

GROUND FISH ADVISORY SUBPANEL REPORT ON FINAL ACTION TO ADOPT MANAGEMENT MEASURES AND EXEMPTED FISHING PERMITS FOR 2021-2022 FISHERIES

The Groundfish Advisory Subpanel (GAP) received an overview of the agenda item from Dr. Jim Seger and Mr. Todd Phillips, Council staff, on exempted fishing permits and harvest specifications, and Mr. Patrick Mirick provided the Groundfish Management Team's (GMT) presentation on management measures. The GAP offers the following comments.

Exempted Fishing Permits

The GAP recommends that all six exempted fishing permit (EFP) applications be adopted by the Council, including the changes made by applicants since the March 2020 meeting. We note that there was an error in the Emley/Platt application that described 30 percent observer coverage on EFP trips. The EFP applicant clarified for the GAP that there would be 100 percent observer coverage on all EFP trips.

For the set-aside amounts that will accommodate the EFPs, the GAP supports the updated values identified in Table 1 of GMT Report 2 (Agenda Item F.1.a, Supplemental GMT Report 2, June 2020).

Harvest Specifications and Management Measures

The numbering in this section corresponds with the Action Item Checklist ([Agenda Item F.1, Attachment 9, June 2020](#)).

1. Harvest Specifications

Except for shortbelly rockfish, the GAP supports the Council's April 2020 Final Preferred Alternative (FPA) selections for harvest specifications. The GAP requests the Council reconsider the 2,000 metric ton (mt) annual catch limit (ACL) identified for shortbelly rockfish for the reasons detailed below and refer back to previous comments on this issue ([Agenda Item G.6.a, Supplemental GAP Report 1, April 2020](#) – see item 11).

Since the April 2020 meeting, the GMT reported new information on shortbelly rockfish that states their previous maximum bycatch projection of 1,000 mt that was used by the Council to inform its FPA does not account for the population boom and is not an accurate projection of potential incidental catch ([Agenda Item F.1.a, GMT Report 1, June 2020](#)¹). The GMT cites recent peer-reviewed research as evidence that the shortbelly rockfish biomass may be magnitudes larger than previously estimated. This new information, which confirms experiences of fishery participants, compels the need to not only reconsider the ACL FPA, but to also reconsider how best shortbelly rockfish fits within the context of the Pacific coast groundfish Fishery Management Plan (FMP).

¹ “The Council made their FPA before the GMT became aware of this information, and their decision was made in part due to our earlier 1,000 mt maximum projection that we now conclude is likely an underestimate.” Agenda Item F.1.a, GMT Report 1, June 2020.

Based on this new understanding of abundance, recognition of the species' role in the ecosystem, and because it is not now not likely to be targeted, the GMT communicated to the GAP that they intend to recommend that shortbelly rockfish be managed as an Ecosystem Component (EC) species. The GAP agrees that an EC species designation, as defined in the [Pacific Coast Groundfish Fishery Management Plan](#) (FMP), would be more appropriate than setting an ACL, given that shortbelly rockfish are not targeted, are not generally retained for sale or use, and are not overfished or approaching an overfished condition.

Ecosystem Component Species are FMP species that are not actively managed in the fishery (i.e., no harvest specifications are specified for these species). Ecosystem component species are not targeted, are not generally retained for sale or personal use, are not subject to overfishing, and are not overfished or approaching an overfished condition (see section 4.4.4 for more detail). This FMP includes both EC species that are specific to the Groundfish FMP and EC species that are shared between all four of the Council's FMPs (referred to as "Shared EC Species"). (page 10, bolded emphasis added)

The analytical document for the harvest specifications and management measures ([Agenda Item F.1, Attachment 8, June 2020](#)) makes the case for EC designation, starting on page 187, pointing out that shortbelly rockfish have never been targeted and are not commercially valuable. The analysis demonstrates that designation as an EC species will not result in higher impacts than setting an ACL, given that "there is a high incentive to avoid shortbelly schools when targeting Pacific whiting since their presence in a whiting trawl damages the whiting and reduces the economic value of the haul" (page 188). Two recent shoreside whiting hits of shortbelly rockfish demonstrate the high incentive for avoidance – industry representatives described for the GAP how fishermen lost significant income for their vessel and crews when they had high shortbelly bycatch.

It is clear that shortbelly rockfish meet all of the EC species criteria. Moreover, the GAP is concerned that the alternative option – managing to an ACL – will be difficult to set appropriately and appears to require complicated management measures that provide little if any conservation benefit. Concerns about the appropriateness of setting an ACL are heightened because of the new information on the species' extraordinary abundance and distribution and because associated accountability measures could close fisheries if the ACL is set too low. Both the GMT report and the analytical document cite the difficulty and high uncertainty in predicting future incidental bycatch. If abundance and bycatch are highly uncertain and difficult to predict, it follows that setting an ACL to manage groundfish fisheries would also be highly uncertain and difficult to set. The GAP continues to have concerns over managing the groundfish fishery relative to shortbelly rockfish, which we have expressed in several previous statements ([Agenda Item I.7.a, Supplemental GAP Report 1, June 2019](#); [Agenda Item H.6.a, Supplemental GAP Report 1, September 2019](#); [Agenda Item H.4.a, Supplemental GAP Report 1, November 2019](#); [Agenda Item G.4.a, Supplemental GAP Report 1, April 2020](#); [Agenda Item G.6.a, Supplemental GAP Report 1, April 2020](#)). For these reasons, the GAP believes EC designation is the most appropriate path forward.

When designating an EC species, the Groundfish FMP recommends that the Council should consider measures to minimize bycatch and bycatch mortality, and protect the EC species role in the ecosystem. The GAP agrees that this is an important consideration.

While EC species are not considered to be “in the fishery,” the Council should consider measures for the fishery to minimize bycatch and bycatch mortality of EC species consistent with National Standard 9, and to protect their associated role in the ecosystem. EC species do not require specification of reference points but should be monitored to the extent that any new pertinent scientific information becomes available (e.g., catch trends, vulnerability, etc.) to determine changes in their status or their vulnerability to the fishery. If necessary, they should be reclassified as “in the fishery.” (page 22)

Fishermen already have economic incentives to avoid shortbelly rockfish and minimize bycatch, and the fisheries that have experienced the largest incidental bycatch of shortbelly rockfish, the Pacific whiting fisheries, currently operate with some of the highest levels of monitoring, reporting, and cooperation/communication of any fisheries in the world. Industry representatives from the whiting fisheries are the ones who identified the shortbelly rockfish bycatch problems in the first place, and reported them to National Marine Fisheries Service (NMFS) and the Council. These same representatives attend every Council meeting and frequently provide status updates to the Council, the GMT, and the GAP on fishery status and bycatch. The at-sea whiting fisheries and most of the shoreside whiting fishery operate in cooperatives where catch information is reported and shared between fishing vessels daily, and bycatch amount and location information is reported instantly when bycatch occurs above certain rates. While shortbelly are highly mobile, co-op managers and/or boards can respond to high bycatch of any species by implementing hot spot closures and/or advisory areas. Catcher-processors and motherships have two human observers on board each vessel, and catcher vessels carry electronic monitoring or a human observer and deliver their catch to shoreside plants with catch monitors or motherships with observers. The observer data from whiting fisheries is not only aggregated and shared between whiting sectors on the Sea State website that the whiting industry pays for, but is updated and published daily for the public on the PacFIN whiting report. All of this information sharing helps to minimize bycatch, because fishermen have real-time information at their fingertips, including exact track lines of where other vessel’s bycatch occurred. There is nothing hidden or unnoticed in these fisheries, and that would continue to be the case whether shortbelly rockfish is designated as an EC species or managed with an ACL. For these reasons, the GAP does not believe that additional regulatory measures to minimize bycatch are needed.

National Standard 1 guidelines at [CFR 50 §600.305\(c\)](#) list self-regulation by industry as one of the factors Councils should consider in determining whether stocks require conservation and management.

Based on this definition of conservation and management, and other relevant provisions of the Magnuson-Stevens Act, a Council should consider the following non-exhaustive list of factors when deciding whether additional stocks require conservation and management:

...

*(x) The extent to which the fishery is already adequately managed by states, by state/Federal programs, or by Federal regulations pursuant to other FMPs or international commissions, **or by industry self-regulation**, consistent with the requirements of the Magnuson-Stevens Act and other applicable law. (bolded emphasis added)*

While there is not a directed fishery for shortbelly rockfish on the West Coast, the GAP notes that cooperative management and self-regulation in the Pacific whiting fisheries is already occurring. In addition, there is a clear monitoring requirement with an EC designation, and, as mentioned above, monitoring would continue to occur within the cooperatives, the Council, and at NMFS.

There is no desire or incentive for industry to target or land shortbelly rockfish, which is one of the reasons the GAP recommends an EC designation for the species. However, the GAP received public comment suggesting that measures be taken to prevent a directed fishery, specifically by setting trip and/or processing limits. The GAP does not support the public comment proposal because of the potential for unforeseen consequences that could have significant economic impacts since the proposal is likely to require complicated management measures to track and account for retention and disposition of shortbelly rockfish. The proposed limits also would not change behavior or provide additional conservation benefits, since fishermen and processors already avoid shortbelly rockfish. However, if the Council decides there is potential merit in scoping regulations to prevent a directed fishery in the future, the GAP requests that such measures be comprehensively analyzed with industry collaboration.

The GAP is confident that EC designation is the most appropriate avenue for shortbelly rockfish. However, if the Council does not choose to designate shortbelly as an EC species as the GMT and GAP are recommending, the GAP then recommends selecting an ACL of at least 3,000 mt, up to an ACL equal to the acceptable biological catch of 4,184 mt. The rationale for this increase has been stated in previous GAP reports and is summarized in a [joint industry public comment letter](#) in the June 2020 Briefing Book.

2. Rockfish Conservation Area Coordinate Updates

The GAP supports the GMT's proposals for non-trawl RCA line modifications, as listed in Supplemental GMT Report 4 under this agenda item. Specifically, those include:

1. **Adopt the updated RCA coordinates PPA from April as the FPA** (Correct the 40-fm boundary line for a small area off Central California; and correct the 100-fathom (fm) line used to define the seaward RCA boundary south of 34° 27' N. lat.). These were included in the [Analytical Document/Draft Environmental Assessment for the 2021-2022 specifications \(Attachment 8\)](#).
2. **North of 40° 10' N. lat. (commercial): Select Option 2**, which would result in a year-round RCA closed area of 40 fm shoreward to 100 fm seaward. Effectively, this would increase the fishable area by 10 fm shoreward of the RCA. The background for this was included in the [Joint CDFW/ODFW report in April 2020](#).
3. **South of 40° 10' N. lat. (commercial): Select Option 2**, for three areas off California, which would result in the following closed area. The area in Southern California, south of 34° 27' N. lat., was included in the [analytical document](#).

| | Area | Year-round closed area |
|----------|---------------------|---|
| Option 2 | 40° 10' – 38° 57.5' | 40 – 100 fm <i>(seaward boundary adjustment)</i> |
| | 38° 57.5' – 34° 27' | 50 – 100 fm <i>(both shoreward and seaward boundary adjustments)</i> |
| | South of 34° 27' | 100-150 fm <i>(shoreward boundary adjustment)</i> |

4. **South of 40° 10' N. lat. (recreational): Adopt April's PPA as the FPA.** This would move the recreational RCA line from 75 fm to 100 fm in the southern management area, allowing the California sport fishery to fish from 0-100 fm.
5. **Remove the South Coast and Westport YRCAs:** These were included in the [Analytical Document/Draft Environmental Assessment \(Attachment 8\)](#).

As noted in [Attachment 8](#), the analysis for modifying the commercial RCA lines shows rockfish stocks would remain within their species-specific or complex-specific ACLs while allowing fishermen to target formerly traditional fishing grounds using traditional gear. These areas are critical for small-boat commercial fishermen to access trip limits that have been increased as part of the 2021-2022 biennial harvest specifications package or as part of inseason (and biennial harvest specifications) management. Commercial fishermen would primarily target the midwater rockfish species: bocaccio, bank, yellowtail, widow, shelf and chilipepper rockfish. Vertical longlines and shrimp fly gear, used with either a pole and electric reel or trolled with gurdies, were the favored gear used to catch these species before the RCA was implemented; it is likely this type of gear or similar non-bottom contact/midwater gear would be used again, especially in the area between 40° 10' N. lat. and 34° 27' N. lat. The shrimp fly gear produces the highest CPUE when fishing for midwater shelf rockfish.

The GAP also discussed the potential for gear-specific RCA modifications both north and south of 40° 10' N. lat. for commercial fisheries. While the GAP appreciates the idea of identifying midwater gear types as a way to open some of these new areas, the GAP does not support limiting gear types at this time. This becomes problematic for fishermen who have not had experience fishing with these gear types or fish only with bottom longline or pot gear. Bottom contact gear would not affect a majority of the areas and this sector should not be provided less of an opportunity to access rebuilt stocks than other fixed gear fisheries. Furthermore, some of the areas proposed for opening are already accessed by other bottom contact gear such as trawl or crab pots. The biennial harvest specifications process considers routine line changes; it should not affect gear types as it is independent from essential fish habitat (EFH) issues.

Adding an EFH “overlay” to the RCA line issue further complicates the matter and, the GAP feels, is unnecessary. The RCAs implemented several years ago, worked as intended: they helped protect sensitive rockfish stocks and increased the opportunity for those rockfish stocks to rebuild. All these changes would allow additional options for fishermen to target stocks that have been rebuilt.

Spatial closures are especially harsh: They restrict access to all species found there, not just the intended one. The GAP believes when access to fish an area is restricted for a specific goal – such as the rebuilding of overfished rockfish stocks -- that the restriction should be adjusted accordingly when the stated goal is attained. Access restrictions to accommodate *other* goals should be considered independently. Gathering information to further alternate goals should not impede reopening a closed area to the fisheries and the public.

The GAP has consistently objected to the combination of EFH issues with RCA management. As we said in our [Agenda Item G.6.a Report from September 2013](#) regarding trawl RCA lines, “Habitat designation was not the impetus for designating these [rockfish] areas.”

Alternatively, the GAP suggests that all RCA areas that have no EFH conservation areas should be opened automatically to increase access to stocks that have been rebuilt.

The GAP did consider habitat analyses and understands the importance of minimizing habitat impacts. However, these areas proposed in the biennial harvest specifications are relatively small. The more complex non-trawl RCA line changes included in the [GAP scoping document/informational report](#) on high priority groundfish items will require a more comprehensive analysis and several meetings to work through. At that time, considerations of EFH will likely be included, as they were in the Amendment 28 process. According to the Council’s website, Amendment 28 “reopened approximately 3,000 square miles to groundfish bottom trawling, closed approximately 13,000 square miles (including almost all of the Southern California Bight), and closed approximately 123,000 square miles to all bottom contact groundfish gear in waters deeper than 3,500 meters.”

For sport fisheries, the GAP supports the removal of the Yelloweye Rockfish Conservation Areas off Washington for recreational fisheries, as it will allow sport fishermen more access to healthy stocks in the area, such as lingcod and canary rockfish (this is also discussed in [Agenda Item G.6.a, Supplemental GAP Report 1 from April 2020](#)). Furthermore, it will take some pressure off other nearshore stocks that have seen a lot of pressure due to other fishing constraints. The GAP acknowledges this may have an effect on yelloweye rockfish, but the projections show the sport sector will remain under its 2021-2022 harvest guideline by a couple tons. And if, by chance, there is a concern, the Washington Department of Fish and Wildlife (WDFW) can implement emergency regulations quickly to protect the yelloweye stock, thanks to its robust sampling operations.

3. Non-Tribal Off-The-Top Deductions

As mentioned in the EFP section above, the GAP supports the updated set-aside values for the EFPs. The GAP supports the Council’s preliminary preferred alternatives (PPA) for all other items under non-tribal off-the-top deductions, except that the GAP recommends Alternative 4 (no ratio) for yellowtail rockfish retention in the salmon troll fishery north of 40° 10’ N. lat. Salmon trollers could land up to the monthly limit of yellowtail as long as salmon was landed as well, which could help fishermen be more efficient and salvage a trip if salmon fishing is slow. The analytical document for the harvest specifications and management measures ([Agenda Item F.1, Attachment 8, June 2020](#) – page 235) shows that the incidental open access (IOA) set-aside value of 7 mt is set equal to the maximum historical catch in 2005, but since 2005, the average catch has been 2.7 mt, and the highest catch year was 4.5 mt in 2015. The monthly limit of 500 pounds is unchanged between alternatives, recent catch amounts fall well below the 7 mt IOA, and the yellowtail

population is rebounding. For these reasons, the GAP supports no ratio for yellowtail retention in the salmon troll fishery north of 40° 10' N. lat.

11. Shortbelly Accountability Measures

As discussed under the Harvest Specifications section (#1) of this report, the GAP recommends that shortbelly rockfish be designated as an EC species, and not managed with an ACL. That section also discusses the incentives for fishermen to avoid shortbelly bycatch, and the accountability measures that are already built into both the cooperative management of the whiting fisheries (information sharing, reporting, hot spot closures/advisory areas) and the NMFS/Council management of the whiting fisheries (observers, electronic monitoring, coop reports, and tools like block area closures, fishery closures). For these reasons, whether shortbelly is managed as an EC species or under an ACL, the GAP recommends that the Council not implement prescriptive or complex regulatory accountability measures for shortbelly rockfish.

The NMFS report under this agenda item ([Agenda Item F.1.a, Supplemental NMFS Report 1, June 2020](#)) walks through additional considerations for the suite of accountability measures identified by the GMT. The GAP believes that any prescriptive ACTs or future allocations that would close fisheries could be very problematic, particularly because this species is so unpredictable and certain sectors may need more in certain years. For example, the mothership whiting sector encountered large amounts of shortbelly bycatch in the spring of 2019, while the shoreside whiting sector has had shortbelly lightning strikes so far in the spring of 2020. Separating or suballocating to the at-sea and shoreside fisheries separately could strand needed bycatch and lead to complex management structures at a time when our fisheries need simplification. While the GAP recommends EC species designation and does not believe that additional accountability measures are needed, if the Council does choose to move forward with any of the measures described in the NMFS report, the only option the GAP would recommend is the Overage Carryover ACT under a higher ACL.

14. Washington Recreational

The GAP supports the WDFW recommendations in Supplemental WDFW Report 1 ([Agenda Item F.1.a, Supplemental WDFW Report 1, June 2020](#)).

15. Oregon Recreational

The GAP supports the Oregon Department of Fish and Wildlife's (ODFW) recommendations in ODFW Report 1 ([Agenda Item F.1.a, ODFW Report 1, June 2020](#)).

Other Items

The GAP supports the Council's PPAs and has no further comments on the following items:

4. Tribal Off-The-Top Deductions
5. Annual Catch Targets (ACT)
6. Harvest Guidelines (HG) or State Shares for Stocks in a Complex
7. Two-Year Trawl/Non-Trawl Allocations
8. Amendment 21 Allocation Changes
9. At-Sea Whiting Set-Asides
10. Within Non-Trawl HGs, ACTs, or Shares
12. Shorebased Individual Fishing Quota (IFQ) Trip Limits
13. Limited Entry Fixed Gear/Open Access Trip Limits and Gear Restrictions
16. California Recreational

Special Thanks

The GAP would like to thank the GMT, Council staff, and NMFS for all the hard work on the harvest specifications and management measures over the past several meetings.

We would also like to express our appreciation to Mr. Patrick Mirick, who over the past several years has spent inordinate amounts of extra time with the GAP to brainstorm and come up with solutions on complex issues for our groundfish fisheries. Congratulations on your new job Patrick, you will be so missed by all of us in the Council family!

PFMC
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