

WITEK: PARTY BOAT BOUNDS (from page 9)

“[The captain was] issued a violation for an incomplete trip report. Seven other violations, each carrying a penalty of up to \$250, were issued, as well as a misdemeanor charge of failure to stop dumping upon command, for which the penalty is up to \$1,000 and imprisonment of up to one year.

“Environmental conservation law does not hold the owner or captain responsible for the actions of anglers on his vessel, the [Department of Environmental Conservation] spokesman said, unless officers witness them assisting with or taking responsibility for what is occurring.”

And that’s a problem, because as my story from Islamorada demonstrates, a conscientious captain is the fish’s first line of defense; he or she is the person best positioned to ensure that fishery laws are obeyed.

The problem is, the captain is always torn between conflicting motivations. He may be a decent guy, who honestly doesn’t like to see fares poaching fish. He may be perceptive enough to realize that overharvesting fish today may very well hurt his business in the future. At the same time, there is a very good chance that if customers, such as the tourist and would-be poacher down in Islamorada, are told that they have to release a fish that they want to keep, they’re not going to come back on the boat any more. And that’s a threat to future business, too.

Thus, you have the situation that a party boat mate out of Freeport, New York threw in my face one evening, when I questioned why he and the rest of his crew allowed passengers to chronically overfish the small bluefish that were than crowding into the bay.

“You think that I’m going to tell some [racial epithet deleted] that he can’t keep more than 10 fish? That’s the difference between me making \$20 and \$200 in tips in a night!”

So it’s pretty clear that if regulators want the captains and crews to stop letting their passengers ignore the law, they’re going to have to give those folks some sort of incentive.

In California, for example, violations of recreational fishing regulations aboard party boats became so common that enforcement authorities conducted a year-long undercover operation targeting the captains who abetted and encouraged their passengers to violate the law. According to the *Los Angeles Times*,

“Skipper Rick Powers was handcuffed by a phalanx of officers and charged with one count of felony conspiracy to violate Fish and Game laws and six misdemeanor infractions that include using illegal hooks, *exceeding catch limits* and keeping prohibited species...

“Later this week, state officials said, misdemeanor complaints will be filed against 13 other party boat skippers in nine counties...on a host of additional allegations that involve wounding pelicans and seals, *fudging records to avoid catch limits* and *catching fish out of season*.

“...’Wardens have been overwhelmed with complaints about party boats,’ said Warden Bob Aldrich, based in Bodega Bay. *‘Guys who are over limit for fish get encouraged to continue fishing, and their catch is distributed to other passengers who were seasick’ or didn’t catch their limit*, he said.

“No recreational anglers were targeted because they are often unaware of state regulations, officials said. Instead,

wardens went after the people who they believe should have known better: boat captains and crews.

“...The *most troublesome violations*, wardens say, include exceeding limits on the number of fish, *catching undersized fish and then masking their size by filleting them before the boat returns to the dock*; and [salmon-specific gear regulations]. [emphasis added]”

Some of those violations are unique to California and its particular mix of fish species, but plenty of them are going to be familiar to anyone who ever fishes from a party boat in New York or New Jersey, and some of them fit right in with the allegations arising out of the *Fin Chaser* incident.

If New York has a real desire to prevent such violations from occurring in its for-hire fleet, it should be making a serious effort to impose similar liability on for-hire vessels’ captains and crews. Such liability shouldn’t be onerous—it’s practically impossible to prevent a passenger intent on poaching from secreting a couple of illegal fish into a lunch bag or other container—but if the number of illegal fish exceeds, for the sake of example, 20% of the overall catch, a presumption that the captain and crew are complicit is not unreasonable.

After all, boats are required to submit accurate vessel trip reports for every trip made, so “I didn’t know what people caught” is not a viable excuse.

And, looking at harvest estimates provided by the National Marine Fisheries Service, it seems that such a 20% figure might cause quite a bit of grief to folks who presently consider themselves above the law.

Using 2016 as an example, about 40% of the black sea bass harvested and sampled on party boats were less than 15 inches long—which was and still is the size limit (note that NMFS gives the measurement in terms of “fork length” and black sea bass’ tails are not forked, so it’s possible that the 40% number is a little high, depending on how the fish are measured, but even half of that would hit the theoretical 20% minimum).

That number falls to a smaller, but still significant 27% of undersized summer flounder (the same caveat on fork length applies), but jumps to 47% of scup being less than 9 inches long (the size limit is 10 inches, but scup *do* have forked tails, so an allowance was made for that) and then goes back down to 20% of striped bass measuring less than 26 inches (the size limit is 28 inches, but again, a *generous* 2-inch allowance was made for the fork in the tail, and assure that I wasn’t overstating the scope of the illegal harvest).

So yes, party boats take a lot of short fish—and one has to remember that the numbers above probably reflect the minimum level of lawlessness, as anglers don’t have to let NMFS samplers measure their undersized fish, and black sea bass and scup, at least, can still be legally filleted at sea, to hide the number of illegal fish actually taken.

So making boat crews responsible for illegal activity on their vessels is a needed first step, but it is only the first one. Requiring crews to retain the “racks,” the intact heads, tails and skeleton of filleted fish, is a good next step, to reduce the number of undersized fish filleted at sea; in New York, such rack retention is already required for striped bass and summer flounder.

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