ENFORCEMENT CONSULTANTS REPORT ON THE HMS ROADMAP: EXEMPTED FISHING PERMITS METRICS AND BENCHMARKS

The Enforcement Consultants (EC) have reviewed the materials associated with Agenda Item G.4, Highly Migratory Species (HMS) Roadmap: Exempted Fishing Permits (EFPs) Metrics and Benchmarks, and have the following comments:

The EC appreciates the Fisheries Innovation Working Group (FIW) engaging with the EC to ensure enforcement perspectives are taken into consideration during the review of metrics and benchmarks involved in the EFP process. The EC thanks Pacific Fishery Management Council (PFMC, Council) staff member Kerry Griffin for meeting with us on Thursday, March 5th, when we discussed "Section D. Other Considerations" of PFMC Council Operating Procedure (COP) 20, which focuses on evaluation criteria for HMS EFP applicants.

The EC recommends the Council consider updating the criteria in "Section D" to ensure it remains relevant and effective when evaluating EFP applicants. The criteria should provide the EC with comprehensive and flexible benchmarks to enable us to identify applicants whose past compliance history illustrates behavior of concern when determining if they should be allowed the privilege the EFP exemptions provide.

The EC is working with the FIW to draft specific language recommended to update COP 20, "Section D", and will be prepared to present it to the Council at the appropriate time during this process.

Examples of EC recommendations:

- Consider replacing "convicted" with "charged or convicted" when considering an applicant's past violations. In some cases, violations could be serious but the case was diverted or was otherwise tied up in the judicial process at the time the EFP application was considered.
- Consider removing the minimum fine amount. Judicial diversion generally does not have a fine amount, and unfortunately, depending on the court, even serious fisheries violations could have minimal fines.
- Consider clarifying that applicable violations could be federal or state violations.
- Consider including a general consideration for not endorsing an EFP applicant charged or convicted of a crime of moral turpitude. An EFP applicant may not have any fishing violations but could have other serious violations or concerns that could cause the Council to consider denying their application.

As this initiative moves forward, the EC strongly feels the rationale above should be applied to all EFPs under the Council's purview. This would ensure EFP applicant evaluations are consistent among all species targeted, gear types tested, and fishing strategies executed during EFP activities.

PFMC
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