

Enforcement Committee Agenda

December 10, 2013

1pm – 5pm

Birch/Willow Room, Hilton Hotel

Anchorage, Alaska

I. Charter Halibut Annual Management Measures

Background

The Charter Management Implementation Committee met on October 25, 2013 to recommend a range of potential management measures for Area 2C and Area 3A in 2014 to frame the ADF&G analysis. The analysis will provide the projected harvests for the proposed measures under either the GHL Program or Halibut Catch Sharing Plan (CSP), which is still pending Secretarial approval. Two of the management measures recommended for analysis for Area 2C and one of the management measures recommended for analysis for Area 3A includes an annual limit on halibut harvested by charter vessel anglers in Alaska.

The Office of Law Enforcement (OLE) has concerns with its ability to effectively enforce an annual limit on charter harvested halibut in any area without an accurate annual accounting method implemented via regulation. At this meeting, representatives from OLE will present these concerns to the committee. Attached below is a letter from OLE to the Council that conveys these concerns.

II. C-2 Initial review of Round Island transit analysis

Background

This Draft EA/RIR analyzes the potential environmental and economic effects of a proposal to establish season transit areas through the Round Island and Cape Peirce walrus protection areas in northern Bristol Bay, Alaska. The proposed action would establish one or more transit areas through the walrus protection areas at Round Island and Cape Peirce in order to allow vessels with Federal Fisheries Permits (FFPs) to transit through the areas while tendering for State of Alaska managed herring and salmon fisheries in Togiak Bay, Cape Peirce and Cape Newenham, and Security Cove, or while transferring groundfish to floating processors or trampers in Togiak Bay or Hagemeister Strait. Before implementation of Component 10 to GOA FMP Amendment 83, vessels with FFPs were allowed to surrender their FFP for the tendering season in order to transit through the walrus protection area, with the expectation that they could reactivate their FFP when tendering was completed. Now those vessels are prohibited from reapplying for a FFP within a three year period, putting their FFP at risk or putting themselves at risk of violating regulations if they transit the walrus protection area. The purpose of this action is to maintain suitable protection for walrus on Round Island and Cape Peirce, to restore access to routes used by tendering vessels before implementation of GOA FMP Amendment 83, and to allow vessels delivering groundfish to the route north of Round Island to reduce the likelihood of disturbance to walrus on Hagemeister Island.

III. Implementation recommendations for other VMS features for vessels already subject to VMS requirements

Background

Over a series of three meetings in 2012, the Council reviewed a discussion papers regarding the use and requirements of vessel monitoring system (VMS) in the North Pacific fisheries and other regions of the U.S. At the December 2012 meeting, the Council reviewed a discussion paper that evaluated, among other things, how advanced features of VMS are being utilized in the other regions in the U.S. Based on those different usages, the Council recommended that the Enforcement Committee assess the utility of

features such as geo-fencing, increased polling rates, and declarations of species, gear, and area for improving enforcement efforts and efficiency for vessels already subject to VMS requirements. The Council noted implementation recommendations could be in the form of agency regulations, Council actions, and some may not be worth implementing. To address the Council's request, LCDR Tony Keene prepared an outline for the committee to review and edit, which is attached below. **At this meeting, the committee will finalize the outline, determine who is responsible for completing each section noted in the outline, and set the time line for completing the document.**



**UNITED STATES DEPARTMENT OF COMMERCE
NOAA / National Marine Fisheries Service**

Alaska Enforcement Division

DATE: December 3, 2013

TO: Chris Oliver, Executive Director
North Pacific Fisheries Management Council

FROM: Matthew S. Brown, Acting Special Agent in Charge

RE: Enforcement Concerns on Annual Harvest Limit

The Charter Management Implementation Committee has recommended analysis of several potential management measures for charter halibut harvests in 2014. Two of the management measures recommended for analysis for Area 2C and one of the management measures recommend for analysis for Area 3A includes an annual limit on halibut harvested by charter vessel anglers in Alaska.

The Alaska Enforcement Division has concerns with its ability to effectively enforce an annual limit on charter harvested halibut in any area without an accurate annual accounting method implemented via regulation.

The method that has been offered to account for annual halibut harvests for charter vessel anglers is to require anglers to complete a harvest record that is located on the reverse side of a State of Alaska sport fishing license. Anglers not required to obtain a sport fishing license under Alaska law, e.g. Youths, PID card holders and senior citizens, would be required to complete a free harvest record card.

There are many ways that an angler that wants to exceed an annual halibut harvest limit could easily circumvent this cursory record keeping mechanism and successfully evade detection by enforcement personnel:

- An angler could inadvertently or intentionally fail to record their charter harvested halibut on their license or harvest record card until or unless they get checked by enforcement personnel from NOAA, the USCG or the Alaska Wildlife Troopers. If the angler isn't checked, they may never record harvests and no accounting is created.
- Many anglers obtain multiple fishing licenses throughout the year. The use of multiple fishing licenses (including duplicate licenses) by an individual angler doesn't allow for continuity of accounting for an annual limit throughout the year. An angler could inadvertently or intentionally fail to record harvest records from previous

fishing license(s) to a new fishing license(s) and there is no mechanism to audit or follow up on this practice during the current fishing year.

- Accounting for annual halibut limits for anglers that are not required to obtain a sport fishing license is even more problematic because the harvest record cards are not tracked or otherwise accounted for, and there is no continuity of accounting for anglers that use multiple harvest record cards throughout the year. ADF&G saltwater logbook data indicates that in 2012 there were approximately 11,790 charter vessel anglers that retained halibut from Area 2C and 3A but were not required to obtain a sport fishing license. In 2011 there were approximately 13,402. This is an estimate of the number of charter vessel anglers that would be required to use a harvest record card if an annual halibut limit were to be implemented. Given the uncontrolled nature of the harvest record card, anglers that want to exceed an annual limit on halibut would only have to complete a new harvest record card with each new fishing trip. This would effectively restart the accounting for an annual limit of halibut with each fishing trip and new harvest record card.
- If the CSP is implemented in 2014 with a provision for Guided Angler Fish “GAF”, GAF would not be counted towards a person’s annual halibut limit. This could further confuse the accounting for an annual halibut limit because GAF are not required to be recorded on the back of an angler’s license or harvest record card.

It has been suggested that NOAA OLE could audit annual harvest limits by matching licensing data with salt water logbook data. This is impractical for some of the reasons stated below:

- Licensing data is not available until after the end of the fishing season. This creates significant evidentiary problems in prosecuting an angler for exceeding their annual limit. The halibut and the license or harvest card would likely be either discarded or carried out of state by the angler, witnesses are unlikely to have a clear memory of relevant events that occurred months before, and it would be extraordinarily labor intensive and expensive to prosecute cases involving small numbers of halibut.
- The saltwater logbook data doesn’t contain information that individually identifies youth anglers and there is no licensing data at all for youth anglers. There is no mechanism to audit or follow up on youth angler harvests. In 2012 there were approximately 7,340 youth anglers that retained halibut from Area 2C or 3A and in 2011 there were approximately 8,886.

It has also been suggested that annual limits are best enforced at-sea while fishing for halibut is ongoing or at the dock at the end of a trip. This isn’t entirely accurate. When an enforcement contact occurs at-sea or at the dock, the authorized officer can only verify compliance with the regulations for the activities that the authorized officer observes at that point in time. The authorized officer has no way of verifying that any halibut that was harvested by the charter

vessel angler on previous days or trips was properly recorded on the license or harvest record, nor does the authorized officer have any mechanism to follow up on any fishing activity that occurs after the enforcement contact.

If anglers suspect that they are unlikely to be caught doing something unlawful or if they suspect that violations are not likely to be prosecuted, the threat of being fined becomes a weak deterrent to breaking the law.

For the reasons outlined above, NOAA OLE recommends that an annual charter halibut limit should not be implemented without a more accurate method to fully account for individual annual charter halibut harvests.

**NOTE: AKD Enforcement prepared the following comments to this paper independently since the enforcement concerns were separated from the analysis being conducted by Sustainable Fisheries and ADF&G. AKD OLE has not had the opportunity to review the analysis and reserves the right for further comment once that analysis has been released.*

Outline for VMS Paper

- I. North Pacific Fishery Management Council action request – Jon McCracken**
- II. Brief history of VMS, implementation purposes, and current status of fleets requiring coverage. – Jon McCracken**
- III. What is the current world of VMS**
 - a. VMS requirements (Generally provide vessel identification, date and time stamp, 2x/hour) – Guy Holt
 - b. Based upon Table 2, p. 3 of the VMS discussion paper (December 2012), there are approximately 1666 vessels with federal permits that target North Pacific groundfish, halibut or crab. Of these, only 556 currently are required to carry VMS units, representing only about 33% of the total vessel population.
 - i. Vessels carrying VMS
 - 1. CLS American Thorium (% of fleet)
 - a. Total Number of Units
 - b. Units with data terminals
 - c. Cost to Upgrade to data terminals
 - 2. Faria WatchDog (% of fleet)
 - a. Total Number of Units
 - b. Units with data terminals
 - c. Cost to Upgrade to data terminals
 - 3. GMPCS Thrane & Thrane (% of fleet)
 - a. Total Number of Units
 - b. Units with data terminals
 - c. Cost to Upgrade to data terminals
 - 4. Skymate/Orbcomm (% of fleet)
 - a. Total Number of Units
 - b. Units with data terminals
 - c. Cost to Upgrade to data terminals
 - ii. Possible Other Tools/cost to implement
 - 1. No Data Terminal Items
 - a. Increased Poll Rates
 - i. General Increases
 - ii. GEO Fencing associated poll increases
 - b. Geo-Fencing
 - 2. Requires Data Terminal
 - a. Gear Declaration
 - b. Species Declaration
 - c. Area Declaration
 - d. Electronic Logbooks (Appendix A of the EM Strategic Plan, p. 23)
 - i. Required for:

1. AFA CPs/Motherships
2. CGOA Rockfish CP
3. BSAI P-cod Freezer Longliners
- ii. Voluntary for:
 1. BSAI Trawl CPs in H&G
 2. AFA C/Vs
 3. GOA CP Trawl
 4. COA CP longline
- iii. Not required for all others
- c. Current users of VMS data:
 - i. NOAA OLE – Law Enforcement Case Use (Guy Holt and Matt Brown) –
 - ii. NOAA Sustainable Fisheries/In-season Management (Jennifer Mondragon and Josh Keaton) –
 - iii. NOAA Catch in Areas (Steve Lewis?)
 - iv. NOAA Observer Program (Martin Loefflad) – Purpose statement from the 2005 VMS plan listed "To permit more cost-effective and productive use of observers" as their third purpose to expand VMS coverage.
 1. Evaluation of temporal and spatial fleet distribution as compared to observer distribution.
 2. Safety for Observers, and identification of vessel locations in the event of a mishap.
 - v. ADF&G Biologists/In-season managers (Nicole Kimball)
 1. Assessment of fishery effort in seasons to anticipate fishery closures while meeting as closely as possible catch limits through determination of number and identity of vessels participating in a given fishery.
 2. Tracking of fishing vessels and tenders to establish delivery locations and estimated time of arrival in order to have port samplers or observers available to collect biological samples.
 3. Assessment of fleet distribution/harvest areas to determine whether or not there are concerns of localized depletion.
 4. Closed Area enforcement, particularly Steller Sea lion habitat protection measures.
 5. Verification of actual fishing locations to amend fish ticket data and confirm appropriate statistical area.
 6. Enforcement notifications to Alaska Wildlife Troopers.
 - vi. USCG Enforcement (Tony Kenne)
 - vii. USCG Search and Rescue (Tony Kenne)
 - viii. Industry (Fleet Management Aspects and uses of VMS)
 1. Karl Haflinger – AFA Fleet Management
 2. Lori Swanson – A80
 3. Chad See – Freezer Longliners
 4. Julianne Curry – UFA
 5. Mark Gleason – Bering Sea Crabbers
 6. Others?

Other questions that may be answered...

- IV. Are the above users currently getting what they need from the VMS system?**
 - a. NOAA
 - b. ADF&G
 - c. USCG
 - d. Industry
- V. What do VMS end users currently need for now and for the foreseeable future given the ever increasing number of complex spatial management needs for fisheries.**
 - a. NOAA
 - b. ADF&G
 - c. USCG
 - d. Industry
- VI. Case Studies in VMS use/potential benefits from expansion for current management actions.**
 - a. Steller Sea Lion No-Transit Zone Violations and VMS (Guy Holt and Sara Sundsten)
 - b. Development of a "fishing button" for catch in areas use/in-season management – may be beneficial for monitoring of effort through Skate HAPC.
 - c. Electronic Logbooks – (Jennifer Mondragon and Josh Keaton)
 - i. C/Vs not currently covered.
 - ii. C/Ps already have these.
 - iii. Are there other methods for real time transmission of data?
 - iv. Clarity of data for enforcement (hand-written logs can be hard to read.)