

FINAL AMENDMENT 4
TO THE
**PACIFIC COAST
GROUNDFISH PLAN**

Including
Supplemental Environmental Impact Statement,
Regulatory Impact Review, and
Initial Regulatory Flexibility Analysis

Approved by the Pacific Fishery Management Council
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EXECUTIVE SUMMARY

The domestic and foreign groundfish fisheries in the Exclusive Economic Zone (EEZ) of the United States (3 to 200 miles offshore) in the Pacific Ocean off the coasts of California, Washington, and Oregon are managed under the "Pacific Coast Groundfish Fishery Management Plan (FMP) and Environmental Impact Statement (EIS) for the California, Oregon, and Washington Groundfish Fishery". The FMP was developed by the Council under the Magnuson Fishery Conservation and Management Act (MFCMA). It was approved by the Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration (NOAA) on January 4, 1982 and became effective on September 30, 1982. Implementing regulations were published in the Federal Register on October 5, 1982 (at 47 FR 43964) and appear at 50 CFR 663 and Part 675. Three amendments to the FMP have been implemented. This document is the FMP as amended through and including Amendment 4.

In 1987, the Council began a comprehensive review of the FMP, its federal implementing regulations, state regulations, and current Council management practices. This review identified several management, definition, and other problems. Some of the identified problems are technical/bookkeeping in nature (such as updating and reorganization of the descriptive portions of the FMP document), some are procedural (such as the procedure for reviewing applications for experimental fishing permits), and others relate to management of the fishery to obtain maximum benefits to the nation. The Council determined that a comprehensive amendment to the FMP was necessary to incorporate the previous amendments into a single document, update and reorganize the descriptive sections of the FMP, and correct several inadequacies of the current management program.

Amendment 4 makes major changes to the FMP to resolve problems in the current management regime. Four major inadequacies of the annual and inseason management program have been identified: (1) numerical optimum yields (OY) are always considered quotas or ceilings beyond which no fishing is allowed, which may result in discards of unavoidable catches; (2) the species selected for numerical OYs can not be changed without FMP amendment; (3) once acceptable harvest targets have been established, there is no mechanism to adjust regulations to achieve Council objectives to maximize benefits, etc., from those amounts of fish; and (4) inseason management actions for biological conservation require a determination of biological stress, which is poorly defined and difficult to document and/or predict. Amendment 4 revises the non-numerical OY concept to include all managed species and establishes a framework procedure for setting target harvest levels for any species needing active management.

With respect to annual and inseason procedures for establishing and modifying management measures, the amendment clarifies the procedures the Council will follow, including a provision to make certain changes to management measures at a single meeting. The "points of concern" procedure is revised so that determination of biological stress is no longer required. And a "socio-economic framework" for making adjustments for non-biological reasons is expanded. To provide clearer guidance to the Council and the Secretary in using the new framework procedures to make social, economic and biological decisions, the amendment also revises the FMP's goals and objectives.

One central part of Amendment 4 is establishment of standard procedures the Council will follow in establishing and making changes to management measures.

This two meeting process includes (1) preliminary discussion of proposed changes at one Council meeting, (2) analysis of the proposed changes and alternatives that might be considered to achieve the same stated objectives, (3) notice to the public of the Council's intention to take action and opportunity for public comment, and (4) final action at a second Council meeting. Certain routine changes may be exempted and could be made at a single Council meeting.

A detailed description of each major species is provided in Section 11 of the amendment, along with a discussion of the habitat requirements and the Council's habitat preservation policy.

The Supplemental Environmental Impact Statement (SEIS) prepared for Amendment 4 organizes the proposed changes into nine major issues and discusses them individually, including the alternatives considered to resolve each one. However, the amended FMP includes only those provisions adopted by the Council. The January 1982 SEIS prepared for the original FMP stated "The proposed action is designed to protect the long-term productivity of the groundfish resources and will involve no irreversible or irretrievable commitments of these resources." Amendment 4 is consistent with that statement and is designed to facilitate actions to ensure continued wise use of these public resources and the habitat supporting them. A description of the issues follows.

ISSUE 1. REVISE THE MANAGEMENT GOALS AND OBJECTIVES, UPDATE THE DESCRIPTIVE SECTIONS, AND REORGANIZE THE CHAPTERS OF THE FMP.

This amendment clarifies the Council's goals and objectives for management of the west coast groundfish fisheries. The goals are listed in order of priority. The 13 objectives are intended to express and explain the Council's policies and management priorities to the fishing industry and interested public, and to provide guidance to the Council and the Secretary in the development of regulations to manage the fisheries.

Goal 1 Conservation. Prevent overfishing by managing for appropriate harvest levels. Prevent any net loss of habitat of living marine resources.

Goal 2 Economics. Maximize the value of the groundfish resource as a whole.

Goal 3 Utilization. Achieve the maximum biological yield of the overall groundfish fishery and promote the year-round availability of quality seafood to the consumer.

ISSUE 2: REVISE THE OPERATIONAL DEFINITION AND USE OF OY AND ESTABLISH A PROCEDURE TO SPECIFY ALLOWABLE HARVEST LEVELS (HARVEST GUIDELINES, QUOTAS OR OYS) FOR ANY SPECIES, INCLUDING MANAGEMENT MEASURES TO ACHIEVE THEM

Numerical OYs were originally established for only six of the 80+ groundfish species and no other species could be managed by numerical limits except through the point of concern mechanism or through plan amendment. Also, no species could be removed from the list of numerical OY species except by plan amendment. In addition, increases to acceptable biological catches (ABC) and OYs and were limited to not more than 30 percent per year. The amendment removes the 30 percent restriction and establishes a two meeting procedure for the Council to make management changes. The amendment also establishes certain exemptions

to the two meeting process for "routine" adjustments to management measures which may be made at a single meeting.

ISSUE 3: ESTABLISH A PROCEDURE FOR MAKING ADJUSTMENTS TO FISHING RESTRICTIONS (SEASONS, QUOTAS, GEAR RESTRICTIONS, ETC.) FOR OTHER THAN BIOLOGICAL CONSERVATION REASONS (this includes and expands the gear regulation framework of Amendment 2)

The FMP originally contained no mechanism for implementing inseason management measures, even if desired, unless biological stress had occurred or was anticipated. Amendment 4 establishes a comprehensive authority to develop or modify management measures to better achieve the social and/or economic objectives of the FMP. Although sablefish allocation decisions were made under the point of concern authority, the economic and social implications of allocation decisions were not adequately analyzed to satisfy all parties involved. Actions taken under the expanded socio-economic framework require at least two Council meetings, analysis of impacts prior to implementation of any measures, and opportunities for public involvement at several stages. There is also a procedure for the Council to qualify a measure for routine status for future use at a single meeting.

ISSUE 4: REVISE THE POINT OF CONCERN PROVISION BY ELIMINATING THE REQUIREMENT TO DECLARE BIOLOGICAL STRESS OR THE LIKELIHOOD THEREOF

The original points of concern procedure in the FMP required the Groundfish Management Team (GMT) to make a finding of biological stress or the likelihood of stress on a species or species complex before the Council could recommend implementation of trip limits or other fishing restrictions. However, biological stress was poorly defined. The revised points of concern framework will make it easier for the Council to respond to biological problems that are identified as the fishery is monitored throughout the year.

ISSUE 5: REVISE THE USE OF THE HARVEST RESERVE FOR SPECIES FOR WHICH A JOINT VENTURE OR DIRECTED FOREIGN FISHERY IS CONDUCTED

In the original FMP, a reserve of 20 percent of its OY was set aside at the beginning of the year for each species assigned a "total allowable level of foreign fishing", or TALFF. The reserve was devised to provide for unanticipated expansion of the domestic industry within the year; to insure that foreign fishing activity did not actually reduce the amount that was caught by domestic fishermen. The reserve applied only if TALFF was designated, and Amendment 4 revises this to include situations where a joint venture fishery is anticipated. In addition, provision is made to release all or part of the reserve at any time during the year and reapportion it as needed to better accommodate the needs of changing fisheries and to provide for full utilization of the resource.

ISSUE 6: PROVIDE FOR IMPLEMENTATION OF REPORTING REQUIREMENTS WHEN STATE DATA COLLECTION SYSTEMS ARE INSUFFICIENT FOR MANAGEMENT OF THE FISHERY, INCLUDING FOR VESSELS WHICH PROCESS FISH AT SEA

Currently, catch, effort, biological and other data necessary for implementation of this FMP are collected by the states of Washington, Oregon, and California under existing state data collection provisions. Amendment 4 clarifies the Council's and Secretary's authority to establish federal reporting requirements

when the data collection and reporting systems operated by state agencies fail to provide the Secretary with statistical information adequate for management. The states are unable to manage offshore processing vessels (factory trawlers, for example) if they do not register with the state, fish in state waters or land in the state. In addition, the states have difficulty managing vessels that harvest fish off the west coast but land outside the area. Without the authority to require periodic reports, information about the harvest could be delayed several weeks or even months, which could seriously hamper inseason monitoring efforts and could lead to overshooting quotas and harvest guidelines.

ISSUE 7: STREAMLINE THE PROCEDURES TO REVIEW AND APPROVE APPLICATIONS FOR EXPERIMENTAL FISHING PERMITS

Amendment 4 revises the experimental fishing permit (EFP) process so that: blanket permits may be issued (i.e., one permit to an individual or agency responsible for a number of vessels); certain applications may be denied without involving the full Council process; administrative schedules are less rigid; and participants agree to release information gathered while fishing under the permit.

ISSUE 8: ESTABLISH PROCEDURES FOR REVIEWING STATE REGULATIONS TO DETERMINE IF THEY ARE CONSISTENT WITH THE FMP AND FEDERAL FISHING REGULATIONS

When originally approved by the Secretary, the groundfish FMP contained a provision which made then current California state law regarding use of set nets in state marine waters applicable in the federal EEZ as long as the state law remained consistent with the FMP, its implementing regulations, the MFCMA and other applicable law. However, since then, California has modified its set net regulations to impose area, depth and other restrictions. The new framework procedure authorizes the Council to review current and future state regulations to ensure that they are consistent with the FMP and other applicable law. Under this framework, the Council will decide whether to continue to apply a state's regulations in the EEZ or may recommend federal management measures be adopted or amended to be consistent with the state regulations.

ISSUE 9: ESTABLISH PROCEDURES FOR SETTING AND ADJUSTING RESTRICTIONS ON THE LANDING OF GROUND FISH CAUGHT IN NON-GROUND FISH FISHERIES

The FMP specifies what gear is legal for harvesting groundfish, and gears not listed may not land any groundfish taken either accidentally or intentionally. Exception was made for two non-groundfish fisheries (pink shrimp, and spot and ridgeback prawn) but the only way to allow landings of groundfish caught incidentally in other non-groundfish fisheries was by plan amendment or emergency rule. Amendment 4 authorizes adjustment of existing incidental allowances and establishment of new ones in non-groundfish fisheries.

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LIST OF ACRONYMS AND ABBREVIATIONS USED IN THIS DOCUMENT

| | |
|-------------------|---|
| ABC | acceptable biological catch |
| CDFG | California Department of Fish and Game |
| CFR | Code of Federal Regulations |
| Council | Pacific Fishery Management Council |
| CZMA | Coastal Zone Management Act |
| DAH | domestic annual harvest |
| DAP | domestic annual processing |
| DOC | Department of Commerce |
| DOE | Washington Department of Ecology |
| EEZ | Exclusive Economic Zone |
| EIS | Environmental Impact Statement |
| EFP | experimental fishing permit |
| EPA | Environmental Protection Agency |
| ESA | Endangered Species Act |
| FMP | fishery management plan |
| GAP | Groundfish Advisory Subpanel |
| GMT | Groundfish Management Team |
| GSG | Groundfish Select Group |
| HG | harvest guideline |
| INPFC | International North Pacific Fisheries Commission |
| IPHC | International Pacific Halibut Commission |
| IRFA | Initial Regulatory Flexibility Analysis |
| JV | joint venture |
| JVP | joint venture processing |
| LCDC | Oregon Land Conservation and Development Commission |
| MARPOL | International Convention for the Prevention of Pollution from Ships |
| MFCMA | Magnuson Fishery Conservation and Management Act of 1976 |
| MMPA | Marine Mammal Protection Act |
| MSY | maximum sustainable yield |
| mt | metric tons |
| NMFS | National Marine Fisheries Service |
| NOAA | National Oceanic and Atmospheric Administration |
| NWAFCC | Northwest and Alaska Fisheries Center |
| ODFW | Oregon Department of Fish and Wildlife |
| OSP | Optimum Sustainable Production |
| OY | optimum yield |
| PacFIN | Pacific Coast Fishery Information Network |
| PMP | preliminary fishery management plan |
| PRA | Paperwork Reduction Act |
| PSMFC | Pacific States Marine Fisheries Commission |
| regional director | regional director, National Marine Fisheries Service |
| RFA | Regulatory Flexibility Act |
| RIR | Regulatory Impact Review |
| SAFE | Stock Assessment and Fishery Evaluation |
| Secretary | Secretary of Commerce |
| SEIS | Supplemental Environmental Impact Statement |
| SSC | Scientific and Statistical Committee |
| TALFF | total allowable level of foreign fishing |
| WDF | Washington Department of Fisheries |
| WCZMP | Washington Coastal Zone Management Program |