

Council Staff White Paper on Adaptive Management Program Options

Introduction

This document briefly summarizes Council staff perspectives on design elements for a Trawl Rationalization Adaptive Management Program (AMP). This is intended to help the Council work through the issues that need to be considered when specifying a program and, if so desired, provide guidance on potential decision-making options that could be specified. Staff does not believe that in this case there is a NEPA requirement that formal options be specified since the general effects of implementing an AMP are analyzed in the Trawl Rationalization EIS. But specifying options often helps both decision-makers and the public to work toward a commonly-agreed outcome.

Council Process for Developing the Adaptive Management Program

The following table shows the proposed schedule for Council action on the AMP:

Month	Decision/Recommendation Points
April	<ul style="list-style-type: none"> • Council identifies and approves generic goals, objectives, and options for analysis <li style="padding-left: 20px;">Options include process options for awarding AMP quota
May	<ul style="list-style-type: none"> • GAC reviews staff analysis • GAC develops recommendations on: <ul style="list-style-type: none"> ○ Specific program goals, objectives, and standards ○ Entities eligible for receiving AMP quota (if necessary) ○ Process for awarding AMP quota to entities
June	<ul style="list-style-type: none"> • Council reviews staff analysis • Council reviews GAC recommendations • Council specifies: <ul style="list-style-type: none"> ○ AMP goals and objectives ○ AMP standards ○ Entities eligible to receive AMP quota (if necessary) ○ Process for awarding AMP quota to entities
Post-June	<ul style="list-style-type: none"> • Council staff integrates Council AMP motion into Trawl Rationalization EIS • Implementation including regulatory provisions

Major Issues to be Decided

This paper discusses the following issues that staff believes the Council needs to address in designing the AMP:

- Goals, objectives, and standards (evaluation criteria)
- Decision-making structure
- AMP quota transferability, duration, and ownership eligibility
- Monitoring and evaluation processes, program review

Current Status of the Adaptive Management Program Proposal

At the November 2008 meeting, the Council adopted the following motion describing the broad outlines of an AMP:

It is the intent of the Council to have an adaptive management program for the shoreside non-whiting sector. Up to 10% of the non-whiting QS [quota shares] will be reserved for this program. QS will be divided among the three states. QS/QP [quota pounds] will be provided through separate, but parallel, processes in each of the three states (e.g. through the use of regional fishery association or community stability plans or other means). Further details will be developed through a trailing action with the intent of having the adaptive management provisions apply during the first year of implementation of the trawl rationalization program.

Since the Council's November action, constituent groups have met and discussed the development of the AMP and Council staff expects the constituents will provide comments to the Council separately. In developing the ideas in this white paper, staff has tried to address some of the ideas developed during the constituent meetings.

General Principals for Program Design

Staff believes that AMP design will mainly involve decision-making process issues and that a relatively open, flexible, and simple program framework will best accommodate different approaches to the decision-making process. Staff has been working from the following general principals:

- The decision-making process will be governed by one or more goals identified by the Council, providing boundaries on what activities or entities will be eligible to receive AMP quota.¹
- The decision-making process will most likely involve the Council, but States may play an independent role in decision-making (for example, by pre-screening proposals). Staff notes language in the motion identifying "separate, but parallel, processes in each of the three states."
- NMFS will be involved in the decision-making process, at a minimum reviewing Council/State decisions.
- Staff has been advised that for legal reasons it is likely that NMFS will retain control of AMP QS while distributing the associated QP to program participants.²
- The AMP could be "proposal-driven" or "formulaic." In a proposal-driven process the use of AMP quota will be identified by individuals or entities that apply to receive quota. A decision-making process then evaluates proposals to determine which "applicants" should receive quota, and how much quota each applicant should receive. In a formulaic process very specific criteria or performance standards determine who receives AMP quota and the allocation is based on a formula rather than case-by-case decisions.
- The Council and NMFS will not be directly involved in structuring local entities that may receive AMP quota, such as regional fishery associations, community stability plans, or other entities that might receive quota, although evaluation criteria could favor certain types of entities or limit eligibility to certain types.

¹ It is expected that the program goal or goals could be modified from time to time to address changing socioeconomic or environmental conditions.

² Note that this is somewhat at odds with the language in the Council's motion.

Program Development Issues

Specifying Program Goals and Related Standards or Project Evaluation Criteria

The overall purpose of the AMP is to address undesirable changes in the structure and performance of the west coast groundfish trawl fishery (including processors) so that trawl rationalization is consistent with the goals, objectives, and guiding principals laid out by the Council (see Chapter 1 in the EIS); Groundfish FMP goals and objectives; National Standards listed in §301 of the Magnuson-Stevens Act; and requirements of limited access programs listed in §303A(c) of the Act. The EIS identifies the following purposes in the description of the AMP: “to create incentives for developing gear efficiencies, for community development, or to compensate for unforeseen outcomes from implementing the IFQ program.” A truly adaptive program would respond to unforeseen and adverse effects from trawl rationalization stemming from implementation. However, if the Council wants to have an adaptive management program allocating quota on day one of implementation, it would be necessary to anticipate potential adverse effects. The program would then be designed around these anticipated effects.

Establishing program goals is an important part of program design. There are a number of ways the Council could approach this task in terms of the specificity of these goals. Goals could be kept broad, essentially relying on the language from the MSA, FMP, and EIS cited above. This would give the Council the greatest flexibility to consider particular activities or proposals for the use of AMP quota on a case-by-case basis. As an alternative or in addition, specific program goals could be enumerated, focusing on particular issues that are anticipated to arise. In that case the specific goals would be translated into (ideally measurable) standards and evaluation criteria used to decide what specific activities, projects, and entities should receive AMP quota. If more specific goals are identified, the overall AMP framework could incorporate enough flexibility to allow the Council to change the goals from time to time.

If the Council chose to focus the AMP on specific objectives at this time, then some examples of possible program goals are:

Vulnerable communities: *Protect vulnerable communities from the adverse effects of trawl rationalization.* A program with this goal would distribute AMP quota to harvesters or others (e.g., government or nongovernment organizations) to ensure landings in specified vulnerable communities or communities that can demonstrate harm resulting from trawl rationalization. Objectives could include preventing the loss of fishing-dependent businesses and related employment and tax revenues supporting port infrastructure.

Stabilizing harvester-processor relationships: *Support existing business relationships between harvesters and processors.* A program with this goal would distribute AMP quota to processors and/or harvesters that commit to continue an existing business relationship. Objectives could include preventing the closure of a processing plant or providing an incentive for processors to develop new product forms or markets.

Encouraging conservation benefits: *Favor harvesting techniques and technologies that reduce environmental impacts.* A program with this goal would distribute AMP quota to harvesters that use gear and methods producing conservation benefits. Activities could include testing new gear and methods to determine the conservation benefits or supporting the switch to gear and methods that have proven conservation benefits. Objectives could include reducing incidental catch of depleted species or reducing habitat impacts.

It should be emphasized that these three program descriptions are examples and whatever goals the Council chooses will not necessarily accord with what is described here.

The Council could identify more than one program goal for using AMP quota at the start of the program. If multiple goals are identified then criteria would be needed to help choose among proposals meeting different goals. (This assumes that the total amount of quota requested by applicants exceeds the amount available under the program, a zero sum situation.) One possibility would be to prioritize the goals, so that for example, those focusing on vulnerable communities will be “funded” over those focusing on stabilizing harvester-processor relationships. Alternatively, the AMP quota could be “allocated” among the goals in advance so that, for example, up to 50 percent would go to vulnerable community proposals, 30 percent to processor-harvester proposals, and 20 percent to conservation-related proposals. Whether only one goal or multiple goals are chosen initially, the Council should be able to periodically change the program goal to address the overall purpose of the AMP. Thus, for example, the program might initially favor harvester-processor relationships but at a later stage transition to supporting conservation-related activities.

Decision-making Structure: State, Council, and NMFS Roles

In designing the decision-making process, the central question is the role that the States, the Council and NMFS will play in deciding the distribution of AMP quota. The motion identifies a strong role for the States. On the other hand, State Council representatives have expressed different views on the States’ capacity to establish an independent process for deciding on the distribution of AMP quota. Based on this information staff has identified four possible decision-making structures:

1. **States → Council → NMFS (Proposal Evaluation Process):** Under this structure first a state would pre-screen proposals from applicants within their state or work with applicants in developing proposals. Proposals accepted by the state would then be forwarded to the Council. The Council would review all proposals submitted and make a recommendation to NMFS on the allocation of AMP quota among the proposals.
2. **States → NMFS (Proposal Evaluation Process):** This structure is similar to the first except that there would be no direct Council role. States would submit proposals directly to NMFS with the Council having a broad oversight role. For example, the Council’s role would be confined to specifying program goals, periodically evaluating program performance, and modifying the program as necessary.
3. **NMFS (Proposal Evaluation Process):** Under this structure, individual applicants would submit proposal directly to NMFS. The Council would have the type of broad-scale involvement described above (e.g., setting program goals).
4. **NMFS (Allocation by Formula):** This structure would substantially reduce or eliminate regular decision-making. At its simplest there would be no proposal process as suggested in the first two structures. Any entity that meets specific criteria, which could be defined as a performance standard, would automatically receive AMP quota, divided up among recipients according to a pre-set formula. For example, anyone who delivers to a specified port or processor would receive quota. Alternatively, as in the previous two decision structures, applicants could be selected but the allocation of AMP quota would then be made formulaically.

The overall decision-making structure could still accommodate varying degrees of state involvement. For example, the framework could be open enough so that each state could decide what role they want to play in selecting recipients. This approach is similar to how the Council currently reviews

groundfish exempted fishing permit (EFP) applications, found in Council Operating Procedure (COP) 19. In some cases, a state will work with applicants to bring forward proposals while in other cases applicants bring proposals they have developed independently to the Council without state agency involvement.

If the AMP ends up being a proposal-driven process with the Council being the principal decision-maker, then the workload implications need to be considered. Again referring to COP 19, the process described there involves the GMT, GAP, and SSC in addition to the Council. Recently, a substantial amount of agenda time has been devoted to reviewing groundfish EFP proposals. If the AMP review process is zero sum (the amount of quota requested exceeds the amount available), Council involvement could add substantially to work load and agenda time.

Allocation of AMP Quota among States

Language in the Council's November motion referencing "separate, but parallel, processes in each of the three states" suggests the need for fixed allocations of AMP quota for each state. This would prevent any one state receiving what is perceived as an excessive amount of AMP quota. It would likely be necessary to make such allocations if the program is more state-centric and the Council plays a small day-to-day role. Alternatively, the distribution of AMP quota among the states could simply be monitored. If it becomes apparent that a disproportionate share of the AMP quota is being landed in a particular state the Council could then make adjustments to the program (up to establishing fixed allocations) to redress the imbalance. Under this approach, judgments about the distribution of AMP quota could be made based on a general statement of policy, such as over several years AMP quota should not be disproportionately distributed to any one state. A program without fixed allocations would be more appropriate if the Council had an ongoing decision-making role. It would give the Council the flexibility to vary the amounts of quota that ends up in each state based on a needs assessment, or simply as an outcome of an evaluation of all proposals that might be received, or the application of a pre-determined formula.

AMP Quota Use, Duration, and Ownership Eligibility

There are two basic ways to view AMP quota, which influence how AMP quota use would be monitored. One perspective is to see AMP quota as a reward for past behavior or as an incentive for committing to a particular course of action in the future (i.e., the coming year). For example, any harvester who delivers to specified ports would receive a portion of AMP quota in the following year; alternatively, if he commits to those deliveries in the current year he could receive the AMP quota at the beginning of the year.³ In an incentive-oriented program, there is little need to monitor how AMP quota is used and if the recipient wishes to sell the AMP quota that shouldn't be a problem as long as they engage in the behavior that AMP was designed to encourage. Another perspective is to direct AMP quota to specified uses. For example, a harvester requests AMP quota to experiment with a new fishing method that has a high risk-reward ratio. In this case the AMP distributes quota for specified activities that will occur in the future and there is thus a greater need to monitor its use because the receiver of AMP quota shouldn't do anything with it other than use it for a stated purpose. But since QP will be fungible (one unit of quota is indistinguishable from all other units of the same type), it will be difficult to determine whether the AMP quota (separate from any other QP in a vessel account) was used for the stated purpose, was sold, or remained unused.

The Council could consider whether AMP quota receivers would be exempted from accumulation limits up to the amount of AMP quota received. This is especially an issue with vessel limits. If vessels at their

³ In either case there would need to be a mechanism to check whether the behavior actually occurred.

limits cannot exceed them with AMP quota, it will be difficult to use AMP quota to influence the largest harvesters' actions.

How frequently AMP quota will be allocated needs to be considered. Ultimately, AMP quota will be used in the form of QP in vessel accounts and QP will be of 1-year duration. However, allocation decisions don't need to occur that often. For example, allocation could be made to an activity or project that has a multi-year time span. This could provide recipients more certainty about their future operations, which some entities may find beneficial, but may reduce the flexibility to make adaptations to the program (although periodic review could be built in). A proposal-driven program structure would need to specify how frequently proposals would be accepted and AMP quota allocated.

If AMP QP can be held elsewhere than in vessel accounts the Council may wish to establish eligibility criteria for receipt of AMP quota different from the general IFQ eligibility requirements.

Monitoring and Evaluation Processes, Program Review

An AMP program will likely require several different monitoring and evaluation elements:

- If proposal-driven, a framework for evaluating proposals and deciding which ones to "fund"
- If AMP quota is allocated for a specified activity, a monitoring element to ensure that AMP quota is actually used in that way; if the AMP quota is provided as a reward or an incentive for a particular action, a monitoring or auditing element may be needed to verify that the action was taken (e.g., use of a particular gear)
- Periodic review of the overall AMP to decide if goals are being met and whether those goals need to be changed.

In a proposal-driven process, the Council will likely need to specify the required contents of proposals. Again, COP 19 offers a good starting point for identifying the types of information a proposal should contain. Generally, this includes information about the applicant, the proposed activity, and how it addresses program objectives.

In a proposal-driven process, if the amount of AMP quota available is less than the amount requested, evaluation criteria could be a way to better match the total amount of AMP quota requested with the amount available. Criteria would likely be matched with program goals (for example, making only vulnerable communities, processors, or harvesters eligible). Measurable, minimally subjective criteria would be preferable to make it clear what a proposal needs to focus on in order to successfully receive AMP quota. In these situations the Council could decide in advance on a maximum number of recipients based on the amount of available quota. Alternatively, if proposals specify the amount of AMP quota needed, the Council would use that information when screening proposals so that the total amount did not exceed the total amount of AMP quota available.

If the program is set up so that AMP quota use must be monitored, as discussed above, there are two monitoring issues: checking whether the AMP quota was transferred (sold) to someone else outside the terms of the proposal and whether it is fully utilized, at least in preference to any other quota the recipient may possess. Figuring out whether this happens does not necessarily require AMP quota to be tracked separately from other quota but would rely on a year-end accounting of the use of quota. But the need to account for AMP quota in this way could be difficult and reduce the overall efficiency of IFQs. If the terms of the AMP proposal have been violated, then sanctions could be applied, such as loss of the future eligibility or reduction in the amount of AMP quota received in subsequent periods to make up for unused quota.

In addition to the type of basic accounting just discussed, the Council may require follow-up reports from AMP quota recipients in order to assess whether that AMP quota use met broader goals and objectives. Again, COP 19 offers a starting point for thinking about follow-up reports since it specifies the contents of such a report for EFPs.

Finally, at a broader level, the Council will likely want to evaluate overall program performance. This could build on project-specific performance evaluations and involve reconsideration of program goals. The mandated 5-year IFQ program review cycle may be a good vehicle for this type of evaluation. Since any AMP program would be part of the federally-managed limited entry trawl fishery, NMFS is likely to play a role in this type of periodic program review.

Additional Staff Comments

Interpretation of the Council's AMP Motion

The Council's motion states that "up to 10 percent of the non-whiting QS will be reserved for" the AMP. Characterizing AMP quota as QS and allowing the amount of QS dedicated to the AMP to vary from time to time raises some additional issues. First, QS would have to be reallocated, either to or from QS holders, each time it varies from the previous amount (from 8 percent in one year to 7 percent in the next, say). Second, reference to QS in the Council's motion also raises more general questions about the nature of AMP quota. QS may be considered an asset of indefinite duration (subject to program changes) that produces regular returns in the form of QP. However, it seems unlikely that the Council intends to grant such an indefinite privilege to an AMP quota recipient.

Staff interpreted the "up to" language as reflecting the Council's intent that any unused AMP quota will be redistributed back to the groundfish shoreside trawl fleet. Staff believe it is easier to treat AMP quota as a set aside that is deducted from the shoreside trawl sector allocation of the OY for a given management unit. The remainder of the sector allocation would then be distributed among QS holders based on the percentage value of their QS holdings. (The figure on page 10 illustrates the general process for the allocation of AMP QP based on this model.) If the Council's intention in referencing QS in the motion is to ensure it is a portion of the sector allocation, the Council might want to consider whether or not this could be accomplished in the FMP amendment and/or regulatory language without denominating AMP quota as QS.

The decision on the amount of AMP quota to be reserved also needs to be synchronized with the harvest specifications process and the resulting distribution of QP into vessel accounts. First, the Council could decide in advance the amount of quota to set aside, once OYs and sector allocations have been set. Then the AMP quota could be allocated under whatever mechanism is established. Finally, if there is any unused AMP quota after the allocation process it could be returned to all QS holders. The allocation of AMP quota and any subsequent redistribution of unused AMP quota to QS holders does not necessarily have to occur before the beginning of the fishing year as long as deposits to vessel accounts is timely enough to allow its use at some point during the year and/or for the specified purpose.

Strawman Program Examples

Basic Formulaic Program

Program goal: Dampen changes in the coastwide pattern of groundfish landings.

Who would qualify? Any vessel eligible to receive QP that delivered at least 90 percent of its landings in a year to the same port(s) it delivered to in the previous year. (In the first year of the program the previous year would be the year prior to the beginning of the program.)

How would AMP quota be allocated? Pro rata to all eligible vessels according to the QP in the vessel account at the beginning of the year.⁴

What monitoring would be required? No additional monitoring would be required. Information already collected could be used to determine eligibility. The use of AMP quota would not have to be monitored since it is a reward for past behavior.

Under this approach there wouldn't be an AMP in the first year of implementation since AMP quota is allocated based on past behavior; in other words, in the first year the AMP quota would go to all QS holders.⁵ Assuming the IFQ program begins on January 1, 2011, in 2012 AMP quota would be distributed by comparing vessel landings in 2011 to landings in 2010.

Formulaic Process with Eligibility Decision

Program goal: Stabilize existing processor-harvester relationships.

Who would qualify? The Council would select recipients from among groups of vessels and processors that have entered into delivery agreements. A group of vessel owners and a processor would submit a signed contract (and other information, if needed) and the Council would determine if the contract met established program goals, in which case they would be eligible to receive AMP quota. Evaluation criteria could be based on processing location, past involvement in the fishery, contract amount, product form, etc.

How would the AMP quota be allocated? Quota would be allocated to the harvester-processor group pro rata based on recent processing history and/or the catch history of contracted harvesters. The contract would specify how QP would be distributed among the vessel accounts of the contracted parties.

What monitoring would be required? Additional monitoring may be required depending on program criteria. Information would be needed to determine if the contract terms were met, for example. If the criteria required a specific activity to be performed beyond the contract terms (such as landed fish processed into a particular product form) then additional monitoring would be necessary.

Proposal-driven Process for a Specific Purpose

Program goal: Address adverse impacts to communities disproportionately affected by trawl rationalization.

Who would qualify? Any entity could submit a proposal describing what the AMP quota would be used for, the amount requested, and the vessel account(s) into which it would be deposited. The Council (or States or NMFS) would then screen proposals based on a set of qualitative evaluation criteria.

⁴ This could be the total amount deposited to the account (not net of withdrawals) at some date after January 1 but early in the year.

⁵ Other, more complicated, methods could allow the distribution of AMP in the first year. For example, it could be based on a commitment to deliver according to the 90 percent criterion in the first year compared to the year before the IFQ program starts. If the vessel does not perform as agreed, some penalty, such as loss of eligibility, could be assessed in the subsequent year.

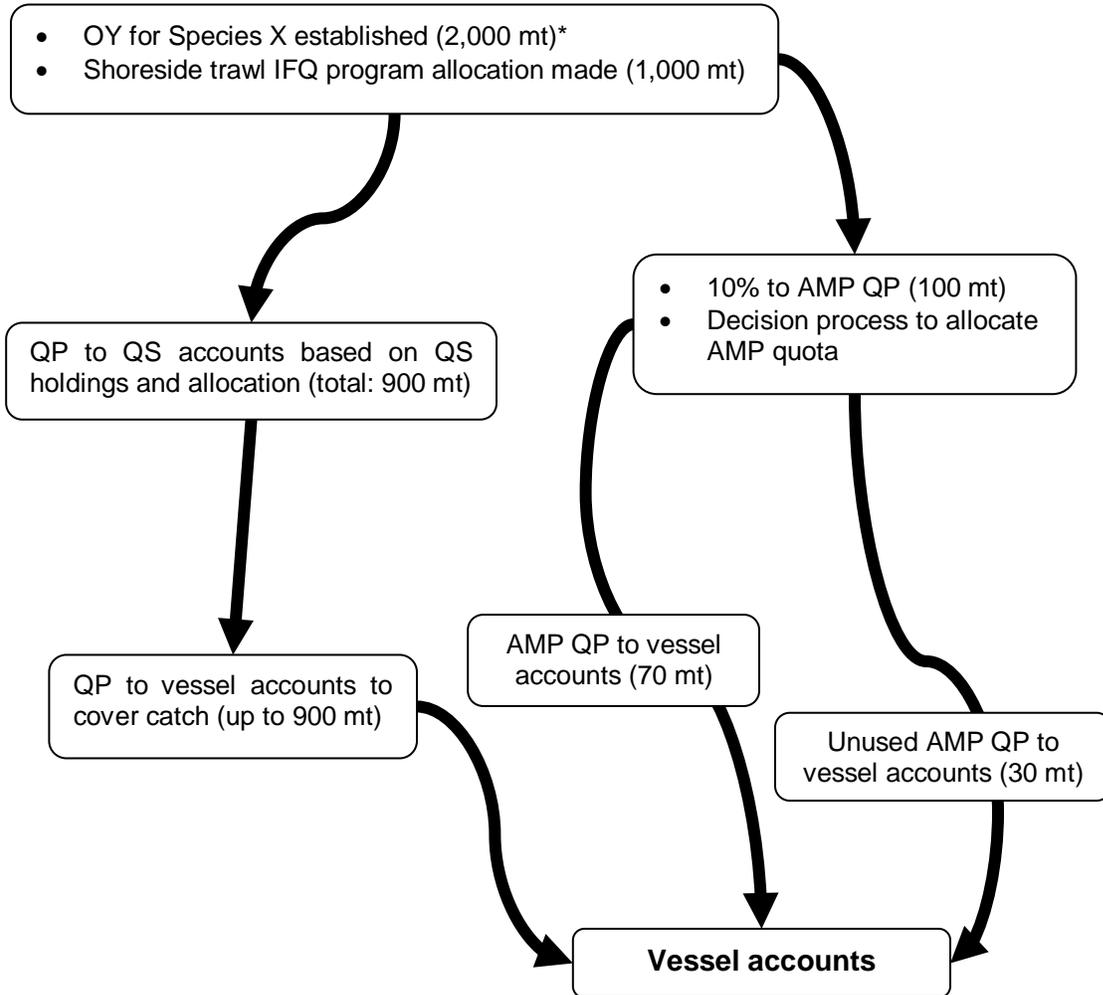
How would the AMP quota be allocated? AMP quota would be allocated according to the amounts specified in accepted proposals.

What monitoring would be required? The level of monitoring would depend on the nature of the proposal. A proposal that was broadly incentive based, like the first strawman example outlined above, would require a low level of monitoring. If the proposal identified a specific activity that the AMP quota would be used for then a higher level of monitoring would be required. For example, the proposal could request AMP quota to test a new, bycatch-reducing gear design. Some form of monitoring would have to be built into the process to check if the gear testing occurred and to understand the role that the AMP quota played as an incentive. As discussed elsewhere, if an applicant did not meet the terms of the original proposal then some type of sanction could be applied, such as loss of future eligibility.

In this proposal-driven process a zero sum situation could preclude “funding” all applicants. This would increase the need for evaluation criteria to limit the number of recipients in line with the available amount of AMP quota. Alternatively, all proposals could be “funded” but each applicant would receive less quota than requested.

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Example of AMP Quota Distribution



*Example amounts to demonstrate the flow of quota to vessel accounts.