

REGULATORY DEEMING FOR FISHERY MANAGEMENT PLAN AMENDMENT 20
(TRAWL RATIONALIZATION) AND AMENDMENT 21 (INTERSECTOR ALLOCATION)

At its March 2010 meeting, the Council began work on deeming regulations related to trawl rationalization. At that time, the Council responded to a number of National Marine Fisheries Service (NMFS) requests for clarification of the intent of the Amendment 20 language and scheduled four issues to be held over for further deliberation in April, providing public notice that the Council might revise its recommendations. The Council's March motion on these issues is provided in Agenda Item I.1.a, Attachment 1. The issues were as follows:

1. For vessels that catch fish in excess of their quota holdings, when should the 30-day grace period start during which they must cover their overage?
2. At what point in time should the quota pound (QP) in a vessel account be evaluated for determining the amount of QP a vessel may carry over to a following year as a surplus or deficit?
3. Should there be a change in the annual date (September 1) by which a permit holder must notify NMFS of its intent to participate in the co-op or non-co-op fishery and intent to deliver to a different mothership?
4. Should the catcher-processor co-op be issued a permit for the co-op? The Council previously recommended that no permit be issued to the catcher-processor co-op but NMFS does not currently believe there is a rationale as to the reason a catcher-processor co-op should be treated differently from mothership co-ops, for which permits would be required.

With respect to item four, Agenda Item I.1.a, Attachment 1 also provides relevant motions and excerpts from the Council June and November 2008 minutes pertaining to the issue of requiring a permit for a catcher-processor co-op.

At this meeting, the Council is scheduled to determine whether the draft initial allocation and appeals rule implementing Amendment 20 (trawl rationalization, Agenda Item I.1.a, Attachment 2) and Amendment 21 (intersector allocation, Agenda Item I.1.a, Attachment 3) is consistent with the Council action, and necessary or appropriate to implement the Council recommendation (collectively termed regulatory deeming). Under the regulatory deeming process adopted by the Council in 2009 (Council Operating Procedure 1), the Executive Director is charged with deeming regulations, unless otherwise directed by the Council. However, because of the complexity of regulations on trawl rationalization, the Council itself is reviewing and making the regulatory deeming decision. It is expected that the trawl rationalization program will be implemented through three or more regulatory actions, as shown in the following graphic. Additionally, Council staff has developed a detailed schedule that, in the opinion of the Council staff, provides for an orderly process for regulatory deeming and other necessities to achieving a January 1, 2011 implementation date (Agenda Item I.1.a, Attachment 4).

Rule – Short Name	Description	Status
1. Data collection Rule	Rule on submission of ownership information and notice that fishery data corrections must be submitted by May 2010.	Final Rule Published January 29
2. Initial Issuance and Appeals Rule	Rule implementing Amendment 21 allocations, and Amendment 20 initial issuance/appeals process, and creating a new framework organization for the Groundfish regulations.	Scheduled to be submitted to the Council for deeming at its April 2010 meeting.
3. Program Components Rule	Other regulations implementing Amendment 20 (observer and catch monitor programs, gear switching, mandatory econ. data collection, etc.)	To be submitted to the Council for deeming in April and June 2010.

NMFS, Northwest Region is providing seven reports for this agenda item. A NMFS preferred schedule for regulatory deeming and implementation of FMP Amendments 20 & 21, including both Environmental Impact Statements and at least three rulemakings will be provided as Supplemental Agenda Item I.1.b, NMFS Report 1. Supplemental Agenda Item I.1.b, NMFS Report 2 provides a review of the issues identified for further Council deliberation based on the NMFS clarifications document from the March 2010 Council meeting. Supplemental Agenda Item I.1.b, NMFS Report 3 covers issues that have arisen since the March 2010 Council meeting on which NMFS is requesting validation of its interpretation of the Council’s intent. Supplemental Agenda Item I.1.b, NMFS Report 4 covers issues that have arisen since the March 2010 Council meeting on which there are multiple interpretations of the Council’s motion and on which NMFS is seeking further Council guidance on the option to choose. NMFS is providing three regulations documents: (1) an outline of the proposed regulations, which cover both the initial issuance rule and the program components rule (Supplemental Agenda Item I.1.b, NMFS Report 5); (2) the regulations ready for deeming at this meeting, which covers the draft proposed rule on initial issuance and appeals (Agenda Item I.1.b, NMFS Report 6); and (3) a partial preliminary draft of the proposed rule on remaining program components for discussion purposes (Supplemental Agenda Item I.1.b, NMFS Report 7). The first page of NMFS Report 6 identifies the main section of the regulations that are new for the trawl rationalization program.

A range of approaches and costs for tracking and monitoring have been considered that fall within the scope of the Council’s final preferred alternative. These were presented to the Council at its meeting last November and need to be narrowed in order to facilitate the approval and implementation process. The Pacific States Marine Fisheries Commission (PSMFC) has been working on this project and will provide a supplemental report on the issue for Council consideration (Supplemental Agenda Item I.1.b, PSMFC Report). NMFS will discuss with the Council its plans for finalizing cost estimates for full tracking and monitoring implementation.

Council Task:

- 1. Review those issues identified in March as potentially requiring Council modification and determine whether there is a need to revise previous Council recommendations on those issues.**
- 2. Determine whether draft regulations are consistent with final Council action on Amendments 20 and 21, with particular attention to language on control limits and initial issuance formulas and the appeals process.**
- 3. Provide guidance on a single tracking and monitoring plan.**
- 4. Provide guidance on timelines.**

Reference Materials:

1. Agenda Item I.1.a, Attachment 1: Select Council Motions on Trawl Rationalization.
2. Agenda Item I.1.a, Attachment 2: Council Preferred Groundfish Trawl Rationalization Alternative.
3. Agenda Item I.1.a, Attachment 3: Final Groundfish Fishery Management Plan Amendatory Language For Amendment 21.
4. Agenda Item I.1.a, Attachment 4: Council Staff Detailed Schedule for the West Coast Groundfish Trawl Rationalization Amendment Deeming, Review, and Implementation Process.
5. Supplemental Agenda Item I.1.b, NMFS Report 1: NMFS Schedule for Am 20 & 21 FMP Review and Implementation.
6. Supplemental Agenda Item I.1.b, NMFS Report 2: Issues for Further Deliberation.
7. Supplemental Agenda Item I.1.b, NMFS Report 3: NMFS Interpretations of Council Intent.
8. Supplemental Agenda Item I.1.b, NMFS Report 4: NMFS Clarifications Requested of Council.
9. Supplemental Agenda Item I.1.b, NMFS Report 5: Outline of Draft Proposed Regulations.
10. Agenda Item I.1.b, NMFS Report 6: Draft Proposed Initial Issuance and Appeals Regulations.
11. Supplemental Agenda Item I.1.b, NMFS Report 7: Partial Draft Proposed Program Components Regulations.
12. Supplemental Agenda Item I.1.b, PSMFC Report :Pacific States Marine Fisheries Commission Report on Tracking and Monitoring.
13. Agenda Item I.1.c, Public Comment.

Agenda Order:

- a. Agenda Item Overview **Jim Seger**
- b. Reports and Comments of Advisory Bodies and Management Entities
- c. Public Comment
- d. **Council Action:** Consider Revising Council Recommendations on Selected Issues from NMFS Clarification Report from March 2010 Meeting, and Regulatory Deeming and Implementing Issues

PFMC
03/26/10