

**ADVISORY PANEL MINUTES
North Pacific Fishery Management Council
June 4-9, 2007, Harrigan Hall, Sitka, AK**

The following members were present for all or part of the meeting:

Lisa Butzner	Jan Jacobs	John Moller
Joe Childers	Bob Jacobson	Jeb Morrow
Craig Cross	Simon Kinneen	Ed Poulsen
Julianne Curry	Kent Leslie	Michelle Ridgway
Tom Enlow	Tina McNamee	Lori Swanson
Bob Gunderson	Mike Martin	
John Henderschedt	Matt Moir	

Duncan Fields was absent.

C-1 Halibut Charter Management

(a) Stakeholder Recommendations and compensated re-allocation

The AP recommends the Council use the following revised elements and options for analysis.

Compensated Reallocation between Commercial and Charter Sectors in Areas 2C and 3A

Problem Statement

The absence of a hard allocation between the longline and the charter halibut sectors has resulted in conflicts between sectors and tensions in coastal communities dependent on the halibut resource. Unless a mechanism for transfer between sectors is established, the existing environment of instability and conflict will continue. The Council seeks to address this instability while balancing the needs of all who depend on the halibut resource for food, sport, or livelihood.

Action 2. Implement measures to allow compensated reallocation between the commercial sector and the charter sector

Element 1: Holder of Quota Share, Method of Funding and Revenue Stream

Element 1.1: Federal – common pool

- A. Method of Funding
 - option 1. loan
 - option 2. buyout program
- B. Revenue Stream
 - option 1. halibut charter stamp
 - option 2. moratorium permit fee
 - option 3. self-assessment fee
 - suboption 1. fee is based on number of clients
 - suboption 2. fee is based on number of fish

Element 1.2: State of Alaska – common pool

- A. Method of Funding
 - option 1. loan
 - option 2. bonding
- B. Revenue Stream
 - option 1. charter stamp

- option 2. sportfishing license surcharge
- option 3. business license fee/surcharge or limited entry permit holder
 - suboption 1. fee is based on number of clients
 - suboption 2. fee is based on number of fish

Element 1.3: Regional private non-profit associations – common pool

- A. Method of Funding
 - option 1. loan
- B. Revenue Stream
 - option 1. self-assessment
 - Suboption 1. fee is based on number of clients
 - Suboption 2. fee is based on number of fish

Element 1.4: Individual - private (A moratorium permit would be required unless the moratorium is not in place, in which case a Guided Sportfish Business License would be required instead.)

- A. Method of Funding
 - option 1. loan programs
 - option 2. private funding

Revenue streams will be for a defined period and end after the loan or bond is paid off, i.e. continuous open-ended revenue streams are to be avoided.

Element 2: Restrictions on transferability of commercial quota share by charter sector, with grandfather clause to exempt current participants in excess of proposed limits

Element 2.1: Limits on transferability

The percentages are based on the combined commercial and charter catch limit. These are intended to establish a minimum amount that will always be available to each sector.

A percentage of the combined commercial and charter catch limit will be available for transfer between sectors.

- Option 1: 10 percent
- Option 2: 15 percent
- Option 3: 20 percent
- Option 4: 25 percent

Element 2.2: Limits on purchase

A. entities purchasing for a common pool:

- Option 1. limited annually to a percentage (30-50%) of the average amount of QS transferred during the previous five years.
- Option 2. Restrictions on vessel class sizes/blocked and unblocked/ blocks above and below sweep-up levels to leave entry size blocks available for the commercial market and to leave some larger blocks available for an individual trying to increase their poundage.

(These options are not intended to be mutually exclusive.)

B. individual: subject to the current ownership cap and block restrictions associated with commercial quota share

Element 2.3: Limits on leasing

A. Common Pool:

The common pool may only lease 0-15% of holdings back to the commercial sector.

B. Individual charter operators:

Option 1. an individual may not hold or control more than the amount equal to the current setline ownership cap converted to the number of fish in each area (currently 1% of the setline catch limit in 2C or ½% in 3A)

Option 2. an individual may not hold or control more than 2,000, 5,000, or 10,000 fish. (Note: examine this as a percentage of the catch limit once allocations are established.)

**Option 3. charter operators may lease up to 10% of their QS back to commercial sector

C. Individual commercial fishermen:

i. Commercial fishermen who do not hold a sport fishing guide business license and/or moratorium permit may lease up to 10% of their annual IFQs for use as GAF¹ on an individual basis, or to a common pool.

ii. Commercial fishermen who hold QS and a sport fishing guide business license and/or a halibut moratorium license may convert all or a portion of their commercial QS to GAF on a yearly basis if they own and fish it themselves on their own vessel. Commercial and charter fishing may not be conducted during the same **day.

Element 3: Implementation Issues

1. These qualifying entities may purchase commercial QS and request NMFS to issue annual IFQs generated by these shares as Guided Angler Fish (GAF*).

2. Qualified entities harvesting GAF while participating in the guided sport halibut fishery are exempt from landing and use restrictions associated with commercial IFQ fishery, but subject to the landing and use provisions detailed below.

3. GAF would be issued in numbers of fish. The conversion between annual IFQ and GAF would be based on average weight of halibut landed in each region's charter halibut fishery (2C or 3A) during the previous year as determined by ADF&G. The long-term plan may require further conversion to some other form (e.g., angler days).

4. Subleasing of GAF would be prohibited.

5. GAF holders may request NMFS convert unused GAF into IFQ pounds for harvest in compliance with commercial fishing regulations provided the GAF holder qualifies under the commercial IFQ regulations.

6. Unused GAF may revert back to pounds of IFQ at the end of the year and be subject to the underage provisions applicable to their underlying commercial QS.

7. All compensated reallocation would be voluntary based using willing seller and willing buyer.

8. Guided angler fish derived from commercial QS may not be sold into commerce, i.e., all sport regulations remain in effect.

9. Guided angler fish derived from commercial QS may not be used to harvest fish in excess of the non-guided sport bag limit on any given day.

¹ * GAF = Guided Angler Fish (This is used only as a charter unit of measurement for commercial quota share converted to charter use and is not indicative) of a particular long term solution.)

** indicates changes made by the AP to the Halibut Stakeholder recommendations

10. There needs to be a link between the charter business operators and the cost of increasing the charter pool. If the charter business operators do not experience the cost of increasing the charter pool, there will not be a feedback loop to balance the market system.

Motion passed 17/2.

Additionally, the AP requests that the Council task the enforcement committee with evaluating the issue of unguided (or bare boat) halibut charters. The AP is concerned that this growing sector may be legally circumventing the intent of the Council to limit charter halibut harvests. *Motion passed 18/0.*

C-1 (b) Area 2C GHL Harvest Measures

The AP recognizes the immediate need for action regarding the implementation of measures that keep charter harvest within the GHL. The AP strongly recommends the Council implement Option 12, with a four fish annual limit. However, the AP recommends the proposed rule also notice the public that if the GHL is reduced to 1.217 million pounds due to CEY reduction, or because one or more elements of option 12 are not implementable, then the preferred alternative would be a one fish daily bag limit for the entire season.

Motion passed 18/1.

Minority Report

The minority of a failed 7/12 motion, wishes to strike Option 1-- Limit vessels to one trip per day from charter fleet management measures -- because it disproportionately impacts operational flexibility of historical participants in the charter industry without yielding significant reductions in halibut harvest. Signed: Mike Martin, Michelle Ridgway, Tina McNamee, Lisa Butzner, Simon Kinneen, Lori Swanson

DRAFT AP MINUTES

C-2 Halibut Subsistence

The AP recommends the Council request staff work with State and Federal staff to further research the rural definition issue and report back at a future meeting. *Motion passed 18/1.*

Additionally, the AP recommends the Council initiate an analysis for a regulatory amendment to list the Kanatak tribe fishing area as 3A. *Motion passed 19/0.*

C-3 Trawl LLP Recency

The AP recommends Council establish an “Exemption Statements” section in the Description of Alternatives, Components, and Options. This section would directly follow the description of the three alternatives.

Further, the AP recommends the Council delete Component 3 and Option 1 and add the following to the Exemption Statement section: Exclude LLPs originally issued to vessels qualified under the AFA and any non-AFA LLPs assigned to AFA vessels not having any other license from LLP qualification in the BSAI. *Motion passed 19/0*

The AP recommends adding a statement under the “exemption statements” that would exempt the CGOA rockfish pilot program participants adding the staff’s language: exclude central GOA or GOA (ass appropriate) area endorsements of the LLPs qualified for the rockfish demonstration program from LLP qualification under the amendment. *Motion passed 19/0*

The AP recommends the Council delete Component 4 and Option 1 and add the following to the Exemption Statement section: Exempt LLPs assigned to the vessels qualified under Amendment 80 and other LLPs assigned to the qualifying vessels at the time of implementation. *Motion passed 16/3*

The AP recommends the Council delete Component 1 – Option 3 and add the following to the Exemption Statement section: Exempt trawl LLPs in the BSAI or GOA assigned to vessels having a maximum mean length overall designation of 60 feet with landings of Pacific cod in the Bering Sea with any gear from application of the threshold criteria. *Motion passed 19/0*

The AP recommends the Council delete Component 1 – Option 1 requiring at least one landing of groundfish during the qualification period of 1995 – 2005 and delete Component 1 – Option 2 – Suboption 1 requiring at least two landings of groundfish during the qualification period of 1995 – 2005. *Motion passed 19/0*

The AP recommends that the Council include application of the harvest thresholds for LLPs to CP BSAI LLPs that are non-AFA licenses and also are not LLPs qualified for Amendment 80. *Motion passed 19/0*

D-3 (a) Habitat Conservation

The AP recommends the Council adopt Alternative 3 with Option 1, Option 3, Option 4 with the suboption (wedge), and Option 5. The Council review in Option 4 should occur 36 months following the FR publication of the final rule. *Motion passed 16/3.*

(b) Habitat Areas of Particular Concern

The AP recommends the Council initiate a call for HAPC proposals with the inclusion of the following priorities:

1. Skate nurseries
2. EBS Canyons
3. Important crab habitat

The AP envisions that initiating this process will begin characterizing these habitat types without presupposing whether they merit designation as HAPC or should management measures be considered until these habitats are profiled and their ecological significance is described. *Motion passed 18/1*

C-4 Crab Management

C-4 (b) Crab overfishing

The AP received a presentation of this agenda item and given the comments of the SSC, has no additional recommendations. *Motion passed 19/0*

C-4 (c) Custom processing exemptions

The AP recommends the Council adopt the following purpose and needs statement:

In remote areas and small TAC fisheries, the extended fishing seasons under rationalization may cause processing activity to be extended over a longer period of time. This temporal extension of processing activity, together with the lower throughput levels, limits the ability of processors to achieve production efficiencies. Allowing concentration of processing in fewer facilities, by exempting custom processing at a plant from the use cap of the plant owners, could increase processing efficiency. This efficiency increase could improve competition in processing. In some cases, exemption of custom processing at a facility from use caps of the owner could provide for contingencies in the event of a facility breakdown, assist in allowing full harvest of the TAC, and contribute to community sustainability.

In remote areas (e.g. the western region) with small TAC fisheries for crab species (e.g. WAI brown crab) and extended fishing season, the goals of sustaining communities in the region and allowing the full harvest of the TAC could be better achieved by exempting custom processing beyond the processing use cap by processors.

Two of the objectives of the proposed action are to protect the economic base of remote communities dependent on crab processing, and to allow for the efficient prosecution of quota held by fishermen.

The AP adopts the following elements and options:

Fisheries and Regions:

Custom processing will be exempt from use caps in the following regions and fisheries:

The North region of the Bering Sea *C. opilio* fishery (analyzed here for regulation change from MSA reauthorization – not optional)

- Option 1) the Western Aleutian Islands golden king crab fishery,
Suboption: West region only
- Option 2) the Western Aleutian Islands red king crab fishery,
- Option 3) the Eastern Aleutian Islands golden king crab fishery,
- Option 4) the St. Matthews blue king crab fishery, and
Suboption: North region only
- Option 5) the Pribilof red and blue king crab fishery
Suboption: North region only

Definition of custom processing exemption:

Option 1) Physical processing of crab at a facility owned by an entity does not count toward the cap of the entity (only processor share holdings count toward an entity's cap).

Option 2) Custom processing is the processing of crab received with IPQ that has 50 percent or less common ownership with the processing plant.

Locations qualified for the exemption:

Custom processing will qualify for the exemption provided that processing is undertaken in the applicable fishery and region at:

Option 1) a shore plant

~~Option 2) a shore plant or a floating processor that is moored in a harbor~~

~~— A floating processor moored within a harbor, if it is moored within the boundaries of:~~

Option 2) A shore plant, or a floating processor that is moored at a dock or docking facilities in a harbor in a community that is a first or second class city.

~~Suboption A) a first or second class city or borough~~

~~— Suboption B) a first or second class city~~

Option 3) any shore plant or floating processor

Plant cap

Outside of the W region, no plant may process more than 60% of

a) EAI golden king crab

b) WAI red king crab

Motion passed 15/0/2

Additionally, the AP recommends adopting the following options and purpose and needs statement regarding community interests:

Option 1) in the event that processing shares are transferred to the community entity holding the right of first refusal for those shares, the processing of those shares in the community of origin will not count toward the cap of the processing plant

Option 2) in the event that processing shares subject to a right of first refusal are transferred from the initial recipient, custom processing of shares in the community of origin will not be counted toward cap of processing plant (the shares would only count toward the cap of the share holder)

Under the rationalization program, community interests in historic processing are protected by granting communities a right of first refusal on the transfer of shares from the community of origin. In some instances, the combination of consolidation of processing share holdings and the counting of processing at a plant against the plant owner's cap on the use of processing shares could complicate the retention of processing in the community of origin. Exempting processing of shares in the plant of origin from the use cap of the plant owner could facilitate retention of historical processing in communities.

Motion passed 16/0/1

Active Participation requirements for C shares

The AP recommends the Council adopt the following purpose and need statement, elements and options:

Owner on board requirements and leasing prohibitions on C shares are scheduled to go into effect after the third year of fishing under the program. Those rules may be overly burdensome to active captains and crew given the current fleet fishing patterns in which vessels may not be active in all fisheries some years. Also, under the current rules in the program, C share holders that are cooperative members are exempt from owner on board requirements and leasing prohibitions. Revisions to the current participation requirements are necessary to establish reasonable participation requirements for C share holders and to ensure that the all C share holders remain active in the fisheries.

Elements and options

Status quo

Options for revision of active participation requirements for C share holders

To receive an annual allocation of IFQ, a C share holder must have participated in at least one delivery in a fishery subject to the crab rationalization program in the 365 days preceding the application for IFQ.

If a C share holder has not demonstrated active participation in a rationalized fishery for a period of 3 consecutive seasons, that C share holder will be required to divest of all C share holdings. This provision will not require individuals to divest of QS until a) 5 b) 7 years after implementation of the crab program.

Initial allocation of quota to C share owners will be:

Option: grandfathered and exempt from active participation requirement. Any purchased quota will not be exempt.

Demonstration of recent participation in the North Pacific fishery will qualify for active participation.

Option 1: Acquisition of shares

Option 2: To maintain holdings and annual allocations

Motion passed 16/0/1

Additionally, the AP recommends the Council direct staff to work with financial services to determine possible means of limiting new entrants along with minimum and maximum quota share holding requirements to determine eligibility in the loan program. Motion passed 18/0.

Further, the AP recommends the Council adopt the Purpose and Need Statement concerning Processing Share and Regional Landing Requirements

Post delivery transfers

The AP recommends the Council adopt the purpose and needs statement as written.

Further, the AP recommends adoption of the following Alternatives and options – (striking Alternative 4)

Alternative 1 – Status Quo (no post-delivery transfers)

Alternative 2 – Unlimited post-delivery transfers

Purpose of post-delivery transfers

Post-delivery transfers would be allowed exclusively to cover overages.

Shares used for post-delivery transfers

Post-delivery transfers of the following shares are permitted:

B share IFQ

A share IFQ (provided a processor simultaneously commits matching IPQ)

C share IFQ

catcher processor IFQ

IPQ

Limits on the magnitude of a post-delivery transfer

None

Limits on the number of post-delivery transfers

None

No person shall be permitted to begin a fishing trip, unless the person holds unused IFQ.

Limits on the time to undertake a post-delivery transfer

A post-delivery transfer will be permitted after a landing for a catcher vessel (or weekending date for a catcher processor) for a period of 30 days.

Eligibility for post-delivery transfers:

1. All harvesters
2. Inter-cooperative members

The intercooperative must

- a. Represent 30%, 50%, or 65% of the IFQ for the fishery
- b. Have established reserve pool mechanisms
- c. Have an authorized representative to manage transfers with RAM

Alternative 3 – Moderate limited post-delivery transfers

Purpose of post-delivery transfers

Post-delivery transfers would be allowed exclusively to cover overages.

Shares used for post-delivery transfers

Post-delivery transfers of the following shares are permitted:

- B share IFQ
- A share IFQ (provided a processor simultaneously commits matching IPQ)
- C share IFQ
- catcher processor IFQ
- IPQ

Limits on the magnitude of a post-delivery transfer

Each post-delivery transfer shall be limited to 10,000 pounds of IFQ (or IPQ).

Limits on the number of post-delivery transfers

Possible options

For each species, an IFQ (or IPQ) holder is limited to receiving post-delivery transfers to cover two overages.

No person shall be permitted to begin a fishing trip, unless the person holds unused IFQ.

Limits on the time to undertake a post-delivery transfer

Post-delivery transfers will be permitted after a landing for a catcher vessel (or weekend date for a catcher processor) for a period of 15 days.

Eligibility for post-delivery transfers:

1. All harvesters
2. Inter-cooperative members

The intercooperative must

- a. Represent 30%, 50%, or 65% of the IFQ for the fishery
- b. Have established reserve pool mechanisms
- c. Have an authorized representative to manage transfers with RAM

Motion passed 17/0

Post delivery transfers for rockfish

The AP recommends the Council create separate crab and rockfish post-delivery transfer amendment packages for analysis on a parallel track. *Motion passed 17/0.*

The AP recommends the Council delete Alternative 4, and change the limits on the time to undertake a post-delivery transfer from 15 to 30. *Motion passed 18/0.* Further, the AP recommends adopting the purpose and needs statement as written. *Motion passed 18/0*

C-5 Observer Program

The AP recommends the Council incorporate the OAC committee recommendations on Issues 1-7 in the Alternatives for regulatory revisions of the North Pacific Groundfish Observer program, and further recommends the Council move forward on the additional three committee recommendations. *Motion passed 16/0.*

C-6 CDQ Program

The AP recommends the Council select Alternative 2 for final action, removing the prohibition against discarding rockfish and Pacific cod when halibut or sablefish are onboard a vessel. *Motion passed 16/0/1*

D-2 (a) GOA Arrowtooth MRA adjustment

The AP concurs with the SSC's recommendations, and recommends the Council release the document for public review. *Motion passed 15/0.*

D-2 (b) Salmon Bycatch

The AP recommends the Council adopt the Salmon Bycatch Workgroups recommendations and consider including the cap/closure accounting system recommendations in the analysis. *Motion passed 16/0/2.*

D-2 (d) CGOA Rockfish Monitoring EFP

The AP recommends the Council approve the EFP to explore electronics monitoring in the CGOA rockfish program. *Motion passed 16/0.*

D-4 AI Fishery Ecosystem Plan

The AP recommends the Council approve the AI fishery ecosystem plan. *Motion passed 17/0.*