

ENFORCEMENT CONSULTANTS REPORT ON  
TRAWL RATIONALIZATION TRAILING ACTIONS

The Enforcement Consultants (EC) have reviewed Agenda Item E.7.a, Attachment 1, November 2011 and have the following comments.

**Trailing Action Issue 5: Allow a fixed gear permit and a trawl permit to be registered to the same vessel at the same time.**

The EC recommends the alternative to allow both a trawl and a longline or fish pot permit to be registered to the same vessel at the same time. No change to the number of transfers allowed per year. The EC concurs with the analysis that Vessel Monitoring System and the declaration systems have reduced or eliminated the need for this restriction.

If this alternative is adopted, the EC strongly encourages industry leaders to impress upon their membership the importance of maintaining the proper declaration that accurately reflects their fishing activity. Accuracy with the declaration process is both legally required and vital to the analysis of effort by fishery managers.

**Trailing Action Issue 6: Change the opt-out requirement for quota pound deficits.**

The EC endorses the proposed alternative. Vessels that have carried a known deficit for more than 30 days may avoid a violation by opting out of the fishery (so long as the deficit is less than the carryover allowance). Such vessels may opt back in once they have cured their deficit.

To date there have been three events where a vessel was in deficit and approached the 30-day time period before covering their deficit. In two of these cases the deficit involved target species, and the vessel did not cover the deficit because it was participating in another fishery and chose to wait until the end of the 30-day period before covering their deficit. In the third situation, the deficit involved a large quantity of an overfished species. In all three situations the deficits were larger than the carryover amount (10 percent) and the vessels were not eligible to opt out.

The initial experience has demonstrated, at least in the short term, that opting out is not going to be a widely-used strategy, and thus may not create the tracking burden that some anticipated.

The EC does not support altering the 30-day clock requirement. With over 2400 landings occurring in the Trawl Rationalization fishery this year, there have been hundreds of deliveries incurring a “short-term” deficit. In the EC report under Agenda Item E.6, it was noted that the fleet has fished while in deficit 60 times, involving 30 vessels. After investigation and questioning of the affected vessels it appears the fleet was well aware of the 30-day clock requirement and less aware of the prohibition on fishing while in deficit. The prohibition on fishing while in deficit seems to be less of an incentive to cover deficits in a timely manner, and it is the 30-day clock requirement that has created the incentive to cover deficits in a timely

manner. Removal or extension of the 30-day period may significantly erode this incentive and should not be modified.

### **Trailing Action Issue 10: Reduce observer cost.**

The analysis for this action considers the need for observers on whiting trips and whether cameras might be used instead. Others have suggested the interest in electronic monitoring extends beyond the whiting fleet and also includes fixed gear and traditional groundfish trawl. The EC position on cameras versus observers is well-documented (see June 2009 PFMC EC statement E.10.b).

“The EC recommends 100 percent observer coverage be deployed to achieve catch monitoring goals.”

We recognize that our position, as stated, is influenced by our experience in the Shoreside Whiting exempted fishing permit over the past decade, (prior to trawl rationalization) where cameras were evaluated for their enforcement monitoring capability. The objective in that program was enforcing the maximum retention requirements using cameras as the monitoring tool. We were not successful in enforcing the maximum retention requirements for a number of reasons, including: problematic regulatory language, stated safety concerns as a reason for the discard, and the adequacy of the camera image as evidence. To date, no violations have been successfully prosecuted based solely on onboard camera evidence.

Under a rationalized fishery, with individual accountability for all catch (retained and discarded) enforcement of full retention, maximized retention, or some other defined level of retention is not the primary concern. There will be discards, small, large, intentional, unintentional, accidental, as a result of safety concerns, at night, during the day, and others. Considerations of how a camera can accurately determine the species and accurate weight of a discard are critical to the effectiveness of the program.

The use of cameras has been portrayed as a cost savings alternative. Those costs should be fully captured to accurately reflect any assumed savings. In most analysis, the cost of the system is accounted for, however, the cost of analysis may be underestimated. Someone has to collect and review the footage. The footage may be viewed by several entities to accurately determine what has been recorded. Beyond cost, it is a matter of accuracy and ultimately, a matter of risk.

The EC’s role is to advise the Council on enforceability and effectiveness of regulations. The EC advises that the use of cameras does not have the same level of certainty that a fully-observed fishery would have. However, the level of certainty required for effective management should be not be decided by state and Federal enforcement, but by other entities such as the National Oceanic and Atmospheric Administration (NOAA) Science Center, NOAA Sustainable Fisheries Division, and/or industry.

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