

Superseding Amendment 6 Allocations With Those Decided Under Amendment 21

There are three sections to this document:

Superseding Amendment 6 with Amendment 21
Set Aside Flexibility/Clarifications
Alternatives

Superseding Amendment 6 with Amendment 21

Two amendments to the FMP have considered formal allocations - Amendments 6 and 21. Amendment 6, implemented in 1994, specified allocations of groundfish stocks to limited entry and open access sectors (Table 1). Amendment 21 allocations (Table), implemented in 2011, consider allocations to trawl sectors, with the balance of the harvestable surplus allocated to non-trawl sectors (i.e., limited entry fixed gear, directed open access, and recreational sectors combined). Additionally, formal sector allocations exist for Pacific whiting and sablefish north of 36° N. latitude. While these allocations have been specified in federal regulations for many years, they are now incorporated in the FMP under Amendment 21.

Amendment 6, which established the commercial non-treaty limited entry system, also established allocation procedures for any species to be newly allocated between commercial open access (including directed and incidental open access) and limited entry sectors based on catch history for the license limitation allocation period (July 11, 1984 through August 1, 1988). These allocations worked well at the time since the fishery was not all that structurally different in the 1990s than it was in the 1984-1988 historical catch period upon which the allocations were based. However, the fishery changed significantly after passage of the Sustainable Fisheries Act (SFA) of 1996, which amended the MSA with more stringent conservation mandates, and the subsequent implementation of Amendment 11 in 1998, which codified the SFA mandates and the new National Standard 1 guidelines interpreting these mandates.

Table 1. Limited entry and open access allocations established by FMP Amendment 6.

Stock or Stock Complex	Limited Entry Share	Open Access Share
Lingcod	81%	19%
Minor Rockfish South (including Chilipepper Rockfish)	55.7%	44.3%
Minor Rockfish North (including Yellowtail Rockfish)	91.7%	8.3%
Shortspine Thornyhead (north of Conception Area)	99.73%	0.27%

A direct result of implementing the more stringent conservation mandates of Amendment 11 was the first declarations of stocks being overfished. This led to dramatically lower fishing limits, widespread fishing closures on the continental shelf (e.g., RCAs and Cowcod Conservation Areas), and a complete restructuring of the fishery. From that time to present, Amendment 6 allocations have not been effectively attained. Because these allocations were not binding on the sectors, given other constraints needed to meeting conservation mandates, they did not directly enter into decisions on annual or biennial management measures. Beyond direct suspension of these allocations for overfished species, access to other healthy stocks in the EEZ has been constrained by the need to significantly reduce fishing mortality on overfished species. When there is little chance of attaining a harvestable surplus of a stock, the established allocation has little significance in the management system.

Amendment 21 allocations were borne of the need for allocations to the trawl fishery for species to be managed under the catch share program. While these allocations could be set during every biennial management process, for reasons of process efficiency the Council determined that it would be more efficacious to set long term allocations for stocks that are predominantly or significantly caught in trawl fisheries. The original Amendment 6 allocations for stocks that were subject to Amendment 21 allocations were superseded by the new Amendment 21 allocations. The Amendment 21 action also underscored the Amendment 6 policy to temporarily suspend any formal allocation for a stock that is declared overfished. The original FMP provision under Amendment 6 temporarily suspended any formal limited entry/open access allocation (i.e., Amendment 6 allocation) when a stock is declared overfished. Amendment 21 modified the provision to temporarily suspend any formal allocation for any stock declared overfished.

There are few, if any, stocks that are potentially subject to Amendment 6 allocation consideration in the 2011 and 2012 management cycle. Any significant harvestable surplus of shelf species that are not subject to Amendment 21 allocations, such as minor shelf rockfish, will not be accessible due to RCA restrictions. The allocation of minor nearshore rockfish species has been largely deferred to the states under the auspices of state fishing policies and/or state nearshore FMPs. The only other Amendment 6 species (i.e., lingcod, minor slope rockfish, and shortspine thornyhead north of the Conception area) are subject to Amendment 21 allocations, which the Council intended would supersede those originally specified under Amendment 6.

Table 2 details the Amendment 21 allocations of the proposed 2011 ACLs. The ACLs are reduced to account for mortality in EFPs, tribal fisheries, incidental open access fisheries, and research activities. The resulting value is the Fishery Harvest Guideline, which is the value that is used in the allocations. Under the Final Preferred Alternative, the Council specified an ACT for POP. As such, set-asides for EFPs, tribal fisheries, incidental open access fisheries, and research activities were removed from the ACT prior to calculating the allocations. Additionally, under the Final Preferred Alternative, the Council temporarily suspended the petrale sole Amendment 21 allocation and established a 2-year allocation between trawl and non-trawl sectors.

In April 2010, the Council confirmed their intent that the trawl/non-trawl allocations established under Amendment 21 would supersede the limited entry/open access allocations established under Amendment 6. NMFS disapproved that portion of the Council's Amendment 21 action because they felt that there was not adequate public notice that this was part of the Council's preferred Amendment 21 alternative. The Council is addressing this issue at their March 2011 meeting where the action to supersede Amendment 6 allocations with those established under Amendment 21 is expected to be confirmed. This action will be part of a series of trailing amendments connected to the actions taken under amendments 20 and 21.

Set Asides Flexibility/Clarifications

In addition to the issue of Amendment 21 superseding Amendment 6, it has become apparent that there may be a need for clarification of the status and adjustability of the set-aside that were specified in Amendment 21. The Council may want to include the alternatives for this plan amendment. The Groundfish Management Team addressed the Council on this issue at the June 2010 Council meeting. Under Agenda Item G.3, the GMT noted:

Considerations for Yield Set Asides

Given the sector allocations that will formally occur with implementation of Fishery Management Plan (FMP) Amendment 21 and the 2011-2012 harvest specifications and management measures, there is a need for the Council to consider setting aside some yield of overfished species . . .

As the fishery is managed currently (e.g., without intersector allocations) if the Council discovers that the set-asides in the scorecard are mis-specified due to changes in tribal take, research, exempted fishing permits (EFPs), or incidental open access, the scorecard is simply updated and management measures for fisheries may be adjusted up or down to attain but not exceed optimum yield (OYs). Then these changes to management measures are implemented by NMFS via routine inseason action.

Under Amendment 21 and biennial specifications, formal sector allocations and set asides are specified in Federal regulations. Once the yield is compartmentalized like this, the GMT notes that it will be much more complicated to revise the estimates if changes in the set asides arise mid-bienium (i.e., much more than a scorecard update and subsequent remedy through inseason action). . . .

On this issue, the Council may wish to request inclusion in the environmental assessment the exploration of options that would provide more flexibility in the management of set asides.

Alternatives.

The following three alternatives are presented for Council consideration.

No Action Alternative (Status Quo): Amendment 21 and Amendment 6 allocations remain in place.

Alternative 1: Amendment 21 allocations supersede Amendment 6 Allocations.

Under Alternative 1, the groundfish FMP language would be changed as follows.

6.3.2.3 Limited Entry Trawl Allocations for Amendment 21 Species

. . . The remainder of the OYs/ACLs are then allocated according to the percentages in Table 6-1 [Table 6-1 provides the schedule of allocations adopted by the Council under Amendment 21, provided in this document as Table 2]. The trawl percentage is for the non-treaty trawl fishery managed under Amendment 21. The non-treaty, non-trawl percentage is for the limited entry fixed gear fishery, the open access fishery, and the recreational fishery. Amendment 6 limited entry and open access allocations are superseded by these allocation percentages.—Allocations to the directed non-trawl sectors (i.e., limited entry fixed gear, directed open access, and recreational) for the species allocated Table 6-1 are decided, if needed, in the biennial harvest specifications and management measures process

11.2.2 Allocations Between the Limited and Open Access Fisheries and Management of the Open Access Fishery

1. The division of the fleet into limited and open access participants will require that separate allocations be established for each group where management measures are required to prevent harvest in excess of annual catch limits. For those species, species groups and areas covered by the trawl/non-trawl allocations provided in Table 6-1 and for which the Council determines an allocation is necessary, open access allocations will be established as needed through the biennial specifications process.

2. For those species for which trawl/non-trawl allocations are not established in Table 6-1 allocations for the open access fishery will be based on historical catch levels for the period July 11, 1984 to August 1, 1988 by exempted, longline and fishpot gears used by vessels which did not receive an endorsement for the gear.

Alternative 2: Amendment 21 allocations supersede Amendment 6 Allocations (same as Alternative 1), plus provide flexibility for changes to be made to the set asides through routine inseason adjustments in response to new information.

Table 2. Amendment 21 allocations for 2011.

Species/Species Group/Area	2011 ACL	2011 ACT	Fishery HG b/	Trawl A21%	Non-trawl A21%	Trawl A21 mt	At-sea whiting set asides	Trawl after at-sea set asides	Non-Whiting	Whiting	Non-Whiting	Whiting	SS	CP	MS	Nontrawl A21 mt
									A21 %	A21 %	A21 mt	A21 mt				
Lingcod N of 42° N lat. (OR & WA)	2,330		2,059	45%	55%	927	6	921	99.7%	0.3%	918	3				1,132
Lingcod S of 42° N lat. (CA)	2,102		2,095	45%	55%	943	0	943	99.7%	0.3%	940	3				1,152
Pacific Cod	1,600		1,200	95%	5%	1,140	5	1,135	99.9%	0.1%	1,134	1				60
Sablefish S of 36° N. lat.	1,298		1,264	42%	58%	531	0	531	100.0%		531	0				733
Dover sole	25,000		23,410	95%	5%	22,240	5	22,235	100.0%		22,235	0				1,171
English sole	19,761		19,661	95%	5%	18,678	5	18,673	99.9%	0.1%	18,654	19				983
PETRALE SOLE a/	976		911			876	5	871	100.0%		871	0				35
Arrowtooth flounder	15,174		13,096	95%	5%	12,441	10	12,431	100.0%		12,431	0				655
Starry Flounder	1,352		1,345	50%	50%	673	5	668	100.0%		668	0				673
Other flatfish	4,884		4,686	90%	10%	4,217	20	4,197	99.9%	0.1%	4,193	4				469
PACIFIC OCEAN PERCH	180	157	144	95%	5%	137	0	137	The rest	17% or 30 mt	107	30	13	10	7	7
WIDOW	600		539	91%	9%	491	0	491	The rest	52.0%	235	255	107	87	61	49
Chilipepper S of 40°10' N lat.	1,882		1,867	75%	25%	1,400	0	1,400	100.0%		1,400	0				467
Splitnose S of 40°10' N lat.	1,461		1,454	95%	5%	1,381	0	1,381	100.0%		1,381	0				73
Yellowtail N of 40°10' N lat.	4,364		3,865	88%	12%	3,401	300	3,101	The rest	300	2,801	300				464
Shortspine thornyhead N of 34 27' N. lat.	1,573		1,528	95%	5%	1,452	20	1,432	99.9%	0.1%	1,430	1				76
Shortspine Thornyhead S of 34 27' N. lat.	405		363	50 mt	The Rest	50	0	50	100.0%		50	0				313
Longspine thornyhead N of 34 27' N. lat.	2,119		2,075	95%	5%	1,971	5	1,966	100.0%		1,966	0				104
DARKBLOTCHED	298		279	95%	5%	265	0	265	The rest	9% or 25 mt	240	25	11	9	6	14
Minor Slope Rockfish N of 40°10' N lat.	1,160		1,092	81%	19%	885	55	830	98.6%	1.4%	818	12				207
Minor Slope Rockfish S of 40°10' N lat.	626		599	63%	37%	377	0	377	100.0%		377	0				222

a/ Under the Final Preferred Alternative, the Council temporarily suspended the Amendment 21 allocation between trawl and non-trawl. The values in this table represent a two year allocation.

b/ The Fishery Harvest Guideline represents the amount of the ACL, after subtracting the off-the-top amounts that is available for allocations. Off-the-top amounts include total mortality estimates for scientific research, tribal fisheries, incidental open access and set asides for EFPs.