

Trawl Rationalization Trailing Actions

Agenda Item E.7

Council Action

- Provide guidance on trailing action issues as listed in E.7.a Attachment 1
 - Needed at the end of the day
 - Alternatives to analyze for each issue being moved forward
 - Workload guidance
 - If everything cannot be ready for final action in April which are the higher/lower priorities

Related Materials

- E.3.a, Attachment 4 – Central coast proposal to replace observers with cameras on fixed gear vessels and trawl vessels operating outside the RCA.
- E.9.b, NMFS Report – Recommendations that a number of items slated for the biennial specifications be handled under separate rule makings.

E.7.a, Attachment 1

- Introduction - page 1
 - Flexibility on PIE Rule 3 (2014 Priorities)
 - Set Aside Flexibility
 - Impacts on Nontrawl Sectors
- Table of Contents – pages 2 and 3
 - List of issues and time frames
 - Categories
 - Ongoing Issues
 - PIE 2 (2013)
 - Stand Alone (2013-14, 2015)
 - PIE 3 (2014)
 - Tentatively in Spex (2013)
 - Not prioritized
- Under each issue for 2013 and stand alone priorities a summary is provided of what needs/might be done
 - Under all items for 2013 alternative for analysis are needed.

Ongoing Activities (Started in 2010)

1. Cost recovery – final action on structure taken, ongoing work on regulations, analysis, and fees and meetings of CRC to be held
2. Control rule safe harbors
 - a. CFAs – tabled
 - b. Risk pools – final action taken and ongoing work (analysis and regulation drafting and deeming)
 - c. Lenders – for this meeting
3. Other Lender Issues (3rd party verification, lien registry, and unique identifiers)

With Regard to Ongoing and PIE 2 Issues (Implementation for 2013)

Detail on

- Lender Issues
- Mothership Processing Limits

Lender Issue: Control Rule Safe Harbor (1)

- Who qualifies
 - Status Quo – exclusion from some provisions for “banks and other financial institutions that rely on QS or IBQ as collateral for loans”
 - Straw Dog Alt 1 – adds “state or federally chartered”
 - Straw Dog Alt 2 – expands to any person relying on QS as collateral
 - Straw Dog Alt 3 – maintains status quo but adds an amplification
 - Regularly and primarily involved in lending
 - Not engaged in fish harvesting, processing, or distribution

Lender Issues: Control Rule Safe Harbor(2)

What is the lender exclusion: Status Quo control provisions

No Lender Exclusion Provided	Lender Exclusion Provided
(A) & (B) directs the business of an entity or authority over director, board, partners etc.	(E) Any activity related to quota
(C) Prevents or delays quota transfer (shares or pounds)	(F) Controlling management of the entity or being a controlling factor
(D) Through loan covenants affects day to day business activities	(G) Cause or prevent sale, lease, or other disposition of quota
(H) Any other means of control over shares	

Some confusion about overlaps between

(C) and (E), (C) and (G), (D) and (E)/(F), (A/B) and (F).

Strawdog 1. Provide lenders an exclusion for (C).

Strawdog 2. Eliminate exclusion for everything but (C) and provide a clause in all other sections excluding lender activities covered under (C)

2a. Under (C) exclude lender control over shares but not pounds.

Strawdog 3. Add lender exclusion for all paragraphs.

Mothership Processing Limit

- Policy – Minimum of 3 markets.
 - Ended up with minimum of 2 markets.
- Provision is: no entity owning MS permits may process more than 45% of the sector's whiting.
- What happened? The individual and collective rule was applied to an ownership limit.

Under IFQs, the rule is applied to a control limit and has a different effect.

Calculation of Processing Limit

	Portion of Deliveries Received	Portion of Each Company Owned by Entity #1	Individual and Collective Rule Applied
Company A	30%	60%	18%
Company B	30%	60%	18%
Company C	40%	0%	0%
<i>Entity #1 Ownership of Processing</i>			36%

- Applying individual and collective rule to ownership limit, Entity #1 is at 36%
- But Entity #1 effectively controls Company A and B (60%) (only 2 markets)
- There is not a control rule, just an ownership rule.

- Under a control rule,
 - The Individual and Collective Rule for evaluating ownership control is only the first step in evaluating control.
 - Entity #1 would be found to control 60% of the processing (30% + 30%)

Mothership Processing Limit Alternatives

- Status Quo (revise policy objective from a minimum of 3 markets to 2 markets)
- Strawdog Alt 1: Change the ownership rule to a control rule
- Strawdog Alt 2: Revise the rule for determining the amount of ownership (e.g. a threshold rule, if an entity owns more than 50% of a company then all processing by the company would count toward that entity. If less than 50%, none would count).

Another Issue Closely Related to Policy Objective on Number of Markets

- Each year before the season starts catcher vessels commit themselves to a particular mothership processor
 - these commitments must comply with the 45% processing ownership limit
- If some mothership processing capacity does not arrive, the mutual agreement exception allows processors to release catcher vessels from their commitments (to deliver to a different mothership processor)
- What happens if catcher vessels cannot use the mutual agreement exception to go to another processor because the only other processor available is already at 45%?
- This is another way in which the objective of providing markets could be frustrated by the ownership limit provision.
- Should this be addressed as part of this issue?

Workload Planning

Issue From E.7.a Attachment 1	
1. Cost Recovery	Regulation drafting, fee levels being worked on, CRC
2.b. Risk pool safe harbor	Regulations and EA to be drafted
2.c. Lender safe harbor	NEPA-Categorical Exclusion
3. Other lender issues (verification, lien registry and unique identifiers)	NEPA-Categorical Exclusion
4. New observer providers	NEPA-Categorical Exclusion
5. Trawl/FG Permit Stacking	NEPA-EA – relatively small EA
6. 30-day opt-out provision	No further NEPA
7. MS processor ownership	No further NEPA – work depends on options
8. Double filing co-op reports	No Further NEPA
9. Move whiting season start	NEPA-EA
10. Reduce observer costs (13-14)	NEPA-EA? (NMFS has not determined)
11. AMP (2015)	NEPA-?? (NMFS has not determined)
12. Widow QS Realloc (2015)	NEPA-?? (NMFS has not determined)
Items from spex? 28. Multiple gears on board. 29. Trawl gear regulations. 30. Chafing gear.	NEPA-EAs

Issue From E.7.a Attachment 1	
1. Cost Recovery	
2.b. Risk pool safe harbor	
2.c. Lender safe harbor	GAP
3. Other lender issues (verification, lien registry and unique identifiers)	GAP
4. New observer providers	GAP
5. Trawl/FG Permit Stacking	GAP, TRREC
6. 30-day opt-out provision	Include alt from Att#1 and EC report.
7. MS processor ownership	Remove
8. Double filing co-op reports	Yes - Move forward
9. Move whiting season start	GAP, TRREC
10. Reduce observer costs (13-14)	Yes - Move forward
11. AMP (2015)	Yes - Move forward
12. Widow QS Realloc (2015)	Yes - Move forward – <i>on the 2015 schedule</i>
From spex? 28. Multiple gears on board.	GAP, TRREC – All 28, 29, 30 to go forward together
29. Trawl gear regulations.	GAP
30. Chafing gear.	GAP, TRREC
Set-asides – action on process	