

**Pacific Coast Groundfish
Intersector Allocation: Set-aside flexibility
Excerpted Draft Environmental Assessment Outline**

Table of Contents

CHAPTER 1 Purpose and Need for the Proposed Action

1.1 Introduction

1.2 Purpose and Need for the Proposed Action

The proposed action is to further clarify the management of "off-the-top" yields set aside for research catches, exempted fishing permit (EFP) activities, catches in tribal fisheries, and groundfish mortality in non-groundfish fisheries (i.e., incidental open access (OA) fisheries) when deciding harvest specifications and management measures. The proposed action would allow flexibility in the management of these "off-the-top" set-asides, including the ability to take inseason action to make changes and redistribute the set asides to other sectors. While tribal amounts are part of the "off-the-top" set-asides and are within the scope of set-aside flexibility being considered, tribal reapportionment of Pacific whiting is being addressed through a separate action and rulemaking process.

Currently the regulations at 660.55(j) state:

(j) *Fishery set-asides.* Annual set-asides are not formal allocations but they are amounts which are not available to the other fisheries during the fishing year. For the catcher/processor and mothership sectors of the at-sea Pacific whiting fishery, set-asides will be deducted from the limited entry trawl fishery allocation. Set-aside amounts will be specified in Tables 1a through 2d of this subpart and may be adjusted through the biennial harvest specifications and management measures process.

The purpose of the proposed action is to create a formal process to redistribute unused set-asides amounts inseason to other sectors in the groundfish fishery. The need for the proposed action is to provide an opportunity for full attainment of the annual available harvest for the groundfish fishery, also called the annual catch limit (ACL), in accordance with the requirements of the Magnuson Stevens Act.

DRAFT

CHAPTER 2 Description of the Proposed Alternatives and Council Recommendation for a Preferred Alternative

2.1 Description of the Alternatives

2.1.1 Alternative 1: No Action

Set-asides are established to account for management uncertainty relative to the tribal fisheries, research, EFP and non-groundfish fisheries catch. Under this alternative, the specification for “fishery harvest guideline” would be derived by subtracting amounts for the following from the annual catch limit (ACL) or fishery-wide annual catch target (ACT), if specified: projected catch for Pacific Coast treaty Indian Tribes (whiting will be addressed through a separate rulemaking), projected scientific research conducted under letters of authorization and scientific research permits issued by NMFS, projected mortality in EFPs, and projected fishing mortality in non-groundfish fisheries (including but not limited to the incidental OA fishery). Under Alternative 1, unused portions of the set-aside would not be allocated to other fisheries during the calendar year. However, if unused portions of the set-aside are identified inseason, they would reduce the risk of exceeding the ACL and allow management measures to be adjusted so they more closely approach or slightly exceed a fisheries HG.

2.1.2 Alternative 2

For activities that are completed before a Council meeting and where data derived from “accurate catch accounting methodology” was used to estimate the total catch, the unused portion of the set-aside may be reapportioned back to the groundfish fishery. As with the No Action Alternative, set-asides are established to account for projected mortalities relative to the tribal, research, EFP, and bycatch in non-groundfish fisheries. “Accurate catch accounting methodology” means data gathered from sources such as that used by the West Coast Groundfish Observer Program (WCGOP), the Northwest Fisheries Science Center (NWFSC) survey biologists, and tribal co-manager observer programs. When total catch data are available from accurate catch accounting methodologies, the unused portions of the set-asides can be accurately determined shortly after the completion of the activity. When data gathered by using accurate catch accounting methodology are summarized, the uncertainty relative to the total catch from the completed activities no longer exists. The unused proportions of the catch associated with the completed activities would be reapportioned back to the fishery.

The process to reapportion would be structured to be done through an inseason action published in the *Federal Register* following a Council meeting. At a Council meeting, the Council would review set-asides and recommend any adjustments to be reapportioned. The specified amount of groundfish would be reapportioned back to the “fishery harvest guideline” and out to the sectors in proportion to the original allocations for the calendar year. Because the set-aside amount that is getting reapportioned must be completed before reapportionment occurs, reapportionment would likely only occur later in the year after the September or November Council meetings. For sectors that

DRAFT

are already closed for the year, or in the case of the Shorebased IFQ Program, after September 1 where QS accounts are no longer open or able to transfer QP, the Council must determine whether to reopen those sectors or, for the Shorebased IFQ Program, whether to reactivate those accounts.

2.1.3 Alternative 3

For activities that are completed before a Council meeting, the “best available information” would be used to estimate the amount of set-asides that would not be used in the calendar year and that amount would be reapportioned back to the groundfish fishery. As with the No Action Alternative, set-asides are established to account for management uncertainty relative to the tribal, research, EFP, and fishing mortality in non-groundfish fisheries. The “best available information” could include data collected using “accurate catch accounting methodologies” as specified under Alternative 2 as well as estimates based on more uncertain information, such as those derived from OA fishery models where no- or limited catch data are available.

The process to reapportion is the same as described under Alternative 2, except that the Council may recommend no reapportionment or a more limited overall amount be reapportioned. Any amount available for reapportionment would be reapportioned to the sectors in proportion to the original allocations for the calendar year, modified to account for Council recommendations with respect to reapportionment to: 1) sectors that are closed; 2) for reapportionments after September 1 in the IFQ sector; and 3) sectors for which catch of the species to be reapportioned would not be projected to be reached.

2.1.4 Alternatives Considered But Not Further Analyzed

Several other alternatives for the process to reapportion were considered but rejected. One alternative considered but rejected was to reapportion back to the “fishery harvest guideline” and out to only the sector(s) specified by the Council (i.e., not proportionally back to all sectors). This alternative was rejected because it would require additional considerations of NEPA and other applicable laws each time sector-specific reapportionment occurs. It would also require full notice and comment rulemaking (i.e., a proposed and final rule) which takes up to 6 months to implement. Because reapportionment would likely occur later in the year, this alternative is not feasible because the fishing year would likely be over before reapportionment could be implemented.

Another alternative for the process to reapportion that was considered but rejected was to reapportion back to the “fishery harvest guideline” and out to the sectors in proportion to the original allocations for the calendar year. However, this process would be done by NMFS outside of the Council process as an automatic action (e.g., similar to reapportionment in the whiting fishery). By a specified date, NMFS would review the available data and make adjustments to the set-asides. NMFS would provide notice via the west coast groundfish email group and post public notice on the NMFS

DRAFT

website. This alternative was rejected because it does not comply with the Administrative Procedure Act. This alternative may not provide adequate notice for all sectors of the groundfish fishery.