

FISHERY MANAGEMENT PLAN AMENDATORY LANGUAGE PROPOSED UNDER
AMENDMENT 27: SECTION 6.2 EXCERPT

6.2 General Procedures for Establishing and Adjusting Management Measures

This FMP establishes three framework procedures through which the Council is able to recommend the establishment and adjustment of specific management measures for the Pacific Coast groundfish fishery. The *points of concern framework* allows the Council to develop management measures that respond to resource conservation issues; the *socioeconomic framework* allows the Council to develop management measures in response to social, economic, and ecological issues that affect fishing communities. The *habitat conservation framework* allows the Council to modify the number, extent, and location of areas closed to bottom trawling in order to protect EFH. Criteria associated with each framework form the basis for Council recommendations, and Council recommendations will be consistent with them. The process for developing and implementing management measures normally will occur over the span of at least two Council meetings, with an exception that provides for more timely Council consideration under certain specific conditions.

The time required to take action under any framework will vary depending on the nature of the action, its impacts on the fishing industry, resource, and environment, and review of these impacts by interested parties. This depends on the range of biological, social, and economic impacts that may need to be considered at the time a particular change in regulations is proposed. Furthermore, other applicable law (e.g., the National Environmental Policy Act, Administrative Procedures Act, Regulatory Flexibility Act, relevant Executive Orders, etc.) may require additional analysis and public comment before measures may be implemented by the Secretary.

The Secretary will develop management measures recommended by the Council for review and public comment as publications in the *Federal Register*, either as notices or regulations. Generally, management measures of broad applicability and permanent effectiveness should be published as regulations. More narrowly applicable measures, which may only apply for short duration (one biennium or less) and may also require frequent adjustment, should be published as notices.

Management measures are normally imposed, adjusted, or removed at the beginning of the biennial fishing period, but may, if the Council determines it necessary, be imposed, adjusted, or removed at any time during the period. Management measures may be imposed for habitat protection, resource conservation, or social or economic reasons consistent with the criteria, procedures, goals, and objectives set forth in the FMP.

The NMFS Regional Administrator will review the Council's recommendation, supporting rationale, public comments, and other relevant information and determine whether to approve, disapprove, or partially approve the Council's recommendation. If the recommendation is approved, NMFS will implement the recommendation through regulation or notice, as

appropriate. NMFS will explain any disapproval or partial disapproval of the recommendation to the Council in writing.

The procedures specified in this chapter do not affect the authority of the Secretary to take emergency regulatory action as provided for in Section 305(c) of the Magnuson-Stevens Act if an emergency exists involving any groundfish resource, or to take such other regulatory action as may be necessary to discharge the Secretary's responsibilities under Section 305(d) of the Magnuson-Stevens Act.

Four different categories of management actions are authorized by this FMP, each of which requires a slightly different process. Management measures may be established, adjusted, or removed using any of the four procedures. The four basic categories of management actions are described below.

A. Automatic Actions

The NMFS Regional Administrator may initiate automatic management actions without prior public notice, opportunity to comment, or a Council meeting. These actions are nondiscretionary, and the impacts must be reasonably accountable, based on previous application of the action or past analysis. Examples include fishery, season, or gear type closures when a quota has been projected to have been attained. The Secretary will publish a single notice in the *Federal Register* making the action effective.

B. Notice Actions ~~requiring One Federal Register Notice: One Council meeting or NMFS Actions that Occur Outside of a Council Meeting~~ Requiring at Least One Council Meeting and One Federal Register Notice

These include all management actions other than automatic actions. Notice actions may be nondiscretionary; they may be actions for which the scope of probable impacts has been previously analyzed.

These actions are intended to have temporary effect, and the expectation is that they will need frequent adjustment. They may be recommended either at a single Council meeting or by NMFS outside of a Council meeting for actions in California regarding impacting canary rockfish, yelloweye rockfish, and black rockfish., ~~although~~ ~~†~~ The Council will provide as much advance information to the public as possible concerning the issues it will be considering at its decision meeting. The primary examples are those inseason management actions defined as routine according to the criteria in Section 6.2.1. These include, but are not limited to, trip landing and frequency limits and size limits for all commercial gear types and closed seasons for any groundfish species in cases where protection of an overfished or depleted stock is required and bag limits, size limits, time/area closures, boat limits, hook limits, and dressing requirements for all recreational fisheries. Previous analysis must have been specific as to species and gear type before a management measure can be defined as routine and acted on at a single Council meeting or by NMFS for actions in California impacting canary rockfish, yelloweye rockfish, and black rockfish. If the recommendations are approved, the Secretary may waive for good cause the requirement for prior notice and comment in the *Federal Register* and will publish a single notice in the *Federal Register* making the action effective. This category of actions presumes the

Secretary will find that the need for swift implementation and the extensive notice and opportunity for comment on these types of measures, along with the Council already having analyzed the scope of their impacts, will serve as good cause to waive the need for additional prior notice and comment in the *Federal Register*.

For actions outside of a Council meeting, the Regional Administrator, NMFS West Coast Region, after consultation with the Chairman of the Pacific Fishery Management Council and the Fishery Director of the California Department of Fish and Wildlife, or their designees, is authorized to modify the following designated routine management measures for canary rockfish, yelloweye rockfish, and black rockfish in California: For commercial fisheries 1) trip landing and frequency limits; and 2) depth based management measures. For recreational fisheries 1) bag limits; 2) time/area closures; 3) depth based management. Any modifications may be made only after NMFS has determined that a federal harvest limit for canary rockfish, yelloweye rockfish, or black rockfish, in California, is attained or projected to be attained prior to the first day of the next Council meeting. Any modifications may only be used to restrict catch of canary rockfish, yelloweye rockfish, or black rockfish in California. However, given the mixed nature of the fishery, there may be impacts to other species, similar to all inseason management measure adjustments. Such actions must be consistent with Section 6.2.1. The Secretary may waive for good cause the requirement for prior notice and comment in the *Federal Register* and will publish a single notice in the *Federal Register* making the action effective.