

Arctic Storm Management Group

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Mr. Dave Ortmann, Chairman

Pacific Fishery Management Council

7700 NE Ambassador Pl., Suite 101

Portland, OR 97220

March 7, 2010

RE: NMFS Interpretations and Clarification Requests of Amendment 20 & 21 Council Actions

Dear Mr. Ortmann,

Arctic Storm Management Company appreciates the opportunity to comment on the National Marine Fisheries Service (NMFS) documents which describe the NMFS's *interpretation* of Council Action on Amendment 20 and 21. These amendments describe the final action taken by the Council to implement catch share programs in the west coast trawl fisheries as requested in earlier Congressional action. NMFS also seeks *clarification* of certain complex implementation issues. We appreciate that the agency is seeking further public input.

Arctic Storm manages two catcher vessels that participate in both the inshore and mothership sectors of the whiting fishery. It also manages two Motherships that participate in the Mothership sector fishery. Our company has worked in cooperation with the Mothership sector participants to develop a cooperative-style fishery for the Council's consideration in its development of A. 20. Most of that program was adopted by the Council. Our comments reflect our understanding of the program as developed by the sector and approved by the Council.

NMFS Interpretation of Council Intent

Issue 4: Permit transfers.

Allocation of catch history was purposely allocated to the *permit* as an endorsement rather than the vessel so that it could be transferred to any vessel with a west coast LE

trawl permit. It was intended to be temporarily or permanently severable from the vessel. Should catcher vessel catch history transfers of quota occur on a temporary basis, they should be considered a lease and not subject to permit transfer limitations.

Issue 9. Endorsements

This section states that any LE trawl permitted vessel may participate in the coop portion of the MS fishery if they join a coop. This is incorrect. Only MS sector endorsed CVs can join a coop. Those CVs can lease their catch history to other LE trawl permitted vessels, but they will not become coop members. However, they must agree to abide by coop rules. They must also abide by MS catch history delivery obligations unless mutually agreed to do otherwise.

Issue 10. Observers

The Council action stated that observer coverage aboard MS CVs could be done by camera or by observer coverage. The agency document says that all boats will be required to have 100% observer coverage in order to properly account for all species caught. Because a MS CV tow is never brought onboard the vessel and is, instead, transferred directly to the MS where 100% observer coverage is already in place, this requirement is redundant and seems wasteful. Observers are already in short supply and a further shortage might prevent some fisheries from attaining OY because of a lack of available observers. Now that discards are prohibited in the MS fishery, this concern seems an enforcement issue better suited to camera surveillance than the skills of an observer which would go unutilized aboard a MS CV.

Issue 21. Coop Permit and Agreement

The agency has determined that a coop permit be required. This seems a reasonable approach to better inform and communicate with the coop and to ensure that catch limits are not exceeded. However, a coop agreement is a private contractual arrangement between members. It seems inappropriate that the agency should enforce the internal, private terms and conditions of the agreement.

Issue 22: Additional Information in MS Coop Agreement.

The agency suggests that a Coop Agreement list of all MS permits numbers and vessels to which the MS coop members' intent to deliver. A coop agreement in a long term agreement between MS catcher vessels that includes the rights and obligations of its members. MS are not permitted to be coop members. Coop members may change the MS to which they deliver fish on annual basis. Motherships may receive catch from CV in both the coop and non-coop fisheries. While the requested information may be

useful to the agency in tracking deliveries, this information is not well suited for inclusion in a Coop Agreement.

Issue 24: Coop Failure or Dissolution

NMFS has interpreted a MS Coop failure to include failure of a coop to submit an annual report on time. This seems an extraordinary measure which would transform a rationalized fishery back into a race for fish because of a relatively minor infraction.

Issue 25 : Maximized Retention by MS Catcher Vessels.

Because a prohibition was added in 2009 that prohibits the sorting or discarding of any portion of the catch taken by MS catcher vessels prior to the catch being received on a mothership, it does not seem an effective or efficient measure to require observers on MS CVs. This seems a wasteful allocation of the valued skills of an observer who could not do any catch accounting aboard a MS CV because the cod end never comes aboard the vessel and is, instead, transferred from the sea directly to the MS where observers do a full accounting of the catch.

Issue 27: Non-Coop Fishery

Allocation of fish to the non-coop fishery is correctly described in the background section: "Each year NMFS will determine the distribution to be given to the non-coop fishery based on catch history calculation of permit holders registered to participate in that fishery." However, the agency chooses not to interpret that direction literally and, instead, intends to allocate catch history of permits that are not renewed or have expired to the non-coop fishery. The direction should be taken literally and as intended. If the non-coop fishery allocation is inflated it will attract participants to the non-coop fishery. This compromises the Council's intent which seemed to discourage participation in a non-coop fishery.

Issue 29: MS Coop Program Fishery Closures

NMFS has interpreted its obligation to monitor the catch in the coop and non-coop fisheries in the MS and CP fisheries to also mean that all at-sea sectors will be subject to closure based on attainment of the overall trawl whiting allocation. It seems inappropriate to close one sector or coop within a sector based on the overages of others. Those overages should be the subject of administrative action or a deduction in the following year rather than placing the burden on well-managed coops that might have their fishery pre-empted based on the actions of others.

Issue 31: Definition of "material change" to a Coop Agreement.

The agency has attempted to define the definition of "material change" to a coop agreement however some of the material changes identified are not appropriately assigned to a coop agreement and are better assigned to the annual report such as identification of the coop manager. Material changes seem best reported as part of the annual coop report rather than "immediately."

Clarifications Requested of the Council

Issue 2. Status of QS during appeal

Prefer Option A (NMFS preferred). While under appeal, the QS amount assigned will remain as previously assigned pending completion of appeals process.

Issue 3: 30-day clock for vessel overages.

Prefer Option B (NMFS preferred). The clock would start when the data from the trip is available.

Issue 7: What is an appropriate deadline for a coop permit (MS or CP) and for a MS/CV endorsed permit to declare in to a MS coop or non coop fishery?

Prior to final action for A. 20, the Council asked the MS sector to develop an alternative to the proposed linkage between a CV and a MS. Specifically, the Council voiced concern about the linkage provision that would require a CV to participate in the non-coop fishery for a year in order to move to another MS. The Council purposely did not want to encourage participation in the non-coop fishery. However, the Council wanted to include elements that would encourage stability for business planning purposes and to provide some market balance between CV and MS under a catch share program that awarded all quota to the catcher vessels.

The MS sector met for several hours and developed a "notification" process that would require each CV participating in the coop fishery to notify NMFS by September 1 which Mothership it would deliver its catch history to the following year. A CV would be required to give the MS notice by July 1 if it was considering moving to a different MS. This would provide time for the MS and CV to resolve any differences or to find another MS or CV with which to establish a market relationship with the following year's coop fishery.

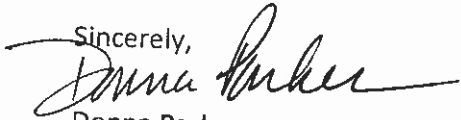
These notifications are separate but complimentary to informing NMFS whether a CV intends to participate in the coop or non-coop fishery and for the coop to renew its application. They do not need to occur on the same date.

Issue 8. Permit Transfers

Should a MS/CV-endorsed permit allow two changes in vessel registration in a year, if participating in both the shorebased IFQ fishery and the MS fishery?

The intent of attaching the catch history allocation to the *permit* rather than vessel was to allow flexibility and severability on either a temporary or permanent basis. While temporary in-season transfers will likely take place through leasing rather than vessel registration changes, Option A seems to offer more flexibility as was intended.

Sincerely,



Donna Parker

Director Govt. Affairs

Arctic Storm