

## OPEN ACCESS FISHERY LIMITATION: PLANNING FOR A POSSIBLE FISHERY MANAGEMENT PLAN (FMP) AMENDMENT

Transitioning the current open access groundfish fishery into one where participation is limited by a federal permit is an important Pacific Council objective. As outlined in the Council's Groundfish Strategic Plan, the objective is to bring "the current open access participants ... into the limited entry program and the number of participants reduced to those who are most dependent on and committed to the fishery." While this has been an important Council objective discussed at several Council meetings, there have been more urgent objectives that have taken precedence over open access limitation and little progress has been made to date. Key steps in this process that have been made are the setting of a control date of November 5, 1999, which may be used to decide eligibility requirements for a new limited entry program (i.e., catch history after this date may not be considered for deciding permit eligibility), and the new requirement to install a vessel monitoring system (VMS) for those West Coast open access fishermen who want to land groundfish starting next year.

The Council is scheduled to discuss development of a regional operating agreement (ROA) for groundfish limited entry in the open access fishery under Agenda Item B.2. This ROA uses open access fishery limitation as a test case for how to implement regulatory streamlining. The distinction between Agenda Item B.2 and this agenda item is this item delves into more detailed procedural steps for accomplishing open access limitation. At the June 2006 meeting, the Council scheduled formal planning as the next step in accomplishing open access limitation.

A draft process and timeline is attached (Agenda Item C.4.a, Attachment 1), which depicts the procedural steps to pursue open access limitation as if it were the Council's number one priority. The minimum time to implement open access limitation if it were given top priority and no unexpected conflicts arose, would be a little more than two years. Issues to consider in this draft process and timeline are: 1) scheduling of public meetings outside of the Council process either in Phase 1 as scoping for an environmental impact statement (EIS), or in Phase 2 as public information meetings; 2) Phase 3 (Council final action) currently has a tight timeline, roughly one month--not enough time if the Council chooses a preferred alternative different from those already analyzed, including if they choose a preferred alternative that is a combination of other alternatives; and 3) in order to streamline the open access permitting process and ensure available administrative resources match the program developed, a permitting program for the open access sector should mirror the existing limited entry permit program as much as possible. For example, if there is a permitting program, permits should be tied to the vessel and not the person, transfers would only be allowed once per calendar year, etc.

The other Council initiative closely linked to open access limitation is intersector allocation. Under the intersector allocation process, allocations of groundfish species to accommodate the open access sector targeting groundfish (i.e., directed open access) and those sectors incidentally taking groundfish species while targeting non-groundfish species (i.e., incidental open access) are contemplated. Given the limits of staff resources to do this work, a discussion of how to coordinate the intersector allocation and open access limitation in an efficient manner, along with the demands of the ongoing trawl individual quota program, may be beneficial.

The Council task under this agenda item is to discuss this objective and process and provide guidance on how to proceed. Such guidance includes how open access limitation should be prioritized with respect to other Council objectives, how the National Environmental Policy Act analyses should be done (i.e., will an Environmental Assessment suffice or is an EIS needed), the timeline the Council wants to recommend for this process, and whether the November 5, 1999, control date should be used to analyze and decide eligibility requirements for the new limited entry program.

**Council Task:**

**1. Discuss and provide guidance on pursuing open access fishery limitation.**

Reference Materials:

1. Agenda Item C.4.a, Attachment 1: Description of the Process for Open Access Limitation FMP Amendment & Draft Timeline.

Agenda Order:

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

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**Description of the Process for Open Access Limitation FMP Amendment & Draft Timeline**

[**Note:** This is a hypothetical timeline that assumes the Council began work immediately as the number one priority and ignores coordination with other high priority ongoing efforts such as IQ, intersector allocation, response to MSA reauthorization, etc.]

<b>Step</b>	<b>Dates</b>
<b>Phase 1: Planning and Scoping</b>	<b>August 2006 – March 2007</b>
Draft Work Plan	September 2006
Determine type of NEPA (GC)	September 2006
Publish NOI (if EIS)	October 2006
Council meeting: scoping (COP 11)	November 2006
Finalize Work Plan	November 2006
<b>Phase 2: Identification of Alternatives and Document Development</b>	<b>March – June 2007</b>
Interagency Work Group (IWG) develops preliminary range of alternatives for Council consideration, with input from GMT, GAP, etc.	April 2007
IWG prepares preliminary analysis of alternatives	April-May 2007
NMFS provides consultation assessment memo (optional)	
Council meeting: adopt preliminary range of alternatives and preliminary preferred alternative (optional) for public review	April 2007
IWG prepares preliminary draft EA/EIS	May-June 2007
<b>Phase 3: Council Final Action</b>	<b>June – August 2007</b>
Council meeting: final adoption of preferred alternative	June 2007
Initiate section 7 consultation (optional)	
If EIS, DEIS sent from Council office	August 3, 2007
If EIS, DEIS received by NMFS HQ	August 6, 2007
If EIS, DEIS submitted to EPA	August 10, 2007
If EIS, EPA publishes DEIS NOA, 45-day comment begins	August 17, 2007
<b>Phase 4: Secretarial Review</b>	<b>July 2007 – February 2008</b>
Council transmittal of FMP	July 30, 2007
NMFS transmits NOA/Am. package (Pr. Rule/PRA) to HQ	July 30, 2007
Am. NOA publishes with 60-day comment period	August 3, 2007
Proposed Rule publishes, 30-day comment period	August 29, 2007
End of 30-day comment period on Proposed Rule	September 28, 2007
If EIS, end of 45-day public comment period on DEIS	October 1, 2007
End of 60-day comment period on Am. NOA	October 2, 2007
If EIS, FEIS sent from Council office	October 19, 2007
If EIS, FEIS received by NMFS HQ	October 26, 2007
If EIS, FEIS submitted to EPA	November 2, 2007
If EIS, FEIS NOA published, 30-day cooling off period begins	November 9, 2007

If EIS, FEIS 30-day cooling off period ends	December 9, 2007
FONSI /ROD signed	December 12, 2007
NMFS transmits Final Rule package to HQ; PRA clears	December 14, 2007
Secretarial approval of FMP amendment	January 24, 2008
Final rule published, 30-day APA cooling off period	January 31, 2008
APA cooling off periods ends, rule effective	February 29, 2008
<b>Permitting Process/Implementation</b>	<b>January – December 2008</b>
Send out information/permitting applications or qualifying letters	January 2008
Deadline for applications	February 2008
Send out 2 <sup>nd</sup> notice for applications	February 2008
2 <sup>nd</sup> deadline for applications	March 2008
NMFS decision	April 2008
Appeals process	May-June 2008
NMFS final decision	July 2008
FPO limited entry annual permit renewals	September 1, 2008
Permits issued for 2009	October-December 2008
<b>Permits Issued</b>	<b>January 2009</b>