kodiak, Alaska.

Committee members in attendance included Roy Hyder (Chairman), Chris Rilling, Jon Streifel, Will Ellis, Nathan Lagerwey, Alisha Falberg, Guy Holt, Glenn Merrill, Capt. Phil Thorne, Corrie Sergent. The committee was staffed by Steve MacLean, in place of Jon McCracken.

Others in attendance included: Josh Ryder, Marcus Cady, Jennifer Mondragon, Gretchen Harrington, Matt Robinson, Alicia Miller, Keith Brunton, Brent Pristas, Vince O'Shea, Stephanie Madsen, Bill Tweit, Diana Evans.

1. Review EM Integration Alternatives and Options for October 2016 Initial Review

The NPFMC has initiated an analysis to integrate electronic monitoring (EM) tools into the Observer Program for vessels using fixed gear. The EM program is being developed through the Council's Fixed Gear EM Workgroup. Diana Evans provided an overview of progress with EM development, to date, and presented the draft analysis (D-2). Nathan Lagerwey provided enforcement considerations that have been raised with respect to using EM for monitoring in fixed gear fisheries.

There was discussion at the committee about the two systems (integrated GPS vs. VMS) that could be used to provide location data with an EM system. Discussion concentrated on the utility of each system for enforcement opportunities, transmission of real-time data (location and system status), timelines for transfer and review of video data, data retention requirements, and timeline for implementation. Committee members noted that VMS allows for transmission of data that could provide system status information to the agency in real time, and may provide some opportunity for vessels to address critical failures at sea rather than returning to port. An EM system with integrated GPS would require a satellite modem to transfer those data, but would otherwise be comparable to VMS. It was noted that transmission of video data in real time from either system is currently cost prohibitive. However, transmission of basic system health data (no video) may be a viable alternative. System health transmissions would aid compliance and assist program technicians to troubleshoot EM systems at sea, potentially keeping vessels on the fishing grounds. It was also noted that requiring VMS to be incorporated into EM would require installation of VMS on vessels that do not currently have VMS installed. There were two perspectives raised by the committee with regards to enforcement utility of EM: one perspective was that the enforcement committee should recommend, at this early stage, those system components that would aid the agency, US Coast Guard, and State of Alaska in enforcement actions, the other perspective was that

EM is being considered as a way to add value the observer program, and the committee should consciously evaluate the value of EM to the observer program as the primary objective and compliance components as contributors to the goals of management and the data collection. The committee noted that EM will provide some support for enforcement, regardless of which components are selected. It was also noted that fully integrating VMS into EM could complicate progress on EM in the short term.

After discussion, the committee approved the following statement:

The NPFMC Enforcement committee recognizes the aggressive timeline for implementation of EM, and recognizes that with the accelerated timeline some of the enforcement issues that have been raised may not be fully resolved before implementation. The committee appreciates the opportunity to raise enforceability concerns early and recommends the EM Workgroup test compliance components during pre-implementation where feasible. The committee looks forward to continuing to work with the EM Workgroup to address additional enforcement concerns, after implementation, as the program matures.

2. Review the Compliance and Enforcement Chapter of the North Pacific Groundfish and Habitat Observer Program 2015 Annual Report

Chapter 5 of the North Pacific Groundfish and Halibut Observer Program 2015 Annual Report provides information about observer reported compliance data and the cooperative relationship between NOAA OLE, Alaska Division, and the North Pacific Groundfish and Halibut Observer Program. Mr. Nathan Lagerwey provided a summary of Ch 5 to the committee.

Committee members noted that the reporting of Harassment, Intimidation, Interference violations was refined into separate categories to clarify the seriousness of the incidents. Committee members also noted the importance of Table 5-2, noting that not all statements result in an open case.

After discussion **the committee stated that they appreciate and support the improvements in reporting compliance and statement data, including the additional breakdown of some categories and the more informative format.**

3. Comingling of Guided Halibut with Unguided Halibut on the same Charter Vessel

Possessing charter harvested and non-charter harvested halibut on the same vessel at the same time presents challenges for accountability that cannot be overcome with the current regulatory tools. This occurs on multi-day and “mothership” charter fishing, and to a lesser extent on vessels that are owned by self-guided fishing operations that also provide sport fishing guide services to their clients that request them.

Will Ellis briefly presented a statement of the issue, noting that once guided and unguided halibut are commingled aboard a vessel there is really no way for OLE to determine which halibut were harvested on guided or unguided trips. The committee noted that this would require a regulatory change to fix the issue. It was also noted that on at least one other occasion there was an issue with comingling of sport-caught and subsistence-caught halibut, which precluded the agency from pursuing charges. It was discussed that a prohibition on comingling guided and unguided halibut will likely require a regulatory change to ensure proper accounting of catch in all categories. **The committee recommends that the Council initiate a discussion paper to ensure that regulations are in place to ensure the proper disposition/accounting of halibut in guided, unguided, and subsistence fisheries.**

4. Fish donations from enforcement officers

Will Ellis presented OLE's interest in revisions to PSC donation programs, or other avenues for OLE to donate confiscated fish to local food banks to avoid wastage.

Discussion at the committee included the opportunity to donate fish other than halibut and salmon, but it was noted that halibut and salmon are the priority. After discussion the **committee recommended that the Council initiate a discussion paper to examine requirements for a regulatory amendment to allow donation of fish seized by law enforcement officers to local food banks or the SeaShare program.**

5. Enforcement Committee Terms of Reference

Chairman Hyder offered two changes to the Enforcement Committee Term of Reference. Mr. Hyder recommended the first term of reference be amended to include consideration of safety at sea as an enforcement committee consideration. The suggested paragraph in the Terms of Reference would read as follows, with additions underlined and deletions in ~~strike through~~:

Establishment and Statement of Purpose. *The North Pacific Fishery Management Council (Council) may establish and maintain an Enforcement Committee to advise it on matters related to enforceability of fishery plans and regulations. The Committee's primary function is to review proposed plans, regulations, or other management actions and provide their assessment of enforcement issues as early as possible in the development process. The Committee would not be limited to purely enforcement aspects, but would also consider part of its role to be discussion and development of monitoring and compliance approaches that facilitate implementation of, and compliance with, management program regulations, and consideration of measures that could affect safety at sea.*

Mr. Hyder also proposed a change in the second Term of Reference concerning the selection of the committee chair. The suggested paragraph in the Terms of Reference would read:

Membership. ~~*The Committee will be Chaired by a member of the Council, as appointed by the Council Chair, and additional*~~ *Committee members will be appointed by the Council Chair from governmental agencies and organizations having expertise relating to the enforcement and monitoring of North Pacific groundfish and crab fisheries of the BS/AI and GOA. At a minimum, these agencies would include NOAA Fisheries Enforcement, NOAA Office of Sustainable Fisheries, U.S. Coast Guard, Alaska State Wildlife Troopers, Alaska Department of Fish and game, NOAA Fisheries Observer Program, and NOAA Office of General Counsel. The Committee will be Chaired by a member of the Committee, as elected biennially by the Committee. All appointments will be subject to approval by the Council and should reflect the Committee's responsibility to provide advice in the areas of enforcement and monitoring. Staff for each meeting will be designated by the NPFMC Executive Director as appropriate, depending on availability and issues on the agenda.*

Organization. *The Committee will be directed by the Chairperson, and may divide some of its responsibilities among work groups organized according to subject matter.*

- a) **Rules of order.** *In general, rules of order will be informal. Committee advice will be reached by consensus, whenever possible. Committee minutes will reflect the range of perspectives of all members.*
- b) **Meetings.** *Committee meetings will be held on a regular basis, typically in conjunction with regular Council meetings. Notice of these meetings would be accomplished through the Council*

*agenda notice process. Additional meetings during the week of the Council meeting will be held as necessary, and announced at the Council meeting. Meetings will be open to the public, but public testimony will **not** be taken. Note that the public has the opportunity to provide comments to the Council during public testimony.*

- c) **Development of Agenda.** A draft agenda will be prepared in advance of each meeting by the Council staff in consultation with the respective Chairperson and Executive Director. The Committee would be assigned issues for consideration on its agenda by (1) identification of future agenda items at the current Committee meeting, subject to approval by the Council; (2) identification and assignment of issues by the Council as identified during the course of a Council meeting; (3) identification of critical, time-sensitive issues between Committee/Council meetings from Council staff, agency staff, or Committee members and vetted through the Executive Director. In these instances, the Executive Director will confer with the Council Chair and Committee Chair as necessary, and determine whether the additional issue warrants inclusion on the agenda.*
- d) **Meeting Record and Distribution.** A summary report of each meeting will be prepared by the Council staff, distributed to Committee members for review, and revised as necessary before the Committee report to the Council. The Committee Chair will maintain final approval of the minutes. The Committee report will be provided to the Council on an issue-by-issue basis, similar to the AP and SSC reports, as the relevant issue is addressed on the Council agenda.*

Additional Function. *While the primary function of the Committee is to provide advice directly to the Council on relevant issues, it is also recognized that the Committee, or its subgroups, may provide information directly to Council staff or other agency staff for inclusion in analytical documents ultimately destined for Council review. Such activities will be coordinated between the Committee Chair and Council Executive Director.*

The Committee recommended the suggested changes to the Enforcement Committee Terms of Reference.

The Committee expressed their appreciation and gratitude to Capt. Phil Thorne for his service on the Enforcement Committee.