

PROPOSED AGENDA
Enforcement Consultants
Pacific Fishery Management Council
Hyatt Regency Islandia
Garden F
1441 Quivira Road
San Diego, California 92109
619-224-1234
October 31, 2005 – November 4, 2005

MONDAY, OCTOBER 31, 2005 – 5:30 P.M.

A. *Call to Order*

Dave Cleary

1. Introductions
2. Review and Adopt Agenda

B. *Council Agenda Items for Possible Comment*

(There may or may not be enforcement issues associated with all of the following items. Items on the Council Agenda but not listed here may also be considered during the EC meeting.)

B. *Administrative Matters*

4. Legislative Matters
7. Council Three Meeting Outlook, Draft March 2006 Council Meeting

C. *Enforcement Issues*

1. State Enforcement Activity Report

D. *Coastal Pelagic Species Management*

2. Alternatives Analysis for Krill Management

E. *Pacific Halibut Management*

1. Proposed Changes to the Catch Sharing Plan and Annual Regulations

H. *Groundfish Management*

4. Consideration of Inseason Adjustments in 2005 and 2006
Groundfish Fisheries
6. Amendment 18 (Bycatch) and Work Plan Practicability Analysis
7. Amendment 19 (Essential Fish Habitat)
8. Exempted Fishing Permit (EFP) Applications for 2006

9. Management Measures for Spiny Dogfish and Pacific Cod for 2006
10. Expansion of Vessel Monitoring System (VMS)
11. Update on Trawl Individual Quota (TIQ) Process and Community Concerns
12. Management Recommendations for 2007-2008 Groundfish Fisheries—Part II

I. Marine Protected Areas

1. Channel Islands National Marine Sanctuary (CINMS)

J. Highly Migratory Species (HMS) Management

2. Proposed Protocol for Reviewing EFPs for Highly Migratory Species
3. Drift Gillnet Management
4. Albacore Management Planning

C. Other Topics

1. Items for Enforcement Corner of the Council Newsletter
2. Enforcement Presentations at Council Meetings

D. Public Comment

TUESDAY, NOVEMBER 1, 2005 THROUGH FRIDAY NOVEMBER 4, 2005 (As Necessary)

ADJOURN

PFMC
10/17/05

DRAFT SUMMARY MINUTES

Enforcement Consultants

Pacific Fishery Management Council
Embassy Suites Portland Airport
Dogwood Board Room
7900 NE 82nd Avenue
Portland, OR 97220
September 19-23, 2005

MONDAY, SEPTEMBER 19, 2005 - 5:30 P.M.

A. Call to Order

Dave Cleary, Chair

Members in Attendance

LT Gregg Casad, 13th District, United States Coast Guard (USCG)
CAPT Mike Cenci, Washington Department of Fish and Wildlife
LT Dave Cleary, Oregon State Police
Mr. Brian Corrigan, 13th District, USCG
Mr. Tony Warrington, California Department of Fish and Game
Mr. Dayna Matthews, National Oceanic and Atmospheric Administration (NOAA), Office for Law
Enforcement (OLE)
Mr. Dan Torquemada, NOAA, OLE

Others in Attendance

Mr. Hans Brubaker, NOAA, OLE
Mr. Jim Seger, Staff, Pacific Fishery Management Council
Mr. Tim Broadman, NOAA, OLE

B. Council Agenda Items for Possible Comment

The Enforcement Consultants' (EC) reports to the Council were as follows:

ENFORCEMENT CONSULTANTS REPORT ON LEGISLATIVE MATTERS

The Enforcement Consultants request that the following comments related to the Magnuson-Stevens Fishery Conservation and Management Act reauthorization be added to any letter forwarded by the Council.

1. Provide language allowing the full access by State Officers to vessel monitoring system (VMS) information along with the ability to use VMS for the detection and prosecution of State law violations.
2. Allow access by State Officers to VMS information if a cooperative enforcement agreement is in place, deputizing the State Officers, versus a Joint Enforcement Agreement. Specifically identify VMS as a tool available to State enforcement entities.

Attachment 1

GENERAL COMMENTS REGARDING MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT REAUTHORIZATION (MSA)

The Enforcement Consultants (EC) seek the support of the Council in writing a letter to National Oceanic and Atmospheric Administration (NOAA), Senator Stevens and other appropriate interests addressing enforcement issues related to the MSA reauthorization.

The EC has two concerns regarding the current administration of the vessel monitoring system (VMS) Program: full access and application of VMS when pursuing violations of state law. The States have been attempting to gain equal access (defined as real time live terminal access) to the VMS data since the program first became an enforcement tool in the West Coast. Due to a restriction in the MSA, NOAA cannot allow the States full access to VMS information and that information cannot be used to support state violations.

Two drafts of the MSA are currently circulating - one out of Senator Stevens' Office and the Administration's version. Both versions make an effort to address the issue of state access by allowing access if the State maintains a current Joint Enforcement Agreement (JEA). The issue of application is not specifically addressed.

The EC believes that full access should be provided to the states. Currently, a State Officer can contact NOAA and gain information through him; but, only where there is a violation of federal law in progress. State Officers are not allowed to view the system or obtain information in "real time". NOAA agents may not be available when a State Officer is working and requires the information. While both drafts make some general reference to "data systems", it is our recommendation that access to the "VMS" be specifically spelled out.

To authorize full access, cross deputization should be all that is required. The Western Coastal States have had cross deputization agreements with National Marine Fisheries Service (NMFS) Office for Law Enforcement for about 20 years. Requiring a JEA for access could become problematic. What if a JEA, which is the current vehicle for getting money to the States for federal fisheries enforcement work, is not possible due to lack of funding, or the program simply goes away? It is our view that a cross deputization program should be sufficient, since this is what gives the state enforcement programs the authority to enforce federal regulations, and thus provides the nexus.

The Council, NMFS, and the Coastal States have worked extremely hard since the inception of

the Council to make enforcement of the regulations proposed by this body and ultimately promulgated by both NMFS and the states, seamless in their application. The EC believes that VMS tracking information should be available for the detection and prosecution of violations of state law. Neither version appears to allow specifically for this to occur. Many fisheries violations occur near and across state/federal water boundaries. Federal regulations are adopted by the West Coast States, and additional, more restrictive state regulations are often implemented to further protect species with a federal management plan. The use of VMS for prosecution of state violations further capitalizes on the monetary investment(s) made by industry, the states, and the Federal Government.

The EC is also concerned about language in the Administrations' draft that expands federal enforcement authority and compensation to agencies outside of primary state fish and wildlife entities with marine natural resource law enforcement responsibilities. New examples could include County Sheriff's Offices and Municipal Police. The West Coast States compete each year with the other States in the Nation that border the Oceans, the Gulf, and the Great Lakes for finite federal funding through JEA. Protection responsibilities continue to increase for us, such as monitoring landings, imports and exports, compliance with the Endangered Species Act, selective fishing strategies or closed or restricted areas like essential fish habitat, marine protected areas and fish conservation areas.

Considering the continuous increases in protection responsibilities, any expansion of eligibility for funding, beyond marine natural resource law enforcement entities currently receiving funding, will result in the dilution of our ability to provide the needed services. The West Coast States already exhaust available funding before the need for presence expires.

The sections in both drafts that address VMS are as follows:

Senator Stevens Draft – Page 45; SEC. 202 ACCESS TO CERTAIN INFORMATION

Administrations Draft – Page 19 (C)

The section in the Administrations' draft that pertains to funding and enforcement authority is:

Page 44 (2,f)

Agenda Item F.4.b
Supplemental EC Report
September 2005

**ENFORCEMENT CONSULTANTS REPORT ON AMENDMENT 19
(ESSENTIAL FISH HABITAT)**

The Enforcement Consultants (EC) met in August with the Groundfish Management Team. During the discussion several options were provided on how to deal with regulatory language describing gear restrictions.

The EC's recommendation was to list allowable gear in restricted areas. This strategy was based on marine reserve personnel concern with development of new or undefined gear that may be used in the future with negative impacts. The approach was to list allowable activity versus prohibited activity.

The GMT's recommendation to list prohibited gear or activity is just as effective but may create a situation where some gear in the future may have to be defined and added to the list if found to have negative impacts.

Additionally, in reviewing Supplemental Attachment 3, we noted in two places where there is an attempt to limit recreational gear to 6 oz. of weight, however, the language only limited the size of the individual

weight and not the total amount of weight that could be used. [Section 660.306 (12) 66.370(3)].

C. Other Topics

During the meeting an August meeting with the GMT it was determined that they were not interested in expanding the amount of a trawl net that could be encircled by chaffing gear as it may change gear selectivity.

Forms have been developed for reporting illegal landings. The question outstanding is who should they be given to.

The decision was made to request time at the November Council meeting for a presentation by Washington.

D. Public Comment

ADJOURN

PFMC
10/17/05

DRAFT SUMMARY MINUTES

Enforcement Consultants

Pacific Fishery Management Council
Crowne Plaza Hotel
Yale Room
1221 Chess Drive
Foster City, CA 94404
June 13-17, 2005

MONDAY, JUNE 13, 2005 - 5 P.M.

A. *Call to Order*

Dave Cleary

Members in Attendance

CAPT Mike Cenci, Washington Department of Fish and Wildlife
LT Dave Cleary, Oregon State Police
Mr. Brian Corrigan, 13th District, USCG
Mr. Otha Easley, NOAA, OLE
LT Jacob Gustafson, USCG, 11th District
Mr. Khris Johns, 13th District, USCG
LCDR Ted Lindstrom, USCG, 11th District
Mr. Dayna Matthews, , National Oceanic and Atmospheric Administration (NOAA), Office for Law
Enforcement (OLE)
Mr. Fred Myer, USCG, 13th District
Mr. Dan Torquemada, NOAA, OLE

Others in Attendance

Mr. Tim Broadman, NOAA, OLE
Mr. Hans Brubaker, NOAA, OLE
Mr. Jim Caito, Caito Fisheries
Mr. Dennis Robison, USCG, Pacific Area
Mr. Jim Seger, Staff, Pacific Fishery Management Council

B. Council Agenda Items for Possible Comment

The Enforcement Consultants' (EC) reports to the Council were as follows:

Agenda Item C.3.c
Supplemental EC Report
June 2005

ENFORCEMENT CONSULTANTS REPORT ON GROUNDFISH ESSENTIAL FISH HABITAT ENVIRONMENTAL IMPACT STATEMENT – FINAL PREFERRED ALTERNATIVE

The Enforcement Consultants (EC) have reviewed the proposals and have the following comments. I will be referring to Agenda Item C.3, Attachment 1, June 2005, Summary of the Alternatives in the Groundfish Essential Fish Habitat DEIS.

1. Close sensitive habitat. We would repeat our long-standing comments about describing areas.
 - a. Use latitude and longitude.
 - b. Avoid numerous small areas; keep areas at a minimum.
 - c. If identified areas are very small, additional restrictions, such as no transit required, might be necessary to protect the integrity of the area.

Alternatives C.2.1, C.2.2, and C.2.3 have a large number of vessels impacted that currently do not carry vessel monitoring systems (VMS) (i.e., open access line gear, Dungeness crab pot). Creating numerous areas that restrict these vessels, while not including VMS requirements, will exceed enforcement capabilities.

Option C.4.2 Currently, there is no definition of **bottom tending gear** in the regulations.

Option C.7.2 Currently there is no definition in the regulations for **bottom contacting** fishing activities.

C.8.1 Currently, there is no definition in the regulations for **Mobile bottom contacting gear**.

The EC would encourage somebody to work through the above gear types to describe or define them. We would hope that definitions be kept to a minimum and be very specific to avoid confusion.

C.9.3 is unenforceable. We are unable to measure the length of a 3 NM longline groundline. At best, we may be able to measure the distance between terminal ends, but this would not result in the actual groundline length.

C.9.4 Employ habitat friendly anchor system. We need more information and definition. Additionally, our concern is how a habitat-friendly anchoring system is used or deployed versus a legal description of a specific anchor. There may be safety issues if this a break-a-way type anchor. This may be something to recommend or use as a guideline, but this may not be enforceable.

C.9.8 Definition issue. We need more information on how dingle bar gear is defined.

D.3 Expanded VMS. The EC would recommend VMS be selected as a preferred alternative to be evaluated. Many of these alternatives would impact vessels that currently are not required to carry VMS. This would create enforcement issues, as we would be limited to at sea enforcement. It would not take many areas being designated to exceed enforcements ability to maintain the integrity of these areas if people had an incentive to violate regulations.

C. Other Topics

1. Items for Enforcement Corner of the Council Newsletter

D. Public Comment

ADJOURN

PFMC
10/17/05

DRAFT SUMMARY MINUTES

Enforcement Consultants

Pacific Fishery Management Council
2nd Floor Boardroom
Sheraton Tacoma Hotel
1320 Broadway Plaza
Tacoma, WA 98402
April 4-8, 2005

MONDAY, APRIL 4, 2005 - 4:30 P.M.

A. Call to Order

Dave Cleary, Chair

Members in Attendance

LT Gregg Casad, 13th District, United States Coast Guard (USCG)
CAPT Mike Cenci, Washington Department of Fish and Wildlife
LT Dave Cleary, Oregon State Police
Mr. Brian Corrigan, 13th District, USCG
Mr. Otha Easley, NOAA, OLE
LT Jacob Gustafson, USCG
Ms. Nancy Foley, California Department of Fish and Game
Mr. Dayna Matthews, , National Oceanic and Atmospheric Administration (NOAA), Office for Law
Enforcement (OLE)
Mr. Dan Torquemada, NOAA, OLE

Others in Attendance

Mr. Hans Brubaker, NOAA, OLE
Mr. Ray Monroe, Oregon Salmon Commission, Pacific City Dory Fleet
Mr. Mark Newell, Oregon Salmon Commission
Mr. Gerald Reinholdt, Salmon Advisory Subpanel (SAS), Processor
Mr. Jim Seger, Staff, Pacific Fishery Management Council
Mr. Jeff Samuels, Oregon State Police
Mr. Don Stevens, SAS, Oregon troll
Mr. Scot Yamashita, NOAA, OLE
Mr. Mike Sorensen, SAS, Oregon Charter

Minutes from the March 2005 meeting were corrected to change “If a vessel never fishes in the Rockfish Conservation Area, then there is no requirement for the vessel to carry VMS.” to “If a vessel never fishes in Federal waters, then there is no requirement for the vessel to carry VMS.”

B. Council Agenda Items for Possible Comment

The Enforcement Consultants' (EC) reports to the Council were as follows.

Agenda Item B.6
Supplemental EC Report
April 2005

ENFORCEMENT CONSULTANTS REPORT
IN-SEASON MANAGEMENT

The Enforcement Consultants (EC) have reviewed the information relating to in-season management and have the following comments:

Issue 1.

Chaffing Gear: The EC sees this as an attempt to clarify existing language. This clarification does not change the intent of the regulation. Because of this, the EC supports the proposed language.

Issue 2.

Issue 3. The EC continues to support consistency with regards to groundfish open areas. We support increased fishing opportunity as better science evolves; however, the complexity of boundary changes for the general public has impacts on enforcement efforts. We strive to protect the resources the Council manages but can only do so with the support of the regulations, the understanding by the constituents and the courts. Complexities associated with in-season changes directly affect the enforcement impact.

Agenda Item B.7.c
Supplemental EC Report
April 2005

ENFORCEMENT CONSULTANTS REPORT ON
FINAL CONSIDERATION OF INSEASON ADJUSTMENTS

The Enforcement Consultants (EC) have reviewed the information relating to inseason management and have the following comments:

Issue 1.

Chaffing Gear: The EC sees this as an attempt to clarify existing language. This clarification does not change the intent of the regulation. Because of this, the EC supports the proposed language.

Issue 2.

Selective Flatfish Trawl: The EC sees this as an attempt to clarify existing language. This clarification does not change the intent of the regulation. Because of this, the EC supports the proposed language.

Issue 3.

The EC continues to support consistency with regards to groundfish open areas. We support increased fishing opportunity as better science evolves; however, the complexity of boundary changes for the general public has impacts on enforcement efforts. We strive to protect the resources the Council manages, but can only do so with the support of the regulations, the understanding by the constituents, and the courts. Complexities associated with inseason changes directly affect the enforcement impact. In addition, depth based management lines should be described through latitudinal and longitudinal coordinates for all depths in excess of 30 fathoms. This assists with consistency and enforceability

because it allows the use of enforcement tools, such as aircraft, GPS, and other techniques.

Agenda Item G.1.c
Supplemental EC Report
April 2005

ENFORCEMENT CONSULTANTS REPORT ON
CHANNEL ISLANDS NATIONAL MARINE SACTUARY

The Enforcement Consultants (EC) have reviewed the information relating to the above sanctuary.

The EC have no preferred stated option, but the EC would like the opportunity to review any fishing regulations in the future for consistency and enforceability.

Agenda Item G.2.c
Supplemental EC Report
April 2005

ENFORCEMENT CONSULTANTS REPORT ON
CORDELL BANK, GULF OF FARALONES, AND MONTEREY BAY NATIONAL MARINE
SANCTUARIES

The Enforcement Consultants (EC) have reviewed the information relating to the above sanctuaries.

The EC have no position on the designation documents. The EC would like the opportunity to review any fishing regulations in the future for consistency and enforceability. The EC also feels the Council process provides this opportunity. If the Council wishes to consider fishing regulations for these areas, we make the following recommendations:

The Cordell Bank needs to be identified by latitudinal and longitudinal coordinates representing the 50 fathom isobath. This would be consistent with past line enforcement strategies.

In speaking with the National Marine Sanctuary (NMS) staff, we proposed the following:

In order to eliminate confusion, the EC suggests identifying the specific kinds of gear to be excluded or included within the NMS boundary. We believe the NMS should utilize the definitions currently used in the 50 CFR Part 660. We believe their intent is to prohibit the use of bottom trawl and fixed gear with the exception of vertical hook-and-line.

For the Davidson Seamount within the Monterey Bay NMS, our recommendation is the exclusion of bottom trawl and fixed gear as defined by 50 CFR Part 660. Preferred option one would be a challenge to enforce, due to the restriction of fishing activity below 3,000 ft. In order to eliminate confusion, the EC suggests identifying the specific kinds of gear to be excluded or included within the NMS boundary. We believe the NMS should utilize the definitions currently used in the 50 CFR Part 660

It would be the EC's preference in the future to work with the NMS people to identify their goals and objectives and then use the current regulatory process to create a regulation package that would accomplish this.

Agenda Item B.5.c
Supplemental EC Report
April 2005

ENFORCEMENT CONSULTANTS REPORT ON
IMPLEMENTATION OF AN EXPANDED VESSEL MONITORING SYSTEM

The Enforcement Consultants have reviewed the information relating to the expansion of the Vessel Monitoring System (VMS) and have the following comments:

In reference to Agenda Item B.5.b, NMFS Report April 2005, the Enforcement Consultants have met with the Groundfish Advisory Subpanel (GAP) and representatives of the Salmon Advisory Subpanel (SAS) and discussed the report. It is our understanding the majority of the GAP supports Alternative 6.B. The Enforcement Consultants have compared this alternative to our initial option of Alternative 5.B. After evaluation, the Enforcement Consultants will support Alternative 6.B with a slight modification. Current language states, "If a Rockfish Conservation Area (RCA) requirement is discontinued during the year, mandatory Vessel Monitoring System (VMS) coverage would be discontinued for the affected vessels." The Enforcement Consultants would ask the following language be inserted in the current languages place: "If an RCA requirement is discontinued during the year, VMS coverage would be reevaluated for the affected vessels."

Rationale: Currently, VMS is utilized in support of RCA enforcement; however, in the future, VMS may be used to support other area-based management. Examples: Marine Protected Areas and Sanctuaries.

C. *Other Topics*

There was a discussion of requesting 1.5 hours of presentation time for each of the state agencies at the September Council meeting.

D. *Public Comment*

Representatives from the Pacific City dory fleet expressed concern about the effect of applying VMS requirements to their vessels. Concern was also expressed about allowing vessels to transit the Klamath Management Zone when closed.

ADJOURN

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