

## TRAWL TRAILING ACTION SCOPING ISSUE OVERVIEW

As described in the situation summary, at this meeting the Council will set priorities for work on trawl trailing actions during the upcoming trailing action cycle. This document includes sections identifying possible criteria to use in prioritization, ongoing workload issues and potential issues for scoping based on previous Council discussion and actions, as well as possible issues NMFS and Council staff have become aware of. During this meeting, additional issues for consideration may be raised by Council advisory bodies and the public. At the end of the main text, a decision template is provided which identifies the issues outlined in this document together with an assessment of the relative Council workload associated with each identified issue. Finally, an appendix is provided identifying minor changes and housekeeping corrections to the regulations. These will be implemented without further Council attention unless an issue is identified that requires additional consideration. The housekeeping list may be updated as Council deliberations proceed. In addition, housekeeping items may be added during NMFS implementation and rulemaking.

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## Criteria for Prioritization

The Council may want to consider criteria to use in prioritization of trawl trailing actions. A few possible criteria to consider are:

- Response to litigation.
- Implementation of the original Amendment 20 and 21 provisions.
- Maximizing conservation, social and economic benefits accruing prior to the 5 year review
- Maximizing conservation, social and economic benefits over the long term consistent with the FMP and MSA.

The groundfish FMP goals, in priority order, are:

*Goal 1. Conservation. Prevent overfishing and rebuild overfished stocks by managing for appropriate harvest levels and prevent, to the extent practicable, any net loss of the habitat of living marine resources.*

*Goal 2. Economics. Maximize the value of the groundfish resource as a whole.*

*Goal 3. Utilization. Within the constraints of overfished species rebuilding requirements, achieve the maximum biological yield of the overall groundfish fishery, promote year-round availability of quality seafood to the consumer, and promote recreational fishing opportunities.*

The National standards and FMP goals and objectives can be found at [http://www.pcouncil.org/wp-content/uploads/TRatFEIS\\_chapter\\_six\\_June2010.pdf](http://www.pcouncil.org/wp-content/uploads/TRatFEIS_chapter_six_June2010.pdf). The goals and objectives for Amendment 20 are as follows.

### Goal

*Create and implement a capacity rationalization plan that increases net economic benefits, creates individual economic stability, provides for full utilization of the trawl sector allocation, considers environmental impacts, and achieves individual accountability of catch and bycatch.*

### Objectives

The above goal is supported by the following objectives:

1. Provide a mechanism for total catch accounting.
2. Provide for a viable, profitable, and efficient groundfish fishery.
3. Promote practices that reduce bycatch and discard mortality and minimize ecological impacts.
4. Increase operational flexibility.
5. Minimize adverse effects from an IFQ program on fishing communities and other fisheries to the extent practical.
6. Promote measurable economic and employment benefits through the seafood catching, processing, distribution elements, and support sectors of the industry.
7. Provide quality product for the consumer.
8. Increase safety in the fishery.

## Constraints and Guiding Principles

The above goals and objectives should be achieved while the following occurs:

1. Take into account the biological structure of the stocks including, but not limited to, populations and genetics.
2. Take into account the need to ensure that the total OYs and allowable biological catch (ABC) are not exceeded.
3. Minimize negative impacts resulting from localized concentrations of fishing effort.
4. Account for total groundfish mortality.
5. Avoid provisions where the primary intent is a change in marketing power balance between harvesting and processing sectors.
6. Avoid excessive quota concentration.
7. Provide efficient and effective monitoring and enforcement.
8. Design a responsive mechanism for program review, evaluation, and modification.
9. Take into account the management and administrative costs of implementing and oversee the IFQ or co-op program and complementary catch monitoring programs, as well as the limited state and Federal resources available.

## **Workload Considerations**

Implementation of trawl trailing actions involves the efforts of Council, NMFS and NOAA GC staff. Planning and prioritization of trailing actions for the coming year needs to take into account the full spectrum of groundfish related workload and, in particular, on delayed progress of the Secretarial review and implementation process for actions previously completed by the Council. NMFS provided a report under G.1 on the status of rulemakings in progress for 2013, including those rulemakings listed below under implementation in progress. The following section provides the current implementation status of recommendations previously completed by the Council:

### **Implementation in Progress on Previous Council Actions** (see also Agenda Item G.1.b, NMFS Report)

*Whiting Allocation Reconsideration.* While implementation of the rules related to the whiting reconsideration in response to the first lawsuit is complete, there is a second lawsuit on this issue which continues to consume staff time and depending on the outcome may have further repercussions.

*Cost Recovery.* This action would provide for the recovery of a portion of the trawl rationalization program costs. The public comment period on the cost recovery rule closed on March 18. NMFS is currently drafting the final rule and developing the additional processes to implement the program. Cost recovery is expected to commence at the start of 2014. Also, see section below on Council Deliberations delayed for Cost Recovery Committee task.

*Chafing Gear.* This action would allow an increase in the extent to which chafing gear is allowed to cover midwater trawl codends. Proposed rule yet to be published. Implementation is expected for the 2014 season.

*Program Improvements and Enhancement Rule 2 (PIE 2).* This action would:

- Establish quota share (QS) permit application and QS transfer regulations,
- Change the opt-out requirement for quota pound (QP) deficits,
- Eliminate double filing of whiting co-op reports,
- Clarify exceptions for lenders from QS/QP Control Rules
- Revise first receiver site license requirements (FRSL), including site inspection and expiration date,
- Remove the end-of-year ban on QP transfers between vessel accounts,
- Clarify that the processor obligation may be to more than one mothership (MS) permit,
- Remove the term “permit holder” from groundfish regulations and replace with “vessel owner”, “permit owner”, or “owner of a vessel registered to a limited entry permit” as applicable, and
- Revise the process for vessel owners to request a change in vessel ownership.

The proposed rule published and the public comment period closed on August 19, 2013.

Implementation is expected by December 15, 2013 for the removal of the ban on end of year trading, and by January 1, 2014 for the remaining actions.

*Observer/Catch Monitoring Rule.* Some actions originally approved by the Council as part of PIE 2 are being packaged separately in an Observer/Catch Monitoring Rule, including permitting for new observer providers and observer safety. Implementation is expected for 2014.

### **Implementation Delayed on Previous Council Actions**

For the following issues, the Council has taken final action but Secretarial review and implementation work has not yet started. Once NMFS begins review of Council analyses and implementation work, for the trawl trailing actions NMFS has often brought analysis or implementation questions back to the Council and expects that this will be the case for some of these issues. ***The Council may wish to indicate the relative priority between completing transmission and implementation on these issues and taking up new trailing action issues.***

*Create Risk Pool Safe Harbor Provision for Quota Share/Quota Pound (QS/QP) Control Rules.* Safe Harbors for Risk Pools. At its September 2011 meeting, the Council recommended providing risk pools a safe harbor from the QS control rules. NMFS has not yet reviewed the draft environmental assessment nor scheduled this issue for implementation. NMFS is interested in the Council’s feedback on the urgency of this action given other workload. Because risk pools can operate under existing regulations, NMFS is interested in Council feedback on whether this action might be better addressed after the MSA 5-year review if a need for the action has developed.

*Allow Fixed Gear and Trawl Permit Stacking.* At its April 2012 meeting, the Council recommended allowing a fixed gear permit and a trawl permit to be registered to the same vessel at the same time. NMFS has not yet reviewed the draft analysis. NMFS plans to begin implementation work on this issue over 2014 and may implement through one of several vehicles: a rulemaking that results from the sablefish program review (see Agenda Item G.2) or from the trawl flexibility review (see Agenda Item G.9.b, NMFS Report 2). This issue is related

to the sablefish at-sea processing exemption and could be coordinated with that action, but not implemented before that action.

*Remove the Sablefish At-sea Processing Exemption from IFQ Fishery Regulations.* At its April 2012 meeting, as part of its action recommending that it be allowable for fixed gear and trawl permits to be registered to the same vessel at the same time (trawl-fixed gear stacking), the Council recommended that vessels with a sablefish at-sea processing exemption in the limited entry fixed gear primary sablefish fishery should not be allowed to process sablefish at-sea in the trawl IFQ fishery. NMFS plans to begin implementation work on this issue over 2014 and may implement through one of several vehicles: a rulemaking that results from the sablefish program review (see Agenda Item G.2) or from the trawl flexibility review (see Agenda Item G.9.b, NMFS Report 2). This issue could be coordinated with or implemented before the action on fixed gear/trawl permit stacking.

*Change in the Whiting Season Opening Date.* At its November 2012 meeting, the Council recommended moving the shoreside sector primary whiting season opening date to May 15, starting in 2013. NMFS has not yet reviewed the draft analysis or the revised FMP language. NMFS plans to begin implementation work on this issue over 2014 and may implement with any rulemaking that results from the trawl flexibility review (see Agenda Item G.9.b, NMFS Report 2).

## **Possible Issues for Prioritization in Upcoming Trailing Action Cycle**

### **Consideration Initiated but Council Progress Delayed**

During an earlier cycle the Council initiated work on the following issues but then delayed further action to accommodate other priorities (in particular, reconsideration of the whiting allocation).

*Regulatory Review and Gear Issues.* In 2011, the Council convened the Trawl Rationalization Regulatory Evaluation Committee (TRREC) to identify regulations which were made obsolete by implementation of the new trawl rationalization program in 2011. The first priority the Council gave to the TRREC was to review regulations related to (a) making it permissible to stack both a limited entry trawl and fixed gear permit on a single vessel at the same time, (b) modifying the season opening date for whiting, (c) allowing vessels to carry multiple gears at the same time, and (d) modifying a number of trawl gear regulations that impair increased efficiency and selectivity. The TRREC met in October 2011 and a report from that meeting is included at Agenda Item G.9.a, Attachment 2. The TRREC report led to a gear regulation workshop in August 2012. That workshop report was provided to the Council at its November 2012 meeting but the Council did not deliberate on it at that time due to other workload issues. The gear workshop report is included at Agenda Item G.9.a, Attachment 3.

The “trawl flexibility” (TFlex) package proposed by NMFS (Agenda Item G.9.b, NMFS Report 2) would review pre and post trawl rationalization regulations to determine which pre-trawl rationalization regulations may need revised or removed given the new program. NMFS review may cover some or all of the types of policy issued addressed by the TRREC and the gear

regulation workshop. The following is a listing of issues from the TRREC meeting and gear regulations workshop.

Table 1.- Outstanding issues from the TRREC report on its October 2011 meeting and the report on the August 2012 trawl gear workshop on which the Council has not taken final action, potential inclusion in Trawl Flexibility package, and corresponding item numbers in Agenda Item G.9.b, NMFS Report 2 (grey rows are addressed in NMFS Report 2).

<i>Issue from TRREC or Gear Workshop</i>	<i>TRREC Recommendation</i>	<i>Addressed by Gear Workshop</i>	<i>Would be Covered by Council Action on Trawl Flex? Corresponding Item Number in NMFS Report 2.</i>
A. Allow multiple trawl gears on board at the same time	Options provided (including option for year-round use of midwater gear coastwide and year-round in RCA north of 40°10')	Options provided	Potentially NMFS Item 11
B. Allow trawl and fixed gear on board at the same time.	Options provided.	Options provided	Potentially NMFS Item 11
C. Trawl gear modifications.	i. Update other midwater gear regs.		Potentially
	ii. Eliminate numerous gear requirements and restrictions.	Yes (reduce min mesh size and eliminate selective flatfish trawl)	Potentially NMFS Items 5-8
D. Identification of other obsolete regulations (TRREC provided a list to consider)	i. Consider elimination of permit length endorsements	Recommended the Council address the length endorsement issue	No
	ii. Consider numerous whiting fishery issues (but not sector allocations), including possibility of a year round fishery and processing of waste at sea.		Potentially NMFS Items 4 and 12
	iii. Consider electronic monitoring for vessel discards	Recommended the Council address the issue	No (Being addressed in a separate Council process)
	iv. Consider fishing across management lines (currently not allowed)		Potentially NMFS Item 21 (bullet 2)
	v. Consider revising large and small footrope definitions.		Potentially NMFS Item 7
E. Moving fixed gear across management lines	Not Addressed	Options provided.	Potentially NMFS Item 21 (bullet 2)
F. Require logbooks for fixed gear		Recommended the Council consider requiring LE and OA FG logbooks	No (Issue affects more than just the trawl sector)

*Lender Issues other than Safe Harbors.* The topics under this category have been narrowed to the question of whether the NMFS QS tracking system should include a capability that would allow the QS owner and lender to attach lender information to the QS account. The Council has not

selected a preliminary preferred alternative for other lender issues. In March 2012, the Groundfish Advisory Subpanel recommended no action on this issue.

*Reconsideration of the Widow QS Allocation.* At its April 2012 meeting, the Council decided to consider reallocation of the widow rockfish QS, now that widow rockfish is rebuilt. At its June 2012 meeting, the Council decided that for widow rockfish QS, the moratorium on QS trading should be continued until the widow rockfish reallocation process is complete or the Council decides not proceed. . Thus, when QS trading for all other species starts in 2014, the QS trading moratorium will continue to remain in place for widow rockfish QS.

*Whiting Surplus QP Carryover Provision.* A workshop was held in November 2012 to explore possibilities for fully implementing whiting surplus carryover in 2013 and a report was presented to the Council at its November 2012 meeting. The Council decided that it will review this issue again during the 5 year program review, scheduled for 2016.

*Non-Whiting Surplus QP Carryover Provision.* As part of its action on the 2013-2014 specifications, the Council adopted a process for the surplus carryover provision for nonwhiting species that includes a NMFS consultation with the Council when determining whether or not to issue carryover. The intent is to provide more assurance that surplus carryover QP will be issued for all nonwhiting IFQ species in the spring of each year. The Council requested further analysis and development of options to ensure that, in the long term, surplus carryover can be implemented with greater certainty.

### **Issues for Possible Consideration Identified During Council Discussion**

During previous Council discussions or as part of the Amendment 20 decision, the following have been identified as issues potentially addressed during future trailing action scoping.

- Implement criteria for allocation of **Adaptive Management Program (AMP) QP** (see Agenda Item G.9.b, NMFS Report 1)
- Exempt vessels from **observer coverage when they are testing trawl gear** (catch prohibited)
- Add a vessel monitoring system **declaration code for “transiting with gear stowed”**
- Consider revisions to **weight conversion factors** for fish dressed at sea based on new information (may affect more than just trawl sector)
- Provide **credit for discards** of sablefish and lingcod
- **Extension of QP trading into a following year** (prior to the issuance of surplus carryover).

Of those issues, NMFS has provided a report on the development of alternatives for the AMP program. Additionally, the weight conversion factor consideration affects more than just the trawl IFQ program and so might be best considered as part of a broader process. During this meeting, Council advisory bodies and the public may bring additional issues forward for Council consideration.

## **Issues Identified or Packaged by NMFS and Council Staff**

NMFS and Council staff have identified a number of other possible issues for Council consideration. These have been tentatively bundled into two packages for consideration: (1) a Trawl Flexibility Package, and (2) a Miscellaneous Issue Package.

### **Issues Covered in Trawl Flex Package**

Potential items that NMFS has identified for the trawl flexibility package are described in Agenda Item G.9.b, NMFS Report 2.

### **Miscellaneous Staff Identified Issues**

The following miscellaneous issues have been identified for Council consideration and possible inclusion in the upcoming round of trailing actions.

*Posting of First Receiver Site Licenses.* Add requirement that first receivers possess and display a valid first receiver site license at each processing site. This would be similar to existing requirements at 660.12(d)(1) and 660.25(b)(1)(iii) that require vessels registered to limited entry permits to carry valid permit onboard the vessel.

*Revise At-sea and Shoreside Flow Scale Requirements.* The North Pacific region is currently revising at-sea flow scale regulations because incidences of manipulation were discovered. West coast trawl rationalization program regulations at 660.15 may need to be revised in coordination with revisions to North Pacific regulations. New regulations are required to address the need for daily scale testing criteria for the new shoreside flow scales.

*Revise Length of Time Required for the Trawl Fleet to Retain Records.* Consider revising regulations that require the trawl fleet to retain records for three years and make them available upon request (660.113(a)(2)) to clarify how that works with regulations that require retention of records on board for 15 days into the next cumulative limit period (660.13(c)).

*Carryover When Management Units Change.* The regulations do not cover how carryover should be handled when there is a reallocation as a result of changes in management areas (area subdivision, combination, or line movement) or subdivision of a species group that cause shifts in the distribution of QS. This issue was identified with the recent geographic subdivision of lingcod and relates to 660.140(c)(3)(vii).

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## Decision Template

The below listing of issues is provided for possible use in a Council motion identifying and prioritizing work for the next round of trawl trailing actions. While considering its prioritization action, the Council may want to keep in mind workload related to existing rulemakings and legal proceedings in progress.

- Whiting Allocation (Pacific Dawn II Legal Challenge)
- Cost Recovery (implementation expected by Jan 1, 2014)
- Chafing Gear (implementation expected in spring 2014)
- Program Improvements and Enhancement Rule 2 (PIE 2) (implementation expected by Jan 1, 2014)
- Observer/Catch Monitor Rule (implementation expected by January 1, 2014)

Table 2. Trailing Action Decision Template (WkLd = Relative workload thru initial implementation, H = Heavy, M= Medium, L = Light).

Issues	WkLd <sup>a/</sup>	Council Action
<b>Implementation Delayed on Previous Council Actions</b>		
		<b>Specify Target Transmission Time Frame</b>
Risk Pool Safe Harbor Provision for Quota Share/Quota Pound (QS/QP) Control Rules.	H	
Allow Fixed Gear and Trawl Permit Stacking	M	
Including Removal of Sablefish At-sea Processing Exemption from IFQ	L	
Move the Whiting Season Opening Date	M	
<b>Consideration Initiated but Council Progress Delayed</b>		
<b>Identify Issues to Be Included In Upcoming Trailing Action Process</b>		
Regulatory Review and Gear Issues (issues from Table 1 not potentially covered below in Trawl Flex Package)		
C.i. Update midwater trawl gear regulations.	?	
D.i. Elimination of length endorsement	H	
D.iii Electronic monitoring	H	Being considered under a separate Council process
F. Require logbooks for fixed gear vessels	?	
Lender Issues other than Safe Harbors	M	
Reconsideration of the Widow QS Allocation	H	
Whiting Surplus QP Carryover Provision	M	Previous Action (Nov 2012): Delay until 2016
Non-Whiting Surplus QP Carryover Provision	M-H	
<b>Issues for Possible Consideration Identified During Previous Council Discussion (or in Amendment 20)</b>		
AMP	M-H	
Exemption from Observer Coverage During Gear Testing	L	
Declaration code for "transiting with gear stowed"	L	
Weight conversion factors (affects more than trawl)	L	
Credit for discards	M	
Extension of QP trading into a following year	M-H	

Issues	WkLd <sup>a/</sup>	Council Action
<b>Issues Packaged or Identified by NMFS and Council Staff</b>		
Issues Covered in Trawl Flex Package		
WHO can catch and process fish?		
1. <b>Sablefish at-sea processing exemption</b>		Final Action Taken (implementation delayed)
2. <b>One limited entry permit per vessel</b>		Final Action Taken (implementation delayed)
3. <b>Number of vessel registration changes per year - permit transfers</b>		
4. <b>Processing fish waste at sea</b>		
WHAT gear can be used to catch the fish?		
Bottom trawl gear configuration		
5. <b>Mesh size - minimum 4.5"</b>		
6. <b>Selective flatfish trawl gear (small footrope)</b>		
7. <b>Footrope specifications</b>		
8. <b>Chafing gear</b>		
Midwater trawl gear configuration		
9. <b>Chafing gear</b>		Final Action Taken (implementation in progress)
All trawl gear configuration		
10. <b>None Identified</b>		
Gear use		
11. <b>One type of trawl gear onboard per trip. Multiple fixed gear allowed onboard per trip. Can't have trawl and fixed gear onboard per trip.</b>		
WHEN can fish be caught?		
12. <b>Primary whiting season (for vessels using midwater gear targeting whiting)</b>		Final Action Taken on May 15 Opening (implementation delayed)
13. <b>Time of day - no night fishing for whiting south of 42°</b>		
WHERE can fish be caught?		
14. <b>RCAs - midwater gear in the trawl RCA only during whiting primary season</b>		
15. <b>RCAs - selective flatfish trawl required shoreward of trawl RCA north of 40°10'</b>		
16. <b>IFQ management areas – not more than one on a trip</b>		
HOW much fish can be caught?		
17. <b>IFQ species</b>		
18. <b>Trip limit species</b>		
19. <b>Lingcod size limits</b>		
20. <b>Differential gear type trip limits</b>		
21. <b>Crossover provisions</b>		
<ul style="list-style-type: none"> <li>• cumulative limits which apply when moving between limited entry and open access</li> <li>• prohibitions on moving between management areas with different trip limits, on a single trip</li> </ul>		
<b>Miscellaneous Staff Identified Issues</b>		
Posting of First Receiver Site Licenses	L	
Revise At-sea & Shoreside Flow Scale Requirements	?	
Revise Record Retention Requirements	L	
Carryover When Management Units Change	L	

Issues	WkLd <sup>a/</sup>	Council Action
<b>Issues Raised During Advisory Body and Public Comment</b>		

a/ Level of workload associated with each item is partially dependent on the nature of the alternatives developed.

## Appendix: Housekeeping Issues

The following identifies the types of regulatory modifications that may be implemented as housekeeping measures at the same time regulations are promulgated to implement some of the trawl trailing actions up for consideration. These housekeeping measures will proceed without further Council action unless policy issues are identified which warrant otherwise.

*Revise Observer Coverage Language While in Port.* Observer coverage while in port should apply to “all IFQ species”, not “all fish.” The prohibition at 660.112(b) is correct, the language at 660.140 needs to be revised:

(h) Observer requirements —(1) Observer coverage requirements. (i) Coverage. —(A) Any vessel participating in the Shorebased IFQ Program must carry a NMFS-certified observer during any trip and must maintain observer or catch monitor coverage while in port until ~~all fish~~ all IFQ species from that trip have been offloaded. A vessel is exempted from this requirement while remaining docked in port, if the observer makes available to the catch monitor an observer program form reporting the weight and number of those overfished species identified in § 660.112(b)(1)(xiii) that were retained onboard the vessel during that trip and noting any discrepancy in those species between the vessel operator and observer. If a vessel gets underway in port or delivers fish from an IFQ trip to more than one IFQ first receiver, an observer must remain onboard the vessel while the vessel is underway and during any transit between delivery points.

*Revise requirement for Ownership Interest Forms (OI's) from vessels registered to MS/CV-endorsed permits.* (Unless they separately operate in the shoreside fishery with a vessel account, and then the OI would be required as part of the vessel account requirements for the shoreside sector only). Revise § 660.25 (b)(4)(vii)(C) to read as follows:

(C) For a request to change permit ownership for an MS permit or ~~for a request to change a vessel registration and/or change in permit ownership or permit holder~~ for an MS/CV-endorsed limited entry trawl permit, an Identification of Ownership Interest Form must be completed and included with the application form.