



New England Fishery Management Council

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MEETING SUMMARY

VMS/Enforcement Committee and Advisors meeting

Courtyard by Marriott, Providence, RI

October 27, 2014

The VMS/Enforcement Committee met on October 27, 2014 in Providence, RI to discuss alternatives under consideration in Scallop Framework 26, and review a measure proposed in Groundfish Amendment 18.

MEETING ATTENDANCE: Terry Alexander (Chairman), John Quinn, Frank Blount, Capt. Brian Fiedler, Rene Cloutier (for Joe Fessenden), Logan Gregory (Committee); Kirby Aarsheim, Matt Baryshyan, Beth Casoni, Claire Fitz-Gerald, Harry Graff, Jim Kendall (Advisors); Joseph Heckwolf (NOAA General Counsel, also an Advisor); Deirdre Boelke, Louis Goodreau (NEFMC staff); Brett Alger, William Semrau, Don Frei, Tim Wilmore, (NOAA); CDR Kurt Virkaitis, LT Josh Boyle (USCG); Jay Carroll (Maine Marine Patrol), Ron Smolowitz, Jeff Kaelin (MAFMC), Ronald Enoksen (Attendance attached).

KEY OUTCOMES:

- The Committee made recommendations concerning Scallop Framework 26
- The Committee made recommendations concerning Groundfish Amendment 18

PRESENTATION: SCALLOP FRAMEWORK 26

Deirdre Boelke (Council Staff) presented a summary of alternatives and enforcement considerations, Review of Scallop Framework 26 (attached).

Scallop Framework 26:

The Committee reviewed several measures in the framework and made recommendations, which Deirdre Boelke presented to the Scallop AP and Committee meetings, October 28 and 29, 2014.

CONSENSUS RECOMMENDATIONS:

The Enforcement Committee advises that:

1. Allowing transiting through a closed area is difficult to enforce.
2. The Committee does not support Alternative 2.8.2 (VMS corridor alternative). The Committee would be supportive of specifying two elements of Alternative 2.8.3 (DOF with product on board). Industry funded, increased VMS polling (every 5 minutes) and prohibit vessels from having any in-shell product on board.

It was noted that there is no additional OLE funding for increased VMS polling.

Also, the Committee found no problem with the measure proposed to allow vessels to declare a Mid-Atlantic Access Area trip and freely fish inside all three Mid-Atlantic areas on the same trip (section 2.3). In practical terms, the vessel would declare into any of the Mid-Atlantic Access Areas and be able to fish in any or all of them.

There was no problem with replacing the current broken trip provision with a pre-landing report.

It was noted that the Elephant Trunk Area, now, is removed from the VMS software, and that the issue of miss-declaration would continue to be a problem.

Currently, groundfish boats can land in two ports without DOF or a declaration change. It was noted that any DOF still needs USCG corroboration.

Who will define “continuous transit” that can be enforced by VMS.

USCG requests that the 50 bushel limit be changed to zero, because it cannot be determined from the air. The Committee recommends 1) 5 minute polling which aids in better identification of transiting versus other activity, 2) no shell stock, 3) gear properly stowed. Five minute VMS polling, however, may not be feasible with the current Vtrack system.

Finally, concerning the measure proposed to allow fishing in state waters after reaching the NGOM hard-TAC, Maine prefers the automatic allowance (option 2.5.2).

GROUND FISH AMENDMENT 18

REDFISH EXEMPTION AREA MOTION

The Groundfish Committee approved a motion, to be taken up by the Council in November and January, as follows:

TO ADD AN ALTERNATIVE IN AMENDMENT 18 THAT WOULD ALLOW VESSELS TO USE A 5.5 INCH CODEND WITHIN THE REDFISH EXEMPTION AREA (DEFINED BY THE COORDINATES BELOW) ON TRIPS WITH AN OBSERVER OR APPROVED ELECTRONIC MONITORING TECHNOLOGY ON-BOARD.

STIPULATIONS:

- 1) PRIOR TO LEAVING THE DOCK, VESSEL OPERATORS WOULD BE REQUIRED TO DECLARE THEIR INTENT TO FISH IN THE REDFISH EXEMPTION AREA THROUGH THE VMS BY CHECKING THE BOX NEXT TO "REDFISH TRIP";
- 2) IN THE FIRST PART OF THE TRIP, VESSEL OPERATORS WOULD FISH WITH CONVENTIONAL GROUND FISH CODENDS (6.5 INCH) IN THE GOM AND GB REGULATED MESH AREAS, EXCEPT WHEN TOWING A SEPARATOR TRAWL ON GB WHERE THE CODEND MAY BE 6 INCH;
- 3) VESSEL OPERATORS WOULD BE ALLOWED TO SWITCH TO 5.5 INCH CODENDS AT THE END OF THE TRIP AFTER SUBMITTING VMS NOTIFICATION;
- 4) VESSEL OPERATORS WOULD REPORT CATCH FROM THE ENTIRE TRIP THROUGH THE VMS PRIOR TO RETURNING TO PORT; AND
- 5) VESSEL OPERATORS WOULD SUBMIT A SEPARATE VTR TO REPORT CATCH OR EACH CODEND.

Point	N. Lat.	W. Long.
A	44°27.25'	67°02.75'
B	44°16.25'	67°30.00'
C	44°04.50'	68°00.00'
D	43°52.25'	68°30.00'
E	43°40.25'	69°00.00'
F	43°28.25'	69°30.00'
G	43°16.00'	70°00.00'
H	42°00.00'	70°00.00'
I	42°00.00'	67°00.63' a

Note: This area is currently the Redfish 6 inch exempted area.

a The intersection of 42°00' N. latitude and the U.S.-Canada Maritime Boundary. Longitude is approximate.

REDFISH EXEMPTION AREA DISCUSSION

NOAA is working on an exemption for Sectors with two alternatives; to use 5.5 inch mesh for the entire trip, or to allow two meshes onboard (6.5 and 5.5 inches). Currently, a 6 inch mesh is allowed [in the Redfish Area], and the proposal would change it to 5.5 inches, not allow three

mesh sizes. The 5.5 inch mesh size would only be allowed for fishing in the Redfish Area, and the Sustainable Fisheries must approve a threshold for the percentage of redfish that must be caught with the smaller mesh (e.g., 80 %).

The issue of multiple meshes on board is new. A 6.5 inch mesh would be used for the first part of the trip, for groundfish, an email (not a VMS code) would be sent to NOAA, and then the 5.5 inch mesh would be used, for redfish, in the Redfish Area only. Switching back and forth would not be allowed. There are two alternatives for catch reporting under this scheme; at the end of the trip, or daily. As an enforcement tool, there must be an observer on board or an electronic monitoring device, but the Groundfish Committee may not require an observer.

NOAA found a difference between industry-funded versus government observers. In 2012, NOAA paid for observers, and that experience resulted in changes to the exemption to not require observers. After 2012, when the industry was to pay for observers, no trips were taken. This may skew the data [for redfish trips, when comparing redfish trips with government observers, industry observers, and no observers].

There is concern about using observers for enforcement. Observers, however, are under no obligation to report violations, but they may and have done so. Observers are never used to issue written warnings or notices.

The incidental catch of groundfish on trips targeting redfish was between 1 and 5 percent, with a 5.5 inch mesh, in the Redfish Exemption Area. On these experimental trips, the catch was mostly redfish with very little cod or haddock. Most sector trips in the in the Redfish Exemption Area, with as small as 4.5 inch mesh, catch over 90% redfish. Some of these sector trips, however, had less than 90% refish. Thus, the Sustainable Fisheries Division is working on a threshold (see above).

The USCG has no problem enforcing mesh size, but neither the boarding party nor the observer will know that an email has been sent indicating a change in fishery from cod to redfish. USCG must have some way of checking with NOAA for such emails. Although the large mesh area extends from Cape Cod to Canada, the redfish box must be checked off in the pre-trip hail under this program, indicating to the Coast Guard, who do have access to VMS codes, which trips are multi-mesh. Forgetting to check off the redfish box and carrying two meshes onboard will result in a violation, in and of itself.

Nevertheless, VMS codes (e.g., pre-trip declarations) and emails sent to NOAA (e.g., mid-trip switching fisheries), even via VMS, are separate systems, and the Coast Guard has access only to the VMS codes. Some method of making the emails in question, during the trip, available to the USCG, in real-time, must be developed. Currently, NOAA does have real-time access to both pre-trip and mid-trip reports, via VMS codes and emails. The same must be accomplished for the USCG. NOAA's real-time access to mid-trip emails, like the proposed switch from groundfish to redfish, is web-based, and the Coast Guard needs web access while at sea.

Redfish Exemption Area trips will need at sea enforcement both before and after the mid-trip switching fisheries email is sent, to prevent 5.5 inch mesh from being used throughout the whole trip. Until electronic monitoring becomes feasible, relying on observers would impel the Coast Guard to 1) check all VMS codes to determine all multi-mesh trips, board such vessels at sea and measure the mesh being used and the catch composition, and, after the trip ends, either interview the observer or contact NOAA for the email indicating the day and time that the vessel switched fisheries. Any discrepancies may result in a violation, *ex poste*.

An option to the motion above, with no observer required, was described by Sustainable Fisheries and would work as follows:

1. VMS declaration includes redfish exemption checkoff (VMS code)
2. Trip start hail indicates multi-mesh trip (VMS form)
3. Mid-trip hail indicates switch to 5.5 inch mesh and redfish trip (VMS form)
4. Catch report daily (VMS form), OR
5. Catch report at mid-trip hail and at end of trip (VMS form), OR
6. Catch report at end of trip (VMS form, VTR, or dealer report)

Notice that the USCG has access, currently, to (1) at sea, but not to number (2) through (6). In this case, information from a Coast Guard boarding must be matched with information from (2-6) at the end of the trip and, again, any violations issued after the fact.

Sustainable Fisheries is working to make VMS forms available to the Coast Guard at sea, by replacing or supplementing the web-based system now used.

New forms must be industry funded, as OLE funding is not available for changes to VMS forms at this time. That is why OLE prefers one size net is fished only.

The Coast Guard will best enforce the 5.5 inch mesh size redfish exemption at sea, using the VMS pre-trip code to determine that a vessel may have two mesh sizes on board, with confirmation via the mid-trip email, most likely after the boarding is complete. For this type of enforcement to be effective, the 5.5 inch mesh cod end will need to be stored in such a way that it is not readily available for fishing prior to the start of the redfish exempted portion of the trip. If both a 6.5 and a 5.5 inch net were rigged and ready to fish (2 different drums for example) it would be impossible to ensure that the small net was not being fished before declaring the redfish portion of the trip and before the CG arrived for the boarding.

General Counsel will continue to work on making the redfish exemption not an opportunity to use the 5.5 inch mesh for the entire trip, when the multi-mesh check-off is made on the pre-trip VMS declaration. It was clarified that 6.5 inch mesh would continue to be legal anywhere, including in the Redfish Exemption Area, but the proposed 5.5 inch mesh could only be used inside the Redfish Exemption Area.

CONSENSUS ISSUES TO BE RESOLVED:

- Gear stowage rules must be clarified; vessels must store the 5.5 inch mesh net below decks, and may not ‘store’ this net on a second drum using current transit rules (with the orange or yellow covering)
- Clarify that the 5.5 inch mesh replaces the current 6 inch mesh allowed in the Redfish Exemption Area in GOM, and the Separator Trawl 6 inch mesh continues in Georges Bank only and separately (one mesh onboard)
- Clarify that the Redfish Exemption Area trips with one mesh onboard will continue to be allowed, but with 5.5 inch mesh only.
- Allowing multiple meshes on board is new, and it should be clarified that the second mesh used (5.5 inches) must be stored below decks (flaked, folded) while the 6.5 inch mesh is being fished for groundfish
- Clarify that the new 5.5 inch mesh must be used during the second part of the trip in the Redfish Exemption Area
- Because industry funded observers must be used until at least 2017, how does this skew the data? From an enforcement standpoint, having an observer onboard adds another bit of corroboration, via the post-trip observer interview, to the mid-trip hail indicating the date and time when the vessel switched to using the 5.5 inch mesh net and commenced redfishing
- Industry funded observers are necessary above and beyond the standard coverage of 26%, that the Agency paid for in FY 14. The motion proposes 100% observer coverage, and industry must pay for that additional coverage.
- USCG must have some way of checking NOAA’s web-based emails for mid-trip hails, and, if the no observer option is used, trip start hails and catch reports (whether daily, mid-trip, or end-of-trip)
- There is a high level of concern that some vessels might fish with 5.5 inch mesh throughout the trip, after declaring a redfish exemption trip with multi-meshes

OTHER BUSINESS

There was no other business.

The VMS/Enforcement Committee meeting adjourned at approximately 5:00 PM.