

**REGULATORY DEEMING FOR FISHERY MANAGEMENT PLANS AMENDMENT 20—
 TRAWL RATIONALIZATION AND AMENDMENT 21—INTERSECTOR ALLOCATION,
 AND PLANNING FOR COMMUNITY FISHERY ASSOCIATIONS (CFA)**

At its June 2009 meeting, the Council finalized its trailing actions on the trawl rationalization program, and a minor revision regarding canary rockfish was broached at the September 2009 Council meeting and decided at the November 2009 Council meeting. The draft environmental impact statement (EIS) for Amendment 20 was submitted to National Marine Fisheries Service (NMFS) on schedule, November 20, 2009, and the public comment period on the draft EIS was completed on January 19, 2010. Public comment received on the Amendment 20 draft EIS can be found at <http://www.pcouncil.org/groundfish/fishery-management-plan/fmp-amendment-20/trawl-rationalization-schedule-and-quota-share-allocation-tables/#comments>. The draft EIS for Amendment 21 was submitted to NMFS on January 14, 2010, and the public comment period will close on March 15, 2010. The Council’s final recommendations are scheduled for formal transmission to the U.S. Secretary of Commerce (Secretary) on April 30, 2010. A complete overview of all the steps of the approval and implementation process is provided in Agenda Item E.6.a, Attachment 1 and the Council final action on Amendment 20 is provided as Agenda Item E.6.a, Attachment 2.

At this meeting, the Council is scheduled to determine whether the draft of the main rule implementing Amendment 20 (trawl rationalization) and Amendment 21 (intersector allocation) is consistent with the Council action, and necessary or appropriate to implement the Council recommendation (collectively termed regulatory deeming). Additionally, under this agenda item the Council is scheduled to formally adopt the fishery management plan (FMP) language for Amendment 21 (Agenda Item E.6.a, Attachment 2) and specify a schedule for the consideration of a trailing amendment on community fishing associations (CFAs).

NMFS has been drafting regulations that will implement the trawl rationalization program, if it is approved by the Secretary. It is expected that the trawl rationalization program will be implemented through three or more regulatory actions:

Rule – Short Name	Description	Status
1. Data collection	Rule on submission of ownership information and notice that fishery data corrections must be submitted by May 2010.	Final Rule Published January 29
2. Grand Framework Rule	Main rule implementing the trawl rationalization action, covers both Amendments 20 and 21.	Scheduled to be submitted <ul style="list-style-type: none"> • to the Council for deeming at its March 2010 meeting. • to NMFS headquarters for review on March 31, 2010. • to the Secretary for approval on April 30, 2010.
3. Follow-up Rule	Miscellaneous regulations, other than those dealing with initial allocation of quota shares and time sensitive provisions that need to be in place for implementation of the program on January 1, 2011.	To be submitted to the Council for deeming June 2010.

The National Marine Fisheries Service (NMFS) Northwest Region has provided five reports for this briefing package. The first report provides a summary of NMFS interpretations of the Council action where there appeared to be some latitude for interpretation (Agenda Item E.6.b, NMFS Report 1). The second report provides a summary of areas where NMFS was uncertain as to how to interpret Council intent (Agenda Item E.6.b, NMFS Report 2). The third report provides an outline of the organization of the regulations (Agenda Item E.6.b, NMFS Report 3). The fourth report contains a draft of the proposed regulations (Agenda Item E.6.b, NMFS Report 4). And, the fifth report covers mandatory economic data collection program design (Agenda Item E.6.b, NMFS Report 5). Under the regulation deeming process (Council Operating Procedure 1) adopted by the Council in 2009, the Executive Director is charged with reviewing the draft regulations to ensure that they are consistent with Council action, unless otherwise directed by the Council. However, because of the complexity of regulations on this issue, the Council itself is reviewing and making the regulatory deeming decision on the draft regulations for trawl rationalization. An advance meeting of knowledgeable individuals from the Council family met February 4-5, 2010 in Seattle to preview regulatory deeming issues, and it is expected that the Groundfish Management Team, Groundfish Advisory Subpanel and Enforcement Consultants will submit statements for Council consideration.

As mentioned above, under this agenda item the Council will address two other tasks related to trawl rationalization. The first is the adoption of the FMP amendment language to implement Amendment 21 (intersector allocation). In the process of developing this language and the regulations, it was determined that there is an inconsistency between the language of the written motion and one of the tables referenced in the written motion. This inconsistency is discussed in Agenda Item E.6.a, Attachment 2. The Council should resolve this inconsistency when it adopts the FMP amendment language.

The second issue is the schedule for consideration of an amendment pertaining to Community Fishing Associations. At the November 2009 Council meeting, Council members (1) identified a desire to explicitly review the regulatory language on the quota share control rule with respect to the impact of that language on groups of QS holders working together (whether in risk control pools or community based associations), and (2) specify a calendar for the consideration of a trailing amendment on community fishing associations (CFAs). The first of these two items should be addressed when the Council determines whether to deem the draft regulations consistent with its action. The second may be addressed under this agenda item or when the Council takes up future meeting planning at the end of the meeting.

Council Task:

- 1. Determine whether draft regulations are consistent with final Council action on Amendments 20 and 21, with particular attention to language on control limits; in the event draft regulations do not fully comport with final council action, determine schedule to complete this task.**
- 2. Adopt FMP amendment language for Amendment 21.**
- 3. Decide on schedule for consideration of CFAs, for confirmation under agenda item D.6 “Future Council Meeting Agenda and Workload Planning” on Thursday, March 11, 2010.**

Reference Materials:

1. Trawl Rationalization Approval and Implementation Process (Agenda Item E.6.a, Attachment 1).
2. Council Preferred Groundfish Trawl Rationalization Alternative (Agenda Item E.6.a, Attachment 2).
3. Staff Draft Groundfish Fishery Management Plan Amendatory Language For Amendment 21 (Agenda Item E.6.a, Attachment 3).
4. NMFS Interpretations of Council Intent (Agenda Item E.6.b, NMFS Report 1).
5. Clarifications Requested of Council (Agenda Item E.6.b, NMFS Report 2).
6. Draft Regulatory Outline (Agenda Item E.6.b, NMFS Report 3).
7. Draft Proposed Regulations for Amendments 20 and 21 (Agenda Item E.6.b, NMFS Report 4).
8. Mandatory Economic Data Collection Program Design For Groundfish Trawl Rationalization (Agenda Item E.6.b, NMFS Report 5).
9. Public Comment (Agenda Item E.6.c, Public Comment).

Agenda Order:

- a. Agenda Item Overview Jim Seger/Kit Dahl/ John DeVore
- b. Reports and Comments of Management Entities and Advisory Bodies
- c. Public Comment
- d. **Council Action:** Deem Amendment Implementing Regulations, Adopt Plan Amendment Language for Amendment 21, and Consider Planning to Address CFA Alternatives

PFMC
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