

GROUND FISH ADVISORY SUBPANEL REPORT ON
GROUND FISH ESSENTIAL FISH HABITAT AMENDMENT SCOPING,
INCLUDING ROCK FISH

The Groundfish Advisory Subpanel (GAP) received a presentation on groundfish Essential Fish Habitat (EFH) modifications and associated regulatory changes under agenda item E.5 from Ms. Kelly Ames and Mr. Kerry Griffin, with assistance from Mr. Colby Brady. The GAP discussed this item thoroughly, and offers the following comments.

At the outset, we wish to underscore the importance of making regulatory changes that provide economic benefit to the fishing industry. The non-whiting trawl fleet is struggling to make the individual fishing quota (IFQ) program a success from an economic standpoint. While huge conservation gains have been realized, the fleet is only harvesting approximately 1/3 of the available annual catch limits (ACLs) costs continue to increase, the fleet faces a 5% buyback fee, a 3% cost recovery fee and observer costs are approaching \$500 per day with an incrementally decreasing reimbursement that is scheduled to run out by September of this year, leaving 100% of the burden on the fishermen. Some fishermen are choosing not to fish groundfish this year because the costs outweigh the benefits. The GAP believes it is essential that actions be prioritized that will have a measurable and positive economic impact on the fleet and will increase the opportunities for the non-whiting trawl fleet to harvest more of the available fish.

The GAP urges the Council examine all of the proposed actions with this goal in mind, and to fast track these high-priority actions. Several of the proposed actions under this agenda item may be severable from the overall package, as we note below, and where this is possible the GAP encourages the Council to do so.

Turning to Table 4 in agenda item E.5 Attachment 1, we address each of the sixteen items under consideration for this Council action. The GAP priorities are:

1. Implement the year-round midwater non-whiting fishery.
2. Implement gear changes such as eliminating the Selective Flatfish Trawl requirement.
3. Implement comprehensive RCA changes in conjunction with new EFH bottom trawl closures and openings.

1. Description and Identification: Habitat Components

This item is a low priority for the GAP. Council and NMFS staffs indicate that this work is already underway, and is primarily a matter of housekeeping.

2. Description and Identification: Spatial Extent

The GAP recommends dropping this item from the scope of the action. We understand from NMFS that no new information exists that would suggest waters deeper than 3500m can be designated as groundfish EFH. The GAP notes several public comment letters asking the Council to include a deepwater (>3500m) closure in this action. A deepwater closure is not a high priority for the GAP, but it was acknowledged in our discussion that the Council asked for this to be accomplished in Amendment 19. The GAP does not support a closure outside of 3500 meters as an EFH item. **If a deepwater closure is included in this action, the appropriate**

source of authority would not be EFH but rather the discretionary authority in Sections 303(b)(12) and 303(b)(2a) of the Magnuson-Stevens Act.

3. Adverse Effects of Fishing and Minimization Measures (Spatial or Temporal)

The GAP supports including this item in the scope of the action. Members of industry are working with conservation groups to jointly produce a package of changes to EFH conservation areas for the bottom trawl IFQ fisheries. We support this collaborative effort, and anticipate that the results of this working group will inform both the EFH item (#3 on this list) and the RCA item (#11 on this list). The collaborative has indicated that they expect to produce a final coast wide package by the September briefing book, and may be able to provide a preliminary sense of the changes under discussion by June.

Based on feedback from the collaborative group, the GAP understands that the geographic scope of changes to EFH conservation areas will ultimately fall somewhere within the range of no action to something within the existing proposals. We recommend the plan amendment team create straw man alternatives (including no action) for EFH changes in advance of the September meeting by assembling components of the existing proposals (a “blender approach”) and keeping a placeholder open for the results of the collaborative.

Relative to the current proposals collected in 2013, the GAP recommends:

- Exclude any creation of “marine reserves” or restrictions on the drift gillnet fishery. These issues contained in the Greenpeace proposal are not appropriate for groundfish EFH action.
- Eliminate changes to the “no bottom contact EFH conservation areas” in this action.
- Exclude new measures applicable to the midwater trawl whiting fishery from this action. Information developed by NMFS and industry demonstrates that potential bottom contact by the whiting fishery in EFH Conservation Areas is relatively low, and has markedly decreased since adoption of Amendment 19 even more so post trawl rationalization. Moreover, according to the EFH regulations, Councils must act to prevent, mitigate, or minimize any adverse effects from fishing, to the extent practicable, if there is evidence that a fishing activity adversely affects EFH in a manner that is more than minimal and not temporary in nature. Information provided to the Council by NMFS and industry indicates that any effects of the whiting fisheries in EFH Conservations Areas is no more than minimal and not greater than temporary in nature.

The GAP recommends that the current analytical approach and fishery information, as used by the whiting industry and NMFS, continue to be used to monitor whiting fishery interactions with the seafloor within the current EFH CAs. The GAP also notes that the whiting industry initiated a proactive effort to make it even more unlikely that whiting gear will make bottom contact in EFH CAs, and the GAP supports this initiative. Voluntary measures by the fishing industry have proved successful and these efforts hold similar promise. Finally, the GAP notes that regulatory measures relative to the use of whiting midwater trawl gear in EFH conservation areas could be assessed and considered as part of the next groundfish EFH five-year review, as appropriate.

In summary, the GAP recommends moving forward only with changes to the no bottom trawl EFH conservation areas, and we expect the results of the collaborative working group to inform the changes that ultimately will be made.

4. Non-Fishing Effects and Conservation Measures

The GAP does not regard this item as a high priority. We understand four new non-fishing activities were identified in the Phase 1 Report, and these could be added to the FMP appendix. Council and NMFS staffs indicate this is already underway and will require little extra work. The GAP does not necessarily oppose this but believes it is a low priority.

5. Cumulative Impacts Analysis

Comments from Council and NMFS staff indicate that cumulative impacts analysis will happen during the NEPA process. The GAP regards this as a low priority.

6. Conservation and Enhancement

This item is not a high priority for the GAP, and we recommend dropping this item from the EFH action because no new ideas or proposals seem to exist for conservation and enhancement measures although there are several items from #4 that do relate to non-fishing conservation and enhancement measures.

7. Prey Species

Revision of the groundfish prey species descriptions is not a high priority for the GAP. While we understand and appreciate the reasoning for this—protecting prey can help ensure groundfish productivity in the long run—we do not believe any urgent need exists to revise the prey species descriptions. To the extent the work has already been done on this item, it may be worth including in the FMP appendix, but the GAP cautions against creating extra workload by including this item in the EFH action.

8. Habitat Areas of Particular Concern (HAPCs)

After some discussion, it was clarified for the GAP that HAPCs are primarily oriented around protecting fish habitat from development or other non-fishing impacts. By providing NMFS with more leverage in the consultation process, HAPCs can help require other agencies to respect important habitat areas for fish. That said, Amendment 19 provided a fairly comprehensive designation of HAPCs off the West Coast, and the GAP does not believe that revision of HAPCs is necessary at this time. **In order to streamline this action and avoid extra workload, the GAP recommends dropping changes to HAPCs from the current action.**

9. Research and Information Needs

We do not regard this item as a high priority, and recommend it be excluded from the scope of the current action.

While research and information is always important, NMFS and the Council's capacity for additional work is limited and while revisions to this section of the FMP are not urgent. **If this item is addressed at some point in the future, we recommend incorporating the extensive knowledge of fishermen into the process.**

10. Review and Revise Process

The GAP recommends dropping this item from the scope of the EFH action, to simplify the action and reduce workload.

11. Comprehensive Trawl RCA Adjustments

For many years now, the GAP has urged the Council to make changes to the trawl RCA, in order to give trawl fishermen the flexibility that was promised them when the IFQ system was implemented. We strongly support moving forward with RCA changes, and regard this as a high priority item.

The scope of RCA changes should encompass full removal of the trawl RCA, which is an outcome preferred by many. The GAP believes this is feasible because the individual accountability and observer coverage afforded by the shorebased IFQ program provide sufficient control and information on the catch of IFQ species.

If some portions of the RCAs are desired to be retained, the GAP notes that there is a proposal by the Fishermen's Marketing Association for modification but not complete removal of the RCA, which leaves discrete polygons in place. The plan amendment team could consider this, creating alternatives for this action.

The GAP notes that the collaborative group is discussing the RCA issue in its port meetings, and is intending to produce a final recommendation for changes to the RCA (whether complete removal or otherwise) for inclusion in the September briefing book. We expect this recommendation will reflect industry's preference on the best approach to modifying the RCA.

To the extent the RCA is retained in any form, it is critical that the purpose is firmly established as bycatch reduction (or phrased more generally, species management). **The RCA is not and never was a habitat protection measure, and the GAP wants to avoid setting a precedent that links RCAs with habitat.**

In terms of packaging and speed, the GAP prioritizes revisions to the RCA, because of potential economic benefit, much more highly than revisions to EFH. We have asked for this repeatedly, and we believe RCA changes should be done immediately. From conversations with staff, however, we understand that the timing of RCA changes cannot be determined yet because the scoping of RCA changes will not occur until September. Even if this is true, the GAP still believes options may exist for fast tracking the RCA. For example, even if RCA changes are decided by the Council at the same time as EFH changes, the RCA changes could be implemented immediately in a separate rulemaking, with the rest of the EFH package following afterward. There may be other creative ways to expedite the RCA changes, as well.

12. Allow Year-Round Midwater Non-Whiting Fishery

The GAP strongly supports moving forward with this item. While there is not a direct nexus with habitat and it could be handled through a separate process, the GAP has identified this action as our number one priority and we recommend placing it in whichever package will move forward the quickest. A year-round midwater non-whiting fishery would represent significant value for the trawl fleet. Members of the GAP indicated in discussion that this may be the single most helpful change in terms of generating economic value for the fleet. The GAP believes this change should be pursued as quickly as possible, and encourages Council and NMFS staff to explore all possible alternatives to move it through the system more expeditiously.

13. Remove Small Footrope Restriction Shoreward of the RCA

The GAP recommends dropping this item from the current action. Removing the small footrope restriction could offer some benefits, especially in reduced fuel consumption and lower impacts on soft bottom habitat. That said, the small footrope requirement is a complicated issue and would involve a high analytical burden. The recent MSC certification also relied on the small footrope requirement in scoring the trawl fishery, and changes might impact the certification. For these reasons, the GAP believes other items are higher priority.

14. Close the 60-mile Bank to Reduce Cowcod Bycatch

The GAP recognizes the lack of regulation on 60-mile bank is a problem and supports addressing it. However, we recommend separating this item from the EFH package because it is minimally related to habitat protection and is primarily oriented around cowcod conservation. We encourage the Council to accomplish this through an emergency rulemaking or, if workload is a problem, through the harvest specs process. Investigating the possibility of more observer coverage in that area may help the situation. In the meantime, the GAP hopes that NOAA, OLE and California DFW continue to investigate this situation.

15. Fishing in More than One IFQ Area

The GAP recommends dropping this from the current action. The GAP recognizes that some fishermen in specific ports may be affected negatively by the regulatory lines dividing IFQ areas. Given the scope of issues affecting the IFQ fishery, however, **the GAP believes this item is not a high priority.** There ~~also~~ does not appear to be a significant habitat nexus, so this item could be addressed in a future (non-habitat) action.

16. Eliminate the Selective Flatfish Trawl Requirement Shoreward of the RCA

The GAP strongly supports removing the selective flatfish trawl requirement. Eliminating the selective flatfish trawl requirement is a high priority, as it would help fishermen utilize the IFQ system better and provide some of the promised flexibility in terms of “fish how you want, when you want, and where you want.” **The GAP encourages the Council to move this item forward as quickly as possible, and we recommend investigating the possibility of moving it to a stand-alone action or the gear regulation update package (if that package is expected to be finished sooner).** The GAP notes that the 8 inch footrope requirement is still in place.

PFMC
04/12/15