Trawl Rationalization

Regulatory Deeming

March 2010
1. TRAt rulemakings & schedule
2. Overview of new regulatory structure
3. Discuss BB documents
   — NMFS interpretations of Council intent (NMFS Report 1) – only allocations
   — NMFS clarifications requested of Council (NMFS Report 2)
   — Draft regulatory outline (NMFS Report 3)
   — Draft proposed regulations for Am 20 & 21 (NMFS Report 4)
   — Mandatory economic data collection program design (NMFS Report 5)
NEPA Documents:

1. Am 20 FEIS being drafted
   - Am 20 DEIS was open for public comment from 12/4 to 1/19
   - >1,850 comments received
   - Late Feb-March – review of FEIS and response to comments
   - FEIS should publish in June

2. Am 21 DEIS open for public comment through 3/15
TRat rulemaking contents

3 or more rulemakings-

1. **Data Collection Rule** (final rule published 1/29)
   - Potential participants in TRat program should complete an ownership interest form before May 1, 2010.
   - Announces databases NMFS intends to use for initial issuance
     1. PacFIN (fish tickets & logbooks)
     2. NORPAC
     3. Limited Entry Permits
   - Announces what data potential participants should check now and the contacts for checking that data (LET permit, shoreside processor/first receiver, MS/CV data requests)
     1. PacFIN
        (fish ticket landings data for QS issuance, logbook data for depth and lat by target species, fish ticket data for first receiver to determine processor whiting QS)
     2. NORPAC
        (whiting data for catcher vessels in MS fishery, Motherships, C/P)
     3. Limited Entry Permits
        (permit owner of record, permit combinations)
     4. This data must be reviewed & , if necessary, corrected before the Grand Framework proposed rule publishes (~May 2010). NMFS will not allow this data to be appealed during initial issuance. Only errors in NMFS extraction, aggregation, or expansion of the data may be appealed.
TRat rulemaking contents (con’t)

3 or more rulemakings-

1. Data Collection Rule

2. Grand Framework Rule & FMP Review
   - Will announce NMFS approval or disapproval of FMP AM 20 & 21 and EIS review
   - If approved, will announce draft regulations for program and will restructure existing groundfish regulations
   - Schedule
     - March & April – PFMC meetings – regulatory deeming
     - May – proposed rule publishes
     - August – final rule publishes
     - Sep-Dec – initial issuance & appeals
     - 1/1/2011 – TRat program implemented

3. Follow-up Rule (Fall 2010)
   - Will include any remaining regulations, including but not limited to cost recovery
### Subpart C – West Coast Groundfish Fisheries – General (660.10-660.99)

660.10 Purpose and Scope  
660.11 Definitions  
660.12 Prohibitions  
660.13 Recordkeeping and reporting  
660.14 VMS Program requirements  
660.15 Equipment requirements  
660.16 Groundfish observer program  
660.17 Catch monitors & service providers  
660.18 Certification and decertification  
660.20 Vessel and Gear Identification  
660.24 LE and OA fisheries  
660.25 Permits  
660.30 Comp. w/fish for collecting resource info. – EFPs  
660.40 Overfished species rebuilding plans  
660.50 Pacific Coast Treaty Indian fisheries  
660.51 Washington coastal tribal fisheries  
660.55 Allocations  
660.60 Specs & management measures.  
660.65 Groundfish harvest specifications.  
660.70-99 Closed Area - GCA’s and EFH  

* ABC/OY Tables –  
  Tables (1a), OY tables (1b), Allocation tables (1c),  
  Tables 2a, 2b, and 2c  
* Vessel Capacity Rating Table - Table 2 to Part 660

### Subpart D – West Coast Groundfish – Trawl Fisheries (660.100-660.199)

660.100 Purpose and Scope  
660.111 Definitions  
660.112 Prohibitions  
660.113 Recordkeeping and reporting  
660.120 Crossover provisions –  
  Areas, Gears (?), Trawl Fisheries.  
660.130 LE trawl fishery mgmt measures.  
660.140 IFQ Program –  
  Shore-based Trawl Fishery  
660.150 Mothership (MS) Coop Program –  
  Whiting At-sea Trawl Fishery  
660.160 Catcher-Processor (C/P) Coop Program - Whiting At-sea Trawl  

* Figure 1  
* Trip Limit Tables - Table 3 North and South
Subpart E – West Coast Groundfish –  
Fixed Gear Fisheries (660.200-660.299)

660.210 Purpose and Scope
660.211 Definitions
660.212 Prohibitions
660.213 Recordkeeping and reporting
660.216 Groundfish observer program.
660.219 Fixed gear identification and marking
660.220 Crossover provisions
660.230 LE fixed gear fishery mgmt. measures.
660.231 LEFG sablefish fishery management.
660.232 Sablefish LEFG daily trip limit fishery

* Trip Limit Tables - Table 4 North and South

Subpart F – West Coast Groundfish –  
Open Access Fisheries (660.300-.349)

660.310 Purpose and Scope
660.311 Definitions
660.312 Prohibitions
660.313 Recordkeeping and reporting
660.316 Groundfish observer program.
660.319 OA gear identification and marking
660.320 Crossover provisions
660.330 OA fishery mgmt measures.
660.331 Black rockfish fishery management
660.332 Sablefish OA daily trip limit fishery
660.333 OA non-groundfish trawl fishery mgmt measures

* Trip Limit Tables - Table 5 North and South

Subpart G – West Coast Groundfish –  
Recreational Fisheries (660.350-.399)

660.350 Purpose and Scope
660.351 Definitions
660.352 Prohibitions
660.353 Recordkeeping and reporting
660.360 Recreational fishery mgmt measures.
1. QS permit /QS account
   - *initial issuance & appeals process for QS permit/QS amounts*
   - QS account established when QS permit issued
   - permit/account non-transferable
   - annual renewal
   - ownership interest form required with application & renewal

2. Vessel QP account
   - vessel owner responsible for setting up vessel QP account
   - can designate others to access account
   - account non-transferable

3. First Receiver Site License
   - can apply any time of year, effective until end of year
   - issued to a person and a corresponding physical location
   - license non-transferable
   - annual renewal
   - catch monitor plan submitted as part of application & renewal
1. Mothership permit (new)
   - initial issuance & appeals process
   - transferable
   - annual renewal
   - ownership interest form required with application & renewal
   - no size endorsement

2. MS/CV endorsement (new & tied to LET permit)
   - initial issuance & appeals process
   - catch history assigned to permit
   - transferable, but non-severable from LET permit
   - annual renewal with LET permit
   - ownership interest form required with application & renewal
   - maintain length endorsements, except transfers to smaller vessels do not have to be reduced

3. Coop permit and agreement (new)
   - non-transferable
   - annual renewal
   - coop agreement submitted as part of application & renewal
C/P Coop Program

types of permits/accounts

1. C/P endorsement (new & tied to LET permit)
   - initial issuance & appeals process
   - transferable, but non-severable from LET permit
   - annual renewal with LET permit
   - maintain length endorsements, except transfers to smaller vessels do not have to be reduced
   - C/P permit that is combined with a LET permit that is not C/P endorsed results in a single C/P permit with a larger size endorsement. (A CV/MS endorsement on one of the permits being combined will not be reissued on the resulting permit.)

2. Coop permit and agreement (new)
   - non-transferable
   - annual renewal
   - coop agreement submitted as part of application & renewal
Partially pre-completed application from NMFS with initial determination

Completed & signed application returned to NMFS

Completed & signed application returned to NMFS with revisions and/or additional evidence “corrections to application”

No QS, Permit, or Endorsement will be issued

Initial decision from NMFS (IAD) in form of letter and/or permit

Initial decision from NMFS (IAD) in form of letter and/or permit that either agrees or disagrees with applicant’s correction

Deadline for applications

Deadline for appeals

If no appeal, automatically becomes final decision

If no appeal, automatically becomes final decision

Application/appeals

QS permit

MS permit

MS/CV end.

C/P end.
NMFS Interpretations of Council Intent

only 2) allocations (Am 21)
Table 1. Groundfish allocation process and guidance.

<table>
<thead>
<tr>
<th>Step in Process</th>
<th>Policy Guidance</th>
<th>Initial Set-asides</th>
<th>Optimum Yield</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Initial Set-Asides - Reduce OY by tribal amounts, estimated research catch, projected bycatch in non-gr, EFP bycatch limits.</td>
<td>Determine During Biennial Specifications Process</td>
<td>Tribal, Resarch, Incidental, EFPs</td>
<td></td>
</tr>
<tr>
<td>2. Determine Limited Entry (LE) Trawl Allocation</td>
<td>A-21 (Fishery Guideline * Trawl %)</td>
<td></td>
<td>LE Trawl</td>
</tr>
<tr>
<td>3. Determine Recreational (Rec) Allocation</td>
<td>Determine During Biennial Specifications Process</td>
<td></td>
<td>LE Fixed Gear</td>
</tr>
<tr>
<td>4. Determine Open Access (OA) Allocation</td>
<td>A-6 (Commercial Guideline x open access %)</td>
<td></td>
<td>Directed Open Acess</td>
</tr>
<tr>
<td>5. Determine LE Fixed Gear</td>
<td>Remainder from Steps 1-4, Determined During Biennial Specifications Process</td>
<td></td>
<td>Rec Amt</td>
</tr>
<tr>
<td>6. Subdivide trawl (Shoreside whiting (Wht)/Nonwhiting (NWht) split needed only for QS allocation in first year of program. Shoreside (SS), Mothership (MS), and catch-processor (CP) splits needed on an ongoing basis.</td>
<td>Split trawl based on A-21 and at-sea set asides (set asides modifiable during biennial specifications process).</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
NMFS Clarifications Requested of Council
NMFS clarifications

Issue 1:
Transfer of limited entry permits during application process for QS, MS/CV end., or C/P end.

- **A**: Allow transfers; resulting permit/end. issued to new owner at time application complete
- **B**: Allow transfers; resulting QS permit issued to original applicant (even if doesn’t own LE permit) – QS permits ONLY
- **C** (NMFS-preferred): Don’t allow transfers
NMFS clarifications

Issue 2:

Status of permits pending appeal
How handle QS permits or MS/CV catch history assignments still under appeal at time of implementation?

• A (NMFS-preferred): Allow use of QS permit/account or MS/CV catch history assignment based on amounts assigned before appeal. If appeal successful, revised QS or catch history assignment issued to all permits at time of renewal in the following year.

• B: Don’t issue QS or catch history assignments until all appeals done, fishery continues under trip limits or existing whiting primary season until year following completion of appeals
IFQ Program

Vessel Account

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

- **A:** start clock on landing that caused overage even if all data not available. Assumes vessel operator knows regardless of what vessel account says.
- **B (NMFS-preferred):** clock starts at the time data shows overage (fish tix at time of landing or vessel acct after landing)

**QS account**
1) Total cumulative QP
2) Used QP
3) Available QP

**vessel account**

NMFS clarifications

NMFS
Credits QP in QS accounts based on annual IFQ program allocation & QS account %
Vessel Account

Issue 4:
The 10% carryover provision can be calculated from the vessel account different ways.

- **A (NMFS-preferred):** carryover based on vessel account balance 45 days after start of the year QP issued to QS accounts.
- **B:** carryover based on total cumulative QP (used and unused) in vessel account over calendar year, minus QP that were transferred out.
- **C:** carryover based on vessel account balance at end of calendar year.
Vessel Account

Issue 5:  
All QP in a QS account must go in to a Vessel Account each year.

- A: by December 31
- B (NMFS-preferred): close to end of year, but allowing enough time for fishing (by September 1?)
MS & C/P Coop Program

Issue 6:
Inconsistency in the Council’s motion on at-sea whiting trawl sector set-asides (Am 21).

- A: a 5 mt minimum set-aside for any species
- B: actual amounts in the preliminary DEIS table which showed some species set-asides of less than 5 mt (e.g., 0 mt and 1 mt).
- NMFS intends to put the set asides in regulation with the ABC/OY tables.
Issue 7:

What is an appropriate deadline for a coop permit (MS or C/P) and for a MS/CV endorsed permit to declare in to a MS coop or the non-coop fishery?

- September 1-December 31 of the year before the whiting season the MS/CV endorsed permit must declare through the permit renewal process that they are going to participate in the coop or non-coop fishery.
- A: Between September 1 - December 31 of the year before the whiting season the coop must apply for a coop permit
- B (NMFS-preferred): Between February 1 - March 31 before the whiting season the coop must apply for a coop permit
MS Coop Program

Issue 8:
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?

• A: Make 2x per year transfer rule apply to any trawl endorsed permit.
• B (NMFS-preferred): require that the MS/CV permit owner declare only in to MS fishery for 2\textsuperscript{nd} change in vessel registration.
C/P Coop Program

Issue 9:
What determines a coop failure and when would C/P fishery move to IFQ?

• C/P Coop Failure:
  1. If any C/P endorsed permits are not identified as coop members on the C/P coop agreement submitted to NMFS during the coop permit application process.
  2. If any vessel registered to a C/P endorsed permit withdraws from the C/P coop agreement.
  3. If the C/P coop fails to submit an annual report.
  4. If the C/P coop fails to manage harvest such that allocations are repeatedly exceeded.
NMFS clarifications

C/P Coop Program

Issue 9: (con’t)

What determines a coop failure and when would C/P fishery move to IFQ?

• A: *If failed, the C/P fishery would cease fishing until C/P IFQ fishery implemented.*

• B (NMFS-preferred): *If failed, the remaining C/P coop members continue to fish on the C/P sector allocations and would move to an IFQ fishery in the following year once NMFS implements the appropriate regulations.*
Questions?