

IMMEDIATE TIMEFRAME COUNCIL PRIORITY TRAWL TRAILING ACTIONS:
DESCRIPTIONS AND NEXT STEPS

The table of contents provided below contains a list of the Council-prioritized items to be covered under this agenda item. In the body of the document, at the end of each issue a status summary is provided with an “☼” indicating the need for Council attention. A list of National Marine Fisheries Service (NMFS) proposed trailing actions for Program Improvements and Enhancements (PIE) 2 is provided in Agenda Item F.8.b, NMFS Reports 2 and 3. For actions to be implemented at the start of 2013, final action is required by the April 2012 Council meeting.

Table of Contents

Cost Recovery Rule

- | | |
|--|---|
| 1. Cost Recovery (Preliminary NEPA Determination: Categorical Exclusion) | 1 |
|--|---|

PIE Rule 2

- | | |
|---|----|
| 2. Quota Share/Quota Pound (QS/QP) Control Rules – Safe Harbors | 2 |
| A. Risk Pools (Preliminary NEPA Determination: Environmental Assessment) | 2 |
| B. Lenders (Preliminary NEPA Determination: Categorical Exclusion) | 3 |
| 3. Other Lender Issues (Preliminary NEPA Determination: Categorical Exclusion) | 5 |
| 4. Develop a process to certify new observer providers (Preliminary NEPA Determination: Categorical Exclusion) | 5 |
| 5. Allow a fixed gear permit and a trawl permit to be registered to the same vessel at the same time (Preliminary NEPA Determination: EA) | 6 |
| 6. Change the opt-out requirement for QP deficits (Preliminary NEPA Determination: No Further NEPA Required) | 9 |
| 7. Eliminate double filing of co-op reports (November and March) (Preliminary NEPA Determination: No Further NEPA Required) | 11 |

Whiting Season Rule (Stand Alone or as Part of PIE 2 or Gear Rule)

- | | |
|---|----|
| 8. Whiting season opening date and southern allocation (Preliminary NEPA Determination: EA) | 11 |
| F.8.d – Council Action Template | 14 |

Cost Recovery Rule

1. Cost Recovery (Preliminary NEPA Determination: Categorical Exclusion)

The Council completed work on the structure of the cost recovery program at its September 2011 meeting, specifying that the program start on January 1, 2013 and that the initial amounts to be recovered not exceed more than 3 percent of exvessel revenue for the shorebased sector, 2 percent for the mothership sector and 1 percent for the catcher-processor sector. The exact amounts to be used will be determined based on the best estimates available at the time the rule is ready to move

forward. The process of identifying costs will continue, in coordination with the states, using the cost matrix developed by Pacific States Marine Fisheries Commission (PSMFC) for this purpose. National Oceanic and Atmospheric Administration General Counsel (NOAA GC) may report at this meeting on whether or not the states will be eligible to recover some costs through the cost recovery program. The details for some program elements such as the ongoing “role of the Council” and “the concept of accounting and adjustment between years” will be worked out in the regulatory deeming process. A complete description of the Council recommendation on cost recovery is available on the [Council website](#). The Council operating procedures (COP) delegate deeming to the Executive Director, except for those circumstances for which the Council specifically desires that such deeming occur through the full Council process.

The Cost Recovery Committee (CRC) is slated to begin its review of cost estimates and take up the task of looking for ways to reduce program costs after the NMFS Northwest Region and Northwest Fisheries Science Center have their cost tracking methodologies in place.

	Summary: Status and Next Steps
✓	Council action on program structure complete and process for determining fee percentages complete.
→	NOAA GC to report on state eligibility for cost recovery funds.
→	Work to continue on matrix of costs for each agency. Recovery rates as a percent of exvessel value to be determined by NMFS and placed in regulations, (not to exceed specified percentages for each sector, see text)
→	Regulations to be drafted by NMFS.
→	Regulations to be deemed through process outlined in COP 1. ¹
✓	An FPA has been selected. No action necessarily required at this time.

PIE Rule 2

2. Quota Share/Quota Pound (QS/QP) Control Rules – Safe Harbors

A. Risk Pools (Preliminary NEPA Determination: Environmental Assessment)

Council final action has been completed. The Council provided risk pools with a limited exception to the control rule, allowing them to operate under contracts which provide that a deficit from one year may be covered with QP issued for a subsequent year. Additionally, such agreements may be renewed for a series of consecutive years without necessarily violating control rules.

	Summary: Status and Next Steps
✓	Council action complete.
→	Council staff to complete analysis.
→	Regulations to be drafted by NMFS.
→	Regulations to be deemed through process outlined in COP 1.
✓	An FPA has been selected. No action necessarily required at this time.

¹ COP 1: “Unless otherwise explicitly directed by the Council, after NMFS has prepared the regulatory language, the Council authorizes the Executive Director to review the regulations to verify that they are consistent with the Council action before submitting them, along with his determination, to the Secretary on behalf of the Council.”

B. Lenders (Preliminary NEPA Determination: Categorical Exclusion)

When it approved the initial issuance rule implementing the individual fishing quota (IFQ) program, NMFS inserted into the QS control rule an exception for “banks and other financial institutions that rely on QS or IBQ as collateral for loans.” There has been uncertainty about what types of entities would be considered a financial institution for the purpose of this section and concern over exceptions that seem to be provided for certain activities in some paragraphs but not in other paragraphs. For example, an exception is provided with respect to the use of loan covenants to “restrict, any activity related to QS or IBQ or QP or IBQ pounds” (paragraph E) but not provided with respect to directing, delaying or preventing the transfer of QS or individual bycatch quota (IBQ) or having the right to do so (paragraph C). The following table provides a summary of the activities covered by each section and whether or not exceptions are provided for lenders.

Table 1. Summary of 660.140(d)(4): activities for which lender exemptions are provided and not provided.

No Lender Exemption Provided	Lender Exception Provided
(A) & (B) directs the business of an entity or authority over director, board, partners etc.	(E) Any activity related to quota
(C) Prevents or delays quota transfer (shares or pounds)	(F) Controlling management of the entity or being a controlling factor
(D) Through loan covenants affects day to day business activities	(G) Cause or prevent sale, lease, or other disposition of quota
(H) Any other means of control over shares	

There appear to be possible conflicts in the exceptions granted between the following paragraphs:

- (C) and (E)
- (C) and (G)
- (D) and (E)/(F)
- (A/B) and (F).

Therefore, there are two issues to address with respect to the safe harbor provided to lenders.

- the entities eligible for the safe harbor
- the scope of the exception provided to such entities (i.e. the activities allowed under the safe harbor)

A draft Council decision document on this issue is provided as Appendix A. The following are the alternatives identified for consideration.

Lending Entities Qualifying for an Exception

Status Quo: No change. Retain existing language CFR 660.140(d)(4) (see Agenda Item F.8.a, Attachment 2) which provides exceptions for “*banks and other financial institutions that rely on QS or IBQ as collateral for loans*” (no action). Certain exceptions to the control limits are provided for “banks and other financial institutions that rely on QS or IBQ as collateral for loans.”

Alternative 1 (recommendation by the GAP endorsed by the Council, November 2011): Retain existing language CFR 660.140(d)(4) which provides exceptions for “*banks and other financial institutions that rely on QS or IBQ as collateral for loans,*” but add an amplification indicating that to qualify as a bank or financial institution for purposes of this paragraph the entity must be regularly or primarily engaged in the business of lending and not engaged in or controlled by entities whose primary business is the harvest processing or distribution of fish or fish products. Additionally, require that any lender that wishes to qualify for the exception and is not state or federally chartered banks or other financial institution disclose the identity and share of interest of any entity with a 2% or more ownership interest in the lender, in a manner similar to what is required for the trawl identification of ownership interest form CFR 660.140(d)(4)(iv).

Alternative 2: In the description of control (CFR 660.140(d)(4)), replace “*banks and other financial institutions that rely on QS or IBQ as collateral for loans*” with “*a state or federally chartered bank or other state or federally chartered financial institution that relies on QS or IBQ as collateral for loans.*”

Alternative 3: In the description of control (CFR 660.140(d)(4)), replace “*banks and other financial institutions that rely on QS or IBQ as collateral for loans*” with “*any person that relies on QS or IBQ as collateral for loans.*”

Scope of the Exception Provided

Status Quo: No change (see Agenda Item F.8.a, Attachment 2).

Alternative 1: Add the appropriate language providing an exception for lenders to paragraph (C).

Alternative 2: Same as Alternative 1 but also remove the exceptions provided to lenders in all other paragraphs and add at the end of each of the other paragraphs language to the following effect: “*with the exception of those activities allowed under paragraph (C).*”

Alternative 3 (recommendation by the GAP endorsed by the Council, November 2011): Same as Alternative 2 but further limit the exception under paragraph C so that the lenders exception pertains only to control over the transfer of QS and IBQ and not the affiliated QP or IBQ-pounds. All associated QP will be distributed to the borrower unless the bank or financial institution provides evidence that the borrower is in default on the loan, in which case the related QP will be distributed to the

adaptive management program until such time as any the QS/IBQ held by the bank or financial institution is sold, or the QS/IBQ holdings of the bank or financial institution are below the QS control limits (from the April 2011 strawdog option on which the Council requested further discussion).

Alternative 4: Add exceptions for lenders to all paragraphs.

	Summary: Status and Next Steps
✓	Prioritized for implementation in 2013.
☼	Lending Entities Qualifying: Select a PPA.
☼	Scope of the Exception: Select a PPA.

3. Other Lender Issues (Preliminary NEPA Determination: Categorical Exclusion)

During public comment, lenders have requested

- (1) third party verification of QS ownership,
- (2) a lien registry, and
- (3) individually serialized QS, in order to provide the means by which they could secure QS as collateral for loans.

In the Fall of 2011, NMFS made a determination that QS ownership information would be made publicly available, eliminating the need for third party verification of QS ownership. The need for a lien registry and serialized identification might be largely met by the combination of providing a place on QS accounts for lien holders to be listed in the NMFS data system and the state-by-state system of Uniform Commercial Code central lien registries for secured transactions. The alternatives under consideration are as follows.

Status Quo: No change.

Alternative (recommendation by the GAP endorsed by the Council, November 2011): Add a place to list lender on the QS ownership records. A lender name would only be included on the record if the QS owner agrees, but removal would require agreement of both the QS owner and the lender. While a lender is listed, transfer of QS from the account would require authorization from both the owner and the lender. To facilitate commitment of only part of an owner’s QS to a particular lender, a single QS owner would be able to establish additional QS accounts.

	Summary: Status and Next Steps
✓	Prioritized for implementation in 2013.
☼	Select a PPA.

4. Develop a process to certify new observer providers (Preliminary NEPA Determination: Categorical Exclusion)

The current regulations authorize as west coast observer providers those entities certified to provide observers for the North Pacific fisheries. There is no independent means by which an entity can

qualify as a West Coast observer provider without also having to qualify under the North Pacific programs. During previous Council deliberations on this issue there was discussion of the possibility that the states might act as observer providers, particularly with respect to shoreside monitoring. Agenda Item F.8.b, NMFS Report 2 contains more information on this issue.

	Summary: Status and Next Steps
✓	Prioritized for implementation in 2013.
☀	See Agenda Item F.8.b NMFS Report 2 for language and needed action.

5. Allow a fixed gear permit and a trawl permit to be registered to the same vessel at the same time (Preliminary NEPA Determination: EA)

Originally, the license limitation program allowed a trawl and fixed gear (longline or fishpot) permit to be registered to the same vessel at the same time (additionally, there are a few permits endorsed for both trawl and one of the fixed gears). At a later time, because of enforcement and/or monitoring needs, regulations were modified to prohibit stacking of trawl permits with permits endorsed for other gears. Since then vessel monitoring system (VMS) and declaration systems may have reduced or eliminated the need for this restriction.

The trawl rationalization program was intended to allow vessels to move between the use of trawl and other gears while continuing to operate under the IFQ program (gear switching). Additionally, it allows vessels to participate in the IFQ fishery without ever using trawl gear. However, the flexibility of any vessel that wants to participate in both the IFQ program and the limited entry fixed gear fishery is limited on the number of times a permit may be transferred to a vessel in any year (one time per year).²

Status quo: A trawl endorsed permit cannot be on a vessel at the same time together with a limited entry longline or fishpot endorsed permit. A permit may only be transferred to a vessel one time per year.²

Alternative 1: Allow a trawl permit and up to three fixed gear permits (longline and/or fishpot) to be registered to the same vessel at the same time. No change to the number of transfers allowed per year.

Alternative 2 (recommendation by the TRREC endorsed by the Council, November 2011): Same as Alternative 1 but additionally specify that the established declaration process would be used to specify for enforcement and monitoring purposes which permit is being used or if fishing is being conducted in the open access fishery. *Note: Staff recommends that “open access fishery” be changed to “open access gear.” While vessels with limited entry permits may use open access gears their harvest would generally continue to count against the limited entry allocation or against preseason set-asides (for incidental open access gears). They would not be considered participants in the open access fishery for catch accounting purposes unless the limited entry fishery for a species is closed.*

² The transfer of a permit from a vessel to a vessel “unidentified” status does not count against the transfer limit but if the permit is then transferred to a vessel (whether back to the same vessel from which it was transferred or a different vessel) that transfer counts against the limit. Thus a permit can be moved from and back to the same vessel one time per year.

At the November 2011 Council meeting, the GAP endorsed trawl/fixed gear permit stacking, which would be covered by either Alternative 1 or Alternative 2.

Another option which could address this issue would be to increase the number of transfers allowed per year. This would increase a vessel's flexibility to move between the limited entry trawl and fixed gear fishery and it would also allow more flexibility for vessels to move between the limited entry and open access fisheries, reducing the wall between these sectors. Such a provision would also increase administrative costs.

Summary of Impacts

The increased flexibility for vessels in the fixed gear fishery to take part in the trawl fishery, and vice versa, could increase the amount of the trawl allocation taken by vessels using fixed gear.

Degree of Effect: Trawl vessels are already able to use fixed gear to take their trawl allocation, and fixed gear vessels are already allowed to switch into the trawl fishery and use fixed gear to take the trawl fishery through the acquisition of a trawl permit. The proposed action would increase the number of times a year a vessel could switch between participating in the limited entry fixed gear fishery and the trawl IFQ fishery. Under status quo, trawl vessels are able to increase their use of fixed gear to optimize profits, and would be expected to do so to the degree that they generate higher profits. Therefore, the keys in determining the degree of effect of an increase in flexibility to move between fisheries is the degree to which (1) harvesting the trawl allocation with fixed gear yields higher profits than harvesting the allocation with trawl gear, (2) vessels specializing in the use of fixed gear are able to garner higher profits with fixed gear than vessels using both trawl and fixed gear, and (3) the one time per year limit on transferring permits constrains the degree to which a fixed gear vessel would participate in the trawl IFQ fishery. The first two conditions must take into account not only profits with respect to a particular species, but the profits associated with all other species which are caught together with that particular species. For example, a complete switch of the harvest of sablefish from trawl gear to fixed gear would only be expected if the harvest of sablefish by fixed gear generated more profits than generated by all the species that trawlers catch together with sablefish. Quantitative information is not available to assess the degree to which the proposed increase in flexibility would result in a change in gear usage.

Biological Impacts: The ACLs and sector allocations would not be modified. Therefore, the biological impacts are limited to those related to difference between harvesting a portion of the trawl allocation with fixed gear as compared to trawl gear. Those differences likely relate primarily to habitat impacts and differences in gear selectivity. Amendment 20 specifies that vessels with trawl permits using a nontrawl gear are required to comply with the conservation areas applicable to those nontrawl gears (Section A-1.3). In general, the LE fixed gear RCA boundaries are shallower than the trawl RCA boundaries. Therefore, a switch from trawl gear to fixed gear would force activities into shallower waters shoreward of the RCA and allow vessels to fish in shallower areas seaward of the RCA. To the degree that an increased portion of the trawl allocation is taken by fixed gear vessels, the habitats impacted and species harvested may be different than under status quo. In terms of gear selectivity, in addition to size selectivity (e.g. fixed gear may be selective for larger sablefish), fixed gear may also have different selectivity for bycatch species (e.g. fixed gear vessels tend to take more yelloweye as bycatch than trawl vessels. However, while the species selectivities may be different, all harvest of IFQ species will still have to be covered by QP, and harvest of non-IFQ species will be controlled through other applicable management regulations such that harvests will be maintained

within the ACLs. Additionally, during the time fixed gear vessels are participating in the IFQ program they would be required to carry observers, increasing the information available about fixed gear bycatch of all species, including marine mammal and bird interactions.

Socio-Economic Impacts: The economic effect will be a possible increase in the net revenues generated by the fishery. Such an increase would be expected to have an upward increase on quota prices. To the degree that a shift occurs, there may be some social effects as the number of trawl vessels (or size of trawl operations) decrease and fixed gear operations increase. These effects would be expected to the degree that there are social differences between members of the trawl and fixed gear communities. Even if the differences are minimal, all shifts in the distribution of harvest generally involve some disruption as some individuals move out of production while others move in. Such shifts are part of the costs associated with a market based management system.

Agency and Data System Impacts: The alternatives to status quo may reduce administrative costs by reducing the need for vessels to transfer their permits on and off a vessel in order to move between limited entry fisheries.

Alternative 2's reliance on the gear declaration system could require an enhancement of the existing data system. Vessels which are dual-endorsed, have limited entry permits for both trawl gear and one of the fixed gears, present some challenges to the current data system. There are a total of 5 dual-endorsed permits. For such permits, managers and enforcement need to be able to determine whether such vessels are fishing in the IFQ fishery or the fixed gear fishery. The current regulations specify that this determination will be made based on the vessel gear declarations. However, gear declarations are sometimes in error. In this regard, at the November 2011 Council meeting the EC stated:

If this alternative [Alternative 2] is adopted, the EC strongly encourages industry leaders to impress upon their membership the importance of maintaining the proper declaration that accurately reflects their fishing activity. Accuracy with the declaration process is both legally required and vital to the analysis of effort by fishery managers.

A system has not been developed to handle corrections to the gear declarations and the provision of those modifications to managers responsible for tracking harvest. Allowing the stacking of fixed gear and trawl permits will increase the need for resolving this issue. There may be means other than the gear declarations for determining whether or not a trip is an IFQ trip. Alternative 2 would dictate that rather than using an alternative means for classifying a trip (e.g. the filing of an electronic landings record under the IFQ program) that the gear declarations program be used. This alternative may require an enhancement of that system such that corrected declarations are incorporated into the declaration datasets and that information from declaration data system is transmitted to the catch monitoring system (e.g. PacFIN).

Interaction with Other Trailing Actions

This action may interact with the issue of clarifying the sablefish at-sea processing exemption, (Item 1 of Agenda Item F.8.b, NMFS Report 2). Allowing the stacking of a trawl permit on a vessel which has a fixed gear permit with a sablefish at-sea processing exemption (1 vessel) may allow that vessel to process at-sea the sablefish it catches under the IFQ program. Unless the alternative is adjusted to specify otherwise, this may eliminate the need for action on Item 1 of the NMFS PIE list.

	Summary: Status and Next Steps
✓	Prioritized for implementation in 2013.
☀	Select a PPA.

6. Change the opt-out requirement for QP deficits (Preliminary NEPA Determination: No Further NEPA Required)

The question under this issue is whether to change the opt-out requirement for QP deficits lasting more than 30 days, in order to allow vessels to rejoin the fishery after deficits are cleared.

Under status quo, any vessel with a documented deficit is prohibited from fishing groundfish and is required to cure the deficit within 30 days. If a vessel carries a deficit for more than 30 days and the amount of the deficit is within the carry-over allowance, then the vessel can stay within compliance of the program by opting out of the fishery for the remainder of the year. Vessels which do not opt out, but instead incur a violation, are allowed to rejoin the fishery as soon as the deficit is cured. Deficits greater than the carryover allowance must be brought to within the carryover allowance before the 30-day clock expires, otherwise the vessel will incur a violation.

In the following discussion, all references to a vessel's ability to opt out apply only to situations in which the deficits are less than the carryover allowance, unless otherwise noted.

A variety of circumstances may arise under which a vessel incurs a deficit. When a deficit is incurred early in the year, it may not be possible to acquire QP for certain species at a reasonable price because of uncertainties about bycatch rates and tight QP markets for constraining species. Later in the year QP could become more available. However, current regulations give the vessel two choices, each with potentially substantial adverse consequences: (1) incur a violation, including the penalty and subsequent consequences of a violation record, and preserve the opportunity to participate later in the year, or (2) leave the fishery and forgo all remaining opportunity for the year (unused QP might be sold off to other vessels).

The alternatives under consideration are as follows:

Status Quo: Vessels that have carried a known deficit for more than 30 days may avoid a violation by opting out of the fishery for the remainder of the year (so long as the deficit is less than the carryover allowance).

Alternative (draft alternative endorsed by the Council, November 2011): Vessels that have carried a known deficit for more than 30 days may avoid a violation by opting out of the fishery (so long as the deficit is less than the carryover allowance). Such vessels may opt back in once they have cured their deficit.

The 30-day clock with the provision allowing vessels to opt-out for the remainder of the year was originally intended to encourage vessels to cover their overages sooner rather than later. However, as described above and portrayed in the following table, this provision create a situation in which a vessel which incurs a violation is allowed to continue in the fishery while a vessel which stays in compliance must opt out for the remainder of the year. Some view this situation as inequitable.

Table 2. Implications of the alternatives for vessels incurring a deficit that is within the carryover allowance.

Situation of Vessels Incurring a Deficit	Status Quo	Alternative
Vessel covers deficit within 30 days	Vessel <u>not in</u> violation. Vessel <u>can re-enter</u> the fishery as soon as deficit is covered.	Vessel <u>not in</u> violation. Vessel <u>can re-enter</u> the fishery as soon as deficit is covered.
Vessel <u>opts out</u> by 30 days and covers deficit later	Vessel <u>not in</u> violation. Vessel <u>must stay out</u> of the fishery the entire year.	Vessel <u>not in</u> violation. Vessel <u>can re-enter</u> the fishery as soon as deficit is covered.
Vessel <u>does not opt out</u> and covers deficit later	Vessel <u>in</u> violation. Vessel <u>can re-enter</u> the fishery as soon as deficit is covered.	Vessel <u>in</u> violation. Vessel <u>can re-enter</u> the fishery as soon as deficit is covered.

Vessels with deficits **greater than the deficit carryover allowance** may not avoid a violation by opting out by 30 days.

On the one hand the alternative to status quo might be perceived as more equitable. On the other hand changing the opt-out requirement (the alternative) might make the 30-day clock for covering a deficit less meaningful (the 30-day clock would be relevant only for those vessels with deficits greater than the carryover provision). If the vessel chooses to “opt out” there is no cost in doing so. Under the proposed alternative it could opt back in as soon as the deficit is covered, also at no cost. Since the vessel cannot fish while in deficit, the steps of opting out and opting back may not carry much meaning. However, the EC points out that the fleet is more aware of the 30-day requirement than it is aware of the provision prohibiting fishing while in deficit and therefore has recommended that the 30-day requirement be maintained.

With respect to utilization of the opt-out provision the EC provided the following information in their November 2011 report:

To date there have been three events where a vessel was in deficit and approached the 30-day time period before covering their deficit. In two of these cases the deficit involved target species, and the vessel did not cover the deficit because it was participating in another fishery and chose to wait until the end of the 30-day period before covering their deficit. In the third situation, the deficit involved a large quantity of an overfished species. In all three situations the deficits were larger than the carryover amount (10 percent) and the vessels were not eligible to opt out.

While vessels have not been using the opt-out provision, it is uncertain whether or not they have had to pay higher prices for QP in order to avoid being forced into the opt-out/violation choice. The following table portrays some tradeoffs between the alternatives.

Table 3. Tradeoffs between status quo and alternative for changes to the opt-out provision.

Status quo	Alternative
A potential inequity from being forced to leave the fishery to maintain compliance while vessels that incur a violation are allowed to fish.	Elimination of a potential inequity.
The possibility of being forced to pay higher prices for QP because of the pressure to avoid having to choose between a violation and forgoing fishing for the year.	More time to shop/wait for a better QP price.
Incentive to resolve overages before 30 days.	Little incentive to resolve overages before 30 days.

Summary: Status and Next Steps	
✓	Prioritized for implementation in 2013.
☼	Select a PPA.

7. Eliminate double filing of co-op reports (November and March) (Preliminary NEPA Determination: No Further NEPA Required)

Currently both mothership and catcher-processor co-ops are required to submit to the Council a preliminary annual report in November and to NMFS a final annual report by March 31 of the following year. Since the fishery is not completed on time for the November meeting and a subsequent final report must be provided by March 31 of the following year, question has been raised about the necessity of providing the preliminary report.

Status Quo: Require that co-ops provide a preliminary annual report to the Council in November and a final annual report to NMFS by March 31 of the following year.

Alternative (draft alternative from November 2011, no Council action on the alternative): Require that co-ops provide only final annual reports for a particular year but require that it be provided to both NMFS and the Council. The annual report must be provided to NMFS by March 31 of the subsequent year. The annual report should be provided to the Council on time for distribution with the April briefing book, i.e. by the briefing book deadline for the April Council meeting (but no earlier than March 10).

The original requirement for filing preliminary and final reports was patterned based on co-op filing requirements for Alaskan fisheries. The purpose of the requirement for filing a preliminary report is not apparent, and the filing of preliminary reports has apparently been eliminated in the Alaska program.

Summary: Status and Next Steps	
✓	Prioritized for implementation in 2013.
☼	Select a PPA.

Whiting Season Rule (Stand Alone or as Part of PIE 2 or Gear Rule)

8. Whiting season opening date and southern allocation (Preliminary NEPA Determination: EA)

Under a rationalized fishery, the previous rationale for varying start dates among areas and whiting sectors may no longer apply. As a first step, at its November 2011 meeting, the Council

adopted for consideration the GAP and Trawl Rationalization Regulatory Evaluation Committee (TRREC) option of moving the whiting season start date for all sectors and areas to May 15, consistent with the start date for the at-sea fishery. The GAP recommendation, adopted as guidance by the Council, also stated:

The GAP also supports reviewing the overall whiting fishery management regime, including consideration of moving towards a year round fishery. If this adds significant workload, it should remain a priority for the TRREC to address for implementation in the Program Improvements and Enhancements (PIE) 3 rule or beyond.

Only the issue of moving the whiting season date to May 15 is part of the current action. The following are the options for consideration.

Status quo: No Action. The current regulations for the start date and southern allocation are as follows.

660.131(B)(2) Different primary season start dates. North of 40°30' N. lat., different starting dates may be established for the catcher/processor sector, the mothership sector, and in the Pacific whiting IFQ fishery for vessels delivering to IFQ first receivers north of 42°N. lat. and vessels delivering to IFQ first receivers between 42° through 40°30' N. lat. . . .

(iii) Primary whiting season start dates and duration. After the start of a primary season for a sector of the whiting fishery, the season remains open for that sector until the sector allocation of whiting or non-whiting groundfish (with allocations) is reached or projected to be reached and the fishery season for that sector is closed by NMFS. The starting dates for the primary seasons for the whiting fishery are as follows:

- (A) Catcher/processor sector—May 15.
- (B) Mothership sector—May 15.
- (C) Shorebased IFQ Program, Pacific whiting IFQ fishery.
 - (1) North of 42°N. lat.—June 15;
 - (2) Between 42°–40°30'N. lat.—April 1; and
 - (3) South of 40°30'N. lat.—April 15.

660.55 (f)(2) . . . No more than 5 percent of the Shore based IFQ Program allocation may be taken and retained south of 42° N. lat. before the start of the primary Pacific whiting season north of 42° N. lat. . . .

Alternative (recommendation by the GAP endorsed by the Council, November 2011):

Use a single May 15 start date for all whiting sectors including California fisheries and eliminate the 5 percent California early season whiting fishery cap, to the extent that a fishery management plan (FMP) amendment is not required. This change would be implemented through the two-meeting process already authorized under the framework of the Pacific Coast Groundfish FMP.

	Summary: Status and Next Steps
✓	Prioritized for implementation in 2013.
☀	Select a PPA or provide guidance on further development of alternatives and consider the process to be followed.

F.8.d – Council Action Template

Following is a detailed list of action items for potential use in motion making.

Council Action: “1. Select preliminary preferred alternatives for trailing action.”

Agenda Item F.8.a, Att 1. (this attachment)	Council Action
Cost Recovery Rule	
1. Cost Recovery (no action anticipated)	

PIE Rule 2	
2. Quota Share/Quota Pound (QS/QP) Control Rules – Safe Harbors	
A. Risk Pools (no action anticipated)	
B. Lenders	
3. Other Lender Issues	
4. Develop a process to certify new observer providers (see NMFS Report 2)	
5. Allow a fixed gear permit and a trawl permit to be registered to the same vessel at the same time	
6. Change the opt-out requirement for QP deficits	
7. Eliminate double filing of co-op reports	

Whiting Season Rule	Council Action
8. Whiting season opening date and southern allocation	

Council Action: 2. “Take action as necessary on the NMFS identified trailing actions.”

Agenda Item F.8.b. NMFS Reports	Council Action
1. NMFS Items for PIE 2	
2. NMFS Items for Correction	

Council Action: “3. Provide guidance as needed on moving forward on gear rule, including placement of the chafing gear issue.”

Agenda Item F.8.a. Att 4. Gear Rule	Council Action
1. Consider allowing multiple gears onboard a vessel participating in the IFQ fishery	
A. Allowing multiple gears onboard a vessel on the same trip	
B. Allowing use of multiple gears on a single trip	
2. Chafing Gear	
3. Allow trawl gear modifications that increase efficiency and selectivity	