

North Pacific Fishery Management Council

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ADVISORY PANEL MINUTES JANUARY 9-12, 1994 ANCHORAGE, ALASKA

The Advisory Panel for the North Pacific Fishery Management Council met on January 9-12, 1994, at the Anchorage Downtown Hilton. Members in attendance were:

Dave Benson
John Bruce, Chair
Al Burch
Michael Stevens
Dan Falvey
Penny Pagels
Dean Paddock

Bryon Pfundt
Dave Little
Stephanie Madsen
Pete Maloney
Doug Ogden
Bruce Cotton
Hazel Nelson

John Roos
John Sevier
Harold Sparck
Michael Jones
Beth Stewart, Vice Chair
Robert Wurm

Kevin Kaldestad and Steve Drage were not in attendance.

Minutes for the December 1993 meeting were approved.

C-1(a) COMPREHENSIVE RATIONALIZATION PLAN (CRP)

The Advisory Panel took testimony from 19 people. We then went through the options set out in Agenda Item C-1(b), taking a "straw" vote on each item. When that process was completed, the AP then moved to adopt the entire CRP package dropping Option B under Species for Inclusion. The AP adopted that motion without objection, and then proceeded to amend, section by section, the entire package.

Groundfish/Crab IFQs

SPECIES FOR INCLUSION

- Option A:** All species under Council jurisdiction, including PSCs. The AP amended this by adding Suboption A: Exclude demersal shelf rockfish. (passed, 2 objections)
- Option B:** Pollock and cod only with PSC species (halibut, crab, and herring) issued as IFQs based on historical portion of the caps for those fisheries. All other groundfish species managed under License Limitation program (except sablefish and halibut). The AP deleted this option. (passed, no objections)

Under this option, groundfish bycatch species would also be needed to support the pollock and cod IFQ fisheries. These could be allocated individually (as with the PSCs) or as a set aside which would constitute a common pool for the IFQ fisheries.

Option C: Under Option A or B above, a percentage (either 45% or historical split) of BSAI Pacific cod would be set aside for a fixed gear License Limitation program.

AREAS

IFQs for all species and PSCs will be awarded based on current management areas.

CRITERIA FOR INITIAL QS QUALIFICATION

Initial QS will be awarded to current vessel owners, based on the catch history of the vessel currently owned. Options for defining 'current ownership' are:

Option A: Define current as of June 24, 1992 (June 27 is actual date for end of reporting week). **The AP deleted Option A.** (passed, no objection)

Option B: Define current as date of final Council action.

In addition to the options above, the Council is separately considering the following:

Suboption A: For GOA longline rockfish fisheries, allocate initial QS to owner at time of landings.

In addition to being a current vessel owner, the Council is considering a recent participation requirement for QS qualification. The options to be considered are:

Option A: No recent participation requirement. **The AP deleted this option.** (passed no objection)

Option B: Vessel must have fished in three-year period prior to June 24, 1992 or date of final Council action (depending on option chosen for defining current ownership). If vessel is lost during this period, owner at time of loss is still eligible. **The AP amended Option B to read “. . . June 24, 1992 and/or date of final Council action . . . ”** (passed 16/0/1)

The AP made no changes in the CDQ portion of this package.

COMMUNITY DEVELOPMENT QUOTA (CDQ) CONSIDERATIONS

In addition to allocating QS to current vessel owners, the Council may make initial allocations to CDQs as shown below:

Option A: No allocations to CDQs.

Option B: Initially allocate 3%, 7.5%, 10%, or 15% (options range up to 15%) as CDQs; may apply to any or all groundfish/crab species, but only for existing, eligible, BSAI communities with one of the following suboptions:

Suboption A: Patterned after current pollock CDQ program.

Suboption B: One-time allocation convertible to IFQs.

SKIPPER/CREW MEMBER CONSIDERATIONS

The Council is also considering the following options for including skippers and crew members in the IFQ program.

Option A: No allocations to skippers or crew members.

Option B: Initially allocate 3%, 5%, or 10% (options range up to 10%) to 'bona fide' skippers (as % of overall pie with specific allocation criteria to be identified later).

Option C: Under Option A or Option B above, 15% of any QS/IFQ sale is subject to first right of refusal by 'bona-fide crewmen'. **The AP deleted Option C. (passed, 17/2)**

PROCESSOR CONSIDERATIONS

Either or both of the following options are being considered relevant to processors:

Option A: Assign separate processor QS (2-pie system). See separate description for elements of this program.

Option B: Require a percentage of harvest IFQs to be delivered shoreside (% will be based on last two years' average for each species).

Option C: **The AP added Option C which reinstates the so called "one-pie" system which was inadvertently omitted from this package. The AP understood that the "two-pie" system may not currently be legal and wanted to examine other options for processor quota. (passed, 12/5)**

INITIAL QS CALCULATION

The following primary options are being considered for calculating QS of qualified recipients. Whichever option is chosen, QS amounts for each species will be calculated based on catch, then adjusted based on average bycatch rates to achieve initial 'bundles' of target/bycatch/PSC. The Council has discussed the issue of basing QS calculations on retained, as opposed to reported, catch. Pending further evaluation of this issue, basing the calculation on retained catch is not included as an option at this time.

Option A: QS based on reported catch of vessel from 1976 to either June 24, 1992 or date of final Council action (pre-1984 JV catch assigned based on average by fishery, by year for vessels which participated).

For Option A, the following suboptions are being considered for weighting factors:

Suboption A: No weighting by sector.

Suboption B: Weight DAP 3.5:1 JV.

Suboption C: Weight DAP 2:1 JV.

Suboption D: For JV prior to 1986 and for DAP prior to 1989, weight at 2:1.

Option B: QS based on reported catch of vessel from date of full DAP (by species) to either June 24, 1992 or date of final Council action.

Option C: QS based on reported catch of vessel from 1993 only. **The AP deleted Option C.**

Option D: **The AP added Option D which would base Quota Share on retained catch for those sectors where information is available. (passed, 16/3) NOTE: The issue of bycatch bundling was viewed as separate from the issue of target species quota share awards.**

In addition to the options shown above, the Council is considering the following possible alternatives which are specific to Pacific cod in the BSAI. If either of the options below is chosen, the calculation alternatives shown above would still apply for the remaining fisheries.

Option A: Allocate Pacific cod QS at 45% for fixed gear recipients/55% for trawl gear. **The AP voted to retain this option, but wishes to clarify that this applies only to initial allocation and is not to be maintained in perpetuity.**

Option B: Allocate Pacific cod QS by gear types based on historical split. We will examine: (1) back to 1976, (2) back to date of full DAP for Pacific cod, and (3) 1993 only to determine historical split. ~~The AP had a split vote (8/8) on deleting this option.~~ **The AP noted that, as with Option A, this would apply only to initial allocation.**

Unless otherwise directed, same initial QS calculation options apply to divide QS among participants in each sector.

TRANSFERABILITY PROVISIONS

Any or all of the following options may apply:

- Option A:** No restrictions.
- Option B:** Two year restriction on sales only (could lease).
- Option C:** For groundfish only, non-transferable between fixed and mobile gear categories.
- Option D:** For crab fisheries only, non-transferable across catcher vs. catcher/processor categories.
- Option E:** 15% of any QS/IFQ for sale is subject to first right of refusal by "bona-fide crewmen" (this was also included under 'CREW MEMBER CONSIDERATIONS'). **The AP deleted Option E.** (passed, 17/3)
- Option F:** **The AP added Option F: ITQs will not be tied to a particular gear type after initial issuance.** (passed, no objections) **NOTE:** Normal legal gear regulations will still apply, i.e., unless the Council changes its regulations, trawl gear could not be used to harvest crab.

USE/OWNERSHIP PROVISIONS

The following three options are being considered relative to accounting under the IFQ program. These options will affect an operator's ability to match IFQs to catch, and also relate to the ability to effectively manage the program within the overall TACs.

- Option A:** Must control IFQs to cover expected catch before fishing.
- Option B:** Overage/Underage program as with sablefish and halibut program.
- Option C:** Must possess IFQs to cover catch within one month of harvest. **The AP deleted this option, and later reconsidered the motion to delete. After much discussion, the AP again voted to delete Option C.** (passed, 19/2) **NOTE:** The primary concern that the AP still has, is that the administrative process may not be able to get quota shares in the hands of people who need to begin fishing January 1. The AP wanted to alert the Council to that concern, but felt that Option C as written provided too many loopholes.

The following use/ownership provisions may also be considered by the Council:

- Option A:** Require a percentage of harvest IFQs to be delivered shoreside (% will be based on last 2 years' average for each species). This option was also included under 'PROCESSOR CONSIDERATIONS'.
- Option B:** Ownership caps would be set at 1%, 5%, 10%, or any number in that range. **The AP amended this option to clarify that these ownership caps should be applied to the BSAI and GOA separately.** (passed, no objection)

GENERAL PROVISIONS

- Allocations represent a use privilege; however, the Council could alter or rescind the program without compensation.
- Council should pursue some level of administrative fee extraction to fund program, if Magnuson Act is amended.
- **The U.S. ownership definitions used in the Halibut/Sablefish IFQ regulations should be used in analyzing both the initial issuance of ITQs and the subsequent transfer of ITQs.** (passed, no objections) NOTE: The AP believes that during the analysis problems associated with using this standard, particularly for the proposed processor quota share and for reflagged vessels, will become clear. At that point, the AP would be ready to make recommendations regarding this standard.

Processor Quotas—Groundfish & Crab

The AP began working on this section by transferring all of our actions on the previous section, as they relate to initial issuance and transferability. The AP went on to make additional changes specific to this section.

SPECIES FOR INCLUSION

- Option A:** All species for which IFQs are issued, except longline sablefish, halibut, and PSCs.
- Option B:** Pollock and Pacific cod only. Deleted as per previous action.

AREAS

Processor shares/individual processor quotas (PS/IPQs) are not area specific.

CRITERIA FOR INITIAL PS QUALIFICATION

Initial PS will be awarded to current processor (shorebased or at sea) owners, based on the processing history of the processor currently owned. Options for defining 'current ownership' are:

- Option A:** Define current as of June 24, 1992 (June 27 is actual date for end of reporting week). Deleted (as per previous action).
- Option B:** Define current as date of final Council action.

In addition to being a current processor owner, the Council is considering a recent participation requirement for PS qualification. The options to be considered are

- Option A:** No recent participation requirement. Deleted (as per previous action).

Option B: Processor must have processed groundfish/crab in three-year period prior to June 24, 1992 or date of final Council action (depending on option chosen for defining current ownership). If processor is lost during this period, owner at time of loss is still eligible. Amended as per previous action to read, “. . . in the three-year period prior to June 24, 1992 and/or date of final Council action. . .”

COMMUNITY DEVELOPMENT QUOTA (CDO) CONSIDERATIONS

In addition to allocating PS to current processor owners, the Council may make initial allocations to CDQs as shown below:

Option A: No allocations to CDQs.

Option B: Initially allocate 3%, 7.5%, 10%, or 15% (options range up to 15%) as CDQs; may apply to any or all groundfish/crab species, but only for existing, eligible, BSAI communities with one of the following suboptions:

Suboption A: Patterned after current pollock CDQ program.

Suboption B: One-time allocation convertible to IPQs.

FOREMEN/PLANT WORKER CONSIDERATIONS

The Council is also considering the following options for including plant foremen and workers in the IPQ program.

Option A: No allocations to plant foremen or workers. Deleted.

Option B: Initially allocate 3%, 5%, or 10% (options range up to 10%) to ‘bona fide’ plant foremen (as % of overall pie with specific allocation criteria to be identified later). Deleted.

Option C: Under Option A or Option B above, 15% of any PS/IPQ sale is subject to first right of refusal by ‘bona fide plant workers’. Deleted—all three options were deleted as a block. (passed without objections)

INITIAL PS CALCULATION

The following primary options are being considered for calculating PS of qualified recipients. Whichever option is chosen, PS amounts for each species will be calculated based on fish tickets and weekly processor reports, then adjusted based on average bycatch rates to achieve initial ‘bundles’ of target/bycatch.

Option A: PS based on activity by processor from 1984 to either June 24, 1992 or date of final Council action.

Option B: PS based on activity by processor from date of full DAP (by species) to either June 24, 1992 or date of final Council action.

- Option C:** PS based on activity by processor from 1993 only. Deleted, based on previous action.
- Option D:** The AP added Option D. As in the previous action, this alternative would be based on retained catch rather than reported catch, where data available.

TRANSFERABILITY PROVISIONS

Any or all of the following options may apply:

- Option A:** No restrictions.
- Option B:** Two year restriction on sales only (could lease).
- Option C:** Non-transferable between fixed and mobile processors.
- Option D:** 15% of any PS/IPQ for sale is subject to first right of refusal by “bona fide plant workers” (this was also included under ‘PLANT WORKER CONSIDERATIONS’). The AP deleted this option because we deleted all three options for plant foreman and worker allocations.

USE/OWNERSHIP PROVISIONS

- Option A:** Must control IPQs to cover expected processing before activity.
- Option B:** Overage/Underage program as with sablefish and halibut program.
- Option C:** Must possess IPQs to cover processing within one month of activity. Deleted as per previous action.

Use/ownership caps may also be considered by the Council, and need to be defined.

The AP supports analyzing use/ownership caps for processor quotas, however, the AP believes that the 1%, 5%, 10% levels may not be appropriate given the number of processors. The AP would not want to see caps that forced new processor capacity to be built to accommodate IPQ transfers.

GENERAL PROVISIONS

- Allocations represent a use privilege; however, the Council could alter or rescind the program without compensation.
- Council should pursue some level of administrative fee extraction to fund program, if Magnuson Act is amended.
- The same U.S. ownership criteria for initial issuance and transfer that the AP suggested previously with potential problems noted.

Groundfish/Crab License System

NATURE OF LICENSES

Alternatives include:

- (1) A single groundfish license applying to all species/areas.
- (2) Licenses for each species.
- (3) General license with endorsements for each species/area.

Suboption A: separable endorsements.
Suboption B: non-separable endorsements.

In addition to the three options above, the Council is considering the following suboptions:

Suboption A: Separate licenses for catcher and catcher/processor operations.
Suboption B: Licenses for three catcher vessel size categories <60', 60' to 125', and >125'.

Additionally, the Council is considering the following two specific options, which are related to the IFQ alternatives described separately:

- (1) Licenses for BSAI Pacific cod fixed gear fishery only; would apply to 45% (or historical split) of the TAC set aside for fixed gear. **The AP was split on this issue. On a vote of 9/8, the motion to delete this option passed.**
- (2) Licenses for all target groundfish fisheries except pollock and Pacific cod which would be under IFQ program. **Deleted. (passed, no opposition)**

WHO WILL RECEIVE LICENSES

Alternatives include:

- (1) Current vessel owners ("current" is defined as of June 24, 1992 or as of final Council action) ("Persons" as defined by Magnuson Act).

Suboption A: Vessel owners at the time of landings.
Suboption B: Permit holders.
Note: A motion to include the SEA proposal failed 6/11.

These two suboptions are only relevant if licenses are not attached to vessels.

CRITERIA FOR ELIGIBILITY

Alternatives include issuing license to any vessel (or person) who made landings between:

- (1) January 1, 1978 and December 31, 1993
- (2) January 1, 1990 and December 31, 1993.

- (3) **Vessel must have fished in the three-year period prior to June 24, 1992 and/or date of final Council action (depending on option chosen for defining current ownership. If vessel is lost during this period, owner at time of loss is still eligible. The AP added this option on a vote of 19/0.**

Suboption: Must have made at least 2 landings (per area/species combination) or made total groundfish landings of 5,000, 10,000, or 20,000 pounds (3 options) in any one year. (In addition to (1) or (2) above).

TRANSFERABILITY AND OWNERSHIP

Alternatives include:

- (1) Licenses could be transferred (sold or leased) only to "Persons" (as defined by Title 46), i.e., U.S. citizens or U.S. owned corporations.
- (2) A person may own more than three (3) licenses but may only fish three vessels in a year. (AP deleted this option. There are too many loopholes, such as forming multiple companies. The AP supports the search for effective means to address "ownership & use" caps for the license limitation system.)
- (3) Vessels must be transferred with license.
- (4) License may be transferred without vessel (can apply to "new" vessel).
- (5) **The AP supports effective ownership caps. We do not have a proposal for you to consider at this meeting.**

Suboption A: Non-transferable across size categories identified above.

Suboption B: Licenses may be combined in a manner similar to that described in the Pacific whiting fishery. (passed, 18/0/1) NOTE: The AP believes that this option should not increase overall total fleet capacity.

BUYBACK PROGRAM (OPTIONAL)

A license buyback program using funds collected through a fee assessment on ex-vessel value of groundfish. The buyback program would govern all transfers of licenses and would have first right of refusal on licenses to be sold. All licenses purchased by the program would be permanently retired.

COMMUNITY DEVELOPMENT QUOTAS

A license limitation alternative could include CDQ set-asides of up to 15% (range of 0% to 15%) of any or all groundfish/crab species, but only for existing, eligible Bering Sea/Aleutian Islands communities.

BSAI Tanner Crab License System

The AP moved to transfer all of the amendments made to the Groundfish License system to the BSAI and Tanner Crab License system.

NATURE OF LICENSES

Alternatives include:

- (1) A single crab license applying to all species/areas.
- (2) Licenses for each species.
- (3) General license with endorsements for each species/area.

Suboption A: non-separable endorsements

Suboption B: separable endorsements

In addition to the three options above, the following two suboptions are being considered:

- Suboption A:** Separate licenses for catcher and catcher/processor operations.
Suboption B: Licenses for three catcher vessel size categories <60', 60' to 125', and >125'.

WHO WILL RECEIVE LICENSES

Alternatives include:

- (1) Current vessel owners ("current" is defined as of June 24, 1992 or as of final Council action) ("Persons" as defined by Magnuson Act).

- Suboption A:** Vessel owners at the time of landings.
Suboption B: Permit holders.

These two suboptions are only relevant if license is not attached to vessel.

CRITERIA FOR ELIGIBILITY

Alternatives include issuing license to any vessel (or person) who made landings between:

- (1) January 1, 1978 and December 31, 1993
(2) Must have made landings between January 1, 1990 and December 31, 1993.

Suboption: Must have made at least 2 landings (per area/species combination) or made total crab landings of 5,000, 10,000, or 20,000 pounds (3 options) in any one year. (In addition to (1) or (2) above).

- (3) **Vessel must have fished in three-year prior to June 24, 1992 and/or date of final Council action (depending on option chosen for defining current ownership). If vessel is lost during this period, owner at time of loss is still eligible. The AP added this option.**

TRANSFERABILITY AND OWNERSHIP

Alternatives include:

- (1) Licenses could be transferred (sold or leased) only to "Persons" (as defined by Title 46), i.e., U.S. citizens or U.S. owned corporations.
(2) A person may own more than three (3) licenses but may only fish three vessels in a year. Deleted.
(3) Vessels must be transferred with license.
(4) License may be transferred without vessel (can apply to "new" vessel).

- Suboption:** (a) ~~Non-transferable across size categories identified above.~~
(b) Transferable across size categories—analyze system for combining licenses.

BUYBACK PROGRAM (OPTIONAL)

A license-buyback program using funds collected through a fee assessment on ex-vessel value of crab. The buyback program would govern all transfers of licenses and would have first right of refusal on licenses to be sold. All licenses purchased by the program would be permanently retired.

COMMUNITY DEVELOPMENT QUOTAS

A license limitation alternative could include CDQ set-asides of up to 15% (range of 0% to 15%) of any or all groundfish/crab species, but only for existing, eligible Bering Sea/Aleutian Islands communities.

OTHER AP RECOMMENDATIONS

- (1) **The U.S. Ownership standards should be analyzed for license limitation as well as for quota shares.**
- (2) **The AP moved to include the Harvest Priority in the CRP analysis. Motion passed 17/2.**
- (3) **The AP moved to include a full retention and utilization plan in the CRP analysis. Motion passed 16/2.**
- (4) **There was a lot of discussion about whether these two issues belonged under CRP or under another amendment package. The general consensus was that bycatch management continues to be a significant topic.**
- (5) **On a vote of 17/2, the AP makes the following recommendations to the Council:**
 - **The Council should take whatever steps are necessary to implement the Moratorium ASAP.**
 - **The Council should move quickly as possible to implement a license limitation system, while continuing to move toward a quota share system. Harvest priority, full retention, and other bycatch management techniques, could be used as management tools during as well as after a license limitation system.**
- (6) **The AP recommends that the Council direct staff to get information out to the public as early as possible in the analysis process to give all parties involved a better idea as to where they may stand under the options of the CRP plans. This will help to flush out the support, or lack of, for various options well before final decisions have to be made.**

C-1(b) TOTAL WEIGHT MEASUREMENT

~~The AP recommends the Council instruct NMFS to prepare an analysis on total weight measurement for vessels with 100% observer coverage participating in the open access fishery. This analysis should include:~~

1. Total weight measurement for all groundfish catch.
2. Total weight measurement by species grouping.

3. Total weight measurement on pollock target vessels only.
4. Expected increases in deadloss of prohibited species resulting from additional time on deck.

The AP also recommends the Council instruct NMFS to prepare an additional analysis on methods to improve measurement of total removals on vessels with less than 100% coverage.

C-2 HALIBUT MANAGEMENT (ATKA PROPOSAL)

The AP recommends that the Council adopt Alternative 2, but change the trip limit to 10,000 pounds. (passed, 10/6)

The major concerns identified during the debate were:

The AP voted to amend Alternative 2 to address the concern that the 5,000 pound trip limit was too excessive of historic participation. Although the 10,000 pound trip limit reflected the average of all non-local boats' catch, some members were concerned that this would again diminish local participation.

C-4 HALIBUT CHARTER

The AP recommends that the Council continue the Halibut Charter Working Group and that the group provide the Council with a report at the April meeting that includes recommendations on the following:

1. Appropriate regional halibut charter management areas in GOA/BSAI.
2. Elements & options of a moratorium where appropriate.
3. To provide additional detail on the six items identified by the working group.

The AP recommends the Council maintain benchmark date of September 23, 1993. (passed, 13/1)

The AP recommends Council assign a staff person to work with the charter operators. (passed, 13/1)

D-1 NORTON SOUND KING CRAB

The AP recommends that the Council adopt Alternative 2 with the following changes:

1. This regulation would sunset (1) year after final Council action on any major CRP alternative. (passed, 16/1/1)

This recommendation is made as the result of several motions and much discussion. The major concerns identified during the debate were:

1. Proliferation of superexclusive registration area requests.
2. Appropriateness of this tool as compared to tools like pot limits.
3. The relationship between superexclusive areas and the development of license limitation, ITQ, or CDQ regulations.

The AP believes that for Norton Sound King Crab, for now, superexclusive registration is appropriate, but is not appropriate for other Bering Sea crab fisheries.

D-2(b) FULL UTILIZATION

The AP recommends the Council request staff to prepare an analysis paper on Full Utilization which incorporates the following alternatives (from the C-8 memo, page 7 and 8) with the following changes:

In summary, here are some alternative the Council could discuss at this meeting. They are listed in order from least burdensome to most burdensome on the industry. (Underlined sentence to be deleted.) This recommendation is made because no analysis of the alternative exists, and industry burden is a highly debatable topic.

Alternative 1: Status quo. Take no action now. Wait for comprehensive rationalization program to come on line and let the problem sort itself out then. (Underlined sentence to be deleted.)

Alternative 2: Modified status quo. Use other management approaches such as gear restrictions and time-area closures to address problem, rather than mandating a specified reduction in discard.

Alternative 3: Select several problem species for further consideration of a discard reduction schedule. Pollock, Pacific cod, rocksole, yellowfin sole, and one or two rockfish categories were mentioned above as starting points for discussion.

Suboptions include phasing in the reduction over several years or just in specific fisheries that contribute significantly to the discard problem. The Council would need to set the final goal and timetable of the program (e.g., a 75% reduction in Pacific cod discard by the end of 1997).

Alternative 4: Prohibit all discard (above NMFS retention standards) in 1995 (or again, over some scheduled phase-in).

Alternative 5: Harvest priority. (The AP recommends that the Harvest Priority be added to the alternatives. Passed, no objection.)