

## OUTSTANDING ISSUES AND SUMMARY OF GAC AND TIQC RECOMMENDATIONS

The following are the main issues to be resolved and a summary of the GAC and TIQC recommendations pertaining to those issues.

### IFQs and Co-ops

#### Qualifying Eligibility and Allocation Time Periods (A-2.1 and Co-op Programs)

*Can the qualifying and allocation time period options be narrowed and more consistent years used?*

Description of the issue: There are a variety of time periods used for the qualifying and allocating periods. In some cases, it would be good to have more rationale articulated for the differences. For example:

For the IFQ allocations to permits and motherships, why is the period ending date 2003 but for the IFQ allocation to shoreside the period ending date is 2004?

For motherships, why does the recent participation period end in 2004 but the allocation period end in 2003?

Among the years used to start the qualification periods for processors, why is:

1997 used for catcher-processor co-op endorsements;

1998 used for mothership IFQ qualification and processor permits; and

1998 and 1999 used for shoreside processor permits (co-op program) and IFQ qualification, respectively?

***GAC Recommendation:*** *Adopt the GAC recommended dates for the qualifying and allocation periods, as displayed in the shaded cells of Table 1. If industry believes that other dates are more appropriate, they should bring those dates forward for consideration along with a supporting rationale.*

The following table contains all the options which are being considered for both the IFQ and co-op alternatives. The GAC recommended eliminating all options except those in *shaded italics*. In some cases, the GAC is recommending a new period (not part of the previous suite of options). In such cases, the GAC recommendation is in *underlined shaded italics*.

Table 1. Qualifying and allocation criteria options and GAC recommended time periods.

	Qualifying for Participation				Allocation			
	IFQ Recent Participation	R	Co-op Alt Endorsement/ Permit	R	IFQ Allocation	R	Co-op Catch History	R
Permit Owners								
Nonwhgt SS Catcher Ves	None	Y	N/A		'94-'03 (drop 3)	Y	N/A	
Whgt SS Catcher Ves	None	Y	'98-'04 (>500 mt) '98-'03 " '94-'04 " '94-'03 " '01-'03 " '97-'03 (>500 mt)	N	'94-'03 (drop 2)	Y	'98-'04 (drop 1) '94-'04 (drop 2) '98-'03 (drop 1) '94-'03 (drop 1?) '97-'03 (drop 1)	N
Whgt MS Catcher Ves	None	Y	'98-'04 (>500 mt) '94-'03 (>500 mt) '97-'03 (>500 mt)	N	'94-'03 (drop 2)	Y	'98-'04 (drop 1) '94-'04 (drop 2) '98-'03 (drop 1) '94-'03 (drop 2) '97-'03 (drop 1)	N
Catcher-Processor Permit Owners	None	N	'97-'04 (>0 in at least 1 yr) '97-'03 (>0 in at least 1 yr)	N	'94-'03 (drop 0)	N	N/A	
Mothership (Operators or Owners?)	'98-'04 (>1K mt in 2 yrs) '97-'03 (>1K mt in 2 yrs)	N	'98-'04 (>1K mt in 2 yrs) '97-'03 (>1K mt in 2 yrs)	N	'98-'03 (drop 0) '97-'03 (drop 0)	N	N/A	
Shoreside Processing Companies	'99-'04 (TBD) '98-'03 (amount pending data review -- see section on recent participation)	N	'98-'04 (>1K mt in 2 yrs) '98-'03 (>1K mt in 2 yrs)	N	'94-'04 (drop 2) '94-'03 (drop 2)	N	N/A	

N/A = Not Applicable

R = Column header. Has data been presented previously and reviewed? Y=Yes; N=No

TBD = To be determined.

**TIQC Report:** The GAC recommendation indicated a possible problem with the use of 1997 as the start of some of the qualifying periods. The TIQC informed that the main data quality issue of concern with respect to 1997 at-sea data was that observers did not witness every delivery but relied on vessel logbooks for some deliveries.

**TIQC Recommendation:** Support the GAC recommendation for the MS and MS C/V qualifying years of 1997-2003. (Majority)

## IFQs

### Entities Qualifying for An Initial Allocation (A-2.1.1)

#### Initial Allocation to Processors

*Should there be an adjustment to the range of allocations of initial QS between vessel permits and processors?*

A decision is not necessarily needed on this issue; however, the TIQC did discuss it.

**TIQC Recommendation:** Change the option that would give QS to processors from a 50% processor share for all whiting sectors to a 25% processor share for all whiting sectors to make it consistent with the non-whiting shoreside processing option. (Majority)

## Successor In Interest for Shoreside Processors

*Is it the Council's intent to recognize successors in interest with respect to the accrual of history of shoreside processors?*

**GAC Recommendation:** *In allocating IFQ to processors, recognize successor in interest.*

**GAC Guidance:** Transfer of physical assets alone should not be considered a basis for successor in interest. Business relationships such as transfer of the company name and customer base might be reasonable evidence of successor in interest.

**TIQC Recommendation:** *The TIQC endorses the GAC recommendation regarding the successor in interest issue with the understanding that NMFS will need to develop criteria to evaluate successor in interest and that this criteria should include consideration of the terms and intention of a contract. (Consensus)*

## Identification of the Mothership Entity That Would Qualify For An Allocation

*What entity associated with a mothership should receive the QS, if processors receive an initial allocation?*

**GAC Recommendation:** *In the IFQ Alternative, the initial allocation to motherships will go to the owner of the vessel, unless a bareboat charter, in which case it will go to the charterer.*

**TIQC Recommendation:** *With respect to the entity that would receive the IFQ or mothership permit (co-op alternative), add a second option that would allocate to the owner and exclude the bare boat charterer (the current provision would allocate to the charterer in a bare boat charter situation). (Majority)*

## Recent Participation (A-2.1.2)

*What level of participation, if any, should be considered for a shoreside processor to qualify for an initial allocation of harvester quota shares?*

**GAC Guidance:** The GAC requested information on the following with respect to shoreside processing entities that have purchased less than 1 mt during the allocation period (1994-2003): what are the entities, what are they buying, what are they doing with the fish, and where on the coast are they located?

**TIQC Recommendation:** *Add two options for shoreside whiting processor qualification: 1) in the years 1998-2003 any company that bought 1 mt of whiting in any 2 of those years, and 2) 1 delivery of any size. (Consensus)*

**TIQC Recommendation:** *Add two options for shoreside non-whiting groundfish processor qualification: 1) 6 mt in each of 3 years, and 2) 1 delivery option. (Consensus)*

### QS Allocation Formulas (A-2.1.3)

#### Allocation of Overfished Species Using Target Species QS and Applying Bycatch Rates

*Is the option to allocate overfished species by the application of bycatch rates to target species QS ready for analysis?*

**GAC Recommendation:** *Revise the formula for allocating overfished species such that depth and latitudinal strata used for allocation of overfished species based on bycatch rates will be based on the logbooks associated with each permit rather than fleet wide average logbook information.*

**TIQC Recommendation:** *The TIQC concurred with the GAC recommendation to use individual permit logbooks as part of the allocation formulas for both overfished species QS and halibut IBQ but recommends that 1994-2003 logbooks be used to determine the location of target species catch instead of 2003-2006 logbooks. (Consensus)*

#### Allocation of Rare Overfished Species Using an Auction Approach

*Should an option be considered to allocate rare overfished species using an auction?*

**GAC Recommendation:** *Further explore the allocation of rare overfished species by auction.*

**TIQC Recommendation:** *The TIQC recommends considering allocations of QP for rare overfished species on some alternative basis (a basis other than giving it to the holders of QS for those species). An auction, occurring periodically throughout the year, is one means of allocating QP for rare overfished species on an as needed basis. Work on the auction concept should continue. **Other approaches should also be explored, keeping in mind the need to provide individual incentive for avoiding bycatch of overfished species.** (Consensus)*

### Direct Reallocation After Initial Issuance (A-2.1.6)

#### Changes in Management Areas

*Should a process for re-allocation of quota shares be established now in the event that management areas change?*

Following previous direction by the Council, staff has developed an option for the reallocation of QS with changes in management areas.

**GAC Recommendation:** *Move ahead with the alternative for geographic reallocation, however, indicate that such area changes are expected to be rare.*

**TIQC Recommendation:** *Concur with GAC recommendation to move forward with the option. (Consensus)*

## Changes in Stock Status

*Should the process for re-allocation of quota shares be established now in the event that overfished species are rebuilt or become overfished?*

Following previous direction by the Council, staff has developed an option for the reallocation of QS when a species becomes rebuilt or overfished.

**GAC Recommendation:** *Drop options for reallocation when a stock is rebuilt. Acknowledge in the alternatives that some change in the quota share allocations could occur when a species status moves from overfished to not overfished, and mention ways that allocation could happen. Also, when a species becomes overfished, the QS may be reallocated to facilitate harvest of as many target species as possible.*

**TIQC Report:** The TIQC discussed this issue and the GAC recommendation but made no specific recommendation. A related recommendation on limiting transfers in the first year of the program is provided under “**Temporary Transfer Prohibition.**”

## Vessel QP Minimum Holding Requirement (A-2.2.1)

*Should vessel minimum holding requirements be eliminated from the proposed trawl rationalization program?*

**GAC Recommendation:** *Drop the option that would require a vessel to hold some minimum amount of QP before departing from port.*

**TIQC Recommendation:** *Concur with GAC recommendation to eliminate the holding requirement. (Consensus)*

## Vessel QP Overage Resolution (A-2.2.1)

*What avenues for resolving quota pound overages should be provided?*

Description of the issue: Concern has been expressed that a disaster tow on a rare overfished species could result in a vessel being tied up for years trying to cover the overage. Some might consider this “victimization” of the fisherman. On this basis, an attempt has been made to develop alternative means of compliance.

### **GAC Recommendation:**

#### **Retain**

*Option 1 (vessel ties up until the overage is covered with QP),*

**Request that NOAA General Counsel provide input on**

*Option 2 (vessel ties up or can continue fishing by surrendering QS of other species) and*

*Option 3 (vessel ties up or can continue fishing by posting a bond).*

#### **Drop**

*Options 4 (vessel ties up or can continue by payment of an amount based on the target species typically associated with the overage) and*

*Option 5 (vessel ties up or can continue by payment of an amount based on fish on board),*

**TIQC Recommendation:**

*Retain Option 1 and Option 2. Drop Options 3, Option 4, and Option 5. (Consensus)*

**Temporary Transfer Prohibition (A-2.2.3.c)**

*Should there be a “cooling-off” period at the beginning of the trawl rationalization program when QS are not permanently saleable? (Note: QP could be traded during the “cooling-off” period”).*

**GAC Recommendation:** *Include in the alternatives a cooling-off period for trading QS during the first 2-3 years of the TIQ program.*

**TIQC Recommendation:** *Direct Council staff to do an analysis of two scenarios: 1) all species quota shares are not permanently transferable in the first year and 2) no prohibition on transferability. (Consensus)*

**Accumulation Limits (A-2.2.3.e)**

*At what levels should accumulation limits be set?*

**GAC Recommendation:** *Change the Option 1 control cap to the percentages in the Table 2 below with none higher than 5%, except English sole and other flatfish; Option 2 control cap to be 1.5 times the percentages from Option 1; and Option 3 control cap for all nonwhiting groundfish to be a 3% accumulation cap. For all options, the vessel cap would be double the control cap amount, except whiting. Decimal points should be rounded to the tenth. For species left blank use the values from page three of GAC Meeting, Agenda Item I, E Historic and Recent Total Shares, GAC September 2007 (as now reflected in Table 2).*

**GAC Guidance:** Provide the geographic distribution and number of vessels that achieve the maximum limits.

**GAC Guidance:** With respect to consolidation issues, evaluate control of the limited liability corporations that own the at-sea processors.

*Should there be a maximum set on the grandfather clause?*

**GAC Recommendation:** *Add a sub-option for analysis that would limit the grandfather clause to 2 times the accumulation limit amount that is finally adopted for Section A-2.2.3.e.*

**TIQC Recommendation:** *Three options should be included in the analysis: no grandfather clause, full grandfather clause, and a grandfather clause that is 2x the vessel accumulation limit cap. (Consensus)*

**Table 2. Control cap, and vessel cap options to define QS/QP accumulation limits in IFQ Program Alternatives.**

Stock	Option 1		Option 2		Option 3	
	Control Cap (%)	Vessel Cap (%)	Control Cap (%)	Vessel Cap (%)	Control Cap (%)	Vessel Cap (%)
<b>All nonwhiting groundfish (in aggregate)</b>	1.5	3.0	2.2	4.4	3.0	6.0
Lingcod - coastwide c/	5	10	7.5	15		
N. of 42 (OR & WA)	5	10	7.5	15		
S. of 42 (CA)	5	10	7.5	15		
Pacific Cod	5	10	7.5	15		
Pacific Whiting			0	0		
Shoreside Sector	10	7.5	15	11.3	25	12
Mothership Sector	10	25	15	37.5	25	50
Catcher Processors	50	65	75	97.5	60	75
All Whiting Sectors Combined	15	25	22.5	37.5	40	50
Sablefish (Coastwide)	1.9	3.8	2.9	5.7		
N. of 36 (Monterey north)	2	6.2	3	9.3		
S. of 36 (Conception area)	5	6.2	7.5	9.3		
PACIFIC OCEAN PERCH	5	6.2	7.5	9.3		
Shortbelly Rockfish	5	6.2	7.5	9.3		
WIDOW ROCKFISH	3.4	6.8	5.1	10.2		
CANARY ROCKFISH	5	10	7.5	15		
Chilipepper Rockfish	5	10	7.5	15		
BOCACCIO	5	10	7.5	15		
Splitnose Rockfish	5	10	7.5	15		
Yellowtail Rockfish	5	10	7.5	15		
Shortspine Thornyhead - coastwide	3.1	6.2	4.7	9.3		
Shortspine Thornyhead - N. of 34deg27'	4.8	9.6	7.2	14.4		
Shortspine Thornyhead - S. of 34deg27'	4.7	9.4	7.1	14.1		
Longspine Thornyhead - coastwide	2	4	3	6		
Longspine Thornyhead - N. of 34deg27'	2	4	3	6		
Longspine Thornyhead - S. of 34deg27'	5	10	7.5	15		
COWCOD - Conception and Monterey	5	10	7.5	15		
DARKBLOTCHED	5	10	7.5	15		
YELLOWEYE g/	5	10	7.5	15		
Black Rockfish	5	10	7.5	15		
Black Rockfish (WA)	5	10	7.5	15		
Black Rockfish (OR-CA)	5	10	7.5	15		
Minor Rockfish North	5	10	7.5	15		
Nearshore Species	5	10	7.5	15		
Shelf Species	4	8	6	12		
Slope Species	5	10	7.5	15		
Minor Rockfish South	5	10	7.5	15		
Nearshore Species	5	10	7.5	15		
Shelf Species	5	10	7.5	15		
Slope Species	5	10	7.5	15		
California scorpionfish	5	10	7.5	15		
Cabezon (off CA only)	5	10	7.5	15		
Dover Sole	1.8	3.6	2.7	5.4		
English Sole	10	20	15	30		
Petrale Sole (coastwide) c/	2.9	5.8	4.4	8.7		
Arrowtooth Flounder	5	10	7.5	15		
Starry Flounder	5	10	7.5	15		
Other Flatfish	10	20	15	30		
Other Fish	5	10	7.5	15		

### **Tracking and Monitoring (A-2.3.1 and A-2.3.3)**

*How should the Council proceed in development of the tracking and monitoring options and collection of fees?*

There were no recommendations to deviate from the NMFS approach.

**GAC Guidance:** Deficits in implementing current fishery management should be documented so that they are not falsely attributed to ITQ implementation.

### **Mandatory Data Collection for the IFQ Alternative (A-2.3.2)**

*Is the mandatory data collection provision ready to move forward?*

**GAC Recommendation:** Add provisions that would allow audits to validate data submitted in response to a mandatory data collection requirement.

**TIQC Guidance:** Provide information on the number of man-hours each company will have to provide in order to comply with a mandatory data collection requirement.

### **Allocation of Pacific Halibut IBQ (A-4)**

*Is the option to allocate halibut individual bycatch quota by the application of bycatch rates ready for analysis?*

The formula for allocating halibut IBQ is similar to the formula for allocating overfished species QS.

**GAC Recommendation:** Move ahead with the formula for allocating halibut bycatch quota based on bycatch rates.

**TIQC Recommendation:** The TIQC concurred with the GAC recommendation to use individual permit logbooks as part of the allocation formulas for both overfished species QS and **halibut IBQ** but recommends that 1994-2003 logbooks be used to determine the location of target species catch instead of 2003-2006 logbooks. (Consensus)

### **Trading IFQ with Limited Entry Fixed Gear Vessels (New)**

*Should an option be added to allow trawl IFQ to be traded to and from the LE fixed gear sector?*

**GAC Recommendation:** If time allows, the TIQC should address a proposal to allow trawl IFQ for some species to be used with LE fixed gear permits. The proposal would also consider elimination of the length endorsement and would address the observation requirement that would go along with the harvest of trawl IFQ species on fixed gear vessels. Ms. Culver and Mr. Alverson will develop a proposal for consideration by the TIQC.

**GAC Guidance:** Clarify that gear switching (ability to move back and forth between gears) is different from gear conversion (permanent transition from one gear to another). The IFQ program covers only gear switching.

**TIQC Recommendation:** *This item should be tabled, and should be taken up as part of a future FMP amendment when there is time to fully discuss the issue. If the Council decides to have this analyzed, the TIQC recommends the following be included among things to be considered in specification of the option:*

- *payment of taxes for the buyback program,*
- *the need for 100% observation (100% accountability),*
- *adjustments that may be needed for accumulation caps,*
- *transferability of quota shares both ways between trawl and fixed gear,*
- *overfished species quota transferability among gear types,*
- *the bycatch rates to be used for allocation (if overfished species are allocated annually using a formula based on bycatch rates), and*
- *the Rockfish Conservation Areas that would apply. (No votes opposed, 2 abstentions)*

### **Vessel Size Endorsement (New)**

*Should the vessel size limit endorsement be eliminated with the implementation of an IFQ program?*

**GAC Report:** The GAC recommended this be considered by the TIQC as part of its recommendation on transferring IFQ to the limited entry fixed gear fleet.

**TIQC Recommendation:** *Remove the size limit endorsement under an IQ program. (Consensus)*

### **Bycatch Species Caps in the Whiting Fishery (A-5 and B)**

*Under a system in which there are allocations and hard caps for the nonwhiting and whiting sectors, in the whiting fishery, which species should be managed with caps?*

This issue pertains to both the IFQ alternative (option under which bycatch species in the whiting fishery would not be managed with IFQs) and the co-op alternative (bycatch management).

**TIQC Recommendation:** *Move ahead with the guidelines for determining which species will be managed using caps, in consultation with NMFS. (Consensus)*

## **Co-op Alternative**

### **Bycatch Management in the Mothership and Shoreside Sector Co-op Programs (B-1 and B-2)**

*Should co-ops have bycatch caps; and should provisions be included regarding inter-co-op agreements?*

**GAC Recommendation:** *Add an option for co-op bycatch caps and inter-co-op agreements.*

**TIQC Recommendation:** *Endorse the GAC recommendation for an option to assign bycatch to co-ops and explicitly incorporate provisions for inter-co-op agreements, and keep the current option as well. (Consensus)*

## **Mothership Sector Co-op Alternative (B-1)**

*Is the mothership sector co-op alternative ready to move ahead?*

No GAC Recommendations or Guidance.

**TIQC Recommendation:** *Add an option that would allow a vessel to operate either as a harvester or as a mothership in the same year. (Majority)*

**TIQC Recommendation:** *Allow a mothership permit to be transferred once during a year. (Majority)*

**TIQC Guidance:** Modify the processor tie provision for CVs moving among motherships to clarify the intent that the initial linkage of a CV to a MS is established based on the MS to which the CV chooses to deliver the majority of its fish in the most recent year that it fished before the program is implemented. Once the program is implemented, a CV is required to participate in the non-coop fishery when moving from one MS to another MS. (Consensus)

**TIQC Guidance:** Modify the mothership withdrawal provision to clarify the intent that when a mothership withdraws from the fishery and its permit is not transferred or a mutual agreement is not reached to transfer delivery to another mothership, a co-op vessel obligated to that mothership may go into another co-op of its choosing, keep the original co-op together and find another mothership but in either case will not have to go into the non-co-op fishery first.

**TIQC Guidance:** NMFS should clarify what they will and won't do for implementation of the entire co-op option. (Consensus)

## **Continuation of the Shoreside Sector Co-op Program (B-2)**

*Should the shoreside sector co-op alternative move ahead and is it ready?*

While discontinuation of the co-op alternative for the shoreside whiting sector is not an issue that necessarily needs to be addressed, both the GAC and TIQC have recommendations in this regard.

**GAC Recommendation:** *Drop from the analysis the co-op alternative for the whiting shoreside, due to waning industry support and questionable legality of the option.*

**TIQC Recommendation:** *Move forward with this alternative, even with the advice that this option may not be legal, in order to comply with the MSA requirement. (Consensus)*

## **Mandatory Data Collection for Co-ops (New)**

*Should there be a mandatory data collection provision for the co-op alternative?*

**GAC Recommendation:** *Include the mandatory data collection option as part of the co-op alternative.*

**TIQC Recommendation:** *Add a mandatory data collection requirement to the co-op alternative. (Majority)*

## **Other Guidance from the GAC**

**GAC Guidance:** Provide a list of efforts that have been made to reach out to communities