

Marine Law Enforcement

Introduction

The *Fish and Game Code* states that “(t)he protection and conservation of the fish and wildlife resources of this state are hereby declared to be of utmost public interest. Fish and wildlife are the property of the people and provide a major contribution to the economy of the state, as well as providing a significant part of the people’s food supply and therefore their conservation is a proper responsibility of the state.”

In keeping with this responsibility, the Marine Region enforcement staff is charged with enforcing the regulatory aspects of marine resource management. This formidable challenge encompasses approximately 1100 miles of California coastline out to sea for 200 miles — 220,000 square miles. Marine Region law enforcement focuses its efforts on commercial fisheries (including fishing vessels, shore facilities and all fisheries-related infrastructures throughout the state), illegal commercialization of the public fishery resources, sport fisheries, market inspections and landing taxes. Enforcement efforts include the inspection of licenses, permits, catch, gear types, vessels, fishing activity records, fish businesses, accounting records, and importation. The enforcement staff also ensures that sport and commercial fishermen comply with regulations concerning seasons, size limits, bag limits, trip limits, fishing gear restrictions and design, quotas, closures, sales of fish, and prohibited species. Land-based and at-sea patrols are required to enforce all of the various regulations.

In addition to enforcing laws, the enforcement staff is very active in public outreach and education. The staff takes a proactive approach in recognizing emerging fisheries that may need management measures to ensure a viable commercial and recreational environment.

In consideration of the natural history of individual species, management and enforcement policies are tailored to ensure the sustainability of sport and commercial fisheries. Each species has unique regulatory needs, challenges, and issues, but the effective management of all is dependent on accurate recording and reporting of landed weights by fish businesses. Patrol efforts to insure accurate documentation of landings for all species is crucial. Enforcement is faced with identifying these needs and structuring enforcement activities to address such complex issues. Current enforcement effort is hampered by a lack of enforcement personnel and disinterest in prosecution by some court systems.

Resources

Personnel

The Department of Fish and Game’s (DFG) Marine Region was established in December of 1997. This resulted in the consolidation of marine resource enforcement efforts which had been split between the three inland regions bordering the coastline. Initial staffing included 21 positions transferred from the department’s Office of Oil Spill Prevention and Response (OSPER) (responsible for marine oil pollution regulation enforcement only).

In March 1998, 38 positions were transferred from DFG’s inland regions. The law enforcement function was staffed with these 59 positions until October 1998 when the Marine Life Management Act (MLMA) was enacted by the State Legislature. This law provided 15 additional enforcement positions bringing the count to 74. In April 2000, in keeping with statutory obligations, the positions funded by the OSPR were removed from the Marine Region to ensure a dedicated spill prevention and response unit. Law enforcement personnel staffing in the Marine Region decreased to 53 positions. In July 2000, the state Legislature provided 10 additional positions. Entering 2001, the Marine Region’s law enforcement staff consisted of 63 positions, still well below the staffing levels of the early 1980s when DFG had a Marine Resources Region with its own enforcement function.

Patrol Boats

In 1998, the Marine Region had two 65-foot patrol boats, the *Albacore* (an aluminum mono-hull) and the *Bluefin* (a fiberglass mono-hull), two 40-foot patrol boats (the *Yellowtail* and the *Tuna*), and 18 smaller patrol skiffs ranging in size from 13 to 28 feet.

Funds were provided later that year to increase the region’s at-sea patrol capabilities. A 54-foot vessel was designed, contracted, built, and delivered in 1999. Named the *Thresher*, this patrol boat is a state-of-the-art aluminum foil-supported catamaran powered by twin 660 turbo diesels. The funds also enabled the purchase of three 24-foot, rigid-hull inflatable (RHI) patrol boats. These three boats joined two other similar boats to form the north coast rapid deployment force. The boats can be put on trailers and deployed quickly along the rugged north coast.

In July 1998, the MLMA provided for the purchase of the patrol boat *Marlin*, a sister vessel to the *Thresher*. This boat was delivered in July 2001. All six large patrol boats are equipped with an 18-foot RHI boarding vessel. In July 1999, additional funding provided for three more patrol boats, the *Swordfish*, *Coho* and *Steelhead*, identical to the

previous two. Delivery is expected in January and April of 2002.

Teams

The Marine Region Law Enforcement function is organized along a traditional chain-of-command structure; however, in addition, self-directed work teams were instituted at the inception of the Marine Region. These teams include:

1. A Policy and Procedure Team responsible for interpreting commercial and sport fishing laws, rules and regulations in a consistent statewide basis and establishing standard operating procedures for marine law enforcement activities.
2. An Enforcement Legislative Team responsible for developing language for law, rule and regulation changes for legislative and commission consideration.
3. A Boat Team responsible for the deployment of the patrol boats and the at-sea operations of the patrol fleet.
4. A Law Enforcement Training Team which develops instructional designs for training modules to address the training requirements of enforcing complex commercial and sport fishing regulations.

These teams were developed to encourage fair and consistent enforcement of the laws and regulations throughout the region, clarify and make the regulations more enforceable, deploy and operate the patrol boats where they will be the most beneficial, and maintain a well trained and professional warden force to protect California's diverse marine resources for all of the people in the state.

Partnerships

The law enforcement function works closely with other government organizations concerned with the management of marine resources. The department has a Memorandum of Understanding with the Monterey Bay National Marine Sanctuary which allows wardens to be deputized to conduct federal law enforcement patrols in the sanctuary. This partnership provides \$125,000 in operating expenses, over a three-year period, for the wardens working in the sanctuary. A similar partnership exists with the National Marine Fisheries Service (NMFS) which provides \$300,000 to pay wardens overtime for groundfish enforcement. We can expect these partnerships to continue.

Enforcement personnel are actively working on memorandums of understandings with the Channel Islands National Marine Sanctuary and various units of the National Park Service in the Channel Islands and San Francisco Bay areas. These partnerships will provide the department with operating funds in exchange for law enforcement patrols in federal waters. The function also provides a law enforcement consultant to assist the Pacific Fisheries

Management Council (PFMC) in its formulation of federal fishery management regulations.

In addition, the enforcement staff coordinates with 1) the NMFS in regard to Lacey Act violations for fish transported across state boundaries; 2) the US Coast Guard on enforcement; 3) the PFMC on fisheries management plans and fishing gear deployment; 4) the State Department of Weights and Measures in assuring the proper procedures for the weighing of fish and the completion of landing receipts; and 5) the State Department of Parks and Recreation, National Park Service, Harbor Patrol, local police and local sheriffs departments in matters of mutual enforcement efforts.

Fisheries-Specific Enforcement Efforts

Groundfish

Because of concerns about continuing declines of many groundfish populations, recent additional restrictions have been proposed and adopted to protect these resources. Enforcement of groundfish regulations is difficult due to the large number of species involved, their vast distributions, the frequently changing and sometimes complex regulations, and the various fishing methods utilized in the commercial fishing industry. Some species, such as lingcod, have been proposed as candidates for listing as threatened or endangered. The effectiveness of enforcement effort is dependent upon the accurate recording of landed weights.

Nearshore Fish

There are many species that can be considered as nearshore fish, but the species that this section addresses are those that are of primary concern to managers and were among the first to be addressed in the Nearshore Fisheries Management Plan. Included are black rockfish, black and yellow rockfish, blue rockfish, brown rockfish, calico rockfish, China rockfish, copper rockfish, gopher rockfish, grass rockfish, kelp rockfish, olive rockfish, quillback rockfish, treefish, California sheephead, greenlings, cabezon, California scorpionfish, and monkeyfaced "eels."

These species are targeted by sport and commercial fishermen. The primary commercial fishery is for the live-fish market. The live-fish market commands a much higher price per pound than traditional markets. The high price and low volume of fish being handled has resulted in the proliferation of small fish businesses. Many such businesses operate out of vehicles. The resulting highly-mobile fishery makes enforcement difficult.

Salmon

Enforcement problems in the sport salmon fishery include the use of barbed hooks and other illegal hooks, multiple poles, overlimits, group fishing, retention of Coho salmon, sorting and discarding of less desirable fish, (*i.e.*, "high grading") violations of the salmon punch card in the Klamath Management Zone, and sale of sport caught fish. There has been a trend among some sport salmon anglers toward the use of commercial type gear in an illegal manner.

Problems in the commercial fishery include the failure to record fish landings, violations of quota-landing limits, fishing closed areas, retention of Coho salmon, use of illegal gear such as barbed hooks or more than six troll lines, and fishing without a commercial salmon permit. Some of the tribal allotments of salmon are being sold outside the reservation, both in California and other states. This has created an enforcement problem, as there are currently conflicts between tribal law and California regulations.

Mid-season regulation changes, for both the sport and commercial fisheries, result in confusion and adverse public relations. While these changes are based upon the best biological information available, enforcement personnel often receive complaints about the complexity of the salmon regulations. Standardization and earlier publication of regulations, to the extent possible, would be well received by all fishermen. A greater effort towards public education regarding management of salmon and the basis for the regulations would also assist in this area.

Besides the federal fishery agencies, other entities involved in the management of salmon include the Hoopa and Yurok tribes. These tribes in the Klamath Management Zone are allocated fifty percent of the available annual harvest and have a tribal representative on the PPMC. The department works closely with these groups to manage the sport and commercial salmon fishery in ocean and inland waters of the state.

Halibut

There are minimum size limits for commercial and sport caught Pacific and California halibut. Commercial enforcement efforts center on the trawl and gillnet fishery. Efforts focus on net measurement, fish size restrictions, and documented landings. There are several closures for trawl and gillnets along the California coasts. Closures are very specific to depths and distance from shore. Specific electronic equipment capable of accurately measuring distances and depths is needed to monitor these fisheries for compliance. Personnel trained in the use of this equipment are essential to ensure successful prosecution through the legal system. Limited entry permits are also required for the use of gillnets to take halibut.

Striped Bass

Enforcement includes patrols directed toward such problems as night fishing from boats and multiple rod violations in San Francisco Bay, overlimits, gillnets, and market checks for illegal fish. There is also public concern over snagging of striped bass in ocean waters.

There is an active black market involving sport-taken striped bass entering the commercial market. Fish are caught with rod and reel and illegal gillnets. Black market striped bass then become mixed with legally imported fish from sources outside of California, primarily aquaculture fish.

Additional patrol time has been made available through the Striped Bass Stamp Fund. In addition, funding is available through state and federal water projects to mitigate impacts of those projects on this and other fisheries. Recipients of the additional funding are the Marine Region and the Delta Bay Enhanced Enforcement Project.

Pacific Herring

Enforcement is focused on compliance with gillnet mesh sizes, length of nets, number of nets used, limited entry permit requirements, quotas, and season dates. There are special requirements for herring buyers to ensure accurate recordings of the landings for the purpose of quota management. The roe-on-kelp fishery is subject to permit requirements, licensing of individuals working on kelp rafts, special reporting requirements, quotas, and raft size limits. The ocean harvest fresh fish permit may not be used during the time the roe fisheries are operating, and the herring taken in this fishery may not be sold for roe recovery. During the relatively short season, there is a strong enforcement effort, which requires the shifting of wardens from many other areas of the state.

Because of the numerous boats involved in the San Francisco Bay fishery, the Coast Guard is heavily involved



The department's marine patrol officers enforce the law by issuing a citation for taking horn sharks in a marine protected area.
Credit: Chamois Andersen, California Department of Fish and Game

in monitoring the setting of nets to avoid navigational hazards. The National Park Service is involved in some areas of the Golden Gate National Recreation area. The San Francisco Police Department becomes involved with nets or boats that are tied to prohibited structures.

Coastal Pelagic Species

Sardine/Anchovy/Mackerel

Enforcement involves monitoring and sampling loads for compliance with quotas and allowable levels of incidental catches. Incidental catches are allowed because these species often school together and are caught in the same net. Round haul nets are the primary gear used for taking these species.

Sampling techniques and monitoring of the unloading process are labor intensive. Monitoring the landings ensures accurate reporting of species and prevents under-reporting and/or landing of prohibited species. When quotas are close to being reached or are reached, a high incidence of unreported landings typically occurs making enforcement activity even more important.

Squid

Enforcement for market squid includes education about and enforcement of new regulations such as the restricted use of lights, documentation of fishing activity in log-books, weekend closures, light-boat shielding, and wattage restrictions. Consistent statewide enforcement of new regulations is a priority. Accurate and consistent dissemination of information of regulation and policy changes to the fishermen and fish businesses is critical to gaining compliance throughout the fishery.

Abalone

The abalone fishery is currently the number one statewide enforcement priority and is expected to remain. Because of declining populations, all areas south of San Francisco have been closed to the sport and commercial take of abalone. The coastline north of San Francisco is open to sport fishing only. The sport season is April through November with the month of July closed. Restrictions added during the 2000 season were requirements for an abalone stamp and abalone report card. Of major concern is the sale of sport-caught abalone. Mariculture and importation are the only legal sources of abalone for the commercial markets. Enforcement problems arise when the source of abalone cannot be determined.

Besides the usual over limit/under-size problems, enforcement is directed at the illegal sale and export of abalone. This is a major problem in California, and because of

the extremely high value for abalone, a significant black market exists. Traditionally, this violation revolved around small groups taking large numbers of abalone for sale. While this still may occur, more recent trends involve large numbers of individuals taking their daily limits and selling them. These individuals often make daily trips to the coast.

Every year significant cases are made involving the sale of sport-caught abalone. Patrol techniques used include directed enforcement details, undercover operations, and checkpoints. There is also DFG's Special Operations Unit (SOU) which is a specially funded group of wardens who spend much of their time and effort detecting sale of sport-taken abalone. Enhanced enforcement levels, depend on continued stable funding from abalone stamp revenue or other sources.

Sea Urchin

Regulations relating to the allowable size limits, log books and permits for sea urchins are the primary focus for enforcement. Measuring the urchins is time-consuming and challenging because of the volume of urchins taken and the physical make-up of the urchin. Commercial vessels are often small, and it is sometimes difficult to find workspace for at-sea monitoring. The urchin industry also has specific time and area closures. Observing the divers while they are in the water is necessary to identify the divers that do not have a restricted access permit. Abalone share the same habitat as urchins and this creates additional enforcement efforts related to the illegal take of abalone by commercial urchin divers.

Shrimp/Prawns

Shrimp and prawn fisheries are generally divided into two gear categories. The first category includes golden, spot, coonstripe, and ridgeback prawns, which are taken by trawling or traps. The second category includes pink shrimp, which are taken only by trawl nets.

Enforcement focuses on trawl mesh sizes, trap construction including destruct devices, limited entry permits, incidental catch, and log books. With the shutdown of other fisheries, there were concerns that new fishermen would enter this fishery, so limited entry was established. Apprehension over incidental take of prohibited species has resulted in consideration of on-board observers and fish excluder devices. Changes in the design of traps are also under consideration.

Lobster

Current enforcement efforts include inspection of catch, compliance with season and area closures, gear restrictions, including trap construction and destruct devices, permits, size limits, out-of-season take, illegal importation, and log books.

Patrol techniques vary on the enforcement of lobster regulations. Techniques include routine uniformed patrols and undercover patrols, such as underwater surveillance, and use of marked lobster. DFG divers are also used to locate illegally-set lobster traps. Traps set in areas closed to commercial lobster fishing present a major problem for enforcement.

The majority of sport taken lobster are taken at night, requiring constant monitoring by enforcement personnel. The majority of violations committed by sport fishermen include out-of-season-take and taking undersize lobster.

Crab

Enforcement focuses primarily on commercial and sport fisheries for Dungeness or rock crab, with minor fisheries for tanner and stone crab. The sport fisheries are subject to minimum size limits, season and gear restrictions for all species of crabs.

Commercial Dungeness crab regulations include a minimum size limit, male crab only requirement, and limited entry permits. Commercial fishermen are allowed to bait and pre-set their gear a certain number of hours prior to the opening of the commercial Dungeness crab season. Detection of violation of the pre-soak regulation requires the use of directed enforcement. Rock crab have minimum size limits as the primary restriction. All traps are required to have escape rings and destruct devices built into the design to prevent lost traps from continued fishing. In most years, eighty percent of Dungeness crab landings are taken during the first three weeks of the season. This requires concentrated enforcement efforts during this peak period of landings.

Other Invertebrates

The "other invertebrates" category generally includes the large number of species for which specific permits are not required. However, a tidal invertebrate permit is required to take the following species for commercial purposes between the high tide line and 1,000 feet seaward of the low tide line: ghost shrimp, barnacles, chiones, clams, cockles, limpets, mussels, octopus, oysters, sand dollars, sea hares, starfish, and worms. These species, as well as scallops, turban snails and moon snails, may also be taken under a sport fishing license, in certain areas, with daily bag limit restrictions. There are few commercial restrictions on season, size, or bag limits for these species.

Because commercial take is permitted, unless restricted by law, new fisheries continue to develop for invertebrate species, which have not previously been taken for commercial purposes.

Enforcement of the take of invertebrates in the tidal zone occurs primarily from the shore. Enforcement of incidental take is commonly checked while monitoring another fishery. There are specific permits related to the scientific collection of invertebrates. These permits are very restrictive in specifying what can be taken, how many can be taken and who can do the collecting.

Marine Aquaria

The marine aquaria fishery involves the take of organisms for the live pet, hobby or display trade. Finfish include garibaldi, gobies and juvenile sharks. Invertebrates include coral, shrimp and octopus. The demand for the marine aquaria trade has led to species being harvested for the first time. The take of marine aquaria species occurs statewide primarily in nearshore waters with no seasonal closures. Illegal importation of marine aquaria species from Mexico has become prevalent.

Marine aquarium organisms cannot be taken in any marine life refuges, marine reserves, ecological reserves and state reserves. One identified enforcement problem is the killing of live-bearing adult sharks in order to remove unborn young for the aquarium trade. Another is the illegal fishing by release of harmful chemicals into ocean waters. The chemicals force the otherwise inaccessible species from their hiding places resulting in the death of many non-targeted as well as targeted species.

Aquaculture

Enforcement focuses on working closely with biologists to monitor aquaculture facilities.

Monitoring the collection of brood stock by the mariculture industry is necessary to ensure compliance with permits and regulations. Inspection of fish businesses purchasing mariculture products, is required to ensure that wild stocks are not used to illegally replace mariculture species in the commercial trade. Current regulations are not sufficient to properly monitor and enforce mariculture activities.

Commercial Fish Businesses

California's marine resources are a public trust. The conservation and protection of these resources have been entrusted to DFG. One means to monitor the lawful use of these resources is the inspection of businesses that commercialize the wild fish populations. Persons dealing in the sale of seafood are required to be licensed, to maintain adequate accounting records, and to comply with species restrictions. Wardens routinely conduct inspections of businesses to ensure compliance with all state and federal laws. Business inspections are also routinely conducted to ensure compliance with landing requirements and proper documentation.

Frank Spear and Carmel Babich
California Department of Fish and Game