

FISHERY MANAGEMENT PLAN AMENDMENT 20 – TRAWL RATIONALIZATION –
OWNERSHIP AND MISCELLANEOUS ISSUES

At its November 2008 meeting, the Council took final action on trawl rationalization but left three issues for trailing actions: accumulation limits, eligibility to own, and the adaptive management program. Additionally, it was noted that clarification of the November 2008 decision may need to come before the Council at the first three 2009 Council meetings. This agenda item addresses scoping of the eligibility to own issue and three matters requiring clarification. The schedule for addressing trailing actions and the deeming process for trawl rationalization regulations is provided as Agenda Item G.3.a, Attachment 1; a complete description of the program in Agenda Item G.3.a, Attachment 2; and notes on the Council discussion from November 2008 in Agenda Item G.3.a, Attachment 3.

The first part of this agenda item will consider further guidance for staff analysis of the “eligible to own” provision in the trawl rationalization preferred alternative (Attachment G.3.a, Attachment 4). During initial scoping in 2005-2007, a flexible ownership eligibility alternative was offered as a simple alternative to developing myriad options for communities, crew, and other groups to own individual fishing quotas (IFQ). As a result, the current preferred option indicates that any individual or legal entity would be eligible to own IFQ if they are also eligible to own a U.S.-documented fishing vessel. In November 2008, the Council moved to initiate a trailing action process to help ensure that quota shares (QS) holders have direct ties or investments in the fishery. This would require the creation of criteria for who may be eligible to own or hold QS. The Council also stated that eligibility requirements should not be so onerous as to preclude or discourage crew members, for example, from acquiring QS and entering the fishery.

In January 2009, the Groundfish Allocation Committee (GAC) reviewed the November 2008 Council decision and discussed the direction of the “eligible to own” analysis (Agenda Item G.3.b, Attachment 4). The GAC generally affirmed the proposed direction of the staff analysis, which would compare the current option with an option that would tie quota share ownership to the fishery by narrowing possible eligible quota share owners (Agenda Item G.3.a, GAC Report). In so doing, GAC affirmed the “use or lose” concept and the “owner on board” concept should not fall under the purview of this analysis. Additionally, GAC indicated they would like to see how other rationalized fisheries address the eligible to own issue. Agenda Item G.3a, Attachment 5 contains examples that will be explored.

In order to move forward with development of options and staff analysis of those options, the Council may wish to provide additional direction to staff, such as the inclusion/exclusion of such items as the “use or lose” concept and the “owner on board” concept in this “eligibility to own QS” analysis. So that staff may proceed with analysis of additional “eligible to own” options, the Council may wish to clarify or give examples of entities that have a linkage to the fishery and how that linkage could be assessed and confirmed.

The second part of this agenda item will consider clarifications to the Council’s November 2008 Trawl Rationalization decision. These matters include clarifications on:

1. Three versus four trawl sectors and the species managed with IFQ in the shoreside trawl sectors.
2. Clarification of species for which the at sea sectors would be held accountable.
3. The approach for making an initial allocation of overfished species quota shares to permits with history south of 40° 10' N. latitude.
4. The approach for making an initial allocation of Pacific halibut quota shares to permits with history south of 40° 10' N. latitude.

With regard to the first item of clarification, the Council's November 2008 Trawl Rationalization decision established three trawl sectors. However, the motion describing which species each sector would be held accountable for differentiates between shoreside whiting trawl activity and non-whiting activity. This language has the effect of creating a program with four trawl sectors, creating an inconsistency with the motion to establish three trawl sectors.

The GAC met in January 2009 and discussed this first matter of clarification and unanimously voted to clarify the intention of the Council's action was to have three trawl sectors, with both shoreside whiting and non-whiting activity being held accountable for the same set of species (see G.3.b, GAC Report). In addition, GAC discussion suggested that the Council's intent for species accountability in the at sea sector may have been different from the set of species managed under status quo. Additional discussion on this matter is provided as G.3.a, Attachment 6. Staff is seeking clarification on these matters to move forward with analysis.

The third and fourth matters of clarification deal with the method for making an initial allocation of Pacific halibut and overfished species quota share to entities with history in the geographic area south of 40° 10' N. latitude. Two options exist for making initial allocations of Pacific halibut and overfished species in that area (see G.3.a, attachments 7 and 8). Council staff is seeking clarification on these matters in order to move forward on remaining analysis.

Council Action:

1. **Provide guidance on developing the "eligible to own" analysis.**
 - a. **Clarify that the "eligible to own" analysis would not include analysis of a "use it or lose it" provision or an "owner on board" requirement.**
 - b. **Clarify that the Council wishes to have any additional alternatives analyzed which would link quota share ownership to participation or a connection to the fishery in some way.**
 - c. **Indicate examples of entities that have a linkage to the fishery that should be analyzed, and indicate examples of identification criteria that could be applied to these entities to determine whether they would be eligible to own IFQ or not.**
2. **Clarify aspects from November 2008 decision.**
 - a. **Clarify the Council's intent on whether to have three or four trawl sectors and whether to hold non-whiting and shoreside whiting activity accountable for the same species.**
 - b. **Consider clarifying the set of species for which at sea participants would be held accountable.**
 - c. **Specify a manner in which overfished species quota share assignments should be calculated for permits with history south of 40° 10' N. latitude.**

d. Specify a manner in which Pacific halibut IBQ assignments should be calculated for permits with history south of 40° 10' N. latitude.

Reference Materials:

1. Agenda Item G.3.a, Attachment 1: Trawl Rationalization Schedule for 2009.
2. Agenda Item G.3.a, Attachment 2: Pacific Council Recommendations for Rationalization of the Groundfish Trawl Fishery (Including Whiting).
3. Agenda Item G.3.a, Attachment 3: Trawl Rationalization Council Action November 2008 Draft Staff Notes on Discussion.
4. Agenda Item G.3.a, Attachment 4: Eligibility to Own IFQ; Council Staff Report to the GAC on Trailing Action Considerations
5. Agenda Item G.3.a, Attachment 5: Examples of “eligible to own” issue in other rationalized fisheries
6. Agenda Item G.3.a, Attachment 6: Accountability for Species by Sector
7. Agenda Item G.3.a, Attachment 7: Analysis Illustrating the Effect of Two Different Finer Area Bycatch Rate Overfished Species Allocation Formulas
8. Agenda Item G.3.a, Attachment 8: Select Excerpts Pertaining to Pacific Halibut Initial Allocation South of 40 Degrees 10 Minutes North Latitude.
9. Agenda Item G.3.c, GAC Report: Eligible to Own issue and other clarifications
10. Agenda Item G.3.d, Public Comment.

Agenda Order:

- a. Agenda Item Overview Heather Brandon/Merrick Burden
- b. NOAA General Counsel Comments Eileen Cooney
- c. Reports and Comments of Agencies and Advisory Bodies
- d. Public Comment
- e. **Council Action:** Scoping of Ownership Trailing Action and Miscellaneous Clarifications

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