

SUPPLEMENTAL EXECUTIVE DIRECTORS REPORT REGARDING COUNCIL ACTION
AND FEDERAL REGISTER NOTICE REQUIREMENTS

The Magnuson-Stevens Act requires that a Federal Register Notice (FRN) regarding a Council meeting be published 14 days in advance of the meeting. That obligation has not been met for the November 2025 Pacific Council meeting. Based on prior consultation with National Oceanic and Atmospheric Administration General Counsel, in practice this means that the Pacific Fishery Management Council (Council) can still hold the November meeting, but the Council cannot take final action on any issue unless the FRN requirements are met.

Several items are titled in such a way that they may be interpreted as the Council taking “final action”. These can be categorized in three different ways, as outlined below. Some of these items do not entail the Council taking action per se, while others do:

Category 1: No Action Should Be Taken

Under this category, the Council should not vote to take any action. If action on these items is needed, this can occur at a later meeting. Such a meeting could be a currently planned Council meeting (such as March or April), or a special online meeting.

Actions scheduled for the November meeting that fall under this category include:

- H.1 2026 Commercial and Recreational Catch Sharing Plan and Annual Regulations – Final Action
- F.6 Inseason Adjustments for 2025-26 including Pacific Whiting Off-the-Top Bycatch Deductions – Final Action

The Council cannot take final action on these matters until a FRN is published.

Category 2: Preliminary Final Determinations

In the absence of a FRN, the Council can make a ‘preliminary final determination’ and take final action at a later meeting. Several items are on the Council’s agenda which technically fall under this category as a matter of course. These items are tied to the groundfish specifications process where stock assessments and catch limits are adopted, but the final package of specifications and management measures is adopted in June. This means that “adoption” of groundfish spex related items at this meeting is technically a “preliminary final determination”. When/if the Council adopts assessments and catch

limits in November the Council should be clear to note that these are “preliminary final determinations”.

- F.2 Adopt Stock Assessments
 - Final action regarding the entire package of groundfish specifications and management measures will be decided at the June 2026 Council meeting. While F.2 indicates the Council is adopting assessments, it is within the authority of the Council to ask for additional review of those assessments up until such time as the final spec and management measures package is adopted.
- F.8 Harvest Specifications and Management Measures
 - This agenda item calls for the adoption of remaining harvest specifications. Similar to agenda item F.2, the entire package is scheduled for adoption in June of 2026, meaning that any “adoption” here is potentially subject to change between November and June.

The Council cannot take final action on these matters until a FRN is published, however in the interest of process clarity the Council may wish to make “preliminary final determinations” on these matters, with final action occurring next June.

Category 3: Advisory/Consultation Actions

For some items on the November agenda, the Council does not technically make decisions and instead plays an important but consultative role for National Marine Fisheries Service (NMFS). In November these items are Exempted Fishing Permits (EFPs). The Council is advised to focus on the technical merits, impacts, and uncertainties regarding any EFPs it receives when developing any recommendations or considerations for NMFS regarding EFP proposals. These agenda items include:

- I.3 Exempted Fishing Permits – Preliminary or Final Action
- F.4 Exempted Fishing Permits
 - The Council may choose to forward recommendations on some groundfish EFPs to NMFS before the annual harvest specifications process is complete.

Since the Council does not technically have the same authority over EFPs as it does for other fishery management matters, and plays a consultative role, final action on EFPs is best considered a series of recommendations and considerations for NMFS as it entertains EFP applications. Therefore, the Council can continue to take action on EFPs at the November meeting.

Moving Forward

Should the Council wish to schedule a special meeting to make decisions on H.1 and F.6 it should make that known during the course of the Council meeting, especially during the

workload planning agenda item on the last day. Council staff will follow up with a FRN and an online meeting plan that includes: a short briefing from staff, opportunities for public comment, and council action.

PFMC

11/04/25