

MEMORANDUM

TO: Council, SSC and AP Members
FROM: Chris Oliver *Chris*
Executive Director
DATE: April 1, 2002
SUBJECT: GOA Groundfish Rationalization

ESTIMATED TIME
2 HOURS

ACTION REQUIRED

Review progress from GOA Working Group.

BACKGROUND

At its February meeting, the Council appointed a new committee to refine its draft problem statement, possible alternatives for analysis, species for rationalization, and qualifying years for participation. The first meeting occurred on March 14 and 15 in Anchorage. The working group revised the problem statement and objectives, identified a multi-species approach to rationalizing the Gulf groundfish fisheries, and identified a course of action through the summer.

The working group will convene briefly on April 9 at 5 PM for a final review of its March minutes. Those minutes will be distributed during the Council meeting. After the Council has reviewed the working group's progress to date, the group may schedule its next meeting in May to identify analytical options for qualifying years and report back to the Council at its June meeting. If the Council concurs with the recommendation to call for proposals on rationalization alternatives from the public, the working group may schedule meetings over the summer to review those proposals and identify alternatives for analysis. It would report those recommendations to the Council at its October meeting. The Committee has also requested additional data aggregation from staff relative to assessing qualifying years.

NMFS staff plans to file a Notice of Intent for Scoping for rationalizing GOA groundfish fisheries and invites the Council to provide comments on how to proceed with scoping on this issue. The working group has recommended that a call for proposals on rationalization alternatives be conducted during Summer 2002 to aid the group in recommending a suite of alternatives for analysis in Fall 2002. The group recommended that its process of developing analytical alternatives be considered part of scoping. It has also proposed scoping meeting locations.

PUBLIC TESTIMONY SIGN-UP SHEET FOR AGENDA ITEM C-9 GOA RAT.

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LINES LEFT BLANK WILL BE DELETED.**

	<i>NAME</i>	<i>AFFILIATION</i>
1.	✓ Beth Stewart	AEB
2.	✓ Joe Childers	WGDAE
3.	✓ John GAUVIU	GFF
4.	✗ Julie Penny	AGDB
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**Gulf of Alaska Work Group
Draft Minutes
March 14-15, 2002**

The Gulf of Alaska Work Group convened on March 14 at 10:30 A.M. and ended on March 15 at 4:00 P.M. in Anchorage. Chairmen Stephanie Madsen and Stosh Anderson, and committee members Joe Childers, Beth Stewart, Dorothy Childers, Dan Falvey, and Julie Bonney. Staff included Jane DiCosimo, Glenn Merrill, Tracy Buck, Kate Troll, and Mark Fina. Eighteen members of the public attended and eight provided testimony.

The committee members made opening remarks regarding their goals for the committee. The committee approved a modified agenda.

Approaches

The Committee recommended that the Council refer a management issue related to the commercial Pacific cod fisheries to the Board of Fisheries at its next Joint Protocol Committee in April 2002. Concurrent with the Council process to rationalize federal Gulf of Alaska groundfish fisheries, the Board would address a discrepancy between state and federal regulations which allows vessels that are not federally licensed to fish in state waters during the Federal opening. Landings from those unlicensed vessels count against the federal TAC because state regulations stipulate that the state GHF does not begin until 10 days after the federal TAC closes. The committee noted that this situation does not occur in the open access fishery in state waters for sablefish because the state GHF and federal TAC fisheries run concurrently. Therefore, the landings by an unlicensed vessel do not count against the federal sablefish TAC. Continuation of the current regulatory discrepancy would void any gain from rationalizing federal fisheries.

The committee achieved consensus on the following decisions, except as noted.

I. Revised Problem Statement and objectives

The committee revised the problem and vision statements into the following problem statement and objectives.

Proposed Problem Statement for Gulf of Alaska Groundfish Rationalization

Increasing participation in the Gulf of Alaska fisheries, as well as increasing catching and processing capacity, have intensified the race for fish with the attendant problems of:

- reduced economic viability of the harvesters, processors, and GOA communities
- high bycatch,
- decreased safety,
- reduced product value and utilization,
- jeopardy to community stability and their historic reliance on groundfish fishing and processing,
- limited the ability of the fishery harvesters and processors to respond to changes in the ecosystem
- limited the ability to adapt to Magnuson-Stevens Act (MSA) requirements to minimize bycatch and protect habitat,
- limited the ability to adapt to changes to other applicable law (i.e., Endangered Species Act).

All of these factors have made achieving Magnuson-Stevens Act goals difficult and force reevaluation of the status quo.

Future management measures should attempt to address the problems identified in the problem statement and comply with the following objectives. Note that some objectives are applicable to some species but not to others. The objectives may be used to design and review the resulting program. The committee may reevaluate the language of the objectives so that any future evaluation of the program may be measureable.

Objectives

1. Maintain the character of an independent harvester fleet while allowing for meaningful reduction of excess capacity.
2. Foster a healthy, competitive processing and harvesting environment.
3. Protect the harvesting, processing, and community sectors from losing the relative value of their existing investments.
4. Maintain the relative market balance between the harvesting and processing sectors.
5. Provide opportunities for Gulf of Alaska coastal communities to benefit from rationalization programs.
6. Consider historic and recent participation for allocating the benefits of rationalization to all three sectors.
7. Maintain and encourage participation in rationalized fisheries by active holders of quota shares, catch histories, or licenses.
8. Effectively control excessive consolidation and vertical integration by all sectors.
9. Consider the status of skippers and crew.
10. Provide entry level opportunities for individuals.
11. Meet Magnuson-Stevens Act requirements, including conservation requirements.
12. End the race for fish and improve the economic viability of harvesters and processors.

A trailing amendment for cost recovery would be undertaken by NMFS.

Vessel buyback provisions have the potential to contribute to the above objectives and should remain part of the discussions of GOA rationalization.

II. Multispecies approach

The committee recommended a comprehensive (one step) approach to rationalizing federal groundfish fisheries to avoid sideboard issues in the Gulf. Fishery participants should be guaranteed access, either to their traditional gear type or allowing flexibility to switch gears after initial allocation (with Beth Stewart objecting to the recommendation).

The committee recommended the alternatives should be structured so that:

1. Different options may be recommended for Western and Central Gulf
2. Exempt SEO, except for sideboard issues
3. Analyze West Yakutat/SEO split for all species (to determine sideboard effects)
4. Exempt areas may be rationalized in the future

III. Qualifying years

The committee will recommend options for analyzing qualifying years for eligibility of harvesters and processors that would address recency requirements at a subsequent meeting after further consideration of options for the following issues.

1. All species (e.g., including arrowtooth)
2. By gear type:
 - trawl (option for a pelagic/non-pelagic split) Julie Bonney and Beth Stewart opposed the trawl split
 - fixed (option for a longline/pot split)
 - options to allow transfers to new gear type (hook and line or pot, but not trawl) after initial issuance
 - exempt jig
3. Transferability across fisheries
4. Transferability across gears
5. Transferability by using halibut and PSC caps
6. New species

The committee discussed options for qualifying years, but deferred any recommendations until a subsequent meeting when it could review additional databases requested of staff.

- select one or multiple set(s) of qualifying years for different gear types; options include:
 - drop one or two years (1996-2001 or 1995-2000 as book ends), with minimum poundage requirement (25,000 lb for trawl)
 - datasets were requested for the two time periods (above) to compare recent vs past participation

The committee may:

- develop a 2 tier license system for pollock and cod where a 2nd tier license would be activated when TACs return to some benchmark
- reward dependence on Gulf fisheries
- recognize regional delivery patterns
- issue shares by vessel category

After reviewing this data, the committee may consider:

- 1) mitigating AFA leasing impacts;
- 2) address the spillover effects of 2000 opilio closure;
- 3) recognize and address regional delivery patterns.

IV. Committee assignments to develop proposals for other provisions of the program will be reviewed at the May committee meeting:

1. split TAC between open access and fishing allocations for non-fully utilized fisheries: **Beth and Julie**
2. gear transfer provisions: **Joe, Dorothy, and Dan**
3. prohibited species catch exchange: **Julie**
4. Southeast ~~Outside~~: split WY landings to determine whether to include only for sideboard issues: **Staff**
5. regional GDA alternative: **Dan**
6. Effects of State fisheries on residents, harvesters, and processors in GOA communities: **Kate Troll**
7. Community meetings to develop proposals: **Kate Troll**
8. Readdress shortraker, roguheye, thornyhead bycatch in halibut fishery (Sablefish groundfish bycatch is included in database): **Committee**

The committee discussed that the Council may wish to identify a process for the public to assist the committee in the development of proposals to complete the chart of "elements and options based on cooperatives, IFQs, or LLP reduction approaches." The committee recommended that the Council issue a new call for Gulf groundfish rationalization proposals that will be vetted through the committee over Summer 2002. The committee will recommend proposals for inclusion in the analysis in October 2002.

V. Data request

The committee requested that staff, possibly with contractor assistance, provide queryable databases at its May meeting. The databases will allow the committee to identify options for qualifying periods as noted under Part IV. Staff will provide an update of what it can provide at the April 9th committee meeting.

VI. Other business

The committee received public comment on whether to include BSAI non-pollock groundfish under this initiative because rationalizing Gulf groundfish (particularly pollock and cod) will likely free up Gulf vessels to move into BSAI groundfish (particularly Pacific cod). The committee noted that rationalization of Gulf groundfish has the potential to impact all BSAI non-pollock groundfish fisheries, not just the BSAI Pacific cod fishery. The committee identified that the BSAI sideboard issues are beyond the committee's task; however, the Council may choose to include the BSAI in the notice of intent for scoping. It noted that bringing in the BSAI groundfish fisheries at this point would be difficult, contentious and time consuming. The committee recommended that a BSAI groundfish rationalization initiative not impede progress on GOA groundfish rationalization if the Council selects a parallel track for the BSAI.

VII. Next steps

1. The March 28 teleconference was canceled and the April 9 meeting will be abbreviated, and scheduled to begin at 5 pm, due to the great progress made by the committee and public at this meeting.
2. NMFS staff will proceed with the Notice of Intent for Scoping (incorporating Tribal and community consultation and the outline (see Attachment 1), with meetings possibly for Kodiak, Cordova or Valdez, Cook Inlet, Sand Point/King Cove, Seattle).
3. Tentative meeting dates of May 13/14 in Juneau to review data reports on qualifying years and committee assignments.
4. The committee will report to the Council at its June meeting.
5. Release data reports to the public via scoping and call for proposals through the summer.
6. The committee will review proposals and address IFQs (1-pie/2-pie) and cooperative options over the summer.
7. The committee will meet in September and report to the Council at its October meeting.

DRAFT Gulf Rationalization Matrix

Component	Problem Statement/ Objectives	Elements & Options based on Coop, IFQ, or LLP reduction approaches					
		Trawl		Fixed Gear			
		CV	CP	Hook & Line		Pot	
		CV	CP	CV	CP	CV	CP
Harvesting Sector	End race for fish and improve economic viability						
	Increase safety						
	Improve utilization and product value						
	Increase adaptability/flexibility to ecosystem changes						
	Increase adaptability/flexibility to other applicable laws.						
	Maintain an independent fleet while allowing for meaningful reduction of excess capacity.						
	Foster a healthy, competitive harvesting environment						
	Maintain the relative balance between harvesting and processing sectors.						
	Consider recent and historic participation for allocating benefits of rationalization						
	Maintain and encourage participation by active holders of quota shares, catch histories, or licenses.						
	Effectively control excessive consolidation and vertical integration						
Processing Sector	End race for fish and improve economic viability						
	Foster a healthy, competitive processing environment						
	Improve utilization and product value						
	Increase adaptability/flexibility to ecosystem changes						
	Increase economic viability						
	Maintain the relative balance between harvesting and processing sectors.						
	Protect processing sector from losing the relative value of existing investments						
	Consider recent and historic participation for allocating benefits of rationalization						
	Maintain and encourage participation by active holders of quota shares, catch histories, or licenses.						
	Effectively control excessive consolidation and vertical integration						
Communities	Protect community stability and historic reliance on groundfish fishing and processing						
	Increase economic viability						
	Consider recent and historic participation for allocating benefits of rationalization						
	Effectively control excessive consolidation and vertical integration						
	Maintain and encourage participation by active holders of quota shares, catch histories, or licenses.						
	Provide opportunities for GOA coastal communities to benefit from rationalization.						
Bycatch/ Habitat	Reduce bycatch and protect habitat						
	Meet MSA requirements, including conservation						
Skipper/crew & 2nd Gen.	Consider the status of skippers and crew						
	Provide entry level opportunities for individuals						

Other	Consider gear conversions for bycatch/habitat reasons (i.e. Trawl to fixed gear, bottom trawl to pelagic trawl.)			
	Consider non-trawl, entry level opportunities for underutilized species.			
	Cost recovery would be addressed in separate analysis.			
	Vessel buyback provisions may achieve objectives.			

and other measures to ensure that the fishery is managed in a sustainable manner.

Glenn
Merrill

AGENDA ITEM C-9: Gulf of Alaska Groundfish Rationalization – NMFS Staff Paper
Discussion Points: Why is it appropriate to publish a Notice of Intent for a Gulf of Alaska Rationalization EIS ?

This document provides support for the decision to prepare an EIS for Gulf of Alaska rationalization. The citations refer to the Council on Environmental Quality (CEQ) regulations. The page numbers refer to *The NEPA Book* edited by Bass et al. (2001).

(1) Why start the NEPA process now ?

- “Agencies shall integrate the NEPA process with other planning at the earliest possible time to insure that planning and decisions reflect environmental values, to avoid delays later in the process, and to head off potential conflicts (1501.2).”
- “Agencies shall not commit resources prejudicing selection of alternatives before a making a final decision (1502.2 (f)).”
- “Environmental impact statements shall serves as the means of assessing the environmental impact of the proposed agency actions, rather than justifying decisions already made (1502.2 (g)).”
- “An agency shall commence preparation of an environmental impact statement as close as possible to the time the agency is developing or is presented with a proposal so that preparation can be completed in time for the final statement to be included in any recommendation or report on the proposal. The statement shall be prepared early enough so that it can serve practically as an important contribution to the decisionmaking process and will not be used to rationalize of justify decisions already made (1502.5).”

Initiating the scoping process now will provide NMFS and the Council with an opportunity to incorporate public concerns into the document that the Council will be using for its decisionmaking process.

(2) Is it time to publish a Notice of Intent ?

- “As soon as practicable after the determination to prepare an environmental impact statement and before the scoping process the lead agency shall publish a notice of intent in the Federal Register except as provided in Section 1507.3(e) [exemption for delay of publication of NOI when there is a significant time delay between the decision to prepare an EIS and the time of actual preparation].
- Scoping must occur after the NOI is issued but may occur earlier, as long as there is appropriate public notice and enough information available on the proposed action so that the public and relevant agencies can participate effectively (page 73).
- “However, scoping that is done before the assessment, and in aid of its preparation, cannot substitute for the normal scoping process after publication of the NOI, unless the earlier public notice stated clearly that this possibility was under consideration , and the NOI expressly provides that written comments on the scope of alternatives and impacts will still be considered (Page 255 – Forty Questions).

To some extent, informal scoping for Gulf Rationalization has already begun. The Council process has provided the public with an opportunity to frame some of the issues

and formulate a purpose and need for rationalization. However, this process is not occurring within the context of formal NEPA scoping. The Gulf Rationalization Committee indicated an interest in requesting proposals for rationalization alternatives, and would like input from a variety of sources including tribes, and Gulf community residents. This input is best received as part of a formal scoping process. The notice of intent will inform the public that an EIS process is beginning and that the information received through this NEPA process will be part of the formal decisionmaking record.

Ideally, the NEPA process and the Council process should proceed in concert with one another. The options considered by the Council at final action should reflect those alternatives developed through a joint NEPA public scoping *and* the Council process.

(3) Are you sure that we are at this stage yet ?

- NEPA applies to federal action only when it becomes a recommendation or report on a *proposal* for legislation or other major federal action. A proposal exists when a federal agency is actively proposing one or more alternative means of accomplishing a goal. (Page 28 of NEPA Handbook).
- ““Proposal”” exists at that stage in the development of an action when an agency subject to the Act [NEPA] has a goal and is actively preparing to make a decision on one or more alternative means of accomplishing that goal and the effects can be meaningfully evaluated. Preparation of an environmental impact statement on a proposal should be timed so that the final statement may be completed in time for the statement to be included in any recommendation or report on the proposal. A proposal may exist in fact as well as by agency declaration that one exists (1508.23).”

Over the past 3 years, the Council has dedicated considerable time and energy to the discussion of Gulf Rationalization. This includes the Council approving a Problem Statement, a Vision Statement, the formation of three separate committees, and at least 2 sets of ‘control dates’ for determining eligibility for the inclusion of catch history in any future program. All of these actions indicate that the Council believes that there is a purpose and need to consider actions that may result in the rationalization of Gulf of Alaska groundfish fisheries. Simply, this series of actions indicate that the Council proposes to take some action on Gulf rationalization. The particular form and content of this action has not yet been determined. However, it should be through the scoping process that the purpose and need, scope, and alternatives are developed and clarified.

Suggestion: A formal statement that the Council proposes to rationalize the Gulf of Alaska groundfish fisheries and recommends that NMFS proceed with a Notice of Intent to prepare an EIS would conform with the formal declaration of a “proposal” under NEPA.

Initiating the scoping process now will better ensure that the final EIS is available at the time of final Council action and reduce potential delays.

(4) Why do an EIS instead of an Environmental Assessment (EA) ?

(1) NEPA requires the preparation of an EIS if the proposed federal action has the potential to significantly affect the quality of the human environment.

- “As required by sec. 102(2)(C) of NEPA environmental impact statements are to be included in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the quality of the human environment. (1502.3).”

(2) Rationalizing the Gulf groundfish fisheries is a “major Federal action” and therefore subject to NEPA

- “Major Federal action” includes actions with effects that may be major and which are potentially subject to Federal control and responsibility....
 - (b) Federal actions tend to fall within one of the following categories:
 - (1) Adoption of official policy, such as rules, regulations, and interpretations adopted pursuant to the Administrative Procedure Act.... (1508.18)

The agency would need to adopt regulation to implement any rationalization program. Like almost all plan amendments to the FMP this would require adoption of new policy and regulations.

(3) Rationalization has the potential to “significantly affect the human environment” in a variety of ways. Significance “requires consideration[s] of both the context and intensity (1508.27).” Within the context of the Gulf of Alaska, rationalization may have a “severity of impact (1508.27(b))” that could be significant. In particular, rationalization may result in changes to the fishery that should be considered when evaluating the severity of the impact. In particular, rationalization is likely to result in the following changes to the existing management regime:

- “affects public health and safety (1508.27(b)(2))”

A rationalization program would alter the means, methods, and timing of fishing which could affect safety. Other rationalization programs have had an effect on human safety and there is a likelihood it could occur in this case. See *Sharing the Fish* for additional information.

- “the effects on the quality of the human environment are likely to be highly controversial (1508.27(b)(4)).”

There has already been considerable controversy over this issue (e.g., “one-pie” vs. “two-pie” cooperatives) and there has been considerable controversy over past rationalization programs (e.g., IFQ Program, AFA, and the ongoing crab rationalization efforts).

- “the possible effects on the human environment are highly uncertain or involve unique or unknown risks (1508.27(b)(5)).”

It is not clear what effects rationalization may have. These effects may be similar to other rationalization programs. However, depending on the particular program developed the effects on the human environment could be significantly different from past rationalization programs. Numerous fisheries would be affected by this action and the potential direct, indirect, and cumulative effects of rationalization are unknown at this time.

The human environment includes “the natural and physical environment and the relationship of people with that environment. This means that economic and social effects are not intended by themselves to require preparation of an environmental impact statement (1508.14).” Because rationalization is intended to dramatically change the economic conditions of Gulf fisheries it would be expected to have significant impacts, presumably beneficial, on the economic and social conditions in the human environment. It is not clear whether this action would have a significant impact on the physical environment. However, rationalization can result in substantial changes in the operation of a fishery and therefore affect the fisheries by changing the means, methods, and timing of the fishery. *Sharing the Fish* provides an extensive discussion on the potential impacts of one form of rationalization (IFQs) on the physical environment. At this time, it is reasonable to assume that a rationalization program may have effects on the physical as well as the social and economic components of the human environment. In any case, these potential effects are uncertain, and it is difficult to conclude that this action would not have a significant impact on the economic, social, and physical components of the human environment.

(4) Rationalization would likely result in substantial and extensive changes to the FMP for GOA groundfish.

- “Environmental impact statements may be prepared, and are sometimes required, for broad Federal actions such as the adoption of new agency programs or regulations. Agencies shall prepare statements on broad actions so that they are relevant to policy and are timed to coincide with meaningful points in agency planning and decisionmaking (1502.4).”

Rationalization could completely change the existing management regime for GOA groundfish. It would likely represent the adoption of new agency programs and regulations. Rationalization would represent a new management tool that is expected to improve the ability of the industry and NMFS to meet existing conservation management goals, and may provide the ability to establish new management measures for conservation.

(5) Can't we prepare an EA and then see if we need an EIS later ?

- “An environmental assessment is a concise public document for which a Federal agency is responsible that serves to: (1) Briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or finding of no significant impact. (2) Aid an agency's compliance with the Act when no environmental impact statement is necessary. (3) Facilitate preparation of a statement when one is necessary (1508.9).”

As noted, under Question 4, rationalization is intended to result in a significant beneficial change to the human environment, particularly the economic component of the human environment. Presumably, one of the goals of rationalization will be to improve conservation by providing the means to reduce bycatch, effort, improve catch accounting, and perhaps other measures. Therefore, it seems reasonable to assume that it is unlikely that rationalization will result in a finding of no-significant impact. In which case, an EIS must be prepared.

Additionally, an EIS requires a formal scoping process, whereas an EA does not, although an EA may have a scoping process. Because there is a strong likelihood that rationalization will beneficially affect the human environment, perhaps significantly, it is prudent to begin the formal scoping process now rather than waiting until after an EA has been conducted. Such a delay is likely to result in additional time, money, and effort with no clear benefit. An EA on Gulf rationalization likely would be just as complex and lengthy as an EIS. Starting an EIS now will reduce effort later, if an EA results in a finding of a significant impact. An EIS provides the public with a formal and predictable process for providing input to the Council deliberations on such a complex and controversial topic.

(6) Is there precedence for preparing an EIS for rationalization ?

- Yes, the agency has prepared EIS's for the halibut and sablefish IFQ Program, the AFA, and is preparing an EIS for crab rationalization.

(7) Are there any other reasons we should prepare an EIS ?

- Yes, the Consolidated Appropriations Act of 2001 (P.L. 106-554) requires that the “North Pacific Fishery Management Council shall examine the fisheries under its jurisdiction, particularly the Gulf of Alaska groundfish and Bering Sea crab fisheries, to determine whether rationalization is needed. In particular, the North Pacific Council shall analyze individual fishing quotas, processor quotas, cooperatives, and quotas held by communities. The analysis should include an economic analysis of the impact of all options on communities and processors as well as the fishing fleets. The North Pacific Council shall present its analysis to the appropriations and authorizing committees of the Senate and House of Representatives in a timely manner. . . .”

Although this does not explicitly require the preparation of an EIS, this requirement could be met by incorporating the economic analysis into an EIS.

(8) Can we tier off of other EIS's ?

Yes, NMFS and the Council prepared a series of EIS's that address the GOA FMP, including the original. 1998 TAC-setting, SSL Protection measures, IFQ, Inshore/Offshore EIS's and the ongoing EFH and Programmatic EIS. These EIS's provide a background for any future Gulf Rationalization EIS.