

REGULATORY STREAMLINING: INITIAL DEVELOPMENT OF A REGIONAL OPERATING AGREEMENT

At their November 2005 meeting, the Pacific Fishery Management Council (Council) was briefed on the draft Operational Guidelines for Development and Implementation of Fishery Management Actions. In a cover memo, William Hogarth, Assistant Administrator for Fisheries, requested Regional Fishery Management Councils (RFMCs) and National Marine Fisheries Service (NMFS) Regions to develop written Regional Operating Agreements (ROAs) that specify agency and Council responsibilities and steps that will be taken to prepare documentation for fisheries conservation and management decisions. He also requested RFMCs and NMFS Regions apply the model process described in the August 23, 2005, draft Operational Guidelines (Agenda Item B.2.a, Attachment 2) to fishery management actions on a test basis. In response, the Council tasked staff with developing a draft ROA with NMFS Southwest and Northwest Regions. They also discussed two future actions as potential “test case” candidates for applying the Operational Guidelines concepts, one designed for a minor regulatory action and one for a major fishery management action.

In January 2006, the Council Executive Director, Northwest Region and Southwest Region, Southwest Fisheries Division Assistant Regional Administrators, and associated staffs discussed initial development of a draft ROA and the two-test case fishery management actions that would provide information helpful in further development of an ROA tailored to the specifics of the decision-making and regulatory processes of the Pacific Council and NMFS NW and SW Regions. The minor regulatory action selected is the 2006–07 Pacific mackerel harvest guideline; the major action is establishing a limited access (license) program for the groundfish open access sector (see Agenda Item C.4.a).

Attachment 1 is a draft conceptual document that could be used to develop an ROA between the Council and relevant components of NMFS. Based on staff discussions, the intention is to develop a draft ROA (which would more fully specify the roles and responsibilities of all parties to the agreement) for review at a future Council meeting. For comparison, Agenda Item B.2.a, Attachment 3 is a completed ROA between the South Atlantic Fishery Management Council, the Southeast Regional Office, Southeast Fisheries Science Center, and Southeast Region General Counsel.

The concept paper (Attachment 1) distinguishes between minor fishery management actions and major fishery management actions and describes processes related to each. Council action on the Pacific mackerel harvest guideline would be considered a minor fishery management action based on the criteria in the concept paper; Agenda Item B.2.a, Attachment 4 documents the current and proposed process for adopting the harvest guideline in the context of regulatory streamlining, based on Council/NMFS action in 2006. Unless Council members see any problems with how this action complied with the intent of regulatory streamlining, the steps shown in the attachment will serve as the model for this type of minor regulatory action. Agenda Item B.2.a, Attachment 5 outlines the process steps necessary to implement the open access fishery limitation action. Under Agenda Item C.4 the Council will discuss proceeding with and planning for a fishery management plan (FMP) amendment and regulatory process to license, and possibly limit participation, in this sector of the groundfish fishery. Agenda Item C.4.a,

Attachment 1 provides a more detailed possible timeline for accomplishing the necessary regulatory steps to place entry limitations on the current groundfish open access fishery.

Council Task:

1. Provide Guidance on Elements to be Included in a Regional Operating Agreement.

Reference Materials:

1. Agenda Item B.2.a, Attachment 1: Concepts for an Operating Agreement between the Pacific Fishery Management Council and NOAA Fisheries.
2. Agenda Item B.2.a, Attachment 2: Draft Operational Guidelines for Development and Implementation of Fishery Management Actions.
3. Agenda Item B.2.a, Attachment 3: Operating Agreement Between the South Atlantic Fishery Management Council, NOAA National Marine Fisheries Service Southeast Regional Office, NOAA National Marine Fisheries Service Southeast Fisheries Science Center, and NOAA General Counsel, Southeast Region.
4. Agenda Item B.2.a, Attachment 4: Regulatory Process for Adopting the 2006–07 Pacific Mackerel Harvest Guideline: A Test Case for Application to a Pacific Council Regional Operating Agreement.
5. Agenda Item B.2.a, Attachment 5: Description of the Process for Open Access Limitation FMP Amendment.

Agenda Order:

- a. Agenda Item Overview
- b. Reports and Comments of Advisory Bodies
- c. Public Comment
- d. Council Discussion

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