

## 2011 Surplus Carryover

On May 14, 2012, the National Marine Fisheries Service (NMFS) announced surplus carryover from 2011 would be credited in to vessel accounts for individual fishing quota (IFQ) species except whiting and sablefish (NMFS public notice, NMFS-SEA-12-09). NMFS did not issue carryover for these two species because we concluded that, if surplus carryover were issued, the risk of catches exceeding the harvest limits (annual catch limits (ACLs) or, for whiting, total allowable catch (TAC)) was too high. In addition, for whiting, there are potential interactions between the carryover provisions under the Shorebased IFQ Program and the carryover provisions under the bilateral agreement with Canada (Agreement)<sup>1</sup> that have not yet been fully explored. Further discussions with the appropriate entities are required to determine how and if carryover under the Shorebased IFQ Program can be implemented in a manner consistent with the total allowable catch requirements of the Agreement.

This memorandum provides background and a summary of NMFS considerations for this action; it also describes potential management responses to keep catches within harvest limits.

### Background

The Shorebased IFQ Program contains a carryover provision as specified in the Pacific Coast Groundfish Fishery Management Plan (FMP) at Appendix E, A-2.2.2.b and in the U.S. Codified Federal Regulations (CFR) for groundfish at 50 CFR part 660.140(e)(5). The provision allows up to 10 percent of the quota pounds that were not used in one year to be carried over into the following year -- called a surplus carryover. As required by the FMP and the regulations, each year NMFS must determine whether surplus carryover can be issued to individual vessel accounts for each species consistent with the conservation requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

*Excerpt from 660.140(e)(5)(i)*

*“...To the extent allowed by the conservation requirements of the Magnuson-Stevens Act, NMFS will credit the carryover amount to the vessel account in the immediately following year once NMFS has completed its end-of-the-year account reconciliation. ...”*

NMFS highlighted this issue of carryover relative to the conservation requirements of the Magnuson-Stevens Act at the September 2011 Council meeting (Agenda Item G.1.a, Supplemental Attachment 7) and noted that the necessary analysis of the issue was missing from Amendments 20 and 23 and from the 2011-2012 harvest specifications analyses. NMFS has provided updates on progress of working toward resolution of this issue at every Council meeting since September 2011. NMFS also noted that the relationship between surplus carryover and ACL is being considered on a national level. At the April 2012 Council meeting, NMFS noted that it would be consistent with the conservation requirements of the Magnuson-Stevens Act to allocate above the ACL as long as projected catches were not expected to exceed the ACL.

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<sup>1</sup> Article II.5(b) and Article II.6 of the Agreement between the Government of the United States of America and the Government of Canada on Pacific Hake/Whiting.

## NMFS considerations

For this decision, NMFS reviewed the requirements of the Magnuson-Stevens Act and the relevant language from the regulations and the FMP. NMFS has interpreted the phrase “*to the extent allowed by the conservation requirements of the Magnuson-Stevens Act*” to mean that issuance of surplus carryover from the previous year is not expected to result in the 2012 mortality (landings and discards) of that species from all sectors to exceed the 2012 ACL. NMFS reviewed the data from 2011 Shorebased IFQ Program vessel accounts that was available as of May 2012. NMFS also looked at projected impacts for 2012 of all sectors (including issuance of surplus carryover) compared to the 2012 ACL. This projected impacts analysis included a proportional reduction to the surplus carryover for IFQ species whose ACL declined between 2011 and 2012, consistent with §660.140(e)(5). NMFS only issued surplus carryover for species where there was a low risk of exceeding the ACL if we were to issue surplus carryover. For most species, NMFS determined there was a very low risk of exceeding the ACL because species were projected to be well below 80 percent of the 2012 ACL even with issuing surplus carryover.

For the species that were above 80 percent of the 2011 shorebased trawl allocation (whiting, sablefish (north and south of 36° N. lat.), and petrale), there is a higher likelihood of those species also reaching the 2012 shorebased trawl allocation even without surplus carryover. NMFS has provided further details below on our decision for these species.

### *Pacific whiting*

Attainment of Pacific whiting in the 2011 IFQ fishery was 98.17% of the shorebased trawl allocation. Historical percent attainment of the OY between 2008-2010 from all fishing mortality is 93%, 90%, and 85%, respectively. In the analysis, NMFS used projected impacts for the IFQ fishery (multiplied percent attainment in 2011 by 2012 shorebased trawl allocation) and added the potential surplus carryover amount. For some sectors (set asides for incidental open access, EFPs, and research), NMFS used values in the 2011/2012 harvest specifications EIS (February 2011), Table 4-33, for the projected impacts. Where projected impacts were not available, NMFS used 2012 allocations (at-sea whiting and tribal whiting set-aside). While for many species this would likely be an overestimate, it is not for whiting because it is a fully allocated target species that is less likely to have allocations going unused, as evidenced in the historical attainment of the OY. Whiting is a high volume, trawl-caught, target fishery. The allocation to the IFQ fishery decreased between 2011 (92,817.90 mt) and 2012 (56,902 mt). In 2012, NMFS implemented reapportionment provisions from tribal to non-tribal whiting fisheries. This means that the whiting allocation is more likely to be attained in 2012. In addition, the U.S./Canada Agreement includes a 15% adjustment provision (Article II.5(b)) which allows up to 15% of the unused TAC from the previous year to be carried over and added to the following year's TAC. This was done in 2012, increasing the TAC from 142,401 mt to 186,037 mt. Thus, the whiting fishery has already gotten a carryover at the TAC level, which does not occur in the other groundfish species. The interaction between the IFQ fishery carryover and the carryover at the TAC level through the Agreement has not been fully explored. Article II.6 of the Agreement states that the fishery will be managed consistent with the approved recommendations of the Joint Management Committee (JMC). In developing their recommendation to the US and Canada, the JMC did not consider surplus carryover in the IFQ fishery. Further discussions with the appropriate entities are required to determine how and if carryover under the Shorebased IFQ Program can be implemented in a manner consistent with the TAC requirements of the Agreement. Therefore, because it is a target species that is likely to be close to full attainment in 2012, and there are potential impacts to the just concluded Agreement with Canada, NMFS did NOT issue

surplus carryover from 2011 in 2012 for Pacific whiting based on the information available at this time.

### ***Sablefish (north and south of 36° N. lat.)***

Attainment of sablefish north in the 2011 IFQ fishery was 94.20% of the shorebased trawl allocation, while sablefish south was 86.24%. Historical percent attainment of the OY between 2008-2010 from all fishing mortality is 102% (coastwide) for 2008, 94% (north) and 57% (south) for 2009, and 95% (north) and 83% (south) for 2010. In the analysis, NMFS used projected impacts for the IFQ fishery (multiplied percent attainment in 2011 by 2012 shorebased trawl allocation) and added the potential surplus carryover amount. Projected impacts for sectors other than IFQ broken down by area were not available in the 2011/2012 harvest specifications EIS (February 2011), Table 4-33, so 2012 allocations were used from Tables 2a-d in federal regulations at 50 CFR part 660, subpart C. While for many species this would likely be an overestimate, it is not for sablefish, especially sablefish north. Sablefish is a high value groundfish species that is targeted in all sectors of the fishery (limited entry trawl (shorebased), limited entry fixed gear, open access, and tribal). In the Shorebased IFQ Program, gear switching, the ability to use fixed gear to harvest IFQ allocations, has increased participation of fixed gear vessels in the trawl fishery; increasing the likelihood of attainment of the IFQ allocation (north and south of 36° N. latitude). As such, it is fully allocated among the sectors and less likely to have allocations going unused, as evidenced in the historical attainment of the OY, especially in the north. Inseason management measures, such as adjustments to the trawl RCA, are not an effective tool for limiting access to sablefish. In addition, the coastwide sablefish stock has shown a declining trend in recent years. North of 36° N. lat., the allocation to the IFQ fishery decreased between 2011 (2,546.34 mt) and 2012 (2,467 mt). South of 36° N. lat., the allocation to the IFQ fishery decreased between 2011 (530.88 mt) and 2012 (514.08 mt). Therefore, because it is a target species in many groundfish sectors and is likely to be close to full attainment in 2012, because there are limited inseason management measures effective at controlling catch in the trawl fishery (such as RCA adjustments), and because there is a declining stock trend, NMFS concluded that the risk of exceeding the ACL is too high based on the information available at this time. Therefore, NMFS did NOT issue surplus carryover from 2011 in 2012 for sablefish north or south of 36° N. latitude.

### ***Petrale sole***

Attainment of Petrale sole in the 2011 IFQ fishery was 93.20% of the shorebased trawl allocation. Historical percent attainment of the OY between 2008-2010 from all fishing mortality is 90%, 81%, and 78%, respectively. In the analysis, NMFS used projected impacts for the IFQ fishery (multiplied percent attainment in 2011 by 2012 shorebased trawl allocation) and added the potential surplus carryover amount. Projected impacts for sectors other than IFQ were available for some sectors (set asides for incidental open access, EFPs, research, and tribal) in the 2011/2012 harvest specifications EIS (February 2011), Table 4-33, but not for others (at-sea whiting, limited entry fixed gear, sablefish open access, nearshore open access, and recreational). For the sectors that didn't have projected impacts, 2012 allocations were used and are likely an overestimate. Petrale is an overfished species managed under a rebuilding plan. However, petrale is also a productive stock and the 2011 stock assessment forecasts the biomass to continue to increase. Petrale is expected to move above the target stock size of  $SB_{25\%}$  in 2013, the first time since 1956. Petrale is predominately a trawl-caught species and is a target species in the IFQ fishery. The allocation to the IFQ fishery increased between 2011 (871 mt) and 2012 (1,054.6 mt). Although the projected 2012 impacts are less than 100%, they are fairly high at 96%. However, if surplus

carryover were issued for petrale, management measures effective at controlling catch of petrale inseason are available to managers, namely changes to the trawl RCA, should there be a conservation concern. NMFS believes that the sum of these factors allows us to conclude there is an acceptably low risk of exceeding the ACL and we will issue surplus carryover from 2011 in 2012 for Petrale sole.

### **Potential Management Responses to keep catches below the 2012 ACLs**

The Council and NMFS monitor catch in the Shorebased IFQ Program against the shorebased trawl allocation specified in regulation (not including the surplus carryover) throughout the year. If there is a conservation concern, there are several management actions that the Council and NMFS can take to either mitigate for the concern or to close the fishery. To remain consistent with the allocation scheme adopted by the Council and NMFS, it is important for the management action to affect the Shorebased IFQ Program as a first priority and, ideally, not affect other sectors. However, the Council and NMFS may not necessarily take action if the 2012 shorebased trawl allocation is exceeded, if there is little to no risk of exceeding the ACL when all fishery impacts are combined. The actual management response would be specific to the characteristics of each particular situation. In the event that adjustments to the Shorebased IFQ Program are not sufficient, the Council and NMFS may also need to consider management action on multiple sectors or the entire groundfish fishery as a second priority action to keep catches within the ACL for the year.