

ENFORCEMENT CONSULTANTS REPORT ON
AMENDMENT 20: TRAWL RATIONALIZATION ALTERNATIVES

The Enforcement Consultants (EC) have evaluated Agenda Item F.6.a, Alternatives, June 2008, Goals, Objectives, Alternatives, Excerpts from Chapters 1, 2, and 6 of Rationalization of the Pacific Coast Groundfish Limited Entry Trawl Fishery, Preliminary Draft Environmental Impact Statement, and have the following comments.

A-2.3.1, Tracking, Monitoring, and Enforcement

Catch Tracking

The EC endorses and views the catch tracking tools as essential e.g.; electronic vessel logbook reports, electronic Individual Transferable Quota (ITQ) landing reports, and vessel landing declaration reports as outlined on page 56, Table 2-3. The EC believes processor production reports are a valuable source for investigative follow up and conducting in-season audits and inspections.

The EC believes that cost control mechanisms including landing hour restrictions, site licenses, and vessel certifications as outlined on page 56, have merit and should be included in the preferred alternative for analysis. Landing hour restrictions could be particularly useful for enforcement efforts.

Shoreside Catch Monitoring

The EC believes shoreside catch monitoring is critical and endorses the shoreside catch monitoring alternatives found on page 55, Table 2-3.

At-Sea Catch Monitoring

The EC believes that at-sea catch monitoring is essential and endorses the at-sea catch monitoring alternatives outlined on page 55, Table 2-3 with the following caveat: the camera program currently deployed under the Shoreside Whiting EFP and proposed under Amendment 10 is to date an unproven enforcement tool. The past four-year experiment has shown that camera monitoring has potential, but reliability of the equipment has proven to be questionable for compliance monitoring.

As a scientific experiment conducted by the Northwest Science Center, the camera monitoring program lacked enforceable regulations that would readily allow for holding individuals accountable for alleged violations detected by the video images. Timely analysis of the images was also a problem. With the program management moving to a Sustainable Fisheries / NW Division OLE partnership, the supporting regulation package has been tightened up significantly, and video analysis will be done in a timelier manner. The current contractor has made hardware upgrades this year and vessel operators have been counseled on the proper use, care, and maintenance of the equipment. It is hoped that with these changes and guidance, the equipment will prove its reliability.

Behavior of the fleet will also influence the final analysis of camera utility as a compliance monitoring tool. Over the four year history of this program the number of discards and the

volume of those discards has decreased annually. The EC sees this as a positive outcome and gives credit to those operators who have contributed to this positive trend. In general, last year 40% of the fleet operated per the required provisions in this year's exempted fishing permit (EFP). Forty percent will need to make small adjustment to their fishing strategy, but 20 percent will need to make considerable adjustments in their fishing strategy. Bottom line, for those 20 percent, the games being played with camera deployment and hiding of discard events needs to stop. Cameras can be beat, if that is the intent of the operator. In this case, the behavior of a few could be jeopardizing the desires of a majority of responsible vessel operators who hope to use cameras as a low cost alternative to human observers either under a Trawl Rationalization Program or under Amendment 10.

A-2.2.1 Permit /IFQ holding Requirements

The EC endorses Sub Elements 1 through 5 found on page 52, Table 2-3, but has the following qualifying comments regarding sub option 4, "For any vessel with an overage (catch not covered by quota pounds [QP]), fishing that is within the scope of the ITQ program will be prohibited until the overage is covered regardless of the amount of the overage."

Per Agenda Item F.6.b, Supplemental Analysis, June 2008, the Council at its November 2007 meeting added the option:

"Within the scope of the ITQ program:

*An overage **will not** prevent a vessel from using the following gears to target on non groundfish species, even if there is some incidental groundfish catch: Salmon troll: HMS troll gear and other legal surface hook-gear that also qualify as vertical hook-and-line or dinglebar under the groundfish FMP.*

Outside the scope of the ITQ program:

*An overage **will not** prevent a vessel from fishing using Dungeness crab gear, and all other HMS gears (including pelagic longline), except small mesh gillnet or purse seine for coastal pelagic species.*

*An overage **will** prevent a vessel from using small mesh gillnet for highly migratory species."*

In addition, our analysis has concluded that under this alternative an QP overage **will not** prevent a vessel from using Shrimp Trawl gear, or prevent participating in all Alaska fisheries including trawl, any west coast tribal fisheries including whiting and non-whiting trawl, and possibly California halibut. Taken as a whole, there are considerable lucrative options available for a vessel and potentially its crew, if the vessel ownership decides not to cover the vessel's ITQ overage and moves to an alternative fishery.

Viewed in isolation this proposal may have merit if the desired outcome is for the vessel to leave the fishery and become part of the expected consolidation anticipated under Trawl Rationalization. But coupled with Option 6 of A-2.2.1 Permit/IFQ Holding Requirements, the outcome potentially becomes very different.

Option 6 found on page 52, Table 2-3 allows a vessel to resume fishing in the TIQ fishery after laying out for two years and is not required to cover its deficit. Example: A vessel incurs a

substantial QP deficit which because of the costs of purchasing QP becomes a substantial expense. Under this option, the vessel can lease or sell its remaining quota pounds or shares and then participate in a large array of fishing alternatives. After a two-year lay out the vessel can return to the TIQ fishery with no penalty, other than the potential criminal and /or civil penalties imposed under the original overage violation. In the interim, the quota shares are transferred to another vessel generating revenue for the share owners, and the vessel moves to another potentially lucrative fishery, while avoiding the expense of covering their initial QP overage.

The EC believes these options, as written, erode incentives for vessels to cover their QP overage, and thus erode the compliance objectives of the program. The EC believes these options need significant modification if they are retained as a preferred alternative.

As a start, the EC proposes that the vessels with QP overages be prohibited from participating in the west coast shrimp trawl and all tribal fisheries. Option 6 should be limited to the overfished species. When the vessel re-enters the fishery under option 6 the vessel shall have a percentage (to be determined through analysis) of the total quota sharing (QS)/QP assigned to the vessel deducted for X number of years (to be determined through analysis). Deducted pounds will be returned to the QS pool and be distributed back to the QS holders through adaptive management, equal sharing, or other means determined by the Council. This proposal is analogous to what occurs in the banking industry when an individual declares bankruptcy. After declaring bankruptcy, an individual pays a premium on future loans (higher interest rates) for a considered length of time. After establishing a pattern of responsibility those premiums disappear.

These are our ideas, but we are sure there are others. We understand the intent of the options under discussion here, and welcome the opportunity to work with the maker(s) of the motion(s) to achieve the original intent. But as written, these two proposed alternatives have consequences that could undermine the compliance, management, and conservation goals of the Trawl Rationalization Program.

A-1.2 IFQ Management Units, Area Subdivision

As outlined in Supplemental Analysis Agenda Item F.6.b, June 6 the Groundfish Management Team (GMT) Report on Amendment 20 from the November 2007 reiterated its recommendation that IQ be allocated on a more refined spatial scale than is currently being considered. In doing so, the GMT noted that care should be taken to balance biological objectives with economic objectives.

The EC has reservations about this alternative in that this approach will add a great deal of regulatory complexity to an already complex program. Complexity equates to increased cost, both in management and enforcement. We agree with the Groundfish Allocation Committee (GAC) and the TIQC that use of the alternative be backed by sound biological analysis.

Staffing

For the past two decades the west coast non whiting trawl fishery has been prosecuted under a cumulative trip limit management scheme. In order to detect violations of cumulative trip limits, enforcement is required to monitor the offloads of individual vessels over the course of a two month period. The opportunity for cheating without detection during this time is great. Vessels can transit across state lines; land in various ports, and off load 24/7. Fishtickets can be falsified, altered over time, and lag beyond the two month period. The scheme is highly reliant upon a

harvester and processor honor system, which places a high degree of risk on the resource. To effectively enforce this scheme, state and Federal enforcement programs must expend large amounts of staff time.

The Council is now considering a trawl rationalization management scheme which would eliminate the current cumulative trip limit management scheme for this sector, and replace this program with a shoreside individual quota management scheme.

For purposes of this discussion, the EC makes the following assumptions: All available tracking data, monitoring data, and information will be fully shared between the three states and OLE. IQ's will be tracked and monitored through an electronic near real time accounting system. 100% of all trips will be monitored. 100% of all off loads will be monitored. These three monitoring and tracking elements will expand "enforcement's eyes" and greatly enhance enforcement intelligence information. The need for monitoring of off loads by commissioned enforcement staff will be lessened. Information regarding these offloads will be available to enforcement in a relatively short time frame. At-sea monitoring of fishing activity conducted by the shoreside trawl sector will be greatly expanded.

There will always be a need for officer presence on the dock, but with a third party monitoring the off loads, that presence can be more focused. State officers, who primarily provide this presence, can be more opportunistic and strategic in their dock side enforcement patrols. Federal investigators' will have expanded, improved, more timely and verifiable intelligence available to them to investigate alleged illegal harvest and reporting activity.

Under an IQ system, the EC believes that the need for additional staff will be minimal. Those needs are one additional commissioned officer in Washington, a Program Manager position established in the NW Division of OLE, and three total support staff assigned to the NW and SW Divisions. With these minimal increases in staffing, the EC believes that the Trawl Rationalization Program as constructed in the proposed alternatives offers west coast enforcement programs a new tool box that will greatly enhance our enforcement productivity and efficiency. Trawl rationalization can be accomplished with minimal or no additional staffing. Trawl rationalization will enhance enforcement by more closely monitoring catch rates and assigning accountability to individual vessels.

It is without question that trawl rationalization is preferred over cumulative trip limits.

In Summary

The Enforcement Consultants recommend the following alternatives be included in the Council's preferred alternative for further analysis:

1. A-2.3.1,

Catch tracking Mechanisms: electronic vessel logbook reporting, vessel landing declaration reports, electronic ITQ landing reports, processor production reports.

Cost Control Mechanisms: Landing hour restrictions, site licensing, and vessel certification.

Shoreside Catch Monitoring

At-Sea Catch Monitoring

2. A-2.2.1

Options 1, 2 3, and 5

Options 4 with this modification: in addition to the prohibited gear listed in Agenda Item F.6.b, Supplemental Analysis, June 6, prohibit Shrimp Trawl, and prohibit participation in west coast tribal fisheries.

Option 6 with this modification: option 6 is limited to overfished species. When the vessel re-enters the fishery under option 6 the vessel will have a percentage (to be determined through analysis) of the total QS/QP assigned to the vessel deducted for X number of years (to be determined through analysis). Deducted pounds will be returned to the QS pool and be distributed back to the QS holders through adaptive management, equal sharing, or other means determined by the Council.

PFMC
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