

NMFS Recommendations on CDQ Pacific Cod Alternatives and Options

1. We recommend an expansion of Alternative 4, which would include elements of Alternative 3, Option 2 and several new components and clarifications.

The alternative would apply to vessels $\leq 46'$ length overall (LOA) using hook-and-line gear to conduct directed fishing for Pacific cod for CDQ groups that also have halibut CDQ allocations in the area being fished or for vessels with adequate amounts of halibut IFQ to support the incidental catch of halibut while Pacific cod fishing. The recommendations described below are not designed to support directed fishing for Pacific cod CDQ if all halibut caught must accrue to a transferable prohibited species catch limit or "prohibited species quota."

Note recommendation #2 on page 3 to analyze expanding these requirements beyond directed fishing for Pacific cod CDQ.

Under existing regulations, any vessel retaining more than the 20% maximum retainable amount (MRA) of Pacific cod would be considered directed fishing for Pacific cod. Each CDQ group and the vessels fishing on its behalf can choose to remain under the regulations that govern "halibut CDQ fishing" by discarding any amount of Pacific cod that would exceed the 20% MRA. This provision would continue.

The following regulations would apply to vessels $\leq 46'$ LOA that the CDQ group chose to allow to conduct directed fishing for Pacific cod CDQ. In all cases below, reference to "the vessel" means a catcher vessel $\leq 46'$ LOA while directed fishing for Pacific cod CDQ.

i. LLP exemption: If the Council wishes to remove the barrier created by the limited number of LLP licenses available for vessels fishing for Pacific cod on behalf of a CDQ group, NMFS recommends exempting vessels between 32' and 46' LOA from the LLP requirements rather than creating a separate CDQ LLP. The purpose of the LLP was to place an upper limit on the number of vessels in the groundfish and crab fisheries to provide stability and limit further over capitalization in what formerly were "open access" fisheries. However, even at the time of implementation of the LLP in 2000, the CDQ allocations were not part of the "open access" portion of the groundfish and crab fisheries. Therefore, LLP licenses may not be necessary to limit the number of vessels participating in the CDQ fisheries. An exemption from the LLP requirements also would require lower administrative costs for both NMFS and the CDQ groups than special CDQ LLP license (because it wouldn't require establishing and issuing a new "permit").

ii. Documentation of eligibility for LLP exemption: If an LLP exemption is selected, NMFS recommends that each CDQ group be required to submit a list of vessels between 32' and 46' LOA that it is authorizing to conduct directed fishing for Pacific cod CDQ on its behalf. This submission could be done online. Upon registration, the CDQ group could print out a letter of authorization issued by NMFS for each vessel. The vessel operators would be required to maintain this NMFS authorization letter onboard the vessel at all times while directed fishing for Pacific cod CDQ (while they wish to be exempted from the LLP requirements). This documentation is necessary to demonstrate eligibility for the LLP exemption to the U.S. Coast

Guard, NMFS Office of Law Enforcement, or any other authorized officer. NMFS also would post a list of the vessels registered to fish on behalf of each CDQ group on NMFS's website as an additional piece of information to document the vessels eligible for the LLP exemption.

iii. Partial observer coverage: Any vessel on the CDQ group's list of eligible vessels would be placed in the partial observer coverage category while CDQ fishing. They would be required to comply with all vessel responsibilities in 50 CFR 679.51(e)(1) and would be subject to selection for observer coverage following procedures in the annual deployment plan. For example, in 2014, vessels less than 40' LOA would be in the no coverage pool and vessels between 40' and 46' LOA would be in the vessel selection pool.

iv. Halibut retention requirements: Vessel operators would be required to retain all legal sized halibut caught as either halibut CDQ or halibut IFQ. We would assume that all legal sized halibut would be retained and properly accounted for, so the only halibut released from the fishing gear would be sub-legal sized halibut. Based on this assumption, NMFS would not accrue any estimates of halibut discards to the CDQ group's halibut PSQ or any component of the BSAI halibut PSC limit. This would prevent the need to apply a PSC rate of halibut derived from other observed vessels to accrue catch to a transferable PSC limit. NMFS does not believe that the application of PSC rates from other observed vessels provides an appropriate basis for accruing halibut to a transferable PSC limit. PSC rates can change throughout the season as observer data is debriefed or revised thereby creating instability and uncertainty in management of strict limits such as exist in the CDQ Program. In addition, the CDQ groups and their partner vessels may not feel that the data from other observed vessels is representative of the small vessel CDQ catch, and NMFS may agree with this assessment in some cases. Observer coverage rates for small hook-and-line vessels in the BSAI are relatively low. These coverage rates provide data adequate to managing a fleetwide PSC limit, but may not provide data adequate to estimating PSC by individual unobserved vessels for accrual to a transferable PSC limit. Any need to debate the appropriate basis for accruing halibut to a transferable PSC limit creates administrative costs for NMFS, takes time from other tasks, and undermines the enforceability of the strict responsibility to not exceed CDQ and PSQ allocations.

v. Pacific cod retention requirements: Current IR/IU regulations require operators of vessels directed fishing for groundfish CDQ to retain all Pacific cod as long as the CDQ group has available Pacific cod allocation. This requirement does not apply to vessels "halibut CDQ fishing." No additional regulatory amendments are needed to maintain this provision.

vi. Retained Pacific cod: Any Pacific cod retained, landed, and reported as CDQ will accrue to the CDQ group's Pacific cod CDQ allocation.

vii. At-sea discards of groundfish: NMFS would estimate the at-sea discards of all groundfish, by these vessels, including those species allocated to the CDQ Program, based on applying discard rates from observed vessels to the landed catch weight of the CDQ trips. The estimates of at-sea discards, including Pacific cod, while these vessels are directed fishing for Pacific cod on behalf of a CDQ group, would accrue to the non-CDQ allocation of the TACs. Estimates of at-sea discards of Pacific cod would accrue to the non-CDQ allocation of Pacific cod to the hook-and-line and pot vessels less than 60 ft. This approach would provide proper accounting of

the catch of all groundfish species against the TAC limits and prevent the need to apply an at-sea discard rate derived from observed vessels to accrue catch to a transferable allocation. In addition, this provision is consistent with how estimates of at-sea discards of groundfish are accrued to non-CDQ allocations of the TACs for vessels halibut CDQ fishing under the “regulation of harvest” provision of the MSA.

viii. Seasonal limitations: The provisions described in (i) – (vii) would be provided only while the halibut fishery is open because retention of halibut must be allowed to implement the exemption from halibut PSC accounting by these vessels.

ix. SSL and habitat protection measures: All other regulations that apply to vessels using hook-and-line gear and directed fishing for Pacific cod would apply to these vessels. These requirements include closure areas and VMS requirements.

2. Apply these provisions to all groundfish CDQ fishing by these vessels: NMFS recommends further analysis of applying these provisions to vessels $\leq 46'$ LOA using hook-and-line gear while directed fishing for ANY allocated groundfish CDQ species, except sablefish.¹ Practically speaking, we expect that these provisions will be used primarily to develop additional fishing opportunities for Pacific cod. However, it would be administratively less complicated to apply the LLP exemption, CDQ authorization letter, eligible vessel list, observer coverage requirements, and catch accounting provisions for all groundfish CDQ fishing during the year for a particular vessel rather than have different measures apply for directed fishing for Pacific cod CDQ fishing versus other groundfish CDQ directed fisheries that may develop in the future.

3. NMFS does not recommend Alternative 2 (increase MRA for Pacific cod while halibut CDQ fishing) because it would create a situation where vessels with the same catch composition would be subject to different regulations, most notably Steller sea lion (SSL) protection measures. Vessels fishing for halibut CDQ would be allowed to retain more Pacific cod than the same vessel fishing for halibut IFQ or any other groundfish species before triggering regulations that apply when directed fishing for Pacific cod. Although the amount of Pacific cod in question may be small, we do not support setting this precedent for implementing high MRAs to avoid regulations designed to apply to a particular directed fishing activity. In addition, we are concerned with the time and staff resources needed to undertake the ESA consultation that would be necessary to further explore whether this is a viable alternative.

(revised 5/26/14)

¹ The elements of this proposal either already apply while “sablefish CDQ fishing” or are not applicable under the “regulation of harvest” provisions of the MSA. For example, sablefish managed under the IFQ program and sablefish managed under the fixed gear sablefish CDQ reserve are not LLP groundfish species. An LLP permit is not required to conduct directed fishing for these sablefish allocations, and halibut caught while sablefish CDQ or IFQ fishing does not accrue against the halibut PSC limit, so there is no need to address halibut PSC accounting while sablefish CDQ fishing.