Mr. Jim Seger, Ms. Jamie Goen, and Mr. Todd Lee provided the Groundfish Advisory Subpanel (GAP) with several reports and briefings regarding items related to regulatory deeming for Fishery Management Plan (FMP) Amendments 20 and 21. The GAP offers the following comments and recommendations.

**Mandatory Data Collection**

Overall, the GAP recognizes that economic data collection can provide important information to the Council, and is a required component of the five year review of the trawl rationalization program. However, the GAP is concerned that as presently drafted, the mandatory economic information to be collected is unduly onerous, going far beyond what is needed to determine the socioeconomic effects of the trawl program. The GAP is concerned that overly complex forms and data requests may hurt the accuracy of the information and the response rate, and recommends a simplified approach.

In addition, the GAP is concerned that data collection be limited to a reasonable period (i.e. not every year) after the five year review. The GAP would prefer every three or five years after that initial requirement.

The GAP notes that two important components of the fishery fall outside of the data collection system as currently proposed. Specifically, effects on groundfish communities and the recreational sector should be studied.

Regarding the validity of the information to be collected, the GAP points out that many operators do some jobs themselves which has the effect of changing the apparent profit levels of those operations in comparison to operators who contract that work out. The GAP recommends adjusting the survey to account for that potential discrepancy.

The GAP notes that determining why fishermen leave the fishery may be difficult to ascertain, and an assumption that they always do so for economic reasons is inaccurate. Interviews may be necessary to determine whether the departure was due to economic considerations, retirement, or some other factor.

Finally, the GAP notes that data collected for purposes of determining the effects of the trawl rationalization program will only be useful if an adequate baseline is established. To that end, robust information for the fishery and groundfish communities pre-implementation needs to be collected and analyzed.
To reiterate, the GAP recognizes the importance of data collection, but is concerned that the right information may not be collected, the level of detail for operators and processors is burdensome and unnecessary, and the baseline to compare effects of the program may not be established appropriately. Simplicity and the ability to have confidence in the data should be emphasized.

**Trawl Rationalization Implementation Schedule**

The GAP believes that the trawl rationalization program should be implemented January 1, 2011. The GAP notes that the program has already been delayed several times and does not wish to see any further delay. The GAP does not want a sub-par program implemented, however, at present we are not convinced that a 2012 implementation date is required for a successful trawl rationalization program. The GAP notes that the Federal appropriation for catch share programs nationwide provides millions of dollars for the trawl rationalization program, and is concerned that a delay in implementation could jeopardize that funding. There is also concern that a longer timeline to implementation creates a greater likelihood that the program will unravel.

The GAP recognizes that we are currently behind schedule in relation to a 2011 implementation date, and that NMFS has not had the resources necessary to develop the regulations in a timely manner. The GAP is disturbed that the lack of appropriate resources came to light so late in the day. In meeting the 2011 implementation schedule, the GAP recommends that National Marine Fisheries Service (NMFS) focus on the most important components of the program, and specifically recommends that NMFS and Council staff set aside the time necessary to ensure that regulations match Council intent. The GAP also notes that the program cannot and will not be perfect when it is implemented. Fine tuning of the program will be a continuous process. The GAP believes that additional resources for implementation are available from National Oceanic and Atmospheric Administration to get this program implemented. Those resources should be secured and mobilized as soon as possible.

**Clarifications Requested of Council** – (The GAP worked from Agenda Item E.6.b, Supplemental Revised NMFS Report 2, which has different numbering than the clarifications document sent out in the briefing book.)

Issue 1) The GAP recommends option c. This option is easiest administratively, but does not unduly hamper business flexibility.

Issue 2) The GAP recommends option a. This is the least confusing option and provides the opportunity to fish pending appeal.

Issue 3) The GAP recommends option b. Fishermen may not know of a potential overage until they are presented with final quota information. Therefore it would be punitive to start the 30 day clock at the time of landing.

Issue 4) The GAP recommends option a. This option provides an easy calculation to determine the value of the 10 percent carryover. The other options are much more complex. The GAP raised concerns about lessors of quota after the 45 day rule not being credited with carryover.
pounds, but ultimately decided that a clear rule would allow that to be taken into account during the quota transaction.

Issue 5) The GAP recommends option b. The GAP feels strongly that quota pounds need to go into vessel accounts before the end of the year. The GAP also notes that there may be value in having different rules for target and overfished species (e.g. July 1 for target species and September 1 for overfished species) which serves the dual function of ensuring pounds are in vessel accounts while providing additional flexibility in arranging quota portfolios for overfished species.

Issue 6) The GAP recommends option b. Option b reflects the actual intent of the Council and will provide adequate opportunity to the at-sea sector without taking away shoreside opportunity unnecessarily.

Issue 7) The GAP feels that there are two separate questions wrapped up in this issue. First, by what date must an intent declaration to fish in the co-op or open portion of the fishery be made, and second, whether a co-op permit is required for catcher-processors (CP).

Regarding the first question, the GAP believes neither option presented accurately reflects Council intent, which is clearly specified in the Council’s motion (i.e. “by September 1”).

On the second question, the GAP believes that the Council did not intend to require a permit for CP co-ops. That belief is supported by two separate Council actions and the language of the Draft Environmental Impact Statement (DEIS).

Issue 8) The GAP recommends option b. The intent was to keep multiple permit transactions within the mothership sector. Option a would go beyond Council intent.

Issue 9) The GAP recommends option b. It will take time administratively to implement an Individual Fishing Quota for a failed co-op. Allowing the remaining co-op members to fish on the C/P sector allocation through the end of the year after a co-op failure will prevent substantial negative impacts.

**NMFS Interpretations of Council Intent**

Issue 19) As described above in clarification issue 7, NMFS contradicted Council intent by requiring a co-op permit for C/P co-ops. Despite acknowledging the DEIS statement (p. D-42) that a co-op permit would not be required, NMFS determined that there was a “management need.” The GAP believes that requiring a co-op permit drags the agency into co-op management unnecessarily, but most importantly the GAP believes Council intent was clear and consistent, and NMFS’ interpretation is contrary to Council intent.

**Process for Development of Community Fishing Associations**

The GAP feels that Community Fishing Association (CFA) development is not an urgent priority. The GAP notes that CFAs are forming now and are not precluded under current rules.
Given other Council and trawl rationalization priorities, the GAP feels hurrying to develop CFAs could have detrimental impacts on other aspects of the program. There was some discussion about whether cooperative pooling arrangements (e.g. insurance pools) could potentially violate control caps, and if so, whether CFA development might need to occur earlier. The GAP believes this is unlikely to be a major issue and feels that fishermen and pools should work through the established constraints in the program.

The GAP also feels that a CFA committee should not be established. Adding extra bureaucracy and process will not necessarily yield a better result. The GAP feels that the normal Council process, involving Council staff, advisory panels, and the Council, is the right avenue for eventual CFA development.

Finally, the GAP notes that a large part of the interest in CFAs seems to be coming from the non-trawl fleet. While not directly related to the process question at hand, the GAP wishes to reiterate that a trawl permit will be required to land trawl quota.

**Deeming – Amendment 21**

The GAP feels that the Amendment 21 materials accurately reflect Council discussions and intent.

While not before the Council at this time, the GAP wishes to highlight that the intersector allocation process is not complete. Firm allocations between the other groundfish sectors, especially for certain species in certain areas (e.g. sablefish south of 36°), will need to be established. The GAP recommends that the Council undertake an additional intersector allocation process for making those determinations at the appropriate time.

PFMC
3/09/10