

**COUNCIL ACTIONS ON AMENDMENT 20: TRAWL RATIONALIZATION
NOVEMBER 2007**

**Qualifying and Allocation Time Periods and Related Criteria
(Individual Fishing Quotas [IFQs] and Co-op)**

The Council adopted for analysis the following qualifying and allocation time periods and criteria.

Qualifying for Participation			Allocation	
Entities	IFQ Recent Participation	Co-op Alt Endorsement/ Permit	IFQ Allocation	Co-op Catch History
Catcher Vessel Permit Owners				
Nonwhiting Shoreside Catcher Vessels	None	N/A	'94-'03 (drop 3 worst years)	N/A
Whiting Shoreside Catcher Vessels	None	'97-'03 (>500 mt)	'94-'03 (drop 2 worst years)*	97-'03 (drop worst year)*
Whiting Mothership Catcher Vessels	None	94-'03 (>500 mt) 97-'03 (>500 mt)	'94-'03 (drop 2 worst years)*	97-'03 (drop worst year)*
Catcher-Processor Permit Owners	None	97-'03 (at least 1 delivery)	'94-'03 (drop no years)	N/A
Mothership	'97-'03 (>1K mt in 2 yrs)	97-'03 (more than 1,000 mt in each of 2 years)	97-'03 (drop no years)	N/A
Shoreside Processing Companies	'98-'03 Options for shoreside whiting 1) 1 mt of whiting in any 2 of years, and 2) 1 delivery of any size. Options for shoreside non-whiting: 1) 6 mt in each of 3 years, and 2) 1 delivery option.	98-'03 (more than 1,000 mt in each of 2 years)	94-'03 (drop 2 worst years)	N/A

N/A = Not Applicable

*For the whiting catcher vessels that participated in both the shoreside and mothership sectors, the years dropped should be the same categories.

IFQs

Management Units (A-1.2)

Add an option: In addition to the species area subdivisions listed as rows in the acceptable biological catch (ABC)/optimum yield (OY) table, all species and complexes will be divided north and south of 40°10'N. Latitude. Note: For those species that already have a geographic subdivision based on a stock assessment (e.g., sablefish), the current subdivisions would remain in place and there would not be an additional subdivisions at 40°10'N. Latitude. Area subdivisions may be refined as new information becomes available.

Entities Qualifying for An Initial Allocation (A-2.1.1)

Initial Allocation to Processors

Change the range of permit/processor shares of the initial quota share (QS) allocation as follows

in the nonwhiting fishery, from 100/0 and 75/25 to
100/0,
87.5/12.5, and
75/25

in the whiting fishery from 100/0 and 50/50 to
100/0,
75/25, and
50/50

Add two other options to this section:

100% of QS to permit owners. Annually, 10% of the available quota pounds (QP) will be set aside for use in an adaptive management program.

75% of QS to permit owners and 25% of QS to processors for the shoreside non-whiting sector. 50% of QS to permit owners and 50% of QS to processors for the whiting sector. Annually, 10% of the available QP will be set aside for use in an adaptive management program.

Successor In Interest for Shoreside Processors

In allocating IFQ to processors, recognize successor in interest. National Marine Fisheries Service (NMFS) will need to develop criteria to evaluate successor in interest. These criteria should include consideration of the terms and intention of a contract.

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.

Identification of the Shoreside Processing Entity That Would Qualify For An Allocation

Revise the language on the resolution of disputes between the initial recipient of a landing and a secondary handler that may have actually done the first processing to indicate that disputes would be resolved through “an agency appeal process” rather than “a non-agency adjudication process.”

Identification of the Mothership Entity That Would Qualify For An Allocation

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).

QS Allocation Formulas (A-2.1.3)

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

Revise the formula for allocating overfished species such that the depth and latitudinal strata for the target species to which overfished species bycatch rates are applied will be based on each permit's 2003-2006 logbooks rather than fleet wide average logbook information.

Allocation of Bycatch Species for Catcher Processor and Motherships

Add options for the allocation of bycatch species similar to those provided for catcher vessel permits (i.e., on a pro rata basis in proportion to their whiting QS allocation).

Direct Reallocation After Initial Issuance (A-2.1.6)

Changes in Management Areas

Move ahead with the option for geographic reallocation of QS when a management area changes, however, indicate that such area changes are expected to be rare.

Changes in Stock Status

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.

Vessel QP Minimum Holding Requirement (A-2.2.1)

Drop the option that would require a participating vessel to hold some minimum amount of QP.

Vessel QP Overage Resolution (A-2.2.1)

Do not provide any alternative means for vessels to comply with the requirements that catch be covered with QP (i.e., a vessel must cover any overage with QP before it resumes fishing). However, add the following options

- The duration of the fishing prohibition will be limited to two years (the existing option is for an indefinite period).
- The no-fishing prohibition for vessels with overages does not include those fisheries in which little or no groundfish mortality is expected (under the existing option the extent of the prohibition would be the maximum that could be established under Council authority).

Temporary Transfer Prohibition (A-2.2.3.c)

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.

Eligible to Own (A-2.2.3.a)

Restrict those eligible to own QS under the exceptions for American Fisheries Act vessels to persons that own a mothership that participated in the Pacific whiting fishery during the allocation period.

Accumulation Limits (A-2.2.3.e)

Adopt the vessel and control limits contained in Table 1.

Revise the “individual and collective” rule used for determining control to read as follows.

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 the person's limit.

Adopt options to the grandfather exemption. Three options should be included in the analysis: full grandfather clause (i.e. a person is allowed to receive and retain whatever amount of QS they qualify for under the initial issuance process, even if in excess of the accumulation limit), a grandfather clause that is twice the vessel accumulation limit cap, and no grandfather clause.

Table 1. 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 (%)
All nonwhiting groundfish (in aggregate)	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)

Guidance: In assessing the costs of an effective tracking and monitoring system, those costs associated with deficits in the current system should be documented so that they are not falsely attributed to individual trawl quota implementation.

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

Add provisions that would allow audits to validate data submitted in response to a mandatory data collection requirement. Some audits would be random and others would be directed toward suspect submissions.

Additional Measures for Processors (A-2.4)

Modify the provision that would use adaptive management to benefit processors demonstrating harm by eliminating the portion of the provision that specifies QP would be auctioned to generate funds for direct financial compensation (this leaves the option of allocating some QP in a manner that benefits processors that have demonstrated harm).

Adaptive Management (A-3)

Reword A-3 as follows.

Annually, 10% of the available QP for the Trawl IFQ program will be set aside for use in an adaptive management program that could create incentives for developing gear efficiencies, or community development, or to compensate for 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. Should the Council adopt initial allocation of fishing QS to processors, those processors receiving an initial allocation would not be eligible to hold QP issued through an adaptive management program.

Allocation of Pacific Halibut IBQ (A-4)

Revise the formula for allocating halibut bycatch quota such that the depth and latitudinal strata for the target species to which overfished species bycatch rates are applied will be based on each permit's 2003-2006 logbooks rather than fleet wide average logbook information.

Alternative Duration: Fixed Term (A-6)

Provision 1: Option for Fixed Term of Initial Allocation of Quota Shares

Initial allocation of Quota Shares will be valid for a period of 15 or 16 years, intended to end the second year of the closest biennial spex period. Subsequent allocation of QS will be for a period of 15 years.

Provision 2: Option for Auction to Reallocate Quota Shares after 15-year expiration of Initial Issuance

At least 1 year before the expiration of QS, and every subsequent 2 years, an auction of no more than 20% of the quota shares for each species will be held to redistribute QS. The remaining 80% of the QS for each species will be redistributed to those holding the QS at the end of the 15 or 16 year period, in proportion to their QS holdings at that time.

The specific form of the auction will be decided by the Council in the period between trawl rationalization implementation and the first auction to achieve the goals of the trawl rationalization program, including reducing bycatch, increasing operational flexibility, minimizing adverse effects on fishing communities and other fisheries, promoting measurable economic and employment benefits through the seafood catching, processing, distribution elements, and support sectors of the industry.

Vessel Size Endorsement (New)

Add an option to remove the length endorsement restriction for trawl permits if an IFQ program is adopted.

Co-op Alternative

Adaptive Management Option

Add an Option to Co-Op Program:

Annually, 10% of the available aggregate harvest pounds for each co-op or non-co-op in the Co-Op program will be set aside for use in an adaptive management program that could create incentives for developing gear efficiencies, community development, or to compensate for 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.

Under sections pertaining to annual allocation to co-ops and the non-co-op fishery, add for each sector as appropriate: Annually, 10% of the mothership, shoreside, and catcher-processor sector's available aggregate harvest pounds will be set aside for use in an adaptive management program.

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

Endorse the Groundfish Allocation Committee recommendation for an option to assign bycatch to co-ops and explicitly incorporate provisions for inter-co-op agreements (keep the current option as well).

Additional bycatch management provisions:

If there is a fishery or sector wide allocation of overfished stocks to the whiting fishery, then the following tools could be used by the Council for the co-op and non-co-op fisheries.

- seasonal releases of allocations
- area closures (seasonal or year round)

The seasonal releases and area closures may be the same or different for different species. Area closures may be year-round, seasonal, or triggered automatically by the attainment of certain levels of catch. The analysis should evaluate the application of these tools at the sector, individual, and co-op levels (if there is an inter-co-op agreement).

A sector's bycatch allocation will be divided between the co-op and non-co-op fishery of the sector, in proportion to the whiting allocated to each fishery.

Option 1: For the non-co-op fishery there will be a bycatch buffer. When only the buffer remains, the fishery would close temporarily while a determination is made as to a possible re-opening. The buffer amounts considered will be:

- SubOption i: 20%
- SubOption ii: 10%
- SubOption iii: 5%

Option 2: For the non-co-op fishery there will not be a buffer.

Mothership Sector Co-op Alternative (B-1)

With respect to the entity that would receive the mothership (MS) permit, 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).

Add an option that would allow a vessel to operate both as a catcher-processor and as a mothership in the same year but not at the same time. Add a sub-option that would not allow the vessels to operate as both a catcher-processor and a mothership in the same month. (Option remains that a vessel can only operate in one mode during the year.)

Provide three options limiting the transfer of an MS permit: (1) prohibit transfer of a MS permit during a year (transfers would occur between whiting seasons), (2) allow an MS permit to transfer a maximum of one time during the year, and (3) allow an MS permit to transfer a maximum of two times during the year.

Modify the processor tie provision for catcher vessels (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 chose to deliver the majority of its fish with the following options:

- (a) The most recent year that it fished before the program is implemented.
- (b) The mothership to which the permit delivered the majority of its catch from 1997 through 2004.

- (c) The mothership to which the permit delivered the majority of its catch from 1994 through 2003.

If the MS that it delivered to did not receive a permit, the CV may link itself to any MS with an MS permit. Once the program is implemented, a CV is required to participate in the non-coop fishery when moving from one MS to another MS. Further, look at varying the levels of the processor tie provision to include options limiting the amounts of the deliveries that must be committed to the mothership to 50%, 75%, or 100% of the total allocation to the permit.

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 permit obligated to that mothership may go into another co-op of its choosing, or 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.

Option: The catcher vessel permit remains linked to the departing mothership when it returns, if the mothership returns within two years. OR

Option: The catcher vessel permit becomes linked to the mothership it delivers to in the absence of the departing mothership.

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

Include the co-op alternative for the whiting shoreside sector in the analysis, but with options that would include and exclude the processor linkage provisions as well as include or exclude the shoreside processor licenses.

Mandatory Data Collection for Co-ops (New)

Include the mandatory data collection option as part of the co-op alternative.

The Council also provided the following to Council staff as guidance for the measures that should be considered as requirements for co-op agreements. It was noted that there may be some legal issues with some of the below provisions.

Co-op Agreement Requirements (Guidance for Council Staff to Consider)

In order for a co-op to be authorized, it must file with NMFS and the Council a “Co-operative Membership Agreement” that includes the following:

- 1) A list of all permit holders participating in the co-op and their share of allocated catch.
- 2) A plan to adequately monitor catch and bycatch.
- 3) Enforcement and penalty provisions for overages.
- 4) A co-op manager to serve as the contact person with NMFS, the Council and other co-ops and to be responsible for annual distribution of catch and bycatch, oversight of transfers, preparation of annual reports and is authorized to receive or respond to any legal process against the co-op.
- 5) A provision that prohibits co-op membership by permit holders that have incurred legal sanctions that prevent it from fishing groundfish in the Pacific Fishery Management Region.
- 6) A provision that requires changes in ownership to comply with member restrictions in the Co-op Agreement.
- 7) The agreement must be signed by all permit holder owners participating in the co-op.
- 8) A requirement that at least a majority of the members are required to dissolve a co-op.

Inter-co-op Agreements

- 1) In the case of multi-co-op or multi-sector management of bycatch, an Interco-op Agreement is required.
- 2) In the case of multiple co-ops within a sector, an Inter-co-op Agreement is required to manage directed catch.
- 3) In the case of two or more cooperatives entering into an Inter-co-op Agreement, provisions must include monitoring, enforcement and penalty provisions.

Other Requirements

- 1) Each fishery cooperative must file as signed copy of a cooperative contract with the Council and NMFS that is available for public review before it is authorized to engage in fishing activities.
- 2) Any material changes or amendments to the contract must be filed annually with the Council and NMFS by a date certain.
- 3) Each co-op must prepare and file an annual report with the Council and NMFS by a date certain. The report will document the catch, bycatch and transfer of the co-op’s annual distribution of fish during that year. The annual report will be available to the public and reviewed by the Council.
- 4) Each co-op must file with the Council and NMFS a copy of a letter from the co-op requesting a business review letter on the fishery cooperative from the Department of Justice and any response to such request.

PFMC
11/20/2007