

AD HOC FISHERIES INNOVATION WORKGROUP REPORT  
ON HIGHLY MIGRATORY SPECIES ROADMAP - EXEMPTED FISHING PERMITS  
METRICS AND BENCHMARKS

The Pacific Fishery Management Council’s (Council) Ad Hoc Fisheries Innovation Workgroup (FIW) convened in-person on January 29 and 30, 2026 and virtually on March 3, 2026. A quorum of FIW members, Council staff (with contractor support), and several members of the public attended the meeting. Consistent with its charge, the FIW continued its work to develop and refine Council procedures to facilitate the more rapid creation of new highly migratory species (HMS) fishing gears that achieve the goals of the [HMS Roadmap](#). The FIW continued its work to develop components of an evaluation framework (including metrics and benchmarks) for exempted fishing permit (EFP) performance ([see FIW Report 1](#)). The FIW also identified potential EFP process improvements, including recommended modifications to [Council Operating Procedure 20](#) (COP 20), the protocol for Council review of HMS EFPs.

In summary, the FIW proposes the following general modifications to COP 20 for Council consideration:

- Updated language to ensure consistency with National Marine Fisheries Service’s (NMFS) regulatory language;
- A new section that clearly describes the NMFS and the Council EFP roles;
- A streamlined section on application contents that only includes additional requested items not required by NMFS;
- A slightly expanded description of the EFP review roles of advisory bodies that also includes the Science and Statistical Committee (SSC) and the Enforcement Consultants (EC).
- In the “Review, Comment, and Recommendation” section, suggested removal of the subsections related to the priority consideration of EFPs, HMS Management Team (HMSMT) review questions, and SSC review to eliminate unnecessary elements and reduce redundancy.
- A reporting section that suggests a more updated, streamlined, and effective protocol for reporting.

The redline version (with underline and strikethrough text of FIW proposed edits) is included in Appendix A of this report.

### **Background on COP 20 Edits**

In September 2025, the Council adopted a set of limited edits to COP 20 proposed by the FIW with the acknowledgement that the FIW would propose a broader suite of modifications in March 2026. The adopted edits focused on three aspects: 1) designating the November and March Council meetings for consideration of HMS EFPs (or another meeting with HMS agenda items at the Council’s discretion) instead of June and September as previously designated; 2) allowing EFP applicants to bring new EFP applications to either meeting; and 3) giving the Council the flexibility

to utilize a one-meeting process when warranted. In addition to these modifications, the Council also adopted a series of technical edits to more accurately reflect the Council’s advisory role in the EFP process and to provide more consistency with NMFS EFP language.

## **COP 20 Proposed Modifications**

At its January and March meetings, the FIW discussed additional EFP process improvements and identified recommended changes to COP 20. During review, FIW members assessed COP 20 for ways to make the process more efficient and effective and better integrate it with the NMFS EFP regulatory process. The FIW also took into consideration that COPs are not intended to be frequently revised and should set a protocol and contain language that can serve the Council for an extended period of time without the need for constant updating.

### *Definition and Purpose Sections*

In the “Definition” section, given that EFPs may be issued for one of several purposes, the FIW recommends striking “for the purposes of collecting limited experimental data” in the current definition. The full suite of appropriate activities for EFPs is identified in NMFS regulations under [50 CFR 600.745\(b\)\(1\)](#). The FIW proposes a minor text edit to strike the word “however” in the “Purpose” section.

### *NMFS and Council Roles*

The FIW has discussed the importance of clarifying the roles played by NMFS and the Council as they relate to EFP review and approval. The FIW proposes including a section in COP 20 to describe these roles. The proposed new section is intended to clarify that NMFS has the authority to issue or deny EFPs and specifies the application, review, and issuance requirements and process through nationwide federal regulations. The Council conducts its own EFP review process and will review, comment, and make recommendations to NMFS on EFP applications.

### *Protocol*

Application contents (section B2): COP 20 currently includes a subsection listing 13 items to be included in an application (section B2). NMFS has regulatory authority over EFP application requirements at [50 CFR 600.745\(b\)\(2\)](#) with significant overlap to the items listed in COP 20. After comparing NMFS’s application requirements with the requested items listed in COP 20, the FIW recommends deletion of the overlapping items, leaving four items. These items include:

- an expected total duration of the EFP (i.e., number of years proposed to conduct exempted fishing activities);
- a description of a proposed mechanism, such as at-sea fishery monitoring, to ensure that the harvest limits for targeted and incidental species are not exceeded and are accurately accounted for;
- a description of the proposed data collection and analysis methodology, if applicable; and
- a description of how vessels will be chosen to participate in the EFP (e.g. level of experience in similar fisheries), if applicable.

The FIW also recommends adding one item not previously included in COP 20 requesting “a description of the applicant’s relevant experience and their ability to successfully conduct activities under the EFP, including existing gear and vessels that can conduct EFP activities.” This information is not required by NMFS per regulation, but it would help the Council to assess an applicant’s experience and access to the elements/resources necessary to execute an EFP.

EFP review process (section C1): The FIW reviewed section C in COP 20 and proposed edits in C1 to better describe advisory body review and roles. In addition to the HMSMT and the HMSAS, the FIW recommends including brief descriptions of roles and review processes for the SSC and the Enforcement Consultants. The FIW suggests broader, more flexible language related to SSC referrals, suggesting that the Council can refer applications to the SSC, if they contain significant scientific components. Previously, the COP language stated that the HMSMT could refer applications to the SSC.

Priority consideration of EFPs (section C3): The HMS Roadmap is a more appropriate document to provide guidance related to priority topics for HMS EFPs. In addition, although COP 20 Section C.3 refers to priority EFP applications, in practice, EFPs are essentially treated equally during the review process with no priority consideration granted. For these reasons, the FIW recommends deleting section C3 describing the types of EFPs that should receive priority consideration.

Review questions for the HMSMT (section C4): The FIW recommends deleting the HMSMT review questions. Given that EFP performance metrics and benchmarks are in development, the FIW found this section redundant and overly prescriptive. During review, the HMSMT can tailor any questions to the EFP(s) under consideration, as needed.

SSC review section (section C5): The FIW determined that this section could be streamlined by describing the SSC’s role and review process in section C1.

Other considerations (section D):

In follow-up to FIW discussions, Council staff has contacted the Enforcement Consultants (EC) to better understand the origin of the enforcement-related language and any recommendations for updating it to best serve Council needs. Similar language is found in all COPs but is not presently the same across the COPs. The EC will be discussing this during their meeting at the March Council meeting and will provide additional information in their report.

Report submission timing/process (sections E1 and E2): Currently, COP 20 states that EFP applicants should present a preliminary report (on the “results of the EFP and the data collected”) to the HMSMT at the June Council meeting of the following year, with the final written report submitted at the September Council meeting. This protocol is not currently being followed, and the FIW determined that only one report is necessary from EFP applicants. The FIW recommends deleting section E1 that references a preliminary report.

The FIW also recommends modifying section E2 to state that NMFS will report to the Council on the data collected from EFPs and/or EFP reports submitted by EFP holders at the June Council meeting. This language mirrors the language related to application submission (“should be received by NMFS”) and reflects NMFS’s role as the lead entity with regulatory authority. This

language also reflects the Council’s interest in receiving annual updates from NMFS, which could be summary data and/or available reports from EFP holders. NMFS reporting will also help ensure that all necessary data are summarized and consistent in format and presentation.

Further, the FIW recommends including language to encourage EFP holders to report to the Council on their experiences consistent with the guidance in the HMS Roadmap. The FIW is currently developing the EFP evaluation framework (mentioned below) that will become part of the HMS Roadmap and will include additional questions related to economic viability.

Report contents (section E3): Given that NMFS specifies reporting requirements in the “Operative Terms and Conditions” for issued EFPs, the FIW recommends deletion of the report contents section.

### **EFP Evaluation Framework in Development (Outside of COP 20)**

As part of an EFP evaluation framework in development, the FIW is identifying recommendations related to a post-EFP evaluation process. These recommendations will likely include the lead and timing for synthesizing EFP report information (including applying metrics and benchmarks) and compiling reports from EFP holders; the process for review of EFP performance by the HMS advisory bodies; and the frequency of reviewing the EFP evaluation framework and updating EFP metrics/benchmarks. To provide more flexibility for this process to be updated and evolve as needed, the FIW recommends it be documented in the EFP evaluation framework rather than in COP 20.

PFMC  
03/06/2026

## **Appendix A: Proposed Revisions to Council Operating Procedure 20: Protocol for Consideration of Exempted Fishing Permits for Highly Migratory Species Fisheries**

Approved by Council:  
11/02/05 Revised: 8/6/14,  
4/11/17, **9/24/25**

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### DEFINITION

An exempted fishing permit (EFP) is a federal permit, issued by the National Marine Fisheries Service that authorizes a vessel to engage in an activity otherwise prohibited by the Magnuson- Stevens Fishery Conservation and Management Act (MSA) or other fishery regulations ~~for the purpose of collecting limited experimental data~~. EFPs can be issued to federal or state agencies, marine fish commissions, or other entities, including individuals. An EFP applicant need not be the owner or operator of the vessel(s) for which the EFP is requested.

### PURPOSE

The specific objectives of an EFP may vary. The Pacific Fishery Management Council (Council) fishery management plan (FMP) for West Coast highly migratory species (HMS) fisheries provides for EFPs to promote increased utilization of underutilized species, realize the expansion potential of the domestic HMS fisheries, and increase the harvest efficiency of the HMS fisheries consistent with the MSA and the management goals of the FMP. ~~However,~~ EFPs are commonly used to explore ways to encourage innovation and efficiency in the fisheries, measure bycatch associated with different fishing gears and/or fishing strategies (e.g., during certain times or in certain areas), and to evaluate current and proposed management measures.

### NMFS AND COUNCIL ROLES

NMFS has the authority to issue or deny EFPs and specifies the application, review, and issuance requirements and process through nationwide federal regulations (50 CFR 600.745). The regulations allow NMFS to share applications and related information with the Council and other federal and state agencies, consult with the Council, and take comments at a Council meeting. The Council conducts its own EFP review process as described below. The Council will review, comment, and make recommendations to NMFS on EFP applications, and may request changes and/or additional information.

### PROTOCOL

#### A. Submission

1. The Council and its advisory bodies [HMS Management Team (HMSMT), HMS Advisory Subpanel (HMSAS), and when appropriate, the Scientific and Statistical Committee (SSC) and/or Enforcement Consultants] should review EFP applications prior to issuance; the advisory bodies may provide comment on

methodology and relevance to management data needs and make recommendations to the Council accordingly. The public may also comment on EFP applications.

2. Applications for EFPs may be submitted to NMFS at any time (per NMFS regulations at 50 CFR 600.745) but will only be initially considered at the November and/or March Council meetings. A completed application should be received from NMFS by the Council in time for inclusion in the November or March advanced briefing book, the deadline for which Council staff will set in advance. The Council may endorse applications and forward their recommendation to NMFS or request additional review and consideration. Applications which the Council determines need additional information, review or public input, may receive further consideration at a subsequent Council meeting, either the March meeting, the following November meeting, or another meeting with HMS agenda items at the council's discretion. Submitted applications should contain the elements listed at 50 CFR 600.745 and should also contain the elements listed in Section B.

#### B. Application Contents

1. EFP applications should contain sufficient information for the Council to determine if:
  - a. There is adequate justification for an exemption to the regulations;
  - b. The potential impacts of the exempted activity have been adequately identified;
  - e. The exempted activity would be expected to provide information useful to management and use of HMS fishery resources.
2. ~~Applicants should submit a completed application in writing that includes, but is not limited to, the following information:~~ In addition to the NMFS EFP requirements, EFP applicants are encouraged to provide the following information for Council consideration:
  - a. A description of applicant's relevant experience and their ability to successfully conduct activities under the EFP, including existing gear, if any, and vessels that can conduct EFP activities;
  - a. ~~Date of application;~~
  - b. ~~Applicant's names, mailing addresses, and telephone numbers;~~
  - e. ~~A statement of the purpose and goals of the exempted fishing for which an EFP is needed, including a general description of the arrangements for the disposition of all species harvested under the EFP;~~
  - d. ~~Valid justification explaining why issuance of an EFP is warranted;~~
  - e. ~~A statement of whether the proposed exempted fishing has broader significance than the applicant's individual goals;~~
  - f. b. An expected total duration of the EFP (i.e., number of years proposed to conduct exempted fishing activities);
  - g. ~~Number of vessels covered under the EFP;~~
  - h. ~~A description of the species (target and incidental) to be harvested under the~~

~~EFP and the amount(s) of such harvest necessary to conduct the exempted fishing, as well as any anticipated impacts on the environment, including impacts on fisheries, marine mammals, threatened or endangered species, and EFH;~~

- ~~i. c.~~ A description of a proposed mechanism, such as at-sea fishery monitoring, to ensure that the harvest limits for targeted and incidental species are not exceeded and are accurately accounted for;
- ~~j. d.~~ A description of the proposed data collection and analysis methodology, if applicable;
- ~~k. e.~~ A description of how vessels will be chosen to participate in the EFP (e.g. level of experience with similar gear types), if applicable;
- ~~l.~~ For each vessel covered by the EFP, the approximate time(s) and place(s) fishing will take place, and the type, size, and amount of gear to be used;
- ~~m.~~ The signature of the applicant(s);

The HMSMT, HMSAS, SSC, and/or Council may request additional information necessary for their consideration.

### C. Review, Comment, and Recommendation

1. The Council will consider EFP applications received from NMFS at the November and/or March Council meetings. Applications must be received by the Council by the advanced briefing book deadline prior to the Council meeting at which the application will be considered. The HMSMT and HMSAS will review EFP applications and make recommendations to the Council for action. The Council may refer the application to the SSC and/or the Enforcement Consultants for review and comment. The Council may take final action to endorse an EFP application in a single meeting or may request the applicant to submit a revised application at a future meeting (either March, the following November or another meeting with HMS agenda items) after addressing Council concerns.
2. EFP applications should contain a mechanism for data collection, such as at-sea fishery monitoring, to ensure that the harvest limits for targeted and incidental species are not exceeded and are accurately accounted for. Also, EFP applications should include a description of the proposed data collection and analysis methodology used to measure whether the EFP objectives will be met.
3. ~~The Council will give priority consideration to those EFP applications that:~~
  - ~~a. Emphasize resource conservation and management with a focus on bycatch reduction (highest priority);~~
  - ~~b. Encourage full retention of fishery mortalities;~~
  - ~~c. Involve data collection on fisheries stocks and/or habitat;~~
  - ~~d. Encourage innovative gear modifications and fishing strategies to reduce bycatch;~~
  - ~~e. Encourage the development of new market opportunities;~~
  - ~~f. Explore the use of incentives to increase utilization of underutilized species while reducing bycatch of non-target species and/or interactions with~~

~~protected species.~~

4. ~~The HMSMT review will consider the following questions:~~
  - a. ~~Is more information needed for Council consideration of the application?~~
  - b. ~~Is the EFP application consistent with the goals and objectives of the West Coast HMS FMP?~~
  - c. ~~Do the EFP data collection methods account for fishery mortalities, by species?~~
  - d. ~~Can the harvest estimates of overfished species and/or protected species be accommodated?~~
  - e. ~~Does the EFP meet one or more of the Council's priorities listed above?~~
  - f. ~~Is the EFP application compatible with the federal observer program effort?~~
  - g. ~~What infrastructure is in place to monitor, process data, and administer the EFP?~~
  - h. ~~How will achievement of the EFP objectives be measured?~~
  - i. ~~Is the data ready to be applied? If so, should it be used, or rejected? If not, when will sufficient data be collected to determine whether the data can be applied?~~
  - j. ~~What are the benefits to the fisheries management process to continue an EFP that began the previous year?~~
  - k. ~~If integrating data into management is proposed, what is the appropriate process?~~
  - l. ~~What is the funding source for at-sea monitoring?~~
  - m. ~~Has there been coordination with appropriate state and federal enforcement, management and science staff?~~
5. ~~SSC Review:~~
  - a. ~~All EFP applications should first be evaluated by the HMSMT for consistency with the goals and objectives of the HMS FMP;~~
  - b. ~~When an application is submitted to the HMSMT that includes a significant scientific component that would benefit from SSC review, the HMSMT can refer the application to the SSC for comment;~~
  - c. ~~In such instances, the SSC will evaluate the scientific merits of the application and will specifically evaluate the application's (1) problem statement; (2) data collection methodology; (3) proposed analytical and statistical treatment of the data; and (4) the generality of the inferences that could be drawn from the study.~~

#### D. Other considerations

1. The Council may not endorse EFP applications under the following circumstances:
  - a. If the applicant/participant (fisher/processor) has violated past EFP provisions; or has been convicted of a crime related to commercial fishing regulations punishable by a maximum penalty range exceeding \$1,000 within the last three years;

- b. Within the last three years assessed a civil penalty related to violations of commercial fishing regulations in an amount greater than \$5,000;
- e. Has been convicted of any violation involving the falsification of fish receiving tickets including, but not limited to, mis-reporting or under-reporting of HMS. Documented fish receiving tickets indicating mis-reporting or under-reporting of HMS will not qualify for consideration when fish reporting documents are used as part of the qualifying criteria for EFPs.

E. Reporting Contents

1. ~~The EFP applicant should present a preliminary report on the results of the EFP and the data collected (including catch data) to the HMSMT at the June Council meeting of the following year.~~
2. At the June Council meeting, NMFS will report to the Council on the data collected from EFPs and/or EFP reports submitted by EFP holders.
  - a. EFP holders are also encouraged to report to the Council on their experiences consistent with the guidance in the HMS Roadmap.
3. ~~The final report should include:~~
  - a. ~~A summary of the work completed;~~
  - b. ~~An analysis of the data collected;~~
  - c. ~~Conclusions and/or recommendations;~~
  - d. ~~Timely presentation of results is required to determine whether future EFPs will be recommended.~~