

Enforcement Committee Agenda

October 7, 2014

1pm – 4pm

Lupine Room, Hilton Hotel

Anchorage, Alaska

I. CDQ Pacific cod Fishery Development – Public Review

Background

The proposed management measures would apply exclusively to Community Development Quota (CDQ) groups while operating in the Bering Sea and Aleutian Islands (BSAI). The measurements under consideration include easing or exempting CDQ hook-and-line catcher vessels that do not exceed 46 ft. length overall (LOA) from certain regulatory requirements, in order to promote harvest opportunities for Pacific cod (*Gadus macrocephalus*) by CDQ small vessels in a directed fishery and/or while fishing CDQ Individual Fishing Quota (IFQ) halibut (*Hippoglossus stenolepis*). Implementation of the management measures evaluated in this analysis would require an amendment to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area, as well as amendments to implementing regulations.

In May 23, 2014, an inter-agency enforcement teleconference took place to provide inside on potential enforcement and monitoring considerations for the Pacific cod CDQ fishery development analysis and to review NMFS's recommended enforcement action. See Appendix for minutes from that meeting.

II. Update on Proposed VMS Rule

Background

A proposed rule was published in the Federal Register on September 9, 2014, that will codify VMS type-approval specifications, reside latency standards, and establish initial type-approval, renewal, revocation, and appeals processes for industry and constituents. Guy Holt will provide a brief overview of the proposed VMS rule.

III. Work Session update on VMS report – Discussion Paper

Background

Over a series of three meetings in 2012, the Council reviewed a discussion papers regarding the use and requirements of vessel monitoring system (VMS) in the North Pacific fisheries and other regions of the U.S. At the December 2012 meeting, the Council reviewed a discussion paper that evaluated, among other things, how advanced features of VMS are being utilized in the other regions in the U.S. Based on those different usages, the Council recommended that the Enforcement Committee assess the utility of features such as geo-fencing, increased polling rates, and declarations of species, gear, and area for improving enforcement efforts and efficiency for vessels already subject to VMS requirements. The Council noted implementation recommendations could be in the form of agency regulations, Council actions, and some may not be worth implementing. To address the Council's request, a discussion paper was prepared. **At this meeting, the committee will finalize their comments of the discussion paper for presentation to the Council at the December 2014 meeting.**

Appendix:

Minutes from Inter-Agency Teleconference CDQ Pacific cod Alternatives and Options May 27, 2014

Participants: Matt Brown (OLE), Mike Killary (OLE), Anthony Kenne (Coast Guard), Sally Bibb (NMFS), Susan Auer (NOAA GC), Brian McTague (NOAA GC), Nicole Kimball (ADF&G), Brad Robbins (ADF&G), Will Ellis (DPS), Roy Hyder (Council), Mary Furuness (NMFS), Josh Keaton (NMFS), Steve Whitney (NMFS), Seanbob Kelly (NMFS), Sarah Marrinan (Council Staff), and Jon McCracken (Council Staff)

The inter-agency enforcement teleconference took place to provide insight on potential enforcement and monitoring considerations for the Pacific cod CDQ fishery development analysis and to review NMFS recommended enforcement action. Specifically, the teleconference focused on the enforcement and monitoring considerations for Alternative 4, NMFS's recommended alternative. Alternative 4 creates an exemption from a License Limitation Program (LLP) license for hook-and-line CDQ vessels less than or equal to 46 ft LOA; however, the alternative does not indicate whether a requirement for identification of eligible vessels would exist, or if they do exist, what mechanism should be used.

During the inter-agency teleconference, USCG emphasized the importance of having something physical onboard to represent the CDQ small vessels' exemption, should they be boarded for enforcement. Several options were discussed. These options included:

- A CDQ group-generated form of identification that the vessel operator would be required to carry with them onboard;
- A NMFS-issued form of identification that is not an LLP license, that vessel operators would be required to carry with them onboard; or
- A special endorsement on a Federal Fisheries Permit (FFP) or an addition to an established Restricted Access Management (RAM) permit.
 - With any of these options the CDQ groups could also be responsible for producing an active list of their small vessels eligible to participate in the directed CDQ Pacific cod fishery. This list would be accessible online by enforcement personnel.

The inter-agency group discussed some of the advantages and disadvantages of each approach and then focused attention to the NMFS recommendation based on previous communication with enforcement representatives. This recommendation is as follows:

NMFS recommends that if Alternative 4 is selected, 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. 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 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.

There were several concerns raised around the NMFS recommended enforcement approach; however discussion revealed the concerns so far, were either inconsequential or able to be mitigated. For instance, an authorization letter printed off by a CDQ quota manager and given to a participant could be duplicated or forged. However, with the addition of an electronically accessible list, USCG could cross-check eligibility either with Internet connection onboard a Coast Guard Cutter or by calling back to the command center if a connection was not available. Additionally, the re-instigation of an eligible vessel list is likely to constitute an information collection request (ICR) under the Paperwork Reduction Act (PRA). Whether this would require a new Office of Management and Budget (OMB) control number or if this is just a change to a pre-established ICR, has yet to be determined. Regardless, the awareness of this potential for an additional step will prevent this step from slowing the process. Overall the inter-agency workgroup did not identify anything in NMFS's enforcement recommendation that would prevent its practicality. Further concerns could be addressed prior to final action.