

GROUND FISH ADVISORY SUBPANEL REPORT ON  
REGULATORY DEEMING FOR FISHERY MANAGEMENT PLAN AMENDMENT 20  
(TRAWL RATIONALIZATION) AND AMENDMENT 21 (INTERSECTOR ALLOCATION)

The Groundfish Advisory Subpanel (GAP) received a report from Ms. Jamie Goen and Mr. John DeVore on regulatory deeming for amendments 20 and 21. The GAP wishes to thank National Marine Fisheries Service (NMFS) and Council staff for their hard work to date, and notes that overall the regulations are well drafted. The GAP offers the following comments and points of clarification.

**Comments on Supplemental NMFS Report 2 – Issues for Further Deliberation**

**#3 – 30 day clock** – 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. This is the same option the GAP recommended in March.

**#4 – 10 percent carryover** – The GAP recommends option D. This option fully credits lessors for what they acquire at any time during the year. In March the GAP recommended option A largely because of the administrative simplicity it offers. The GAP has since decided that option D provides the industry with more flexibility and the calculations are not overly complex. If the Council selects option A the GAP recommends that the date selected be during the middle of the year (e.g. July 1) rather than sometime during the first 2 or 3 months of the year. Selecting a date during the middle of the year would provide fishermen with more flexibility.

**#7a – Deadline for MS/CV permit to declare into the co-op or non-co-op fishery** – The GAP recommends option B. As we noted in March, we believe the Council intent on this option was clear and the NMFS preferred alternative clearly contradicts it.

**#7b – Whether a co-op permit is required** – The GAP believes co-op permits should not be required for catcher-processor (CP) or mothership (MS) co-ops. With regard to the CP sector, Council intent and the Draft Environmental Impact Statement (DEIS) are clear that a permit is not required. The Council was not explicit on the issue of MS co-op permits which we interpret as not indicative of an intent to create a MS co-op permit.

**Comments on Supplemental NMFS Report 3 - Interpretations of Council Intent**

**#1 – Interaction of Amendment 21 and Amendment 6** – The GAP is gravely concerned with NMFS' interpretation regarding the interaction of Amendment 21 with Amendment 6. Under NMFS interpretation, the limited entry (LE) fixed-gear sector is adversely impacted, receiving an allocation of zero for some species. The GAP believes that there is substantial implicit evidence that such an outcome is contrary to the Council's intent. For example, that allocation, which results in a major management change with severe economic impacts on one sector, was not analyzed in the Amendment 21 EIS. Had that outcome been what the Council intended it

certainly would have received some, and likely substantial, analysis. Moreover, the purpose of the amendment was to carve out an allocation for the trawl fishery to support trawl rationalization. There was never a stated intent to have such major effects on other sectors. Rather, the Council's intent was to leave them unaffected to the extent possible, except where the Council provided expanded opportunity (e.g. flatfish species, chilipepper etc.). Those actions expanding opportunity for other sectors for some species over historic catch seem to be in direct opposition to NMFS' interpretation. In case that rationale is insufficient, the GAP strongly recommends that the Council clearly express its intent at this meeting that Amendment 21 supersede Amendment 6. Any species not allocated under Amendment 21 should be dealt with during the Spex process.

**#6 – Split deliveries** – The GAP disagrees with NMFS' interpretation. If fishermen are responsible for the costs of observers, it makes little sense to preclude the opportunity for split deliveries. Allowing split deliveries provides flexibility and ultimately will come at no cost to the government. The GAP highlights that the observer may not even need to stay on the boat. The overfished species will have already been counted by the observer so the skipper has no incentive to discard them, and the targets will be counted (and presumably sold) once landed so the skipper once again has little reason to discard.

**#7 – Prohibition on multiple LE permits on a vessel simultaneously** – While this issue may be better addressed under the program components rule in June, the GAP believes that its inclusion in our deeming materials requires us to comment at this time. The GAP feels that this regulation results from a mismatch between Council intent under Amendment 14 and the regulations for that amendment, and that Council intent was not to restrict vessels from holding multiple permits at the same time. The GAP believes this issue deserves more thought by NMFS and Council staff, but our general recommendation is that a declaration requirement is a better way to meet management and enforcement needs to know which sector a vessel is fishing in rather than a regulation limiting vessels to holding a single permit. Such a regulation could limit operational flexibility.

**#8 – Pacific whiting regarding 5 percent allocation south of 42°** - The GAP had a lengthy discussion regarding the continued value of the regulation limiting shore based whiting catch south of 42° to 5 percent prior to the start of the primary season. Some members of the GAP felt that the regulation may no longer be necessary, while others wanted to maintain it to prevent additional impacts on salmon. Ultimately however, the GAP believes the Council never discussed this issue, and as such it is not appropriate to be included in the deeming package. This is an issue, like the issues of halibut individual bycatch quota (IBQ) and overfished species allocations discussed below, that the GAP feels the Council should address soon after implementation of the trawl rationalization program.

#### **Comments on Supplemental NMFS Report 4 – Clarifications Requested of Council**

**#1 – EFP set asides** – The GAP recommends option A. The GAP notes that it is not always clear which sector an exempted fishing permit (EFP) will benefit. Moreover, the GAP believes that requiring EFP fish to come off the sector it is intended to benefit may reduce the number of EFP applications by reducing the risk sharing effect across sectors.

#2 – **Whiting primary season** – The GAP recommends option A ending the whiting primary season December 31st. The GAP feels option A provides the most flexibility.

### **Miscellaneous comments**

The GAP believes that the trawl rationalization program should go forward in a timely manner, but points out that there are several major issues that the Council should begin addressing immediately upon implementation. These include allocations of halibut IBQ and allocations of overfished species, particularly those for which many participants received zero (or a zero equivalent). The GAP believes that the result of Council decisions in relation to those two issues resulted in unintended severe impacts on certain permit holders and communities.

The GAP also wishes to comment on the issue of absolute versus relative pounds on quota application forms and in the regulations. Council intent was clear that relative pounds were supposed to be used to calculate quota shares. The forms as currently designed, and the regulations in some places, are based on absolute pounds with NMFS intending to calculate drop years based on the lowest absolute values. The application form, and regulations themselves where incorrect, should be modified to reflect Council intent.

The application forms should be modified as follows: One column should show a vessel's absolute pounds for each year during the window period. The next column should be the fleet's total absolute pounds for the year. The following column should calculate the vessel's percentage of the total catch that year. NMFS should strike through the drop years based on those percentages (the previous columns are to offer fishermen the opportunity to check NMFS' work). The remaining years not dropped should be summed and that percentage should be shown. That percentage should then be normalized back to 100 percent.

PFMC  
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