

CHARTER HALIBUT STAKEHOLDER COMMITTEE
Draft Minutes
Anchorage Alaska
April 12-13, 2007

Dr. Dave Hanson, Chair
Seth Bone
Bob Candopoulos
Ricky Gease
John Goodhand
Kathy Hansen
Kelly Hepler (1 day)

Dan Hull
Joe Kyle (absent)
Larry McQuarrie
Rex Murphy
Chaco Pearman
Greg Sutter

Agenda Council staff reviewed the motions for proposed actions that were adopted by the Council at its March 2007 meeting. One motion identified a suite of alternatives for six floating or 3 fixed (with step up and step down options) allocations. This proposed action is currently linked with a second proposed action that would link compensation to the commercial sector for any additional reallocation. An analysis of both proposed actions is on the Council's October agenda. The committee revised its agenda to provide recommendations on compensated reallocation alternatives and options at the Council's request. The Council did not request recommendations on initial allocation alternatives because of the composition of the committee.

General Discussion Kathy Hansen summarized an informal discussion on March 30, which some committee members had with state and federal staff on financing options for compensated reallocation options. A written report was provided to the Stakeholder committee (Attachment 1). Briefly the group described the various possibilities as follows: Federal Loan Program – A federal loan program could be designed in a number of ways. Depending on the program selected, either regulatory or statutory changes would be required. Loans could be made to an individual, an entity, or a government group. Because halibut IFQs are under the old version of MSA, it would take legislation to change the requirements for the loan program (i.e. must have 150 days of sea time).

Federal Buyout Program – Under this model, the charter fleet would have to pass a referendum approving the program and a self-assessment to pay back the buyout loan. A $\frac{2}{3}$ majority vote would be required. This is not a traditional buyback, where the fleet is reduced, but rather a buyout, where quota is purchased. It would be the first time a buyout has been done across sectors. An industry developed buyout program is likely to be better accepted and more successful than an agency developed program.

Federal Stamp – A federal stamp program would require nationwide support, which would likely be very difficult to get. The State does not support a federal stamp and neither do other states on the west coast.

State Stamp – The state likely cannot issue a halibut only stamp, it would have to be for all saltwater charter clients. The federal government cannot require that halibut anglers purchase a state stamp, because that is allowing the state to regulate halibut. There was some concern expressed about the inability of the state to dedicate funds (promise that funds raised by the stamp would be spent to purchase halibut QS). Those with experience with the salmon enhancement tax, marketing tax, and Regional Seafood Development Associations indicated that the funds generated by those programs have always been appropriated back for their intended purpose. The possibility of the legislature including intent language on how the money would be spent was suggested. It was also pointed out that if the funds raised by the stamp are used to pay back a bond or loan, this addresses the concern about not being able to dedicate funds.

Division of Investments Loan Program – This program could be modified to provide loans to either an individual or an entity. This would take statutory and regulatory change at the state level.

Regional/Private-Non-Profit Model – This model would require a vote of the charter fleet to impose a self-assessment. Once adopted, it would be mandatory for all charter operators to pay. For a regional association, 30% of members must participate in the vote and a simple majority is needed to approve a program. The assessment could be on a business license or per client basis. Regional associations could also use other funding sources. It was clarified that the initial allocation to the charter sector would not be issued to the regional group. There was general agreement that the appropriate number of associations would be one per region.

The group concluded that: 1) there were benefits to keeping the compensation program under either state or federal programs, but there were disadvantages to mixing state and federal financing, administering, and payment sources; 2) the proposed moratorium program decreases the need to further subdivide management of Areas 2C and 3A; and the charter industry needs to support the program chosen for compensated reallocation and are more comfortable with a program that they can control..

The committee noted the distinction between the loss of commercial allocation during initial allocation to the charter sector versus a compensated reallocation. It noted that this discussion is of a buy-out of commercial quota shares (QS) and not a buy back program. It further noted that a forced buy-out of commercial QS was not viable. And that compensation needs to be provided to individual QS holders.

NOAA General Counsel (GC) staff reviewed legal limitations on the State's ability to directly regulate halibut. Proposals for federal regulations to require a state stamp exceed State authority, and would require delegation of authority to the state.

The committee discussed how a program would be designed to allow the State to spend state charter (saltwater) stamp/dedicated funds to purchase commercial halibut QS. A revenue stream would guarantee payment of revenue source of funding the reallocation. The committee discussed whether the revenue stream to pay back the financing would be voluntary or mandatory self-taxing. There was general interest in having a regional association administer the fund. Self-assessments are not a tax; they could be collected at the dock and developed off logbooks. There would be greater self-control on commercial Quota Share (QS) purchases if the payments were self-assessed. But one member pointed out that self assessments, and perhaps other possible fees, would be passed onto anglers.

The State of Alaska Department of Investments also could administer such a program (self taxed, sent to general funds, 100% re-appropriated). Legal issues were raised about whether self-assessments administered by the State could be on halibut only or have to be for all saltwater or groundfish species. Dedicated State funding could be a trade-off with higher financing rates.

The committee clarified that funding sources could include grants or bequests.

The committee briefly discussed the Crossover and Rasmuson proposals, since aspects of them are now incorporated into the compensated reallocation proposal. Those aspects were discussed in more detail as the committee reviewed the compensated reallocation options.

The committee asked if a limited entry or share-based program would be considered a limited access privilege program (LAPP) since there is no halibut fishery management plan (FMP). NOAA GC staff clarified that Pacific halibut is managed under the Halibut Act and that the halibut commercial QS program is under the Magnuson-Stevens Act (MSA) only for fee collection. Further, Section 303(a) of the revised MSA now has cost recovery requirements for all *new* LAPPs. The question remained whether an angler day is a unit that is a portion of a total allowable catch that would be subject to cost recovery.

Compensated Reallocation Discussion The committee recommended the following changes to the text of the Council's April motion (Attachments 2 and 3). Kathy Hansen provided written comments to the committee on the Council's motion for committee review and comment. They are incorporated into these minutes under each element, as they were discussed by the committee.

Context The committee frequently addressed the initial allocation under Action 1 as it is intrinsically linked with the unspecified additional allocation proposed under a compensated reallocation program, but did not comment on the allocation options under consideration by the Council. Since charter halibut harvests continue to grow, but in an unpredictable amount each year, holding enough but not too much allocation each year is a difficult challenge for the charter sector under a common pool approach. Charter members spoke frequently of the need for stability in the allocation to be able to predict business growth. One committee member mentioned that the key is to secure an allocation that meets the sector's needs in times of low abundance (i.e., a floor) and develop a mechanism to transfer excess allocation in times of high abundance (i.e., a ceiling). Both sectors recognize that not enough allocation to meet their markets will be available to either sector in times of low abundance.

Charter committee members frequently spoke to the ability of individuals to predict their annual growth expectations and to "buy-in" to fees that they determine and administer, either under private non-profits (PNPs) or as individuals. The PNPs would be modeled after hatchery associations or regional associations. However, options for NMFS and the State of Alaska to hold and administer the compensated reallocation were retained for additional consideration by the Council. Agency staff will provide recommendations to the Council in June on this issue. Staff noted that the ADF&G Commissioner could hold commercial halibut QS if the regulations were revised, but not if it only benefited guided sport rather than the entire sport sector.

Element 1 (who holds commercial QS for charter sector). The committee revised the text of Option 3, and added a footnote. It deleted Option 1, Suboption 1 as it had been a placeholder while awaiting final action by the Council on the charter halibut moratorium. In the spirit of streamlining the options, Jane DiCosimo asked if options for the federal or state government to hold commercial QS in trust for the common pool of charter operators are viable. NOAA and ADF&G staff promised to report to the Council at its June meeting. It added a footnote under Option 2 to note that regional entities could be under the Federal community quota entity (CQE) regulatory authority or under the State Department of Revenue (DOR) authority.

Element 2 (how is the loan to purchase commercial QS administered). The committee deleted reference to leasing as it does not apply under Element 2. Instead, transfer of either QS or IFQ would be allowed. The committee had a lengthy discussion about how these options would work. Would one, larger transfer at implementation occur, or would annual increments be purchased? Option 2 suboption 2 buyout program was clarified that this option refers to a reverse auction and not a forced sale. It recommended that Option 3, Suboption 2 for commercial bonds be deleted because they were the most expensive. Private non-profit (PNP) entities and private loans could be either statutory amendments to the Federal loan program or State program through the Division of Investments (DOI).

Element 3 (who pays for the loan). The committee discussed how these options would work, particularly whether the revenue stream should end once the loan was paid. Members noted that leaving some charter allocation unharvested would enhance the biomass and benefit both sectors.

Commercial representatives proposed that the program should allow the charter sector to be on equal footing with the commercial sector for acquiring commercial QS, but should not be at an advantage. And the charter sector should not acquire excessive commercial QS beyond its needs and lease it back to generate revenues.

A discussion of how the State could be part of the proposed program ensued. The State can not give license fees to other agencies for other purposes.

The committee debated deleting the first sentence of the opening statement under Element 3. The committee adjourned for the day and returned to the discussion as the first order of business on its second day. A motion to delete it failed on a tie vote. The committee agreed to move the second and third (without the parenthesis) sentences to Element 6, since the issue is more of an implementation issue.

The committee revised the Option 1 suboptions on fees. A proposed flat fee could be applied to either State licensed charter businesses or to moratorium permit holders. The committee noted that all Federal options under Option 2 would require statutory changes. ADF&G staff noted that the State would not support a Federal proposal for national angler licenses or federal halibut stamp. The committee added Option 4 to allow individual private purchases to mirror Element 2.

Element 4. sector floor ranges. One member pointed out that the charter sector can not respond to biomass increases like the commercial sector and that the charter allocation must be in fixed pounds. The committee noted that the AP eliminated the fixed pound options and the Council reinstated it. Another way to look at a sector allocation floor is to determine what percentage of the allocation can flow between sectors. Staff raised a concern that at some point in the future the fixed pounds allocation will not be enough as client demand increases. It may be better to determine what percentage will float. The committee discussed whether the Council could set the allocation so that the floor is fixed and the QS purchased could float. The committee agreed that designating a percentage of the CEY that would be available for transfer between sectors addressed the same concerns and was a cleaner way to handle it. The committee voted to delete Element 4 and move the options (maximum of 10, 15, 20, or 25%) for transferable amounts between sectors into Element 5. For example, with a combined CEY of 11 M lb, the charter allocation would be 10% or 1.1 M lb in 2C, but the 2006 GHF was 1.432 M lb. One suggestion on the minimum allocation to the commercial fishery to keep it viable was 60% of the combined CEY.

Element 5 (transferability limits) Jonathan King pointed out that caps on purchasing and leasing commercial QS under Element 5 would change the incentive structure of charter businesses to restrain accumulation of commercial QS because it would be worthless beyond the caps. A committee member identified that the options for analysis were a compromise between commercial and charter negotiators during the April Council meeting. Dave Hanson pointed out that the language as written in Option 1.A.Suboption 1 is self-limiting in the previous year. The committee replaced the suboptions with, "Limited annually to [30-50 percent] of the rolling average for the previous 5 years of transferred (commercial) QS."

A committee member asked if it would be enough to cover new entrants, because it was unnecessary if it was not. It would distort the market for commercial QS not just new entrants, but for existing fishermen, too. Another explained that the rationale for it was that differences between the limits on transferability in total were needed to keep the status quo on a yearly basis. New entrants continue to have access and help prevent marketplace distortions from a few big purchases. It aims to help both sectors in the long run. Dave Hansen responded that if the concern is over the initial purchase, then why still have caps three years later. Concerns remain about distortion in the marketplace.

Jane DiCosimo was asked to provide language from the Omnibus IV regulatory amendment to revise Option 2 Suboption 2 to provide parity with the commercial program. The sub-option now includes a conversion equal to the current use cap in numbers of fish.

The committee inserted a new Issue A under Option 2 for a common pool, "Leasing back to the commercial sector is limited to 0-15% of commercial QS purchased by common pool." The common pool

may only lease 0-15% of holdings back to the commercial sector. This provision was added to address concerns that the charter fleet might use a large pool of money to purchase more quota share than they need, then lease that quota share back to the commercial fleet to generate additional revenue. As discussed earlier, it is a concern that this provides the charter fleet a financial incentive to buy more quota share than they reasonably expect to use. The commercial IFQ program was carefully designed to preserve the owner-on-board character of the fleet and to limit leasing. This program should be designed not to undermine those goals. There was some discussion about difficulties in the charter sector adapting to changes in CEY. There was a suggestion that another option might be to limit how many years in row the charter fleet can lease back to the commercial fleet. And it added a new Issue B to put a limit on leasing of commercial QS purchased to increase allocation (0-11%) on a common pool.

Element 6 (implementation issues). The committee deleted #1 as unnecessary. It retained #2-4 as written originally in the Charter IFQ preferred alternative, noting that commercial QS needs to be converted into sportfishing units to be used under any program. One committee member supported leaving sport units in pounds; all other charter members support converting it to numbers of fish. Staff was directed to modify the text of #2-3 to make them consistent with the commercial QS program, but no edits were made. The intent is to retain the language in the proposed charter IFQ plan. A committee member noted that there is a two step process to those points, depending on whether the holder was a regional entity (or the State) v. an individual.

Items #5-6 would allow individuals to cross over between sectors, but one member asked if this was double dipping. Another spoke against allowing absentee ownership, as the item is written for both individuals and common pool. The commercial sector dislikes leasing more and more over the years. Some argued it did not make sense to allow this marketing advantage, while others found no harm in it assuming the common pool is big enough). A motion to delete it failed. Items #5-6 were moved under Element 5, but limited to apply to only individuals; otherwise common pool participants could short circuit the system.

The committee added “that comes from transferred commercial QS” to #7. It had no comment on #8.

One member suggested that the proposed charter stamp is not a good approach. Economic theory does not support the notion that a stamp is “free” since the cost to charter businesses would be paid by charter anglers. Another reported that the best conservation stewardship comes from hunters and anglers, and that a small fee results in good stewardship. Two members thought that a combination of a stamp and business license fee could be implemented.

Staff clarified that under the proposed program, initial QS holders would get an underage credit whether IFQ is held by entities or the State for the common pool or individuals. A member suggested that it would eliminate incentives to lease more than is needed.

The committee made one change to #10. It deleted a suboption for a pro rata reduction and compensation. Issues surrounding eminent domain and forced sale of property rights was discussed. Commercial fishermen strongly object to a pro-rata reduction and compensation. Stakeholders mentioned that the suboption would provide a one-time compensation to someone who could have benefited from his/her QS every year. It would disrupt his/her business plan. Each QS holder paid a different price for QS, some still are paying off a loan, and that it would be a financial and accounting nightmare to attempt to force such sales. Any lien against the QS would follow the QS as it transferred until the lien was fully resolved. Further, not all QS are of equal value. Its value differs widely depending on the size of the holding, whether it is blocked or unblocked, the associated vessel class size, and the area for which it is issued. In addition to market differences, everyone places an individual value on their QS. Taking from everyone and compensating them equally was viewed as inequitable. It would be extremely difficult to set a fair price for compensation. The committee felt that there are a lot of better options that are a lot more

functional, such as purchases on the open market. In addition, NOAA GC staff identified some procedural problems with this approach. The lien issue for commercial purchase of QS is not different than a lien on a home during a sale; the price at closing would be discounted by the lien amount.

One member supported State involvement as a funding source, administrator, or QS holder needs to be analyzed. Another suggested that the Council action to send the draft elements and options was for the committee to refine the elements and options, so he supported eliminating some options, such as a forced buyout of QS. Another replied that a forced buyout was not acceptable to the commercial fishery. Removing it from the options would gain the trust of the commercial fishery. Three other members spoke in favor of deleting any mention of a buyout. A different member spoke philosophically that commercial QS is already being devalued by GHM overages, and that commercial QS holders would be compensated at a fair market price under the proposed program. But one asked who determines fair market value for different types of QS (blocked, small sizes, vessel category). The business plans for commercial operators is similar to those of charter operators, which include transaction costs and competition with other buyers. Another member asked what would happen if there is not enough QS on the market when the charter sector needed it for reallocation. There are price effects in open market situations and there may be twice as many buyers. Another spoke to the pitfalls of a pro rata reduction and compensation. It was deleted on a vote of 6:4.

The committee had no changes to #11. It recognized that #12 is intended to match Federal bag limit regulations and replaced '2-fish' with "equal to non-guided sport halibut bag limit" for simplicity. It passed with 1 objection.

Having completed working through the Council motion in its entirety, the committee went back over the document for additional comments.

The committee discussed a potential Federal buyout of commercial QS through a bidding process similar to that used for the commercial fleet; funds for the buyout would come from the charter sector. The commercial QS then would become charter QS. The committee agreed to strike the parenthesis under Element 2 Option 2 Suboption 2; a reference to the seine fishery was deleted.

The committee discussed the self assessment component of Element 3 Option 2 Suboption 3. The CQE model is already allowed under Federal regulations so this suboption is not necessary. It is included under Suboption 1 for State management. There was a motion to delete, but one member spoke in favor of keeping it in the analysis.

The committee included a grandfather clause to be included under Element 5.

Permanent Solution. Having completed its recommendations on compensated reallocation, the committee moved on to review a draft proposal for a Guided Angler Fish (GAF) program that is intended to replace the proposed charter IFQ alternative in the Council's next step. Larry McQuarrie introduced the proposal. A member supported replacing the charter IFQ proposal with the GAF program and recommended that it does not make sense to use 2007 data as basis for the proposed program because of restrictions posed in 2007. Instead, 2006 logbook data should be corrected since halibut data began to be collected again then. He does not want to require businesses to change their models. Instead, this approach can interface with the commercial fishery and accommodate all existing business models and allow those models to change in the future.

The committee discussed but did not decide whether a limited entry (moratorium) permit is needed under a GAF program. Requiring both a permit and GAF would limit participants further. The limited entry program does not address latent capacity; but members were concerned about possible "takings" by the Federal government, having new or lesser developed participant increasing their participation at a more

invested commercial or charter participant's expense, and allowing a business to tailor QS to their individual needs.

A member asked why not just have charter operators buy GAFs on the open market and let the marketplace rule rather than self-assessment and stamps approach. Four members each pointed out that the permanent solution alternatives are directed towards individuals; there is no permanent solution alternative for common pool participants. One member disagreed; she responded that the alternative to revise the limited entry program addresses common pool. Another suggested that they all would increase costs to guided anglers, except for the GAF program. Another concurred that there is a limited entry alternative, but it is not as well developed. A different member identified the three approaches currently being considered: 1) charter IFQ, 2) limited entry permit endorsements; 3) compensated reallocation (KACO/Rasmuson proposal combination). The committee considered that they were facing a 3-step approach to addressing the problem: 1) setting the charter allocation; 2) developing mechanisms to meet the needs of clients in the future; and 3) a permanent solution. Ricky proposed that the approach(es) should: 1) not increase cost to anglers; 2) allow for growth in the charter allocation; and 3) not compel commercial QS holders to sell QS.

The committee recommended language for the revised permanent solution alternative for the Council's consideration (Attachment 4).

Next Meeting The committee identified October 30-November 1 in Anchorage for its next meeting. The only agenda item will be to provide final recommendations on permanent solution alternatives for analysis.

Staff Jane DiCosimo, Nicole Kimball, Doug Vincent-Lang, Sue Aspelund, Scott Meyer, Mike Jaenicke, Jay Ginter, John Lepore, Jonathan King

Public Bob Howard, Ed Hansen, Cora Crome

**Halibut Charter Re-allocation Financing Mechanisms
Information Gathering Session Notes
March 20, 2007
ADFG Commissioners Conference Room**

Stakeholders: Kathy Hansen, Dan Hull, Larry McQuarrie, Ricky Gease (Ricky was at the meeting only part of the time)

Staff: Jane DiCosimo, NPFMC; Sue Aspelund, ADFG; Doug Vincent-Lang, ADFG; Jim Anderson, State – Div. Investments; Jessie Gharrett, NFMS; Leo Erwin, NMFS Financial Services; Earl Bennett, Financial Services; and Sam Chi, NOAA General Counsel

Public: Ed Hansen

We started the meeting at 10:30 with a teleconference connection to Silver Springs Maryland with the NMFS financial services and NOAA GC. The intent of the meeting was for a few stakeholders to gather additional information from all agencies possible to bring back to the stakeholder committee as a whole as discussed at the stakeholder committee meeting.

Started out the discussion by talking about the NMFS Loan program after Doug gave a brief overview of where we are at. The NMFS loan program is for halibut and sablefish for the last 10 years, there has been no changes to the program since it was developed. The program was developed for entry level, small boat fishermen with entry level defined as less than 8,000 lbs and the small vessels can't hold A shares. There are owner onboard and citizenship requirements to the loan program.

NMFS can't say at this time if statutory or regulatory or both would be needed to apply the program to the charter sector until they see the final program but would likely adapt the current program to accommodate the charter sector.

Loans are for 20-25 years and interest rate is fixed at 2% over the cost of borrowing money from the treasury(long term 20 yr treasury bond rate) (7% right now) with quarterly payments.

The loan authority of 5 M is used up every year. Program has been popular with the fishermen. If money runs out before everyone is satisfied they stay on a waiting list for the next years funding.

Any entity/association applying for a loan on behalf of charter fishermen must be creditworthy like any other entity or individual. NMFS needs a security interest in the quota share, whether the share is changed for utilization purposes to angler days or whatever.

There is no cost to the industry for the loan program due to the lack of loan defaults. The cost recovery fee of up to 3% the commercial fishermen pay could be used as a subsidy in the future if needed.

Financial Services (FS) gave a brief background about the Federal Credit Reform Act. The act requires that they have to calculate the cost of the loan program and fairly allocate such costs back to the individual programs. The loan program is currently considered as a negative subsidy (doesn't need any new funds to sustain itself). Congress must provide yearly loan authority for the program. The program has been receiving loan authority of 5 million dollar a year. This is first shown in the Presidential budget, then the House/Senate budget and joint conference board. At any of these stages you could try for more loan authority but would be an act of Congress to change the loan authority amount. The Council designed the program for the

commercial IFQ loan program and Congress gave it structure. The ability to hold quota share is the equivalent loan eligibility.

If the State or an association on behalf of the charter fishermen held the quota share would a regulatory or statutory change be required? Can't answer that now, would depend upon the program. The question wasn't forwarded to D.C. from the region when the charter IFQ program was transmitted. The Council could design a program that meets Statute and the loan program mirrors the Council's eligibility to hold Quota share and the federal budget would need to be authorized for a larger amount. You would only be asking Congress for increased loan authority and not actual funds.

The commercial fisherman interested in the loan program does not have to have quota share identified to purchase they can pre-qualify and have up to five years to purchase quota share with the funds approved for. This can be done in several loans. From application to approval letter is 4-5 weeks from a responsive borrower. With a budget approved in October the loan funds run out approximately in May or June. The loan authority of 5 Million has allowed for approximately 30 loans a year now but as the value of quota share goes up the number of loans decreases. The question was asked what it would take for the State to get a loan. It would possibly require statutory changes (MSA?). The council would need to start the process. **Need to get the statute language for who can hold quota share.**

The loan program could be designed how you wanted or you could try to adapt it to the current commercial IFQ program.

Financial Services explained that if a borrower defaults on a loan, first they take the quota shares that were used as collateral and sell those on the market, if that does not pay off the amount owed then they take any other collateral that was pledged and sell it, if more money is still owed after this the borrower still owes the money until it is paid and interest continues to accrue.

Federal Buyout [link to federal buyout program outline <http://www.nmfs.noaa.gov/sfa/buyout.pdf>]

A federal buyout requires either application of the MSA buyout framework or specific Congressional language to authorize and appropriate loan authority. You still usually end up with congressional legislation/language needed to make the program work.

There are two styles that can be drawn from:

1. Agency developed with an open bid process
2. Industry developed and driven program

#1 - Generally a buyout program starts with a limited entry fishery and the intent is to shrink the number of people participating in the fishery so that those remaining receive more access to the resource. This situation is different in that you are actually shrinking the size of the pie for the commercial sector. The agency would put out a bid / reverse auction up to the amount of the authorized loan. The buyback would go out to the participants for a referendum vote with a 2/3rds or majority of the permit holders ratifying the buyback. The referendum could authorize up to a 5% landing tax (or what is necessary to pay off the loan) to pay for the buyback and once ratified would be binding on all permit holders.

#2 – Industry would develop an industry business plan (in MSA) – take it to the council, NMFS, and then special legislation. All the remaining participants repay the loan. In current programs, the loan is re-paid by buyer at first sale of product. To make this work would have to develop a

different model for the charter sector such as a per client fee or percentage of value of charter trip. In the event that a fishery is closed (for example the crab fishery) the loan continues to accrue interest and upon the fishery re-opening the highest fee possible is assessed. You could use the model of one loan for both 2C/3A but apportion the costs between the regions; this was done in the crab fisheries where different species/different regions are responsible for their portion of the loan/buyout.

Successful examples to look at are the crab program and the Pacific Coast groundfish.

Dan asked who the Council could designate to hold quota share. Jessie said that she had emailed Kathy the language and briefly went over it. The email response follows in italics. *As to who can hold QS in the current commercial program: first, you must be a U.S. citizen or U.S. corporation, partnership or other entity. Next:*

- 1. Anyone can hold or purchase A ("freezer") shares.*
- 2. for catcher vessel shares (halibut categories B, C, and D), you must be:*
 - a. an initial issuee of quota (an individual or non-individual entity);*
 - b. a solely-owned corporation formed by an individual initial issuee for liability purposes;*
 - c. an individual who becomes transfer eligible (i.e., receives a Transfer Eligibility Certificate, TEC). An individual can receive a TEC if (s)he demonstrates in an application to NMFS' satisfaction that (s)he has at least 150 days of harvesting experience in any U.S. commercial fishery;*
 - d. the individual person who is the heir of a deceased individual QS holder;*
 - e. a non-profit formed on behalf of a specific named GOA community, under the community purchase program. Under this program, the non-profit can purchase/sell QS but it can only be leased to residents of the community on whose behalf it is held; or*
 - f. any other person, (say, the State of AK) if transferred by "operation of law"; that is by order of a court of competent jurisdiction (Court Order) However, if a person (say a bank, or a divorced ex-spouse) comes in with a Court-ordered transfer, if the recipient is not eligible to receive the annual IFQ permit and fish (i.e., is a "restricted" person), NMFS will issue the QS but not the IFQ. That person would only gain benefit by selling the QS to one of the above persons who can receive it. We do not allow voluntary transfers to restricted persons.*

Also, we do not allow voluntary transfers to persons if the transfer would put a person over the ownership caps. But, operation of law transfers do occur, even to persons who can receive and fish the annual IFQ. In that case, the person is not a restricted person, but the additional QS over the cap would be restricted and would not result in annual IFQ until that person's total holding are under the cap.

One final note: it isn't totally clear if the IRS can take QS. That Agency has never taken the QS in its own name; rather, it has forced transfer to a third party under our program rules and taken proceeds).

A federal stamp (duck stamps) needs a constituency to support it. With a state charter stamp or surcharge the money would go to Fish and Game fund and would have to be used to benefit the angler.

The CDQ groups could be a possible example to look at where any profits are rolled back into the ex-vessel price to fishermen.

There was a little additional discussion about the IRS receiving a priority security interest and Jim said that the IRS can't take a priority interest position over a value security interest. IRS forced the sales at the beginning of the loan program.

Doug agreed to look into the issue of whether the State could be a federal borrower.

The teleconference with the East Coast folks ended at this point approx. 11:45. Ricky Gease stated that he wouldn't be able to come back this afternoon so he made a few statements and other members asked him some questions before he left. Ricky said there are some 200K anglers and most are willing to pay 10-15 % more before they increase to unguided fishing. The charter industry needs to maintain a 2 fish limit but you can put limitations on the size of the second fish. You could raise some of the funds by a charter stamp etc and then hide the cost by increasing the charter operator's license. Larry liked the idea of raising the operator's license to help keep minor players from participating in the industry.

Larry stated that variable is the number of clients and the cost fluctuation of the quota share. The charter industry is restricted to an area around the town/lodge and you can't grow and grow without killing the fishery. Near shore depletion is something that needs to be addressed. Ricky said that one thing that needs to be looked at is the capacity of the charter fleet at maturity or the carrying capacity of the region or port. Larry pointed out that without limited entry/moratorium you can never catch up. Dan asked about allowing charter operators to purchase quota share for use with limited season or bag limit restrictions. Ricky answered that it would be short-sighted of the council to look at the proposal. Ricky stated that any long term solution needs to be crafted with the thought of how it will work in years of low abundance. An assessment needs to be only assessed to charter sector, not all recreational angler; Legislature only likely to assess affected users so mandatory for those using charter but voluntary for those buying sport licenses. Doug Vincent Lang said that the most reliable funding source is public ownership with the angler paying. Ricky said that angler days are fine but the charter operator needs to buy the angler day history from a centralized location not direct from commercial quota share. Growth is now coming from the charter operations in the mid-range going from 30 days to 50 days etc.

Dan asked what kind of entity can be authorized by the by the council to hold quota share. Response: What kind do you want developed? Entity should probably be kept as a non-profit. The CQE model could be something to look at and adapt.

Break for Lunch

State Side

Charter stamp could be done with legislation, would likely be set up to use the dedicated fish and game fund for the purposes of buying the quota share for the charter sector. Could be done as a stamp or as a surcharge, the difference is that a surcharge is for a specific purpose. The funds raised for the hatchery bonding was developed as a surcharge on the license but it can be used for the retirement of the bonds only even though the more revenue is being raised it can't be used for higher than anticipated operating costs. [Link to the legislation for the hatchery bonding and surcharge

http://www.legis.state.ak.us/basis/get_bill.asp?session=24&bill=SB147]

The state could only implement a halibut stamp only if the state receives State delegation unless the federal regulations required it since the State is required to comply with federal law.

Need to ask federal officials if the requirement for a state stamp be required on the federal side as a regulation or would it need to be statute.

If a charter stamp was implemented it could take pressure off of other species as the stamp funds would only have to be used to benefit sport fishermen. Dan Hull asked what would work best. Doug answered if the state held the quota share. The legislature holds the Dept responsible for spending money to benefit where the funds came from. I.E. money raised by a charter stamp would need to benefit charter anglers but all the funds would not need to be spent

on halibut QS. There are 140K chartered anglers who only fished for halibut in 2006. **To put this in perspective ADFG needs to provide the total number of chartered anglers in saltwater marine fisheries.** A state charter stamp couldn't be used to pay back a federal loan.

If a higher license fee is put on the operator it would tend to cut the hobbyist out.

The fundamental question is who holds the quota share? State/Industry/Federal and is it a Federal or State loan program?

Division of Investments – Their loan program is similar in that there would be required a down payment and credit worthiness of the borrower. A lending limit of 2 million was developed for the CQE loan program. To do anything through the Div. of Investments current loan program would take legislation and regulation changes.

Regional Association: (commercial hatchery/marketing assoc model)

[Links to the regional marketing association legislation and regulations

http://www.legis.state.ak.us/basis/get_bill.asp?session=23&bill=HB419 and

http://www.dced.state.ak.us/oed/seafood/pub/RSDA_regulations.pdf]

Doug stated that ADFG law is nervous about the PNP's because it is built on the assumption that the assessments will go back thru the legislature in the same amount as assessed. License surcharges and stamps are a better mechanism than taxation. Kathy pointed out that she thought this wasn't a valid point because the Regional Seafood Development Associations (RSDA or marketing assoc.) was just passed by the last legislature and if they thought there was problems with the model it would have come out during that legislative hearings. Criteria can be written in the enabling legislation. Larry stated that the charter industry is more comfortable with a federal or non-profit route rather than a state managed program except the hatchery/RSDA model. Both with a state charter stamp, surcharge or self assessment would increase the overall allocation to the sector at large but the high producers subsidize all the charter operators. State wants directions from the council on whether it would be a federal or state program for compensated reallocation. Regional association take a referendum as part of the process. For the RSDA's the requirement was that 30% of those eligible to vote must vote and of those voting you need a majority. (15% of the permit holders plus 1 could pass a referendum for an RSDA) Jim pointed out that sometimes it's hard to get even the 30% to take the time or effort to vote. Once the referendum is voted on all permit holders have to pay the assessment.

A question on whether there can be some stipulation with the sale of quota share as the areas fished and that nearshore depletion will need to be dealt with eventually.

Division of Investments has servicing contracts with other agencies and can do the due diligence, accounting etc. Other models that could be looked at is the credit union model, the AFA co-op model where they buy additional quota share for extra Pollock, airport landing fees.

Division of Investments further clarified on the hatchery assessment that revenue collects the funds, the legislature allocates the funds back every year, Revenue write the checks to the regionals but give the check to DOI where they check for current contract, check audits etc.

Question that was raised that we need an answer from federal NMFS/NOAA GC, Is an angler day a LAPP under the new MSA requirements and therefore subject to cost recovery mechanisms?

Crossover Plan: Briefly introduced and Larry stated it has possibilities but those charter operators opposed to IFQ's think it's an end-run to an IFQ program. Question was asked what

the timeline would be to implement the crossover plan. Jessie pointed out that it can't be implemented for 2008. Will need 2 council meetings and then at least 6 months for rule-making at a minimum and couldn't be in place until 2009. Jane agreed.

Rasmuson Plan March 6, 2007 version

Several thought that the plan was not finished, it only addresses the immediate problem but not the long term. It eliminates all traces of IFQ like elements of long-term solution. It does not address the possible need for management measures in years of low abundance. Could the plan be combined with a regional association model and/or the crossover plan. Several thought that all the elements in this plan are currently tucked in the stakeholders long term solutions as elements contained within. Dan brought up that there needs to be care that there remains quota share available at a reasonable price for purchase into the commercial fishery.

Discussion about the need to retain some commercial industry within a region. This could be done with the Council capping the charter sector purchases with a periodic review in order to address absentee holding, excessive leasing etc.

Could any leasing that needs to be done from the charter into the commercial sector go through the CQE groups with first right of refusal to help develop them.

Take home messages that were agreed to:

- You will have to be careful if trying to mix and match state and federal programs.
- With a moratorium the need to split inside and outside areas in 2C are decreased. A simple program can be designed by IPHC management areas.
- Industry needs to buy into the program and are more comfortable with a program that they control.

**Charter Halibut Stakeholder Committee
Elements and Options for Compensated Reallocation between Commercial and Charter Sectors in
Areas 2C and 3A
April 12-13, 2007
Draft Minutes**

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 Council will continue to serve as the arbitrator and 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 ~~from-between~~ the commercial ~~charter~~-sector ~~to-and~~ the charter ~~halibut~~-sector

Element 1 ~~Entity/Structures to provide for compensated reallocation-Who holds and administers the purchase of compensated reallocation~~

Option 1. government - common pool

Suboption 1. state ADF&G Staff comments to Council in June

Suboption 2. federal NOAA Staff comments to Council in June

Option 2. regional (2C or 3A) private non-profit (PNP) charter associations/~~community quota~~ entities¹ - common pool

Option 3. individual² - private

~~Suboption 1. persons holding a sport fishing guide business license from the state~~

~~Suboption 2. persons holding a guided sport halibut moratorium license (upon implementation)~~

Element 2 Method for ~~Purchase/Lease~~Funding Compensated Reallocation of Commercial QS

Option 1. state – common pool

Suboption 1. loan

Suboption 2. bonding

Option 2. federal – common pool

Suboption 1. loan

Suboption 2. buyout program

~~(similar to SE seine buyback program)~~

Option 3. regional private non-profit – common pool

Suboption 1. loan

~~Suboption 2. commercial bond~~

Option 4. individual - private

Suboption 1. loan

i. state

ii. Federal

iii. private

¹ under Federal community quota entites (CQE) or State Department of Investments (DOI)

² who holds a moratorium limited entry permit

Element 3 ~~Revenue Stream~~ Who Pays Down the Loan

~~Non-self assessment~~ 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.

~~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.)~~

Option 1. state

Suboption 1. ~~State (saltwater or groundfish) charter stamp~~

Suboption 2. ~~self-assessment flat fee on State business license or limited entry permit holder~~

option 1. ~~fee is~~ based on number of clients

option 2. ~~fee is~~ based on number of fish

Suboption 3. ~~business license fee/surcharge-~~ fishing license surcharge (tied to bond)

Option 2. federal

Suboption 1. federal halibut stamp

Suboption 2. moratorium permit fee

Suboption 3. self-assessment

option 1. Fee is based on number of clients

option 2. Fee is based on number of fish

Option 3. regional private non-profit – self assessment

Suboption 1. fee is based on number of clients

Suboption 2. fee is based on number of fish

~~Suboption 3. flat fee per business license~~

Option 4. individuals

Element 4 ~~Sector Floor Ranges~~

~~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. commercial: 60–75%~~

~~B. charter:~~

~~2C: 12–16%~~

~~3A: 13–15%~~

~~Note: These ranges should not be construed as endorsement of allocation ranges.~~

Element 45 ~~Restrictions on transferability of commercial quota share by charter sector, with grandfather clause to exempt current participants in excess of proposed limits~~

Limits on transferable reallocation between sectors: These percentages are based on the combined commercial and charter catch limit (CEY). These are intended to establish a minimum amount that will be always available to each sector.

i. 10%

ii. 15%

iii. 20%

iv. 25%

~~Option 1.~~ Limits on purchase

A. entities purchasing for a common pool:

~~Suboption-Issue 1. limited annually to a percentage [30-50 percent] of the amount of commercial QS transferred during the previous year over a rolling average of the previous 5 years~~

~~option 1. during the first 3 years: 30—50%~~

~~option 2. after the first 3 years: 20—50%~~

~~Suboption-Issue 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 suboptions-issues are not intended to be mutually exclusive.)~~

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

~~Option 2.—Limits on leasing~~

A. individual charter operators:

~~Suboption-Issue 1. an individual may not own or control 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)~~

~~Suboption-Issue 2. an individual may not own or control 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.)~~

B. common pool: Leasing back to the commercial sector is limited to 0-15% of commercial QS purchased by common pool

Suboptions to above:

—Limits on transferable reallocation between sectors:

—10%

—15%

—20%

—25%

C. Individual 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 GAF on an individual basis or to a common pool.

D. Individual 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 trip.

Element 6 ~~Mechanics for converting commercial quota share into Guided Angler Fish (GAF)~~ Implementation Issues

~~1. An entity must meet the eligibility requirement under element 2 to participate in the Guided Angler Fish (GAF) program. (i.e., an entity must have a sport fishing guide business license and/or a halibut moratorium license, or be a designated charter association/entity or branch of the government, to participate in the GAF program.)~~

~~2.1. These q~~Qualifying entities may purchase commercial QS and request NMFS ~~the~~ to issue annual IFQs generated by these shares as Guided Angler Fish (GAF).

~~3.2.~~ 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.

4.3. 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 ~~JDC comment: should this rolling average of previous 5 years for consistency?~~. The long-term plan may require further conversion to some other form (e.g., angler days).

~~5. 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 GAF.~~

~~6. 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 trip.~~

7.4. Subleasing of GAF would be prohibited.

8.5. 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.

9.6. Unused GAF ~~would~~ 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.

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

~~Suboption. Pro rata reduction and compensation.~~

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

12.9. Guided angler fish derived from commercial QS may not be used to harvest fish ~~in excess of in excess of a 2 fish total bag limit equal the~~ non-guided sport halibut bag limit on any given day.

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.

Charter Halibut Stakeholder Committee
Elements and Options for Compensated Reallocation between Commercial and Charter Sectors in
Areas 2C and 3A
April 12-13, 2007

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 Council will continue to serve as the arbitrator and 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 Who holds and administers the purchase of compensated reallocation

Option 1. government - common pool

Suboption 1. state ADF&G Staff comments to Council in June

Suboption 2. federal NOAA Staff comments to Council in June

Option 2. regional (2C or 3A) private non-profit (PNP) charter associations/community quota entities³ - common pool

Option 3. individual⁴ - private

Element 2 Method for Funding Compensated Reallocation of Commercial QS

Option 1. state – common pool

Suboption 1. loan

Suboption 2. bonding

Option 2. federal – common pool

Suboption 1. loan

Suboption 2. buyout program

Option 3. regional private non-profit – common pool

Suboption 1. loan

Option 4. individual - private

Suboption 1. loan

iii. state

iv. Federal

iii. private

³ under Federal community quota entities (CQE) or State Department of Investments (DOI)

⁴ who holds a moratorium limited entry permit

Element 3 Who Pays Down the Loan

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.

Option 1. state

Suboption 1. State (saltwater or groundfish) charter stamp

Suboption 2. flat fee on State business license or limited entry permit holder

option 1. based on number of clients

option 2. based on number of fish

Suboption 3. fishing license surcharge (tied to bond)

Option 2. federal

Suboption 1. federal halibut stamp

Suboption 2. moratorium permit fee

Suboption 3. self-assessment

option 1. Fee is based on number of clients

option 2. Fee is based on number of fish

Option 3. regional private non-profit – self assessment

Suboption 1. fee is based on number of clients

Suboption 2. fee is based on number of fish

Option 4. individuals

Element 4 Restrictions on transferability of commercial quota share by charter sector, with grandfather clause to exempt current participants in excess of proposed limits

Limits on transferable reallocation between sectors: These percentages are based on the combined commercial and charter catch limit (CEY). These are intended to establish a minimum amount that will be always available to each sector.

v. 10%

vi. 15%

vii. 20%

viii. 25%

Limits on purchase

A. entities purchasing for a common pool:

Issue 1. limited annually to [30-50 percent] of the amount of commercial QS transferred over a rolling average of the previous 5 years

Issue 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 issues are not intended to be mutually exclusive.)

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

Limits on leasing

A. individual charter operators:

Issue 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)

- Issue 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.)
- B. common pool: Leasing back to the commercial sector is limited to 0-15% of commercial QS purchased by common pool
 - C. Individual 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 GAF on an individual basis or to a common pool.
 - D. Individual 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 trip.

Element 6 Implementation Issues

1. 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 JDC comment: should this rolling average of previous 5 years for consistency?. 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 halibut bag limit on any given day.
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.

DRAFT GUIDED ANGLER FISH (GAF) PROGRAM⁵

The GAF program would replace the Moratorium program approved by the Council in April 2007. No changes were made to the 2-fish daily bag limit or 2-day possession limit for charter anglers. The GAF program could be implemented as early as 2010 if adopted by the Secretary of Commerce. Major features of this proposed program includes:

1. The action does not restrict non-charter recreational anglers. It only affects charter operations.
2. The action does not permit a charter operator to sell fish. Fish caught by charter clients belong to the client.
3. The halibut GAF program would be integrated into the existing halibut commercial IFQ program.

PREAMBLE: Due to the lack of halibut harvest records during 2002 through 2005 logbooks, this proposal uses a business's 2006 logbook for ground truthing earlier years by applying a formula to obtain an individual harvest rate (number of fish per angler day) based on the 2006 'verifiable' logbook. An individual's harvest rate derived from the 2006 logbook will be applied to the past logbooks' days of bottom fish effort. This gives each business its own success ratio for determining their initial issuance of GAF. Example: 1,150 halibut harvested in 2006 divided by 620 halibut angler days = a ratio of 1.85 halibut per angler day. Someone who was not as successful would receive a ratio that would reflect their efforts. Example: 750 halibut harvested in 2006 divided by 620 halibut angler days = a ratio of 1.21 halibut per angler day. For someone with very little halibut effort, the same process would apply. Example: 10 halibut harvested in 2006 divided by 7 halibut angler days = a ratio of 1.4 halibut per angler day. 2006 logbook data would be used to ground-truth past logbooks only. They would not be used for determining qualification for GAF, as the Control Date of December 9, 2005 would apply. The initial allocation (amount of fish) would be ascertained by the Council and has not been determined.

PLAN OUTLINE:

1. Charter allocations can grow over time through purchase of commercial QS. Initially issued GAF shares may not be transferred (sold) to the commercial sector.
2. Initial GAF shares may be transferred within the charter sector. Commercial QS may be transferred permanently to the charter sector. They also may be transferred permanently back to the commercial sector. Restrictions on those commercial quota shares would continue to be applied while they are used in the commercial fishery. (Commercial QS would retain original designations when transferred back to the commercial sector.)
3. Twenty percent (20%) of GAFs (a GAF is the amount which can be harvested in any one year based on a person's number of GAF shares multiplied by the charter quota) may be leased within the charter sector for the first three years of the program.
4. 2, 3 or 4% of GAF shares will be set aside for underdeveloped Gulf coastal communities to develop additional charter operations (the Council will identify those communities who are eligible for developing new operations. Details of the program will be determined in a subsequent action).
5. A Moratorium Permit will be required for participation the GAF program, but once the GAF program is fully implemented the moratorium would sunset.
6. A GAF share use cap of 1 percent in Southeast Alaska and 1/2 percent in South Central Alaska as well as a cap of 1/2 percent for both areas combined is proposed, however, anyone who is initially issued quota shares above those levels would be grandfathered into the program at their qualifying level and in years of low abundance, would be able to buy-up to their original grandfather level.

⁵ This is a draft only. Stakeholder Committee will have further work to do on this proposal at its October, 2007 meeting and will present this to the Council at its December, 2007 meeting. The GAF alternative would replace the charter QS alternative in the Council's permanent solution analysis. Other proposals for a permanent solution are also being considered.

7. A delay of one year between the issuance of GAF shares and fishing under the GAF program to allow for GAF holdings and customers to be synchronized.
8. GAFs would be issued in numbers of fish (compared with pounds in the commercial program) to allow current fishing practices to continue using ADF&G area averaging for fish weight to be determined for each IPHA area (2C and 3A).
9. An agency and charter industry committee will develop an implementation plan to address reporting, monitoring, and enforcement.

Alternative. Incorporate a Guided Angler Fish (GAF) program from the charter sector into the existing commercial halibut IFQ program.

- IFQs and GAFs are an access privilege, not an ownership right.
- They may be revoked or limited at any time in accordance with the North Pacific Halibut Act as well as the Magnuson-Stevens Act, and other federal laws.
- GAF halibut may not be sold into commerce - i.e., all sport regulations remain in effect.

Issue 1. Qualification Criteria: Persons holding a halibut Moratorium Permit would qualify for the GAF Program

Issue 2. Distribution of GAF may be based on:

1. Applying the harvest rate (success rate) determined from the 2006 logbook (number of fish/angler/day in 2006) to the past logbook number of angler days of bottomfishing effort. This gives each boat its own rate. Example: 750 halibut harvested in 2006 divided by 500 clients = a ratio of 1.5 halibut per angler day. 2006 logbook data would be use to ground truth past logbooks only.

2. Qualifying years:

Option #1: Pick the 3 best years from 1998 to 2005 ADF&G logbooks and average the number of bottomfish days. If a charter has only 2004 and 2005 logbooks then a "0" for the third year would be averaged in. In years of recorded harvest only the effort would be used, not the halibut listed.

Option # 2: Pick the 2 best years from 2002 to 2005 of the ADF&G logbooks and average the number of bottomfish days. If a charter has only 2004 or 2005 logbooks then a "0" for the 2nd year would be averaged in.

Option # 3: The charter business would receive 90% of the average of the 2004 and 2005 logbook bottomfish effort. Then a charter would receive 20% of the 10% not distributed for each year of participation prior to 2004. Example: If a charter business has been in business from 1995 and is still currently qualified in the charter moratorium, then he would qualify for the 5 years from 1999 to 2003 at a rate of 20% of the 10% not distributed for each year of participation. This could result in this business receiving slightly more than 100% of the charter pool.

Option # 4: Pick the best year of recorded bottomfish effort from 1998 to 2005 of the ADF&G logbooks.

Option # 5: Average of 2004 and 2005 logbook bottomfish effort. If a charter has only 2004 or 2005 logbooks then a "0" for the 2nd year would be averaged in.

Harvest rate is determined at the boat level, or logbook level, which are the same. Each business will be issued its number of fish resulting from formula above and the charter GAF holders will be included in the existing commercial halibut IFQ program.

Issue 3. Transferability of GAF Shares (permanent) and GAFs (on annual basis [leasing])

GAF is non-leasable to the commercial sector

GAF transfers:

1. Initially issued GAF is fully transferable within the charter sector.
2. 100% of an individual's initially issued charter GAF is permanently nontransferable to the commercial

sector to address concerns by charter operators of permanently losing opportunities.

3. Commercial QS purchased by charter operator is fully transferable (two-way) across sectors and retains original commercial designations.

GAF leasing:

1. 20% of a charter operator's annual GAF is leasable within the charter sector for the first 3 years of the program.
2. Leasing is defined as the use of GAF on a vessel which the owner of the QS has less than a 50% ownership interest.
3. 10% of a holder's GAF may be leased to the commercial sector.

Block restrictions

Allow splitting of commercial blocks to transfer a smaller piece to the charter sector - split blocks retain original designations.

Vessel class restrictions:

From A, B, C, and/or D commercial vessel category sizes to charter sector, except that no charter business may own or control more than 1 "D" category block equal to or above the sweep-up level.

Issue 4. To receive halibut QS and GAF by transfer: For the charter sector, must be a halibut Moratorium Permit holder

Issue 5. Caps

1. Use cap for charter GAF owners only of 1 percent of combined QS/GAF units in Area 2C and 1/2 percent of combined QS units in Area 3A (for all entities, individually and collectively) and grandfather initial issuees at their initial allocation.
2. Use caps for charter GAF owners only of 1/2 percent of combined GAF units for combined Areas 2C and 3A (for all entities, individually and collectively) and grandfather initial issuees at their initial allocation

Issue 6. Miscellaneous provisions

1. 10% underage provision of total GAFs.
2. A one-year delay between initial issuance of GAF and fishing GAFs.
3. Halibut harvested aboard a charter vessel continues to be the property of the angler who caught the halibut provided the charter owner possesses sufficient GAF.
4. Grandfather initial recipients above proposed limits.

Issue 7. GAFs associated with charter QS may be issued in:

Numbers of fish (based on average weight determined by ADF&G)

Issue 8. Reporting:

The Council defers design of the reporting and enforcement strategy to a GAF technical implementation team, comprised of agency and industry. It is the intent of the Council that a more comprehensive reporting system will address the following items. The Council has noted in the past that ADF&G logbooks would not be considered sufficient for monitoring and that the team should consider fish tags and other reporting systems suggested by industry.

1. More timely, verifiable reporting of catch;
2. Enforcement concerns;
3. More accurate geographic referencing of catch location which provides for analysis of halibut harvest in LAMP districts.

Issue 9. Community set-aside (revised)

1. Set aside 2, 3, or 4% of the combined commercial and charter halibut quota to communities with 1 percent annual increases if utilized, to a maximum of 4%.
2. Source of the set-aside: Equal pounds from the commercial and charter sectors.
3. Sunset provisions: 5 years (starting in the first year of issuance). Persons currently participating in the set-aside program at the time of sunset would be allowed to operate within the guidelines of the program.