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VMS/Enforcement meeting

Radison Hotel Plymouth Harbor

Plymouth, MA

*Rough Draft* SUMMARY

September 6, 2012

### **NOAA Priorities for 2013**

The committee finalized its recommendations, to be presented at the September 25<sup>th</sup> council meeting in Plymouth, MA:

- Seafood fraud/product substitution/false labeling is a high priority (International/Lacey Act) in the Northeast. It is also mentioned, with different wording, for most other Regions. OLE in Gloucester intends to comment that Seafood fraud/product substitution/false labeling should more clearly be a high priority nationally, for 2013, and the council should strongly support them.
- Observer assault/harassment is a high priority (Northeast), and includes impeding or interfering with an Observer, in all cases. Harassment, however, may include less serious situations and sometimes occur for safety reasons, which should result in smaller or no penalties respectively, particularly when safety is the reason.
- Many enforcement agents, and now some officers, have good relationships with fishermen, and the goal should be to maintain and improve good relationships. The Compliance Liaisons, like Don Frei in the Northeast, help to facilitate good relationships between the fishermen and agents, but developing good relationships with fishermen should be a high priority for all enforcement agents and officers.
- Shipwreck protection is a medium priority (Northeast), under the Marine Sanctuaries Act. Prior notification to enter a sanctuary and/or buoys (like gear marking rules) may be useful.
- Some species that are not overfished, such as striped bass, may be enforcement priorities because of economic and social issues, for instance, when complaints increase because of the disadvantage of those who comply with regulations versus those who do not. Thus, the number of complaints about a fishery or type of situation makes it a priority.
- Atlantic sturgeon should continue to be developed, as a high priority, for 2013.
- There is a need to record information that may be analyzed, in order to improve compliance. Currently, an analyst at OLE in the Northeast is working on geo-statistics, and reaching out to industry to obtain more correct area fished information in dealer reports. Analyst packages are being developed, from different data sources, and submitted to analysts to look for red flags. Comparison across databases, like VTR, dealer, and IVR, may assist this development, and should be strongly encouraged and expanded.

- Analyses of enforcement should indicate whether, for example, warnings are included in the data. OLE currently records every outreach and education event, and every interaction resulting in a warning. There has been an increase in those events during the past 12-18 months. Time spent on developing Compliance Assistance plans for new regulations, working with the Regional Office, is recorded. Measuring Compliance Assistance will be subjective, until more industry feedback is obtained.
- Information on the number of cases prosecuted/resolved in the Northeast is needed, and will be reported at the council meeting in September 2012. This information should become a standard, periodic report.
- The new pinger requirement is a medium priority (Endangered Species Act, Northeast), is currently a task for the Compliance Assistance group to check pingers on land, and is scheduled for checks by MA agents seasonally. It will be moved to high priority for 2013. Compliance reporting may be skewed, for instance, when a rate (40% of gillnetters in the GOM don't comply with the pinger rule) includes both those who have none at all and those who have 1 out of 100 that don't work. It would be helpful to have an LED on each pinger, to indicate that it's working or not.
- Industry experience with state agents is good, because these agents are on the dock, and the fishermen are able to learn who they are and what they do. Federal agents have been more remote, and the push to add more uniformed officers, working on the waterfront, must be encouraged. Also, the Compliance Assistance people are useful to call and find out what the law is and how to comply.
- Non-permitted anglers who solicit "clients" on the internet should be a priority. A Low Priority in the Northeast is "Non-compliance with state/federal fisheries permitting requirements pertaining to fisheries under NOAA's jurisdiction". This is actually a USCG priority, but it may be helpful to include specifically Party/charter vessels under this NOAA priority.

### **Gear Stowage**

At its April 26, 2012 meeting, the council unanimously approved, with one abstention, the removal of the entire net section 648.23(b)(1), but did not remove sub-sections 2, 3, 4, or 5. At some future action, the groundfish committee must remove all references to section 648.23(b)(1), but retain all references to section 648.23(b)(2) through (5).

**The enforcement committee, today, decided to recommend that the council advise the MAFMC of that action, but also request that the MAFMC consider the changes below to 648.23(b)(1), to apply to all other plans in the Northeast. Again, no changes to sections 648.23(b)(2) through (5).**

Mackerel-Squid-Butterfish  
648.23

(b) *Definition of "not available for immediate use."* Gear that is shown not to have been in recent use and that is stowed in conformance with one of the following methods is considered to be not available for immediate use:

(1) *Nets* (i) *Below-deck stowage*. (A) The net is stored below the main working deck from which it is deployed and retrieved;

(B) The towing wires, including the leg wires, are detached from the net; and

(C) It is fan-folded (flaked) and bound around its circumference.

(ii) *On-deck stowage*. (A) The net is fan-folded (flaked) and bound around its circumference;

(B) It is securely fastened to the deck or rail of the vessel; and

(C) The towing wires, including the leg wires, are detached from the net.

(iii) *On-reel stowage*. (A) **“the net is on the reel and its surface is covered with an approved material (see sub-section 5 below)”** ~~The net is on a reel, its entire surface is covered with canvas or other similar opaque material, and the canvas or other material is securely bound;~~

(B) The towing wires are detached from the net(**irrelevant**); and

(C) The codend is removed and stored below deck.

(iv) *On-reel stowage for vessels transiting the Gulf of Maine Rolling Closure Areas, the Georges Bank Seasonal Area Closure, and the Conditional Gulf of Maine Rolling Closure Area*.

(A) **“the net is on the reel and its surface is covered with an approved material (see sub-section 5 below)”** ~~The net is on a reel, its entire surface is covered with canvas or other similar opaque material, and the canvas or other material is securely bound;~~

(B) ~~The towing wires are detached from the doors;~~ and

(C) No containment rope, codend tripping device, or other mechanism to close off the codend is attached to the codend.

(2) *Scallop dredges*. (i) The towing wire is detached from the scallop dredge, the towing wire is completely reeled up onto the winch, the dredge is secured, and the dredge or the winch is covered so that it is rendered unusable for fishing; or

(ii) The towing wire is detached from the dredge and attached to a bright-colored poly ball no less than 24 inches (60.9 cm) in diameter, with the towing wire left in its normal operating position (through the various blocks) and either is wound back to the first block (in the gallows) or is suspended at the end of the lifting block where its retrieval does not present a hazard to the crew and where it is readily visible from above.

(3) *Hook gear (other than pelagic)*. All anchors and buoys are secured and all hook gear, including jigging machines, is covered.

(4) *Sink gillnet gear.* All nets are covered with canvas or other similar material and lashed or otherwise securely fastened to the deck or rail, and all buoys larger than 6 inches (15.24 cm) in diameter, high flyers, and anchors are disconnected.

(5) *Other methods of stowage.* Any other method of stowage authorized in writing by the Regional Administrator and subsequently published in the Federal Register .

The committee continues to support modified gear stowage requirements, because VMS alone, while helping to target potential violations, has not been used to make a case for fishing in closed areas.

An impediment to modifying or eliminating gear stowage regulations arises because the only section that describes “not available for immediate use” is found in the Mackerel-Squid-Butterfish section 648.23 (b); if that is changed it will affect all the other plans. It may be preferable and more workable to have them specified in the general regulations sections, rather than any specific plan.

Whereas the committee does not support eliminating gear stowage regulations wholesale, for any gear type, it recognizes that having them for all plans in the Northeast except groundfish nets complicates enforcement; overflights and at-sea boardings must then determine if a vessel is declared into the groundfish fishery or not, and whether it is using nets versus gillnets or hooks.

If the MAFMC agrees to the proposed or some other changes, General Counsel recommends that an omnibus plan approach be used. That way, perhaps the referenced section could be placed in general regulations. Also, the NRCC, which meets November 1-2, 2012, may be consulted.

#### **Open period for public comment**

The committee began using GoToWebinar at this meeting, to enable questions to be submitted during the meeting by advisors unable to attend, other fishermen, and the public. On this first attempt, there was only one person from the public attending the webinar, and they did not submit any questions. [One approach may be to receive questions throughout the meeting, and have the open comment period as the last item, in order to answer any questions raised by webinar participants]

However, a committee member registered for the webinar during the meeting and demonstrated how the process works; his question was to an attendee, who explained what the new CFVSA regulations mean. Commercial vessels fishing beyond 3 miles will be required to pass an exam. This requirement does not replace the current Safety sticker for commercial fishing vessels, which is valid until its expiration date, but is an alternative to it. Party/charter boats must get an additional sticker, however, if they also have a commercial license. If there are not enough examiners by October 15<sup>th</sup> (there are only four now), for 6-8,000 boats, a phase-in period may be necessary. Safety requirements are different between commercial and recreational sticker holders. For instance, commercial vessels must have life

rafts and survival suits, but recreational vessels only require life vests. However, recreational vessels are required to have sub-compartments, which is one of the reasons the equipment is different.

### **Logbook family of forms**

The committee was informed that this notice is seeking comments, due October 9, 2012, specifically on the following reporting mechanisms:

- The herring, tilefish, and redcrab IVR call in requirements
- The DAS credit provision and how to report
- Shellfish logbooks (VTR for the surfclam/quahog fishery)
- VTRs

This notice is not specifically soliciting comments on VMS and VMS reporting.

Fishermen have experience with break downs of the herring IVR system, and think that VMS transmissions are better. Perhaps all quota fisheries should be required to report via VMS. However, the transmission times with VMS must be speeded up.

Also, the requirement to fill out the form for not fishing is onerous; typing in a lot of zeros shouldn't be necessary. In general, the fewer items that must be entered, the better chance for the transmission to go through.

### **Other business**

NERO will find out what the implementation date is for the new Confidentiality rule.

The committee will meet on November 1, 2012, at the Ocean Edge Resort in Chatham, MA. Also, the next groundfish meeting on September 19<sup>th</sup> (and groundfish advisors on October 4) will discuss sector monitoring, both dockside and at-sea, and OLE and USCG are welcome to participate.

