

Trawl IFQ Accumulation Limits
Environmental Defense Fund
March 11, 2009

Control and vessel accumulation limits are important parameters that will influence both the shape of the trawl fishery in the future and the success of the IFQ program in meeting the Council's adopted goals and objectives. EDF commends the work of the analysts, the GAC, the GMT and the GAP in continuing to refine the information and conversation on this design issue.

The Council and its advisory bodies have pored over numerous graphs and tables over the past months related to the topic of accumulation caps. Most recently, the GMT has provided a thoughtful framework to relate caps to potential ex-vessel value and fishing strategies. The GAP put considerable thought into developing a set of accumulation cap recommendations with accompanying rationale.

In order to assure that we complete the IFQ package in a timely fashion, we support having the Council develop the final set of accumulations limits with associated rationale. These elements can be integrated into the trawl rationalization package and the preliminary draft regulations that will be reviewed in June.

Control and Vessel Limits

First, EDF supports the recommendations of both the GAC and GAP that control caps apply to Quota Share while governing the use of annual quota pounds through vessel use caps.

The principal challenge in setting accumulation caps is balancing the need for improved efficiency and operational flexibility with the objective of maintaining a reasonable coastwide distribution of vessels. Overarching these needs is the legal mandate of the MSA that no quota holder can acquire an "excessive share"; however, as pointed out by the GMT and others, the Council is left with the task of defining "excessive" in the context of the trawl groundfish fishery and the goals of the program. EDF shares the Council's interest in finding the right balance, so that the IFQ program can succeed in achieving its objectives, and will not lead to undue consolidation or dislocation.

In refining the various options on the table into a single set of limits, EDF recommends that the Council take the following considerations into account:

- Set the accumulation caps with an eye to the future; that is, what should the fishery look like in 10 years?
- As discussed by the GMT, be careful that caps for species that could limit access to other species are set low enough so that QS holders for these “limiting” species could not have undue control
- At the same time, avoid setting individual species control limits so low that (1) traditional full time groundfish vessel owners would not be able to control enough QS to cover their normal operations or (2) specialization is not possible.
- It will be easier in the future to raise accumulation caps, than to lower them. Therefore if significant uncertainty exists over where to set the limit, it would be advisable to start at the lower end of the range being considered.
- The vessel control caps will define the minimum number of vessels that could conceivably harvest the quota. While it is unlikely that all vessels will operate at the maximum cap level, this cap does most directly address the need for sufficient vessels to provide for social objectives related to employment opportunities and minimizing disruption in coastal communities. Another rationale for setting vessel limits higher than control limits has been to provide opportunities for crew to purchase QS and then put them on a vessel to fish. Therefore, if control caps are set higher than originally discussed, then vessel limits should be only slightly above the control caps.

Definition of Control

EDF recommends that the Council further define what they mean “**controls through other means**”. The control rule is described in Appendix A of the Council’s decision documents as follows:

“A person, individually or collectively, may not control QS or QP in excess of the specified limited.... QS or QP controlled by a person shall include those registered to that person, plus those controlled by the other entities in which the person has a direct or indirect ownership interest, as well as shares that the person controls *through other means* (emphasis added).

Individual and Collective rule: The QS or QP that counts toward a person’s accumulation limit will include: (1) the QS or QP owned by them, and 2) a portion of the QS or QP owned by any entity in which that person has an interest. The person’s share of interest in that entity will determine the portion of that entity’s QS or QP that counts toward that person’s limit”¹

Concern has been raised that this very broad definition could constrain some usual business arrangements in the trawl fishery. We suggest that the Council provide guidance to the analysts and regulation writers regarding what kinds of activities should be prohibited by this reference to indirect control as well as the kinds of business arrangements that should not be unduly constrained.

¹ Appendix A Page 230-31

Divestiture

EDF recommends that the Council provide a window period for entities whose permit ownership in November 2008 would result in initial allocation greater than the control caps to divest down to the control limits. Post initial allocation divestiture would provide more opportunity to track transactions and resulting ownership/control while at the same time providing entities over the control caps the ability to recoup some of their prior investment in the fishery. EDF believes this will result in a smoother transition to implementing the IFQ program since it may remove potential litigation obstacles.

Halibut Bycatch Quota

As approved by the Council in November 2008, the IFQ program should include a provision for transferable individual bycatch quota for halibut at the time of implementation. We recognize that changes in fishing strategies may require some participants to lease or purchase additional IBQ to cover their bycatch needs. However, we do not see this as a reason to delay implementation of this program. We have reviewed the recommendation of WDFW for clarifying the methodology for calculation of IBQ quota pounds and support its adoption.

Community Fishing Associations

There has been strong interest expressed in providing for community fishing associations that could help achieve a variety of community related goals. The GAC recognized this in their recommendation that a trailing amendment be developed to examine different accumulation limits for community fishing associations, regional fishing associations, and insurance risk pools.

Groups interested in establishing such associations have put considerable effort recently in trying to examine how CFA provisions might be included in the IFQ program. EDF supports having the Council make a commitment to developing CFA provisions that would be implemented at the start of the IFQ program.

