

SUMMARY OF SCOPING HEARING INPUT ON COMMUNITY FISHING ASSOCIATION (CFA) POLICY

Scoping hearings on CFA policy were held during the week of October 25-29, 2010. Summaries of the individual hearings are included in following pages.

There was a wide range of opinion regarding development of CFA policy to provide quota share control limit exceptions for qualifying entities (safe harbor provisions). The range was from: 1) don't do it-the existing quota caps are adequate-to 2) allow quota share control limit exceptions based on CFA area needs-without regard to any particular level of quota share cap.

While the main focus of the Council deliberations at this time is the issue of whether or not CFAs should be provided higher control limits than other entities, these hearings also solicited comments on other types of provisions that might be implemented to benefit CFAs. One group requested that CFAs be allowed to accumulate quota shares and to distribute quota pounds specifically to CFA-area vessels without regard to trawl permit possession regulations. Comments were also received on providing a direct allocation to CFAs (through the Adaptive Management Program quota or reallocation to CFAs of that QS associated with the history of buyback permits), or providing CFAs with access to the QS that will be redistributed through the divestiture requirements. Another group supported existing trawl permit regulations and urged that harvest of quota pounds be conducted in an open bid manner without regard to vessel origin or affiliation.

While the topic of the hearings was CFAs, testimony at the hearings was consistent in expressing concern over early tie-up of vessels due to attainment of overfished species quotas. These quotas are very low for many vessels and some species. Some felt the overfished species issue should be addressed very early in the trailing regulation process. One presenter suggested there should be a "quota bank" established for the four most limiting overfished species. NOAA fisheries would manage the bank and all quota pounds of specified species would be deposited in the bank. If the quota bank concept is not viable or doable, voluntary large area risk pools (e.g., Point Conception to Cape Mendocino), would be more effective in minimizing vessel tie-ups than small-area pools (e.g., Fort Bragg, Port Orford).

It was reported that some groups are already moving forward with the development of voluntary risk pools. However, the question was raised whether such pacts represent "control" in the context of QS/QP regulations. NOAA Legal Council may wish to comment on this concern.

The Briefing Book document pertaining to trailing action scoping (Agenda Item H.5.a., Attachment 1) was made available for public review at the hearings. Table 3 of that document contains a first cut at CFA policy options based on Council and public input provided through the September 2010 Council meeting. *With respect to proceeding on the Council's immediate task of developing safe harbor exception options for CFAs, Council guidance is sought on the content of Table 3 taking into account public input provided at the recent scoping hearings and at the current (November) meeting.*

EUREKA SCOPING HEARING ON COMMUNITY FISHING ASSOCIATIONS

Date:	October 25, 2010	Hearing Officer:	Mr. Don Hansen
Location:	Red Lion Hotel Eureka, CA		
Attendance:	6		
Testifying:	1	Council Staff:	Mr. LB Boydston
Organizations Represented: Fishermen's Marketing Association			

Synopsis of Testimony

Special Opening Remarks

Mr. Boydston provided a summary of the issue; i.e., purpose and need and qualification criteria for higher Quota Share caps for CFAs.

Summary of Testimony:

- A higher cap for CFAs is a step in the wrong direction.
- NMFS should establish a "quota bank" for the most constraining overfished groundfish species (yelloweye rockfish in particular). Otherwise many vessels will be tied up early due to quota attainment for those species.

Written Statements (Attached)

- Fishermen's Marketing Association

PORTLAND SCOPING HEARING ON COMMUNITY FISHING ASSOCIATIONS

Date:	October 27, 2010	Hearing Officer:	Mr. Don Hansen
Location:	Sheraton Portland Airport Portland, OR		
Attendance:	13		
Testifying:	3	Council Staff:	Mr. LB Boydston
Organizations Represented:	Coos Bay Trawlers Assoc, Environmental Defense Fund		

Synopsis of Testimony

Special Opening Remarks

Mr. Boydston provided a summary of the issue; i.e., purpose and need for higher Quota Share caps for CFAs.

Summary of Testimony:

- CFAs are premature; target/ overfished species imbalances will be worked out.
- Support 1.5-2.5 times increased allowance for CFA access to IFQ caps; move forward with Burden/ Sullivan white paper (previously provided to Council).
- CFAs should be formed, but increased caps not needed; CFAs can facilitate trading of shares, sharing of observer costs, and marketing of fish.
- NOAA needs to advise what constitutes “ownership” and “control.” Is a handshake agreement control?
- Concerned was raised that risk pools can have a negative effect, taking the pressure off individuals to fish responsibly.
- Lots of owners will be forced out by species or quota limitations, which will have the effect of freeing up fish for the remaining permit holders.
- The fishery will work things out; we need to watch it develop before taking “corrective” action.

Written Statements (none)

MONTEREY SCOPING HEARING ON COMMUNITY FISHING ASSOCIATIONS

Date:	October 28, 2010	Hearing Officer:	Mr. Don Hansen
Location:	Monterey Youth Center Monterey, CA		
Attendance:	27		
Testifying:	10	Council Staff:	Mr. LB Boydston
Organizations Represented:	Central Coast Groundfish Project, Pacific Coast Federation of Fishermen’s Associations, San Francisco Crab Boat Owners Association, City of Monterey, Marine Interest Group of San Luis Obispo County		

Synopsis of Testimony

Special Opening Remarks

Mr. Boydston provided a summary of the issue; i.e., purpose and need for higher Quota Share caps for CFAs.

Summary of Testimony:

- CFAs are needed to retain local fishing fleet and community infrastructure, but not sure about how to acquire Qs; we need to anchor fish locally; we would be concerned about governmental/ municipal involvement in CFAs because of political implications.
- Success of CFAs should be performance-based; CFA process should not be used as a way for personal or group gain.
- Make the CFA process as simple as possible (repeated several times).
- Fishermen and the public should be relied upon to make the rules for CFAs.
- CFAs should have priority access to buy-back program and divestiture fish.
- IFQ process must stop until CFA program is developed, which is required under Magnuson (legal opinion).
- Quota enhancements for CFAs should depend on size of area; 1.5-2.5 times increase may not be enough for a large area CFA and way too large for a small port.
- A clear CFA definition is needed.
- What does “control” mean? Does a verbal agreement between 2 or more fishermen constitute control and a potential violation of quota cap rules?
- Don’t bog the CFA process down with possible AMP linkage; this could complicate the CFA process.
- Need to separate goals and objectives of CFAs from who harvests the fish; CFAs should be concerned with the community and secondly (or distantly) with who harvests the fish.
- CFAs should allocate fish to local vessels without the need for trawl permits (e.g., no trawl permit should be required on CFA vessels).
- The imbalance between target species and overfished species quotas will be worked out over time; fishermen will trade fish to meet their respective needs.

Written Statements (none)

Pacific Groundfish Trailing Amendment to the IFQ Program
Highly Restricted Species Quota Bank

Submitted by the Fishermen's Marketing Association
October 25, 2010

The nature of the formula and time frames selected to allocate "overfished species" in the Pacific Groundfish Trawl IFQ Program has resulted in a mismatch between the amount of target species a fisherman receives and the amount of overfished species that he will be allocated.

The amount of target species is driven largely by his catch history during the window period of 1994 to 2003. The amount of allocated bycatch is based upon bycatch rates that occurred in 2004 to 2006, but then applied to the areas that he fished in 2004 to 2006.

Management measures implemented in the early 2000's dramatically changed where many fishermen fished in the 2004 to 2006 time frame. These management measures include the establishment of Rockfish Conservation Areas (RCA) and trip limits that were greater if the fishermen were to fish an entire two month cumulative limits seaward of the RCA.

The result is that many fishermen have been allocated relatively large amounts of target species but very little, if any, bycatch that is associated with the target fish.

This problem, coupled with very low levels of allowable harvest of certain species will make the allocation of these species in the Pacific Groundfish IFQ Program the controlling factor in fishermen accessing their full complement of quota. Some of these species are restricted geographically; however, they all have a much skewed distribution in common, with some fishermen effectively receiving zero quota, while other fishermen will receive relatively a great amount (Figure 1).

The FMA proposes that the PFMC amend the IFQ program to establish a "Quota Bank" for these species. The term "Quota Bank" means a pool of fish that has not been allocated to anyone fisherman or permit owner. This pool of fish would remain part of the IFQ program, but administered by the NMFS. The Fishery Service would make the quota available to any fisherman that has caught some of the covered species, so that his account may be balanced.

The species covered by this program should include those species with the lowest allowable harvest levels. Below is a table ranking the species of concern from the lowest to the greatest allowable harvest, including Pacific halibut. Pacific ocean perch, Darkblotched rockfish, Widow rockfish, and Petrale sole all have long term trawl

allocations and should not be considered for a quota bank. These four species are shown here only for comparison of allowable harvest.

Species	IFQ Allocation
Yelloweye rockfish	0.6 mt
Cowcod	1.8 mt
Canary rockfish	25.9 mt
Pacific halibut	59.0 mt
Bocaccio rockfish	60.0 mt
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Pacific Ocean Perch	137.0 mt
Darkblotched rockfish	265.0 mt
Widow rockfish	491.0 mt
Petrale sole	871.0 mt

It is recognized that everyone fishing will on occasion catch some of the species contained in the bycatch pool. Therefore this system must provide a strong disincentive to catching these species, while not being punitive for the unavoidable take. However, the disincentive needs to shift to being punitive if individuals begin to treat removal of fish from the common pool as an acceptable cost of doing business

Fishermen should be encouraged to avoid the take of any of these fish. However, when a fisherman needs to make a withdrawal from the quota bank, it will occur at some cost. The types of costs that provide a significant disincentive include a cash payment, time off the water, and freezing of the vessel account.

A cash payment for a withdrawal of these species could be a poundage royalty, as provided by the Limited Access System Administration Fund (MSA 303A(d)(2)). This is the same fund established in the MSA to collect the cost recovery payments in this program. These royalty payments could increase for repeated withdrawal or for very large amounts of quota.

A cost of restricting a vessels fishing opportunity as "time off the water" is another approach that could be used as a disincentive to failing to avoid quota bank species.

An even more restrictive action than time off the water would be the freezing of a vessel account. The boat would not be able to fish for groundfish, additionally the owner would also not be able to transfer quota to another vessel account. This freezing could be done for a period of time as the cost associated with making a withdrawal.

If a quota bank approach is implemented, then the need that some have suggested to have exemptions from accumulation and control caps would be diminished if not eliminated.

Yelloweye rockfish QP allocation

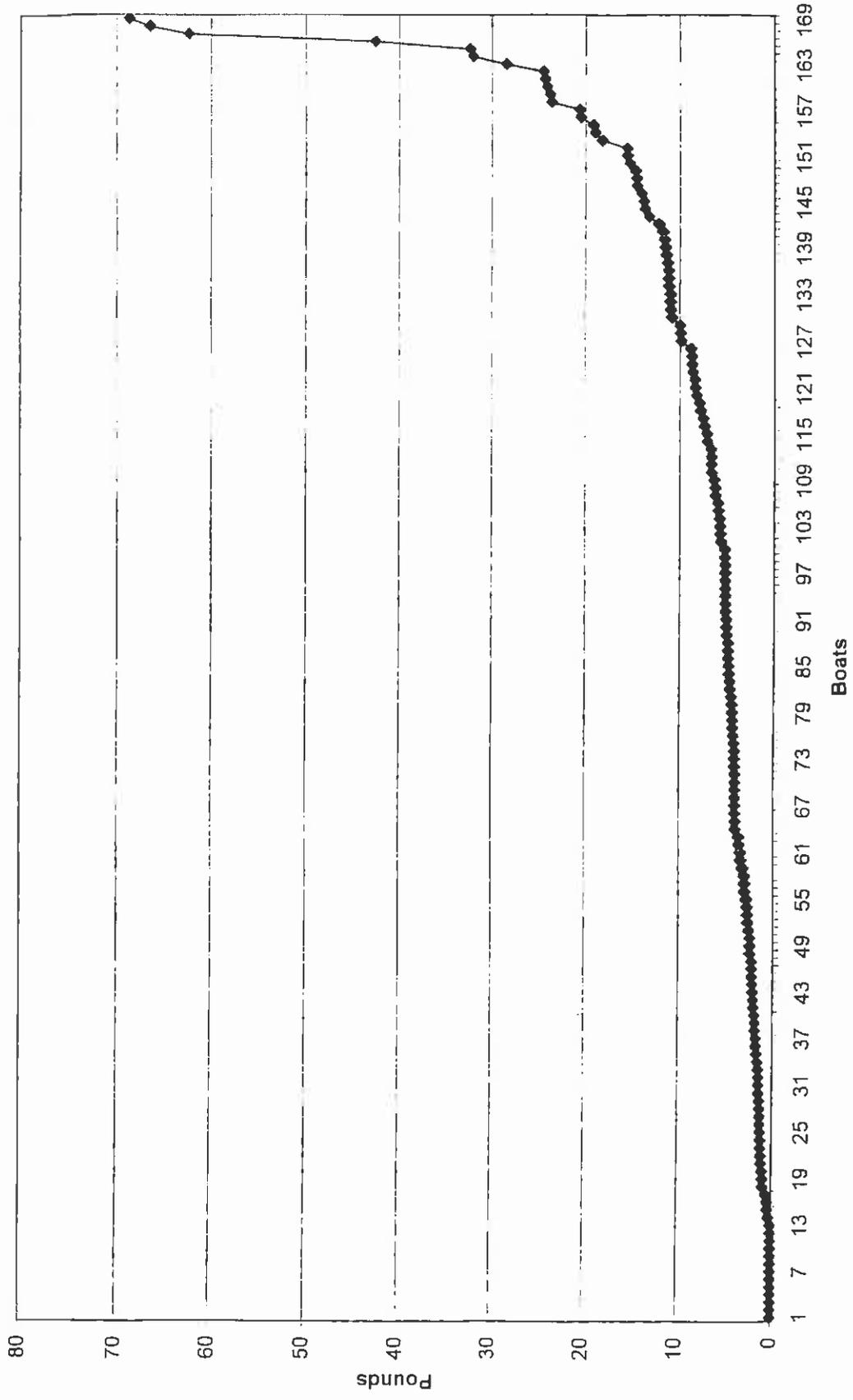


Figure 1.