

GROUND FISH MANAGEMENT ONGOING RULEMAKING

At previous Council meetings, an opportunity has been provided under groundfish agenda items to allow Council comment on rules being drafted, or in the public comment period, to implement actions taken at prior meetings. Such opportunity has been provided under omnibus, fixed gear program review, or trawl trailing action agenda items. For this November 2014 Council meeting, a completely separate agenda item provides that opportunity. The following two issues on which the Council may wish to provide guidance or comment were known at the time of the advance briefing book deadline; there may be additional issues that surface subsequently.

- 1) The whiting cleanup rule.
- 2) Reconsideration of select 2015 and 2016 groundfish harvest specifications.

Whiting Cleanup Rule

NMFS outlined the likely content of the whiting cleanup rule in detail at the Council's March 2014 meeting. That information has been reattached here for reference (Agenda Item J.4.a, Attachment 1, November 2014). In summary, this rule is expected to include the following with respect to vessels on Pacific whiting individual fish quota (IFQ) trips

- An allowance for prohibited and protected species to be retained until landing on "maximized retention" trips.
- Disposition procedures for salmon landed at IFQ first receivers on "maximized retention" trips consistent with the groundfish and salmon fishery management plans (FMPs).
- Disposition procedures for protected species landed at IFQ first receivers on "maximized retention" trips consistent with the 2012 biological opinions (BOs).
- Within the definition for a Pacific whiting IFQ trip, a requirement for each landing to be 50% or more Pacific whiting by weight.

Additionally, accompanying changes applicable to all midwater trawling would include: changes in the declarations required for use of midwater trawl gear, and explicit allowances for the use of midwater gear to target other groundfish within the rockfish conservation areas (RCAs) after the start date for the for Shorebased IFQ Pacific whiting fishery. Needs for a number of other regulatory clarifications and consistencies were also identified.

The Council requested that the comment period for the whiting cleanup rule be open during a Council meeting and that the analysis in support of the rule be available for advisory body review. At this time, it appears that this will not occur and that the rule will come to the Executive Director for consistency deeming sometime in the coming months. Under this agenda item, the Council may provide the executive director with guidance on how to proceed with regulatory deeming and in particular with respect to the criteria a whiting trip.

With respect to the criteria for a whiting trip, the current NMFS proposal in the whiting cleanup rule appears to be in line with the original language of Amendment 20, which defined a whiting trip as any trip in which whiting composed over 50% of the catch by weight. However, at its March 2010 Council meeting within the overall framework of Amendment 20, NMFS recommended an alternative interpretation of Council intent which defined a whiting trip as: “a trip in which a vessel registered to a limited entry permit uses legal midwater groundfish trawl gear with a valid declaration for limited entry midwater trawl, Pacific whiting IFQ, as specified at 660.13 (d)(5) during the dates that the midwater whiting season is open” (page 7 of [Agenda Item E.6.b, Supplemental REVISED NMFS Report 1, March 2010](#)). At that time, the Council concurred with this interpretation and the supporting rationale. As a result 2010 Council adopted definition, any vessel using midwater gear and declared into the shoreside fishery was allowed to use midwater gear to target any species within the RCAs during the whiting season, including widow and yellowtail rockfish.

Under this agenda item, the Council should provide direction to the Executive Director with respect to its desired intent for purposes of regulatory deeming on this matter. The choice would be whether to stay with the current 2010 definition or to revert to the original Amendment 20 catch percentage definition which NMFS now favors.

Reconsideration of Select 2015 and 2016 Groundfish Harvest Specifications

A potential mis-specification of 2015 and 2016 overfishing limits (OFLs) for English sole, yellowtail rockfish north of 40°10' N lat., sharpchin rockfish, and rex sole was discovered with the recent release of the final draft of the data-moderate stock assessments document. The final preferred OFLs for these stocks adopted in the Council process were maximum likelihood estimates, which are the common metric for determining OFLs for assessed stocks. However, the final stock assessment report also provides the 2015 and 2016 OFLs from the Bayesian data-moderate assessments based on the median of the posterior distribution of estimated OFLs. Table 1 in Attachment 2 compares the OFLs (and the subsequent acceptable biological catches [ABCs] and annual catch limits [ACLs]) for these four stocks using the two OFL estimation methods.

Since sharpchin rockfish and rex sole are managed in stock complexes, Table 1 shows the effect of these different OFL (and ABC/ACL) contributions on the 2015 and 2016 harvest specifications for the slope rockfish complexes and the Other Flatfish complex. The ABCs and ACLs depicted in Table 1 assume the same 2015-2016 harvest control rules the Council adopted for these stocks. It is unlikely the potential change in harvest specifications will affect the socioeconomic analysis or corresponding management measures analyzed in the draft environmental impact statement (DEIS) since these stocks are all under-utilized. Since the proposed rule for 2015 and 2016 harvest specifications and management measures is published, any Council action on a reconsideration of harvest specifications can be forwarded as public comment to the National Marine Fisheries Service to affect the final EIS and the final rule. The SSC will provide the recommended OFLs for these stocks at this meeting and the Council can decide their recommended harvest specifications based on SSC advice.

Other issues on which NMFS seeks clarification or on which the Council may wish to provide guidance or comment may arise between the briefing book publication and when this issue comes to the Council floor in November.

Council Action:

1. Provide guidance or comment on the whiting cleanup rule and in particular on the proposed criteria for a whiting trip.
2. Reconsider the 2015 and 2016 OFLs, ABCs, and ACLs for English sole, yellowtail rockfish north of 40^o10' N lat., sharpchin rockfish, and rex sole, as well as the harvest specifications for the slope rockfish complexes and the Other Flatfish complex.
3. Provide other guidance or comment, as appropriate.

Reference Materials:

1. Agenda Item J.4.a, Attachment 1: Midwater Trawl Restrictions and Prohibited Species Retention for the Shorebased Trawl Individual Fishing Quota (IFQ) Program, March 2014.
2. Agenda Item J.4.a, Attachment 2: Reconsideration of Select 2015 and 2016 Groundfish Harvest Specifications.

Agenda Order:

- a. Overview Jim Seger
- b. Reports and Comments of Advisory Bodies and Management Entities
- c. Public Comment
- d. **Council Action:** Consider Action and Additional Guidance for Issues Related to Rulemaking, as Necessary

PFMC
10/27/14