

DRAFT SUMMARY MINUTES
Groundfish Allocation Committee

Pacific Fishery Management Council
Hilton-Vancouver Hotel
Hemlock-Oak Room
301 W. 6th St.
Vancouver, WA 98660
(360) 993-4500
May 15-17, 2007

Members Present:

Mr. Donald Hansen, Dana Wharf Sport Fishing, Pacific Fishery Management Council Chairman
Mr. Phil Anderson, Washington Department of Fish and Wildlife
Mr. Curt Melcher, Oregon Department of Fish and Wildlife
Ms. Marija Vojkovich, California Department of Fish and Game
Mr. Frank Lockhart, National Marine Fisheries Service Northwest Regional Office
Dr. Dave Hanson, Pacific States Marine Fisheries Commission

Advisors Present:

Ms. Mariam McCall, National Oceanic and Atmospheric Administration General Counsel
Mr. Bob Alverson, Limited Entry Fixed Gear Representative
Mr. Pete Leipzig, Limited Entry Non-Whiting Trawl Representative
Mr. Dan Waldeck, Limited Entry Whiting Trawl Representative
Mr. Tom Ghio, Open Access Representative
Ms. Heather Mann, Processor Representative
Mr. Bob Osborn, Recreational Representative
Dr. Steve Barrager, Conservation Representative

Others Present:

Mr. Jim Seger, Pacific Fishery Management Council Staff
Mr. John DeVore, Pacific Fishery Management Council Staff
Mr. Merrick Burden, NMFS Northwest Region, GMT member
Mr. Shems Jud, Environmental Defense
Ms. Dorothy Lowman, Environmental Defense
Ms. Laura Pagano, Natural Resources Defense Council
Mr. William Daspit
Mr. Mike Okoniewski, Pacific Seafood
Mr. Rod Moore, West Coast Seafood Processors Association, Council member
Mr. Marion Larkin, Washington trawler, GAP member
Mr. Joanna Grebel, California Department of Fish and Game, GMT member
Mr. Peter Huhtala, Pacific Marine Conservation Council

Mr. Michael Taylor, Cascade Economics LLC, PFMC Consultant
Mr. Dayna Matthews, NOAA Office of Law Enforcement, Northwest Division
Mr. Kent Craford, West Coast Seafood Processors' Association
Mr. David Jincks, Midwater Trawlers Cooperative
Mr. Steve Bodnar, Coos Bay Trawlers Association
Ms. Michele Culver, Washington Department of Fish and Wildlife
Mr. Brian Culver, Washington Department of Fish and Wildlife, GMT member
Ms. Gway Kirchner, Oregon Department of Fish and Wildlife
Mr. Mark Saelens, Oregon Department of Fish and Wildlife, GMT member
Dr. Ed Waters, Pacific Fishery Management Council Consultant
Ms. Laura Bozzi, Pacific Fishery Management Council Staff
Mr. Craig Urness, Pacific Seafood Group
Mr. Dale Myer, Arctic Storm Inc., Council member
Mr. Bruce Buckmaster, Ilwaco Fish Company
Mr. Joe Bersch, Supreme Alaska Seafoods
Mr. Steve Jone, Makah Tribe
Mr. Mark Cedergreen, Council member
Dr. Kit Dahl, Pacific Fishery Management Council Staff
Ms. Lucia Morici, member of the public

The Groundfish Allocation Committee (GAC) met May 15-17 to address trawl rationalization and intersector allocation issues. The GAC's next meeting has been tentatively set for September 25-27, 2007. The duration of the meeting will depend on the agenda.

The following are the GAC recommendations to the Council on these two issues.

Trawl Rationalization (Amendment 20)

Individual Fishing Quota (IFQ) Alternatives

IFQ for Bycatch in the Whiting Fishery (In Section A-1.1 and A-1.5)

The GAC discussed the TIQC recommendation of an option in which, for whiting sectors, there would be IFQ for whiting but not for other species (bycatch pools for other species). This recommended change to the IFQ alternative reflects concern that given the small amounts of bycatch allocated to the whiting fisheries, once this is divided between the whiting sectors and then allocated at the permit level, this amount might not be enough to cover each permit's bycatch. It was noted that most of the whiting fleet now operates under 100 percent monitoring and that the fleet has maintained its bycatch of overfished species below the bycatch caps. The whiting industry has proposed using bycatch caps in the IFQ alternative as a way to continue with that success. On the other hand, it was noted during discussion that voluntary pooling of bycatch quota could occur under a program with IFQ for all species, and that such voluntary pooling could address some of the concerns that prompted the TIQC's recommendation.

The GAC recommends consideration of an IFQ alternative under which, for whiting sectors, there would be IFQ for whiting but not for other species. Under this option, the

bycatch allocation would be pooled. However, the GAC asked that industry present additional reasoning for the alternative.

Area Management (In Section A-1.2)

The GAC recommended a process for the Council to follow in considering area management issues, taking into account the GMT report presented on the topic. The GAC discussed whether the intention of area management provisions should be to address potential biological impacts or potential social impacts. Biological impacts could likely be addressed through changes made during the biennial specifications process (such as dividing a species' OY into two or more OYs to represent separate populations). Socio-economic impacts likely could not be addressed through this process and could involve a more extensive public process.

The GMT report notes that the Council currently uses latitudinal and depth-based spatial management measures, as well as gear restrictions, to achieve area management objectives. Based on the GMT recommendation that the TIQ program incorporate these currently used area management tools, the GAC agreed to the following recommendation:

State in the EIS that existing area management tools will be used, including latitudinal areas needed to management for OY/ABCs.

Area management may require that existing areas be subdivided and/or existing boundaries be moved. Moving area lines would be achieved by subdivision and recombination. The IFQ alternative includes a method to be followed for subdivision of QS by area after the initial allocation. The GAC agreed with the staff recommendation that a method for recombination should be included as part of the current alternative:

Bring back for consideration an option that would establish in advance the mechanism for creating or shifting the boundary of area specific quota shares.

Initial Allocation of Quota Shares (A-2.1.3)

Quantitative Analysis

The GAC reviewed the TIQC's recommendations with respect to initial allocation of QS and the supporting quantitative analysis (see Agenda Item E.3.a, Attachment 1).

Like the TIQC, the GAC noted when reviewing the analysis that there were only a few permits not meeting the recent participation requirement and that they had very small amounts of associated catch history. Because of this, elimination of a recent participation requirement will make little difference in the allocation formula.

The GAC concurs with the TIQC recommendations that (1) recent participation requirements for permits (including those for catcher processors) not be included as part of the program, and (2) the recent participation requirement for motherships be 1,000 mt processed in each of any two years from 1998 – 2004.

The current allocation option for allocating QS to catcher vessel permits would allocate equally, among all remaining permits, the portion of the QS pool associated with buyback permits. The remainder would be allocated to each permit based on that permit's landings history. The GAC addressed the TIQC recommendation that an option be added in which there would not be equal sharing of the quota share pool associated with buyback permits (i.e. 100% of allocation based on a permit's catch history). The GAC was reminded of the original rationale for equal sharing, which was to recognize a participant's payment on the loan. At the same time it was noted that loan repayment is a 5 percent tax on landings that will be paid by whoever makes those landings, and not a flat fee. The GAC recommends:

The current QS allocation option should be eliminated (the option that allocates, in part, based on equal sharing) and be replaced by an option that would allocate all QS, including the buyback pool QS, based 100% on landings history.

The GAC concurred with the TIQC report recommendation that catcher-process QS allocation Option 1 ("Schedule developed by unanimous consent of catch processors") be eliminated.

Allocation of Overfished Species Based on Bycatch Rates for a Proxy

The Council adopted a proxy species approach for the non-whiting sector in March 2007, but difficulties were encountered in aligning the available data with this approach. This earlier version would have relied on 2003-2006 permit specific logbook information and 2003-2006 fleet bycatch rates from the observer program. The TIQC has recommended a new proxy species approach which does not rely on permit specific logbook information and ties the overfished species allocation to the permit's target species QS rather than either 1994-2003 landings history or 2003-2006 catch history.

For shoreside non-whiting, the GAC concurred with the TIQC recommendation for an approach that relied on fleet average depth distribution of target catches and fleet average bycatch rates applied to a person's QS allocation. The fleet averages would be stratified and applied by latitudinal area but the resulting QS allocation would not be constrained latitudinally, unless the OY is subdivided by area.

The GAC requested that the SSC and the GMT review this approach.

Reallocation once a Species is Rebuilt or Declared Overfished

The GAC discussed whether to add process options to the IFQ alternative to address future scenarios in which an overfished species becomes rebuilt or a healthy species is declared overfished. The GAC expressed interest in adding these, and it was explained that such options would not drive the analysis that will be conducted over the summer, and so consideration could be postponed until the fall. Therefore, over the summer staff will develop options for reallocation of QS under these scenarios and bring these options back to the GAC. Guidance by the GAC directs that such options would reallocate QS while maintaining status quo sector allocations (i.e. equivalent to those during the species' rebuilding period), until such time that the Council took specific action to reallocate the OY in a different manner.

Eligible to Own (A-2.2.3.a)

At its March 2007 meeting, the Council directed that provisions on who is eligible to own QS be drafted based on language used in the North Pacific. An initial draft of this language was provided for GAC review (see Agenda Item E.3.a, Attachment 1). The GAC reviewed the language and did not have any comments at this time. It is the GAC's understanding that the language will continue to be refined, and will meet the intent of allowing ownership of QS by anyone eligible to own a US documented fishing vessel and by entities grandfathered under the American Fisheries Act. This language will be presented when the Council reviews proposed regulations for implementing an IFQ program.

With respect to new MSA language that limits who is eligible to own QS, some concern was expressed that the MSA might prevent direct community ownership of QS. This interpretation will be investigated.

Accumulation Limits (A-2.2.3.e)

Control Rule

At its March 2007 meeting, the Council directed that provisions defining control for the purpose of assessing accumulation limits be drafted based on language used in the North Pacific. That language was provided and reviewed by the GAC (see Agenda Item E.3.a, Attachment 1). While GAC members had some concern about how the provision might be interpreted and applied, the GAC did not have any comments about the specific proposed language.

Accumulation Limit Percentages

The GAC heard from representatives of the shoreside whiting and mothership whiting fishery that there was some desire to adjust the accumulation limits originally recommended by the TIQC. The GAC asked that each representative consult with members of their sector and bring forward their proposed changes.

The shoreside whiting representative will consult with other sector members regarding whether to request higher accumulation limits. The mothership whiting representative will consult with other sector members regarding whether different accumulation limits might be appropriate since this Council is not considering an "affiliation rule."¹

Split Loads and Monitoring Program (A-2.3.1)

The TIQC had recommended that with 100% shoreside monitoring there should be an opportunity to split an off-load between different locations. The GAC felt this was an issue separate from the IFQ program and should be considered under a separate process on shoreside monitoring issues.

¹ The mothership accumulation limit option assumes an affiliation rule in which all QS owned by an entity would be counted against any person who owns at least 50% of that entity. This Council is considering an "individual and collective rule" under which the QS counted as under an individual's ownership would be those owned by that individual plus a portion of those owned by any entity in which that individual has an ownership. The portion would be determined by the individual's ownership share in that entity.

The GAC did not concur with the TIQC recommendation for an option to allow an off-load to be split between different locations.

The TIQC also had recommended adding an option to the monitoring program requiring electronic logbooks.

The GAC did not concur and recommends that electronic logbooks be dealt with later in a separate process.

Processor Compensation under IFQs (A-2.4)

The GAC considered the draft rationale for and against the initial allocation of quota shares to processors. During the discussion it was noted that while analysis may provide some additional information pertaining to the effects on the sector, it is not likely to provide definitive guidance on whether more or less of the allocation should go to processors or permits. GAC members were interested in receiving analysis that investigated harm and equity issues with respect to initial allocation. Extensive analysis on this issue will not likely be available until completion of the draft EIS. Some participants also expressed displeasure with the paper's focus on the rationale for processor allocations. They stated that it should have been broadened to include the rationale for allocations to vessel owners, permits owners, or other potential recipients. Staff explained that the rationale for considering (or not considering) an allocation to these different groups would be presented in the EIS; this processor-focused paper was meant to assist in the GAC and Council discussions on alternative compensation mechanisms and analytical approaches.

The GAC considered some options that would benefit processors. Some advisors on the GAC expressed the perspective that framing the issue from this perspective reflects a bias against processors.

The GAC recommend adding the following options as provisions that could be incorporated into the program to benefit processors, in addition to the existing options of allocating QS for fishing to processors.

- 1. Issue processors QS that expire after a certain period of time.*
- 2. Issue processors QS but restrict the processor's initial allocation to at or below the accumulation limit (i.e. do not apply the grandfather clause)*
- 3. Use funds from a fee to provide financial compensation to processors for demonstrated harm (for example a fee on transfers).*
- 4. Use the Adaptive Management QP to compensate processors for demonstrated harm by: auctioning QP to generate funds to provide financial compensation, or providing QP to be directed in a fashion that increases benefits for affected processors.*

Adaptive Management (A-3)

The TIQC had relegated development of a community stability program to members advocating for that program. At its March 2007 meeting, the Council eliminated that option from the package. However, the TIQC advocates developed the option into an adaptive management proposal and requested reconsideration. Pursuant to that, a presentation on an "adaptive management incentive program." was provided by Stu Nelson (for Environmental Defense and

Natural Resources Defense Council). The GAC decided to recommend incorporation of an adaptive management provision that is based on, but not the same as, that presented by Mr. Nelson. The proposed provision would be:

Under this provision, in each of the first 10 years of the program, up to 10% of the trawl allocation will be distributed as quota pounds (QP) to create incentives or to compensate in response to unforeseen outcomes from implementing the IFQ program. Examples of unforeseen outcomes include, but are not limited to, unexpected geographic shifts in the distribution of catch or landings, unexpected effects on certain segments of the industry (e.g. processors), or an unexpected barrier to new entry into the fishery. This provision would apply to the overall trawl sector (whiting and non-whiting).

When the Council determines that an adjustment is needed, it will establish criteria for the distribution of up to 10% of the QP in a manner that will encourage those receiving the QP to undertake the desired activities or otherwise compensate for unexpected effects.

Note: This approach does not change the option for splits of quota share (QS) that will go to eligible groups.

The GAC agreed that an adaptive management provision will assist the Council in adjusting for unforeseen outcomes from the implementation of an IFQ program or in otherwise furthering management. For example, the provision could address issues for communities that are not now explicitly taken into account in the process. The GAC also recognized that options for community allocations or special provisions for new entrants have been removed from the IFQ program. Some GAC members and advisors raised concerns about an adaptive management provision, particularly related to the added costs of this program on trawl fishermen: depending on how it was implemented this option could subtract 10 percent of the quota pounds issued to a quota holder, in addition to having to pay a 5 percent tax from the buyback and likely having to pay some program administrative costs. There was concern that the industry may not be healthy enough economically to support this added cost.

Halibut Individual Bycatch Quota (IBQ) (A-4)

The GAC agreed with the need to cap Pacific halibut catch in a rationalized trawl fishery. It was noted that the British Columbia trawl fishery uses IBQs in their IFQ program and that this has resulted in reduced halibut impacts. In addition to IBQ, the GAC considered use of pooled caps by area, so that if the cap were attained the area would close.

The GAC recommends that IBQ for halibut be considered. Halibut IBQ may be allocated based on area, but the IBQ would not be constrained latitudinally. Initial allocation would be based on the application of a bycatch rate to target species QS.

Discussion also noted the need for further exploration of related issues, including: whether the trawl allocation of halibut would be a set amount from year to year or whether this would be a proportion of the Area 2A exploitable biomass; and whether biological sampling of halibut would need to be conducted onboard.

Co-op Alternative (B)

The GAC recommends that the Council move forward with the co-op alternative, including the co-op program for each whiting sector and those provisions at the start of the co-op alternative that pertain to all whiting sectors. The GAC concurs with the TIQC's recommendations on co-ops, with one exception: the GAC does not agree with the TIQC's recommendation that there be a 10% reserve of bycatch species held back for the benefit of those who demonstrate low bycatch rates. The GAC recommendation also includes clarifications to be provided by industry.

Specifically, with respect to the mothership sector co-op proposal, the GAC agreed to move this forward with the expected revised language. The rationale for not requiring observers/compliance monitors on catcher vessels in the MS sector is that there are no opportunities to discard since fish are not brought aboard (given that the codends are delivered to the motherships). With respect to the catcher-processor sector proposal, the GAC's recommendation covers further refinement that will specify annual registration and reporting requirements. The GAC also reviewed the new shoreside co-op proposal and agreed to move this forward with the needed clarifications.

For the overall management of the whiting fishery under a co-op program, the GAC agreed to recommend inclusion of the bycatch monitoring options and specifications, as well as the sector allocation options (except for the 10% reserve option), as recommended by the TIQC.

The GAC emphasizes that **refinement of the co-op alternatives should be completed at the June Council meeting**. Additionally, the GAC requests a formal and complete legal review of the co-op alternatives.

Intersector Allocation (Amendment 21)

Process for Deciding Intersector Allocations

The GAC discussed how to structure the intersector allocation process in order to implement the program by January 2009 (to align with the start of the 2009-2010 management biennium and to support implementation of the trawl rationalization program). Staff indicated that the more contentious and complicated the allocations, the less likely that the January 2009 date would be achieved. Allocation decisions that may be particularly difficult are those for some overfished species and for species that are important to both commercial and recreational sectors. In particular, canary rockfish, cowcod, bocaccio, and yelloweye rockfish were flagged as species whose allocation could cause delay in the process. The GAC considered these concerns about potential delays. Some proposed that the difficulties associated with some of allocations were more related to workload and analysis, rather than the potential that the process would be stalled by the Council decision-making. In addition, the GAC discussed the overlap between the intersector allocation process and the biennial specifications process. Addressing workload concerns for NMFS' review and implementation of these programs, it was noted that the simpler the decisions made, the better able the Agency would be in completing its legal review and analysis in time to meet the set deadlines.

Given this discussion, the GAC considered the most near-term need for an allocation, which is to support the trawl rationalization program under development. Focusing on the trawl allocation first could allow the Council to exclude some of the controversy associated with other sectors until a later point, so that the January 2009 deadline could be met. Therefore, the GAC recommends that:

The process should start with deciding a trawl allocation of groundfish species and complexes.

The GAC intends to recommend at a later point a list of species to be included in the trawl allocation. The Council had at one point during the trawl rationalization process made decisions regarding which species would be classified as "trawl dominant." However, GAC members supported compiling a more comprehensive list that would include any species that would be caught by the trawl fishery, and not only the trawl dominant species. It was further noted that a more expansive species list would assure industry that the allocations are set and so give them greater comfort in supporting the trawl rationalization program.

Decision Process for Allocating Among Trawl Sectors

The GAC considered whether the allocation among trawl sectors should be handled under the trawl rationalization EIS or the intersector allocation EIS. Staff recommended that it be included as part of the intersector allocation EIS, explaining a perspective that this would result in more efficient, less complex analytical documents. The GAC concurred and recommended that:

Allocation among trawl sectors would be decided at the same time as the overall trawl allocation.

Intersector Action Alternatives

Looking at the data provided, the GAC remarked about the dramatic differences between the alternatives using total catch (i.e., landings + discards) and the alternatives using landed catch (respectively, Alternatives 1 and 5; and Alternatives 2, 3, 6 and 7). The landed catch alternatives, however, still contain discards in the recreational fishery (A + B1, or landed catch plus discard mortality). To improve the consistency across sectors, the GAC requested:

Remove the discard mortality component from the recreational catch data informing alternatives 2, 3, 6, and 7 (the alternatives using landings histories as an analytical basis);

The GAC was concerned about the gaps in the data to construct Alternatives 1 and 5. Though the decision made by the Council is based on an amalgam of many factors in addition to catch history, having strong supporting information is important for making a defensible decision. Therefore, the GAC tasked staff to:

Request 2003-05 discard mortality estimates from the NWFSC to fill the data gaps in the total catch alternatives (Alternatives 1 and 5).

The GAC then considered Alternatives 4 and 8, which use 2007-08 catch projections as an analytical basis. These were intended to use projections documented in the 2007-08 Harvest Specifications and Management Measures EIS. However, the available projections are primarily for overfished species, and some for primary target species in the trawl fishery and recreational fishery. New models would have to be developed to make similar projections for other sectors. The GAC considered using Alternative 4 for overfished species, and then using another alternative for the other species. Some considered this to create a mismatch in the allocation. The GAC deliberated over whether there was a value in analyzing Alternatives 4 and 8. These alternatives demonstrate the effect of regulations on constraining access to target species, however under a rationalized system there will be new regulations with a different suite of constraints. The GAC concluded that these alternatives would not be helpful to Council decision-making, though having current data on the projected catch of overfished species would be useful for comparison against the alternatives. Therefore,

Remove alternatives 4 and 8 (the alternatives using 2007-08 catch projections as an analytical basis), but provide the most recent GMT scorecard of projected 2007 overfished species' catch in November when the Council is slated to decide a preferred alternative.

Catch Overage Risk Management

Significant uncertainty in current catch monitoring systems; the need to protect fishing sectors from premature closures due to catch overages in other sectors; and consideration of a carryover provision in the trawl rationalization program suggest the need to consider novel mechanisms to manage the risk of catch overages. Such mechanisms are proposed in an issue paper developed by Council staff (“Managing yields in a groundfish management regime of IFQs, intersector allocations, and stringent rebuilding requirements”), which also was presented to the Council in April. The GAC directed staff to incorporate analysis of these new mechanisms – multi-year

OYs and carryover provisions, sideboards, buffers, and bycatch caps – into the intersector allocation EIS.

Council/GAC/TIQC Decision/Meeting Schedule

The GAC will next meet to address the trawl rationalization program and the intersector allocation program **September 25-27, 2007.**