

ENFORCEMENT CONSULTANTS REPORT ON REGULATORY DEEMING FOR
FISHERY MANAGEMENT PLAN AMENDMENT 20 – TRAWL RATIONALIZATION AND
AMENDMENT 20 – INTERSECTOR ACCOCATION

The Enforcement Consultants (EC) has reviewed Agenda Items E.6.b, NMFS Reports 1, 2, 3, and 4 and has the following comments.

Report 3, Draft Regulatory Outline

The EC believes this organization of Federal groundfish regulations is a vast improvement over the existing regulation format. We have reviewed its content and are satisfied that it will meet the regulatory requirement. We will continue to monitor and participate in the development of the regulations that flow from this regulation outline.

Report 4, Draft Proposed Regulations for Am 20 & 21

In reviewing the draft proposed regulations, the EC focused on the definitions section. We believe the definitions to be adequate at this time, but note that these definitions will continue to evolve as the regulations package develops and matures. We also note that as of this time, GCEL has not completed its review of these draft definitions.

Report 1, NMFS Interpretation of Council Intent

We found the following listed elements to be consistent with Council intent and enforceable, and therefore recommend the Council deem them acceptable: Issue 7, vessel monitoring systems (VMS) declarations; Issue 8, Definitions; Issue 11, No observer coverage waivers will be granted; Issue 14, 30 day to cover all catch from an individual fishing quota (IFQ) trip; Issue 15, First Receiver Site License; Issue 16, IFQ Species Area Management; Issue 18, Processing at-sea by IFQ whiting vessels; Issue 19, Equipment requirements; and Issue 25, Maximized retention by mothership catcher vessels.

Report 2, Clarification Requested of Council

Regarding the Clarification Issues document, we have the following comment:

Issue 3: 30-day clock. When does the 30-day clock start for vessel overages?

We understand that even with electronic reporting, some catch data may not be immediately available. Consequently, enacting regulations reflecting option A could raise significant legal implications that could affect prosecution of violations. We strongly encourage the Council to adopt option B, “the clock would start when any data/documentation from the trip which caused the overage (account deficit) is available or the vessel account shows there is an overage (account deficit).”

Issue 4: 10 percent carryover.

One of the provisions of the carryover rule is to allow a vessel to “opt out” of the fishery during the year, in lieu of covering a landing deficit that is within the 10 percent carryover, within 30 days. Exercising this option, the vessel can avoid prosecution and can cover their deficit (up to 10 percent) with the quota pound (QP) allocation received in the following year. Implementation

of this provision requires knowing what the 10 percent carryover is at the time the vessel chooses to opt out of the fishery. Neither option B or C provides this implementing information during the year.

We therefore endorse National Marine Fisheries Service preferred option A and agree with the discussion points presented under this issue. In addition to enabling implementation and enforceability of this issue, option A creates an incentive to load QP into vessel accounts early in the year, thus supporting Council intent discussed under Issue 5: “All QP in a QS account must go in to a Vessel Account each year.”

PFMC
3/10/10