

associated with specific measures that may be implemented in the future through this process will be analyzed in accordance with applicable law as part of the framework adjustment and/or specification process.

8.6 ENFORCEMENT ANALYSIS

The following assessment of enforcement issues related to the Amendment 1 alternatives and measures under consideration was provided by NOAA Fisheries Office of Law Enforcement (NOAA OLE) for inclusion in the Amendment 1 DSEIS. Only those alternatives/measures under consideration with enforcement-related issues/concerns are discussed in this section.

8.6.1 Introduction

NOAA OLE recommends that in reviewing and analyzing any fishery management proposal(s) consideration should be given to the general law enforcement precepts that were developed and submitted previously to the NEFMC.

What is generally not enforceable:

Manpower intensive regulations – trip limits, bycatch percentages, meat counts – Given the amount of agents, the amount of vessels and the amount of coastline and ports on the East Coast, manpower intensive regulations result in less than adequate enforcement coverage.

Complex or convoluted regulations - multiple gear, exemptions, exceptions, running clocks – As stated above, simple and clear cut regulations minimizes confusion within industry and allows enforcement to be more effective.

Lack of accountability - marine resources that become “legal” merely by doctoring the records. Without traceable accountability in terms of labeling and recording requirements through the wholesale process, fraudulent reports become easier to construct.

Finally, any new plan or regulation must take into consideration the potential increase of resource needs by NMFS enforcement and the Coast Guard.

8.6.2 Specific Comments on Amendment 1 Alternatives/Measures

No Action Alternative

There are currently no new enforcement issues of concern with the status quo alternatives.

Alternative 1

Similar to the No Action Alternative, there are no new enforcement issues of concern.

Alternative 2 Limited Access Program

Increased investigative resources may be required as a result of fraudulent documentation submitted for qualification of a Limited Access Directed Fishery Permit.

Area-based alternatives are currently enforced through the use of VMS. Consistent with our Enforcement Precepts to simplify areas, large areas with straight boundary lines are preferred.

Note: Although VMS can help determine area fished, it cannot determine how much fish is caught from a particular area. Vessels fishing in multiple areas should be bound by the trip limit for the most restrictive area fished.

Incidental Catch Possession Limits

NOAA OLE views these trip possession limits as manpower intensive requiring dock side presence to monitor off-loads to ensure incidental catches of herring are not landed when the Set-Aside TAC is reached. If bycatch limits of herring are dependent upon area fished, universal VMS coverage would greatly assist in this effort and make such limits more enforceable.

Alternative 3

Similar to enforcement issues raised above.

Purse Seine/Fixed Gear-Only Areas

Under alternative 3, Area 1A would become a restricted purse seine/fixed gear area from June 1 to September 30 of each fishing year. Essentially, this would create another closed area for NOAA OLE to monitor. Reopening the area to all gear types on October 1 may result in increased gear conflicts.

Alternative 4 Limited Access for Area 1. Moratorium w/controlled access for Areas 2/3. Limited access for Areas 2/3 when trigger is reached.

Alternative 5 Limited Access in all management areas.

Alternative 6 More restrictive alternative. Limited Access in all management areas.

Alternative 7 Most restrictive alternative. Limited Access in all management areas.

These alternatives encompass the same issues as presented in Alternatives 1-3. There is a potential for fraud where landing documentation is the basis for permit qualification. The incidental catch possession limits can be manpower intensive to enforce. Area management and seasonal fixed gear areas are best enforced through the use of VMS. NOAA OLE supports mandatory VMS for all limited access herring vessels to enhance the enforceability of areas fished.

Adjustments to Management Area Boundaries

These measures are currently enforced through the use of VMS. Consistent with our Enforcement Precepts to simplify areas, elimination of the boundary line between 1A and 1B to create three management areas instead of four is viewed as an enforcement-friendly measure.

Open Access Incidental Catch Permit

NOAA OLE views these options as manpower intensive requiring dockside presence to monitor offloads to ensure possession limits and TACS are not exceeded.

VMS Requirements

VMS is a tremendous asset to enforcement in monitoring specific areas fished and movement between areas as well as closed areas. VMS Measure 2 requiring all vessels that qualify for a limited access directed fishery permit (exception for fixed gear) would provide for the most benefits for enforcement.

Fixed Gear Fisheries

NOAA OLE recommends that fixed gear areas be well defined and to the extent possible limit other vessel activity in these areas.

Regulatory Definition of Midwater Trawl Gear

NOAA OLE supports the intent of changing the regulatory definition of midwater trawl gear to enhance enforcement.

8.7 CUMULATIVE EFFECTS

8.7.1 Introduction

The term “cumulative effects” is defined in the Council of Environmental Quality’s (CEQ) regulations in 40 CFR Part 1508.7 as:

“The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions.”

In 1997, the CEQ published a handbook entitled, *Considering Cumulative Effects Under the National Environmental Policy Act*. The CEQ identified the following eight principles of cumulative effects analysis, which should be considered in the discussion of the cumulative effects of the proposed action:

1. Cumulative effects are caused by the aggregate of past, present, and reasonably foreseeable future actions.
2. Cumulative effects are the total effect, including both direct and indirect effects, on a given resource, ecosystem, and human community of all actions taken, no matter who (federal, non-federal, or private) has taken the actions.
3. Cumulative effects need to be analyzed in terms of the specific resource, ecosystem, and human community being affected.
4. It is not practical to analyze the cumulative effects of an action on the universe; the list of environmental effects must focus on those that are truly meaningful.
5. Cumulative effects on a given resource, ecosystem, and human community are rarely aligned with political or administrative boundaries.
6. Cumulative effects may result from the accumulation of similar effects or the synergistic interaction of different effects.
7. Cumulative effects may last for many years beyond the life of the action that caused the effects.
8. Each affected resource, ecosystem, and human community must be analyzed in terms of its capacity to accumulate additional effects, based on its own time and space parameters.

The following analysis will identify and characterize the impact on the environment by the Proposed Action and alternatives considered in Amendment 1 when analyzed in the context of other past, present, and reasonably foreseeable future actions. Summary tables can be found following each of the text sections describing impacts. These tables contain brief text summaries intended to distill the more detailed text descriptions found both in this section and in Section 7.0 (Affected Environment) and Section 8.0 (Environmental Impacts). To enhance clarity and maintain consistency, the following terms are used to summarize impacts: