

GROUND FISH ADVISORY SUBPANEL REPORT ON TRAWL RATIONALIZATION TRAILING ACTIONS AND ALLOCATION AMENDMENTS

The Groundfish Advisory Subpanel (GAP) considered the following list of trailing amendments in the H.5 situation summary that are already in the Council process:

- 1) Superseding A-6 with A-21 allocations;
- 2) halibut reallocation;
- 3) cost recovery;
- 4) quota share (QS)/quota pound (QP) control rule and safe harbors;
- 5) mothership/catcher vessel catch history severability; and
- 6) adaptive management program quota pounds pass-through.

The GAP, in general, believes all these trailing actions are important and should move ahead with the exception of community fishing associations, which is under #4. The pass-through of the adaptive management program (AMP) pounds should continue and could be handled through the biennial specifications process. The GAP believes these two items are of lower urgency and can be put on the back burner. Other trailing amendments – both regulatory and Fishery Management Plan (FMP) amendments – are much more pressing in nature to facilitate the trawl individual quota (TIQ) program's success.

Additional GAP comments regarding these six amendments are as follows:

1. A-21/A-6 and set-asides: The GAP reviewed Agenda Item H.5.a, Attachment 2 regarding the issue of Amendment 21 allocations superseding Amendment 6 allocations. The GAP unanimously recommends the Amendment 21 trawl/non-trawl allocations supersede the Amendment 6 limited entry/open access allocations for those species subject to Amendment 21 (i.e., Alternative 1 in Attachment 2 under Agenda item H.5 in the council's briefing book). The GAP has understood through the Amendment 21 process that Amendment 6 allocations were part of the No Action Alternative, which was explicitly rejected in favor of the preferred Amendment 21 allocations. Further, the GAP is concerned that the option of specifying both Amendment 21 and Amendment 6 allocations for Amendment 21 species could result in an over-allocation of a stock's annual catch limit (ACL) or the inability to fully allocate a sector's share of the harvestable surplus. This result could be realized in cases where a stock's ACL is fully accessible.

The GAP also discussed the National Marine Fisheries Service (NMFS) implementation of the management of yield set-asides under the Amendment 21 action. Yield has been routinely set aside to account for catches from research, exempted fishing permits (EFPs), tribal fisheries, non-capped bycatch in at-sea whiting fisheries, and bycatch in non-groundfish fisheries. Under Amendment 21, yield is set aside during the biennial specifications decision-making process to cover these sources of catch before any of the harvestable surplus is allocated to directed groundfish fisheries. However, under the

NMFS implementation of Amendment 21, this yield is held static for two years and cannot be re-allocated during inseason management. This effectively strands resources that could otherwise be utilized in directed fisheries even in cases where it is not needed to cover the proposed activity. For instance, if there is a set-aside for EFPs during the biennial specifications process, but EFPs are not approved or are conducted and completed without using the entire yield set aside to cover EFPs, this yield cannot be used for directed fisheries. The GAP recommends the Council adopt a more flexible strategy where that yield can be re-allocated if the set-aside is no longer needed for its intended use. This is how set-asides and buffers in the scorecard were used prior to the adoption of Amendment 21 and how the GAP believes management of set-asides should continue. The details on how set-asides are managed could be the subject of decision-making in the biennial specifications process.

2. Halibut reallocation: The GAP recommends a new alternative be analyzed that is a slight modification to Alternative 1 summarized on Table 2-1 of Attachment 3 under Agenda Item H.5.a. The new GAP alternative would set the trawl allocation of Pacific halibut to 15 percent of the Area 2A total catch exploitation yield (TCEY) without a poundage cap. In situations when trawl opportunities on the northern shelf are severely constrained (e.g., an important shelf target species like Dover sole is declared overfished), a ratio of less than 15 percent of the TCEY can be specified as the sector limit. These cases could be analyzed and considered in the biennial specifications process. This alternative would scale the trawl halibut bycatch limit to the abundance of halibut on the west coast while taking into consideration the availability of trawl target species on the shelf. The objective of this alternative would be to reduce halibut bycatch by 50 percent. Since the GAP alternative is based on a percentage of the Area 2A TCEY, this is fair to the non-trawl sectors since non-trawl sector allocation increases with increased abundance of halibut. The conversion to address the legal/sublegal issues contained in alternatives 1 and 2 and the proposed GAP alternative is necessary. Modifying the trawl halibut limit should be fast-tracked, even though the trawl industry realizes this will not bring any bycatch relief in 2011.
3. Cost recovery: Again, the GAP understands the necessity for this but reiterates that transparency is necessary.

We recapitulate from our November 2010 statement:

“The GAP recognizes the complexity surrounding development of the cost recovery program. In part due to that complexity, and in part in order to maintain as open a process as possible, we firmly believe that the Council should play a strong and active role in the development of the cost recovery program.

“The GAP notes that cost recovery should be limited to the incremental costs of administering the trawl rationalization program. The appropriate formula to determine incremental costs should be new costs that wouldn’t occur but for the transition to individual quota (IQ)/coop management reduced by any cost savings due to the transition to IQ/coop management. This should include savings, if any, in reduced modeling for the trawl fleet, reduced enforcement needs over time etc.

“One existing cost which the GAP feels needs to be taken into account when calculating incremental costs of the program is the amount required to provide for the current observer coverage rate in the fleet. The GAP is adamant that that cost be reduced from each sector’s incremental cost accordingly.”

4. QS/QP control rule and safe harbors: The GAP feels this should move forward, but without the community fishing association (CFA) part. CFAs will do little – if anything – to keep the TIQ program on schedule and operating efficiently, as we have stated earlier and in previous statements.
5. MS/CV severability: This is an easy fix and, as the GAP stated in September and November 2010, should be done quickly.

We recapitulate from the GAP’s November 2010 statement:

“Approximately 22 more permits were allotted mothership (MS)/catcher vessel (CV) history than currently participate. In general, the allocations to those permits are very small. Without the ability to sever that quota from the permit, a current participant will have to buy the permit in order to have permanent access to the catch history. The cost of buying the permit will be disproportionate to the value of the catch history. Severability will also allow those who wish to participate in the fishery the ability to retain their permit to harvest non-MS individual quota to sell their catch history rather than choosing to join a co-op, fish in the non-co-op fishery or just strand their fish.

“Severability is supported by the MS sector and is consistent with the goals of Amendment 20.”

As the GAP has said on several occasions, we believe the priority for trailing actions on Amendment 20 should focus on those things that make the trawl rationalization program work and thus meet the objectives established by the Council, which are:

1. Provide a mechanism for total catch accounting.
2. Provide for a viable, profitable, and efficient groundfish fishery.
3. Promote practices that reduce bycatch, discard mortality, and minimize ecological impacts.
4. Increase operational flexibility.
5. Minimize adverse effects from an IFQ program on fishing communities and other fisheries to the extent practical.
6. Promote measurable economic and employment benefits through the seafood catching, processing and distribution elements and support sectors of the industry.
7. Provide quality product for the consumer.
8. Increase safety in the fishery.

In looking at those objectives – especially numbers 2, 3, 4, 6, and 7 – what stands out to us is the need to be creative, to develop new business practices, and, most importantly, to develop different ways to catch fish. Unfortunately, we are having a problem.

Over the past 20-plus years, the Council, NMFS and the states have built up a body of regulations based on the way we used to operate. These include restrictions on how trawls are constructed and used, where they are used, and even when they are used. All of these regulations were for a good cause: to properly conserve and manage groundfish stocks. But now we are operating under a rationalized system that forces us to be creative in order to be successful and we can't be creative under the new system if we are stuck operating under the regulations developed for the traditional system.

The Council has heard some of these suggestions before: changing the whiting season start date, allowing use of midwater trawl gear, letting fishermen experiment with mesh size and net construction to exclude bycatch, among others. If we maintain strict individual accountability, we believe these changes can be identified and included as either separate regulatory trailing actions or as part of the 2013-2014 biennial specifications. But we need to start working on identifying them now so they can be folded into the regulatory process.

NMFS and Council staff have identified the following potential amendments, brought up by various entities that may require a closer look. They have been lumped together under the Program Improvement and Enhancement (PIE) rule.

1. Review requirements and limits for gear switching and multiple gear use. This is one issue the GAP feels is important. If all catch is fully accounted, there's no reason one vessel should not be able to carry and fish both fixed-gear (longline and/or pots) and trawl gear at the same time. This would provide the trawl industry more flexibility to make the TIQ program work. It also would save fishermen time and money when running from port to the fishing grounds – distances that can be more than 260 miles round-trip in some cases. This modification increases efficiency in the trawl rationalization program and better accomplishes the bycatch savings objective associated with gear switching.
2. Revisit the need to remove permits to fish California halibut south of Point Arena and ridgeback prawn, sea cucumber non-groundfish trawl gears (all non-groundfish trawl except pink shrimp). The Council's Amendment 20 final preferred alternative specified that vessels with LE trawl permits would be able to participate in these fisheries without removing the permit from the vessel. The GAP believes a declaration process would suffice to address enforcement concerns on this matter.
3. Open access/limited entry catch accounting regulations between sectors. This is a Council staff-identified issue that the GAP understands needs to be fixed. The GAP would like a more complete explanation before offering recommendations on how to address this issue.
4. First receivers' completion of tickets before fish leaves the first-receiver's site. The GAP identified one potential solution. In situations where fish are being transported prior to processing, an e-ticket should be assigned to the first-receiver site from the home office to prevent double counting of landings. It should be required that an e-ticket be assigned to each dock receiving document at the first receiver site during the course of the offload and that signatures should be required on each document prior to the weighed and sorted product leaving the first receiver site from a vessel

representative, the observer/monitor, and the first receiver. That e-ticket number would follow the observer's paperwork and dock tickets when they are faxed from the first receiver to the home office – and the home office would submit the final e-ticket within 24 hours of the completion of the off-load.

5. Procedural provisions to allow end-of-year resolution of accounts for purpose of determining carryover (possibilities include restricting fishing, restricting transfers, issuing carry-over at the end of January, etc.). This is a NMFS/Council staff-identified issue that needs to be fixed. The GAP would like to point out that new quota will be available for vessel accounts at the start of the year and that there is not an immediate need for vessels to access their carry-over QP on January 1. NMFS could take until, for example, the end of January to complete the carryover calculations based on end of year data and then add those amounts to the vessel accounts at that time. On that basis, there may not be a need to restrict fishing or transfers at the end of the year to resolve QP account balances.
6. Requirement that observer (and a crewman) remain on board until the offloading is completed (observer chain of custody issue). The GAP identified two potential solutions for this, one of which had been discussed informally outside the Council process: 1) securing the fish hold with either a lock or a numbered metal tag like those used in the trucking industry; or 2) a paper can be signed by both the captain and observer agreeing the recorded data is accurate, thus eliminating the need for anyone to stay on the boat. This works since the observer and fisherman have been on the boat during the whole trip and the observer has recorded the overfished species' catch. The GAP realizes this would not work for Pacific whiting because the catch is not sorted. Further, the GAP believes this issue is as important as the halibut allocation issue. It would provide a cost savings to the industry and eliminate a lot of frustration on behalf of the industry and observers.

Without fixing the chain of custody issue, fishermen will continue to incur significant costs. For instance, a trawler fished 13 days but had to pay for 22 days of observer coverage, an additional cost of more than \$3,150.

The GAP believes that streamlining observer costs and looking at alternative monitoring technologies is necessary. In the long term, we need to look at alternative monitoring technologies to bring the costs down overall. Streamlining monitoring costs should be addressed as soon as possible.

7. Allow gear modifications that increase efficiency and selectivity. The GAP generally agreed that all trawl gear regulations previously implemented under traditional management would not be eliminated but that some changes are necessary and could prove beneficial. For example, allowing the use of a four-seam net as opposed to a two-seam net could make it easier to use certain types of halibut excluders. Allowing this type of modification would prove beneficial to fishermen, the industry, and the fish.

During GAP discussion, other items that seemed either a) relatively simple; b) integral to the success of the TIQ program; or c) a combination of both (a) and (b) became apparent and should be added to the PIE:

1. Changing the shoreside Pacific whiting start date. Under a rationalized fishery, it may be reasonable for all sectors to start fishing at the same time and earlier in the year. Some members of the GAP deemed this as critical as the halibut allocation issue and the observer chain-of-custody issue.
2. Rockfish Conservation Area (RCA) modifications. The GAP agreed the boundaries of the RCA should not be eliminated at this time, but should at least be relaxed so fishermen can experiment using modified gear types in areas that are now closed to reduce bycatch and more selectively access target species. This would afford the participants the flexibility needed to make the TIQ program successful. The GAP realizes that this could be taken up under the decision-making processes for biennial specifications or through inseason adjustments.
3. The IFQ Holding Requirement. The GAP recommends changes to the IFQ holding requirement that requires deficits greater than 10 percent to be covered within 30 days without being in violation. Ideally, a trawler should be able to continue fishing when the deficit is under the 10 percent carry-over limit. At the very least, the penalty for failure to cover deficits within 30 days is overly punitive and should be removed.
4. Processing at sea. Under the current groundfish regulations, processing black cod at sea is prohibited. Mr. Brett Hearne brought this concern before the GAP at this meeting as he has on prior occasions. The GAP feels an exemption in this case is justified and not unprecedented.

In addition to the exemption for Mr. Hearne, the GAP also believes the subject of processing at sea generally will need to be further considered.

The last overarching GAP recommendation is that an ad-hoc committee or panel be organized to address these issues. In order to work most effectively and efficiently, in addition to constituent representation, such a group should include the fishery managers. Council staff, NMFS region and enforcement staff, and NOAA General Counsel representation on this committee would be needed to provide guidance and avoid wasting energy developing reports on proposals that may be non-starters (e.g., not be doable for reasons such as enforcement, NMFS regulations, or other system constraints).

PFMC
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