

North Pacific Fishery Management Council

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Date

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ADVISORY PANEL MINUTES Centennial Hall, Sitka, Alaska October 2-5, 2000

Advisory Panel members in attendance:

Alstrom, Ragnar	Jones, Spike
Benson, Dave	Jordan, Melody
Bruce, John (Chair)	Kandianis, Teresa
Boisseau, Dave	Madsen, Stephanie (Vice-Chair)
Burch, Alvin	Nelson, Hazel
Cross, Craig	Ogden, Doug
Falvey, Dan	Ridgway, Michelle
Fanning, Kris	Steele, Jeff
Fuglvog, Arne	Stephan, Jeff
Fraser, Dave	Ward, Bob
Gundersen, Justine	Yeck, Lyle

C-2 (a) American Fisheries Act: EIS/Emergency Rule

The AP recommends the Council request NMFS move forward with the AFA emergency rule including the recent Council actions:

- 1) definition of "qualified catcher vessel"
- 2) revised formula for calculating inshore coop quota
- 3) revised crab cap calculations.

Additionally, the AP supports including the following in the emergency rule.

- 1) revised observer coverage for CPs and Motherships
- 2) revised inseason management for CPs and CVs sideboard closures and rollovers.

Motion passed 18-0.

C-2 (d) Inshore co-ops contracting with non-member inshore AFA CV's

The AP recommends the Council include in the AFA emergency rule, for implementation in January 2001, the proposal (as submitted by MTC, UCB, Trident and Unisea) for NPFMC and NMFS action to allow inshore coops with its processors approval, to contract with non-member inshore AFA CVs to harvest coop allocation.

Motion passed 18-0.

C-2 (b) Groundfish Processing Sideboards and Excessive Share Caps

Excessive Share Caps - The AP recommends the Council postpone indefinitely any action on excessive shares. The AP is concerned that the establishment of an excessive processing share could lessen competition for purchases of pollock. Any significant consolidation would trigger a review by the Department of Justice to assure it does not have anti-competitive impacts. Furthermore, the Steller sea lion regulations may require flexibility in the harvesting and processing sectors that can not be anticipated at this time. The AP notes that there is no specific date in the AFA by which the Council is to recommend an excessive processing share to the Secretary of Commerce. *Motion passed 11-7.*

A motion recommending an excessive share limit of 30% failed 6-12.

Minority Report

We, the undersigned AP members believe that the AP's motion to postpone any action on processing excessive share caps indefinitely violates the statutory mandate to establish such caps.

Motions were made for a 25% and 30% cap. Both levels provide some room for acquisition by even the largest entity and represent a significantly larger cap than the 17.5% in the statute.

Since the Council took no action on Dooley-Hall, independent catcher vessels are already seeing a competitive disadvantage. Should unchecked consolidation in the processing sector be allowed, these vessels will be completely unprotected from significant adverse impacts resulting from AFA.

It is extremely unlikely that the Council would be able to address consolidation after it occurs. We have very little faith that a review by the justice department would result in maintaining a meaningful level of competition in a timely fashion. We are concerned that the impact of consolidation at high levels will have impacts on other groundfish, crab, salmon, and halibut fisheries.

Dave Fraser

Jeff Stephan

Hazel Nelson

Ragnar Alstrom

Michelle Ridgway

John Bruce

Kris Fanning

Processing Sideboards - The AP recommends that the Council not take action on AFA processing sideboards at this time. The AP further recommends that the Council consider modifications of the IR/IU requirements for flatfish as an alternative means of protecting non-AFA processors. Any modifications to IR/IU would apply to both non-AFA and AFA vessels. Main motion passed 17-0-1. Additionally, the AP requests the analysis include a recency requirement for trawl vessels. *(Motion passed 9-8.)*

C-2 (c) P.cod Sideboard Issues

The AP understands the concerns highlighted by the three non-AFA cod vessels. The AP strongly encourages a continued dialog between AFA and non-AFA vessels to resolve this issue.

Motion passed unanimously 17-0.

Catch monitoring and Control Plan

The AP received a presentation outlining the elements being considered by NMFS for a proposed rule for new AFA catch and monitoring and scale requirements for the BSAI pollock fishery. The AP urges the Council to identify the problem that these new requirements are trying to address. If the Council finds sufficient cause to address inshore catch accounting, the AP recommends that NMFS proposed November workshop evaluate the need for improving accounting systems in the inshore sector. The AP feels that rather than create a new accounting system, the Catch Monitoring and Control Plan (CMCP) should incorporate improvement to existing means of catch accounting, such as:

- increased standards for scale accuracy and monitoring
- adjust inshore plant observer duties to include some catch weight monitoring
- with industry input, develop a set of best management practices - style protocols to standardize catch accounting systems
- develop a system for cross-checking accounting between observers, processors and NMFS records to ensure that resource use accounting objectives are met.

Motion passed 14-0.

C-3 Halibut Subsistence

The AP recommends the Council adopt Alternative 2, allowing the harvest of halibut for subsistence.

We further recommend adoption of Option 1 : define subsistence as:

Long term, customary and traditional use of halibut for food (or non-economic consumption) for families in a non-commercial manner.

Option 2: Define Eligibility

The AP recommends the Council adopt the State of Alaska criteria for rural communities (as described in the EA at Table 5.4 and specifically including the communities of Shishmaref and Diomedes and Adak and that;

- Suboption A
1. Members of Alaska Native Federally-recognized Tribes with customary and traditional use of halibut; and
 2. Other permanent rural residents* of communities with customary and traditional use of halibut.

It is the intent of the AP that members of Federally-recognized tribes be allowed to practice subsistence in any community listed in table 5.4. Non tribal members would be limited to the community of residence.

A motion to adopt Option B: Alaska rural residents* as defined in ANILCA and identified in the table 5.4 and will also include other communities for which customary and traditional findings are developed in the future. failed 9-11-2.

Minority Report

We, the undersigned, believe that the AP's vote against Option 2, Sub-option B is against the fair and equitable sharing of resources in the name of subsistence between native and non-native rural users.

Michael Jones
David Benson

Lyle Yeck
Doug Ogden

Kris Fanning
Teresa Kandianis

Stephanie Madsen

Option 3: Define legal gear

The AP recommends the Council adopt a combination of Suboption A and B to read as follows:
The legal gear for subsistence halibut fishing is set and hand held gear, including longline, handline, rod and reel, spear, jigging and hand troll gear of not more than 30 hooks.

Additionally, the AP recommends the Council adopt Suboption C: allow tribal governments to contract with NMFS to allow proxies to be used by designated fisherman to fish for the community using up to 2 skates, up to 100 hooks each (per vessel).

The AP also recommends the Council adopt the revised Suboption D: Allow retention of subsistence halibut using commercial gear while CDQ fishing in Areas 4C and 4E. In 4E, halibut under 32 inches may continue to be retained for subsistence use. In area 4C retained subsistence halibut shall be marked and hailed prior to landing. (*Motion passed 19-0*).

Option 4: Allow the customary and traditional trade of subsistence halibut.

The AP recommends:

Suboption A 3: Customary and traditional trade through monetary exchange shall be limited to an annual maximum of \$400.

It is the intent of the AP that when proxy fishing--the monetary value of \$400 can not be stacked.

Suboption B 4: Customary and traditional trade through non-monetary exchange is allowed with anyone.

Further, the AP recommends that no customary and traditional trade be allowed to occur upon the premises of commercial buying operations, or with a registered buyer. Additionally, no exchange of subsistence caught halibut from a monetary exchange, trade or barter will be allowed to enter commerce at any point.

Option 5-Define a daily bag limit

The AP recommends the Council adopt the following:

- 1) Statewide, a bag limit of 8 per day
- 2) Areas 2C and 3A a bag limit of 6 per day
- 3) 4C and 4E have no bag limit

Above limits are in effect unless changed by co-management or local area management plans.
(*Motion passed 16-4*).

Option 6- The AP recommends that the Council foster development of co-management agreements with Tribal and Federal governments and other local entities (where there is no tribe) to only collect information, and monitor subsistence harvest and further refine local area halibut subsistence plans for approval by the Council.

Main motion passed 15-4-3.

Additionally, the AP recommends that no halibut caught in sportfishing shall be possessed on board a vessel when other fish or shellfish aboard the said vessel are destined for commercial or subsistence use, sale trade or barter.

No halibut caught in subsistence fishing shall be possessed on board a vessel when other fish or shellfish aboard the said vessel are destined for commercial use or sale, with the exception of areas 4C and 4E.

Motion passed 18-0.

C-4 Halibut Charter IFQ

The AP recommends the Council adopt the staff recommendations for restructuring the halibut charter IFQ alternatives for analysis with the following changes:

ISSUE 1. Initial QS may be based on:

Option 1. 12.68% in Area 2C and 14.94% in Area 3A of combined commercial and charter halibut quota

SUBOPTION: Use the State of Alaska's corrected numbers

Option 2. 14.74% in Area 2C and 14.00% in Area 3A of combined commercial and charter halibut quota

SUBOPTION 1: Use the State of Alaska's corrected numbers

Suboption 2: 50% of an individual's QS initial issuance would be fixed and the remaining 50% would float with abundance.

Option 3. Set-aside 1-2 ½% of combined commercial charter TAC for Gulf communities

A. Equal pounds from commercial and charter

B. Proportional amount based on split (15/85)

C. 100% out of charter (Motion passed 16-2)

Issue 2. Initial allocation of QS would be issued to U.S. citizens or to U.S. companies on the following basis:

U.S. ownership based on: a) 51% ownership; b) 75% ownership

Include discussion regarding criteria used for IFQ regulations and applicability of MARAD regulations

Option 1. Charter vessel owner/operator - person who owns and operates (captains) the charterboat and charterboat business

Option 2. Bare vessel lessee - person that leases a vessel and controls its use as a charterboat for this fishery. May operate the vessel or may hire a captain/skipper. Lessee determines when the vessel sails and by whom captained

Include an outline of criteria that could be used to determine a bare boat vessel lessee

~~Option 3. Charter vessel owner that hired licensed captains/skipper - person that owned the vessel that they controlled as a charterboat but hired a captain/skipper to operate the vessel~~

~~Option 4. Hired skipper - person without financial interest in the vessel, hired for the labor only of operating a charterboat and paid a wage or commission as compensation~~

~~Option 5. Charter vessel/business owner - person who owns the charterboat and charterboat business~~

ISSUE 3. Qualification Criteria

Initial allocations will be based on an individual's participation and not the vessel's activity. Anyone not meeting the qualification criteria would have to purchase QS or transfer (lease) IFQs to participate in the halibut charter fishery.

The AP endorses the Halibut Charter IFQ Committee's recommendation to use the most inclusive proxy for logbook participation that is, "active vessel" as defined as having turned in one logbook page with positive catch or effort. We also recommend that the ADF&G Guide and Business registration be made a mandatory proxy for participation for all options where the issuee is a bare vessel lessee. Neither CFEC vessel registration nor IPHC licensing would be required of bare vessel lessees.

- Option 1. Initial issues who carried clients in 1998 and 1999 and who submitted ADF&G logbooks (as received by ADF&G by February 12, 2000)
- Option 2. Initial issues who carried clients in 1998 or 1999 and who submitted ADF&G logbooks (as received by ADF&G by February 12, 2000)
- Option 3. Initial issues who carried clients prior to June 24, 1998 and who submitted at least one ADF&G logbook (as received by ADF&G by February 12, 2000)
- Option 4. Initial issues who carried clients four out of five years between 1995-1999 as evidenced by IPHC and CFEC licenses for 1995-99 and submitted logbooks for 1998 and 1999
- Option 5. Initial issues who carried clients four out of five years between 1995-1999 as evidenced by IPHC and CFEC licenses for 1995-99 and submitted logbooks for either 1998 or 1999

ISSUE 4. Distribution of QS may be based on:

- Option 1. ~~70% of 125%~~ of 1998 and 1999 logbook average with an additional 10% ~~(of the 125%)~~ added for each year of operation 1995-97 (longevity reward). The balance could then be re-issued to the whole group of participants ~~(some individuals vessel's total could be over 125% of the 1998 and 1999 logbook average, new entrants may receive only 70% of their 1998 and 1999 logbook average), or this balance could be set aside for initial issue hardships:~~
SUBOPTION: Base distribution on both total catch retained and caught and released
- Option 2. Modified Kodiak proposal: 5-30% for A, 33% for B, 37-62% for C (see attachment)
SUBOPTION: Base distribution on both total catch retained and caught and released
 - Part A: each individual gets an equal percentage of the qualified pool as identified by the Council's final action.
 - Part B: each individual's average 98/99 logbook harvest as percentage of overall harvest is multiplied by 33% of the qualified pool.
 - Part C: one point for each year of participation during 1995-99.

ISSUE 5. Transferability of QS (permanent) and IFQs (on annual basis [leasing])

Option 1 Nature of Charter Quota Share:

1. Owner/Operator, non-leasable

2. Owner only, leasable

SUBOPTION: Allow grandfather provisions to initial recipients to use hired skippers similar to the halibut sablefish IFQ program (Motion passed 11-7)

Option 2-~~Option 1~~: Transfer of QS (permanent) and/or IFQs (leasing):

A. prohibit transfers between charter and commercial sectors

b) allow transfers between charter and commercial sectors

A. 1-yr one way transfer from commercial to charter

B. 3-yr one way transfer from commercial to charter

C. two-way (between commercial and charter sectors).

Suboptions under Options b (1-3):

i. Designate QS pool into two classes for transfer from charter to commercial sector: transferable (25%) and non-transferable (75%) pools **on an individual's basis.**

ii. Cap the percentage of annual IFQ transfers (de facto leasing) between sectors not to exceed 25% of total IFQs and 5% **a range of 0-10% IFQs** per year from charter to commercial; ~~not to exceed the amount needed to meet the area GHL (12.68% in Area 2C and 14.94% in Area 3A) from commercial to charter.~~

iii. on percentage of annual QS transfers between sectors not to exceed 25% of total QS and 5% **a range of between 0&10%** of QS per year from charter to commercial; ~~not to exceed the amount needed to meet the area GHL (12.68% in Area 2C and 14.94% in Area 3A) from commercial to charter~~

iv. A range of 0-10% leasing of Charter IFQ to charter from charter for the first 3 years

Option 3-~~Option 2~~: Block restrictions

a) any initially issued (i.e., unblocked) charter QS once transferred to commercial sector shall be:

1. blocked

2. blocked up to the limits of the commercial sweep-up and block limits

b) allow splitting of commercial blocks to transfer a smaller piece to the charter sector

c) allow splitting of commercial blocks once transferred to the charter sector

Option 4 ~~Option 3~~: Vessel class restrictions

a) from A, B, C, and/or D commercial vessel category sizes to charter sector

1) Owner/operator

2) Hired skipper

b) from charter to commercial:

1. D category only

2. C and D category only

3. B, C, and D category

c) initial transfer from undesignated charter to a particular commercial vessel category locks in at that commercial category

Option 5 ~~Option 4~~: One transfer of QS/IFQ each year between sectors for each QS holder

Option 6 ~~Option 5~~: Minimum size of transfer is range of 20-72 fish

ISSUE 6. To receive halibut QS and IFQ by transfer:

- Option 1. For the charter sector, must be either
- A. a initial charter issuee. or
 - B. qualified as defined by State of Alaska requirements for registered guides or businesses*
Suboption: and hold a USCG license.

*this would require a change in the commercial regulations to allow transfer of commercial QS/IFQ to charter operator

- Option 2. For the commercial sector, must have a commercial transfer eligibility certificate.

ISSUE 7. Caps

- Option 1. No caps - free transferability
- Option 2. ownership cap of ¼, ½, and 1% of combined QS units in Area 2C and ¼, ½, and 1% of combined QS units in Area 3A and grandfather initial issues at their initial allocation

Issue 8. Miscellaneous provisions

- Option 2. maximum line limit of 12 in Area 3A (remains at 6 lines for Area 2C), grandfather initial issues
- Option 3. 10% rollover provision of total IFQs
- Option 4. 10% overage provision of total IFQs to be deducted from next year's IFQs

Issue 9. IFQs associated with the charter quota shares may be issued in:

- Option 1. Pounds
- Option 2. Numbers of fish (based on average weight determined by ADF&G)

Further, the AP recommends the Council ask the SSC to review the statistical reliability of current creel census to provide accurate estimation of sport caught halibut weight

Issue 10. Reporting:

- Option 1. Require operator to report landings at conclusion of trip
- Option 2. ADF&G logbook

Option 3. Expand implementation issues presented in the analysis to look at requiring a reporting station in every city and charter boat location to accurately weigh every halibut caught.

Other issues:

The AP also recommends to add technical advisors to Charter IFO Committee as a voting members - one each from area 2C and 3A. Further, the AP recommends that a member from GCCC be invited as a voting member

A motion to adopt the Halibut Charter IFQ Committee's recommendation "that the analysis is separable for Area 2C and 3A and recommend that the Council pursue and IFQ system for Area 3A only, in the event that there is not sufficient support for a program in Area 2C." Failed 5-8.

Main motion passed 15-3

Minority Report

We, the undersigned AP, believe the inclusion of the GCCC and commercial representative voting members on the Charter IFQ committee is premature. Further, we do agree that all other aspects of the analysis as approved move ahead.

Doug Ogden

Lyle Yeck

Robert Ward

Finally, the AP also unanimously approved the minutes from the September 2000 meeting.