

IFQ Committee Minutes
January 30, 2017 | Seattle, WA

Members present: Buck Laukitis (chair), Jared Bright, Matt Robinson, Linda Kozak, Natasha Hayden, Jeff Farvour, Shawn McManus, Bob Linville, Michael Offerman, Eric Velsko, Jeff Kaufmann, Nicole Kimball.

Staff: Rachel Baker (NMFS), Sam Cunningham (NPFMC), Sarah Marrinan (NPFMC), Tom Meyer (NOAA GC)

Other attendees: Jeff Stephan, Duncan Fields, Jan Standert, Jim Johnson, Kristian Olsen, Dave Fraser, Jack Knutsen, Tim Knapp, Bob Alverson, Garrett Elwood, Tori Elwood, Gus Linville, Paul Clampitt, Dwight Riederer, Jeff Peterson, Julianne Curry

The Chairman called the meeting to order and provided the members and the attending public with an overview of how the newly reconstituted committee will operate. The IFQ Committee will generally operate by a discussion and consensus process, meaning that not every agenda item will result in a single recommendation that is arrive at via voting. When necessary, meeting minutes will reflect multiple points of view on an issue. A discussion-based approach will allow the committee to provide insight on a greater number of complex issues in the time available.

Area 4 Halibut IFQ Leasing by CDQ Groups

Sarah Marrinan (NPFMC staff) provided the committee with an overview of the purpose and need statement for this action and the alternatives/options that were considered in this Initial Review Draft (NPFMC Agenda Item C-3). The committee focused on parts of the alternatives, options, and the analysis that could benefit from further clarification, but **the committee did not make a recommendation on a preferred alternative**. The committee discussed whether the levels that would define “low catch limits” (Alternative 2, Option 1) are an accurate reflection of low halibut abundance or low harvest opportunity in Area 4. The Committee did not recommend any change to the thresholds listed under Option 1. Overall, the committee was satisfied with the scope of the analysis, and specifically discussed the extent to which the analysis reflected concerns about crew members who work on the vessels from which halibut IFQ would be leased to a CDQ.

The committee highlighted the following items for clarification:

- Whether the action alternative could apply to Category A QS;
- Whether the thresholds (suboptions) in Alternative 2, Option 5 count only a QS holder’s quota in Area 4B, or all of their quota shares across all areas and vessel size categories.
- Whether *any* QS holder (including 2nd generation – or “non-initial issues”) are eligible to lease QS to a CDQ in times of low Area 4 halibut catch limits.

The committee also requested additional information in the next iteration of the analysis. The specific request is for a break-out of both Area 4 IFQ and CDQ halibut landings distribution across the communities to which the fish was delivered (to the extent permitted by confidentiality restrictions).

Items from 20-Year Program Review tasked for Committee consideration in Oct. 2016

Sweep-ups of small blocked QS units

Sarah Marrinan (NPFMC) provided the committee with an overview of the information in the 20-year review document relating to QS sweep-ups. The committee noted that the original intent of the sweep-up provision was to help prospective new entrants find available quota on the market by putting small lots into blocks that could not be purchased by entities that had already reached their cap on blocked QS holdings. Given that the number of sweep-ups that occur each year has decreased over time, the committee discussed whether the sweep-up provision has a problem that needs to be addressed, or if the provision has simply run its natural course.

The committee **requests that NMFS assess and report on the amount of small quota holdings that are unused and unfished. This information could help the Council assess whether the block program is functioning as intended.** Reporting on those unused quota shares should be broken out by area and vessel size class. In a related discussion, the committee asked NMFS whether it was possible for members of the public to use RAM's information to determine which small and unused lots of QS could fit into a sweepable block. The committee's request, above, is one way to address this desire.

The committee made note of two other concerns related to sweep-up blocks, but did not recommend any subsequent action or study:

- Allowing a recreational quota entity (RQE) to purchase QS blocks that contain sweep-ups could reduce the amount of blocked QS available to new entrants, which was an original objective of the sweep-up provision;
- Exempting blocks of less than a certain amount of QS from counting against the block limit might make it easier for new entrants to access quota on the market, though such a provision would need further definition to prevent these smaller blocks from being purchased by larger entities that are currently at their cap limit and looking for additional QS.

Use of the medical lease provision

Rachel Baker (NMFS) provided the committee with background on the provision, which dates back to 2007 and applies to 2nd generation QS holders and initial QS recipients who do not own at least a 20% stake in a vessel. Ms. Baker identified two existing issues with the provision: (1) the definition of "certified medical professional," and (2) that NMFS staff often finds itself making judgement calls on whether a medical condition that is documented by a "certified medical professional" is a new condition or a continuation of an existing condition. This judgement affects whether or not a medical release can be granted, because an individual is limited in the number of consecutive years for which he or she can get a release (and thus lease out quota). **The committee concurred with NMFS's recommendation that a discussion paper be scheduled and address the following issues:**

- Is a small group of QS holders using the medical lease provision as a means to circumvent owner-onboard requirements? Is the provision being used for chronic medical conditions (not the

original intent)? Has use of the provision increased in response to new hired master rules that were implemented in 2014?

- Should the definition of “certified medical professional” be broadened to include chiropractors, medical providers outside of the United States, and other commonly used providers that do not fit the current definition?
- Should NMFS reconsider the prohibition on applying for a medical transfer for the “same medical condition” more than two out of five consecutive years? NMFS could consider removing the “same medical condition” provision from the medical transfer eligibility criteria and instead establish a limit for “any medical condition.”

The committee’s discussion highlighted a general concern with individuals using this provision as a result of natural aging, rather than the temporary and unanticipated medical hardship for which it was intended. On the other hand, the committee did not want to be overly restrictive in use of the provision (e.g., a lifetime limit on years that a medical transfer can be awarded) such that a young participant who experiences a medical hardship early in his or her career could not avail him/herself of this benefit later in life. The committee added the following list of considerations to be addressed in the discussion paper, as practicable:

- Provide data on the number of granted medical transfers by year and per individual;
- Identify the extent to which individuals are using the provision repeatedly;
- Consider how a change to this provision would interact with Federal disability regulations;
- Identify differences in access to medical professionals across communities;
- Consider lengthening the number of years over which a given medical condition can result in a transfer release (from two out of five years to, say, two out of ten years).

Definition of ‘immediate family member’ under the beneficiary lease provision

Rachel Baker (NMFS) provided the committee with rationale for considering this item. Under current regulation, surviving spouses or designated beneficiaries who are immediate family members may lease the IFQ for a three-year period upon the death of the QS holder; however, there is no regulatory definition of “immediate family member.” NMFS has received requests to use an expanded definition of immediate family member in making determinations on accepting the person named on a QS/IFQ Beneficiary Designation form or processing survivorship transfers. NMFS and participants would benefit from a clarification of the Council’s intent for administration of this provision.

The Committee **recommends a discussion paper that begins with the purpose and need statement and alternatives that were provided by NMFS in the committee briefing materials (page 6-7), but also considers alternative means to define “family member.”** The committee noted that RAM provides a Beneficiary Designation form, and discussed the possibility of dropping any reference to immediate family members in favor of allowing QS holders to designate a beneficiary of their choosing on the form. Others noted that participants are not required to fill it out and not all participants are guaranteed to have done so. The committee requested that any forthcoming paper describe the number, proportion, or distribution of IFQ participants who utilize the Beneficiary Designation form. Alternative means to define a beneficiary eligible to receive an IFQ transfer could include a court appointed representative; reliance on a court appointee would be satisfactory to NMFS because the designation would be officially documented.

Discussion of rural participation and geographical distribution of new entry QS ownership

Sarah Marrinan (NPFMC) provided background from the IFQ Program Review that relates to these topics. The committee also received a presentation and Q&A from Dr. Courtney Carothers (University of Alaska – Fairbanks). The committee discussed the definition of “rural” communities that was used in the Program Review, and concurred with the analysts’ use of definitions that are specific to Alaska’s geography as opposed to those used elsewhere in the United States. The committee further acknowledged that the Council invested significant effort in defining GOA rural/remote communities when developing the CQE program.

The committee identified a key information request that could be of use in assessing the need for future action to address rural participation in the IFQ fisheries: Develop information on the movement of QS that captures the nuance of what moves out of the community by transfer (sale) to a non-rural entity versus QS that appears to move out of the community because the QS holder has relocated his/her address or record to a larger community. The committee noted that some individuals change their primary residence and business address, but continue to participate in the fishery surrounding their original community.

The committee identified additional questions for future research. It was not specified whether these questions were directed to academic study or to staff; however, some committee members were hesitant to delay these lines of inquiry until the next IFQ program review (presumably to take place in approximately seven years).

- Provide documentation on whether GOA communities were considered for inclusion in the CDQ program and, if so, why they were not included. *[Staff note: This information is provided in Section 1.2.5 of the IFQ Program 20-Year Review.]*
- Do trends in QS transfer/migration mirror those of salmon seine and setnet permits?
- Is the level of IFQ participation in rural communities related to the combination of ex-vessel prices and/or harvest limits in the Pacific cod and salmon fisheries? In other words, is it possible that individuals ceased their commercial halibut operation because it was one part of a fishing portfolio that could not be sustained with, for example, low cod prices?
- Is there something unique about the IFQ Program versus loss of entry permits that makes it more difficult to maintain a participant presence in rural communities, or are the observed shifts linked to broader social changes that are affecting rural/remote populations?

Use of hired masters

Sarah Marrinan (NPFMC) provided an overview of related material in the Program Review document, and Rachel Baker (NMFS) provided an overview of the recent court decision on a lawsuit regarding hired master use. The committee discussed the various scenarios under which a vessel could be considered to be using a “hired master.” The committee’s discussion reflected both the pros and cons of allowing for hired master use in some cases. Use of hired masters can be seen as contrary to the program’s goal of an owner-operated fleet. Conversely, some hired master provisions allow new entrants to build the capital and experience needed to buy into the fishery while fishing someone else’s quota.

While all recognized that hired master use and so-called “walk-ons” or “ride-alongs” are not in perfect agreement with the program’s original intent, some committee members noted that the process of phasing out hired master privileges over time was working, albeit slowly. Some members noted that an immediate and drastic change to current management provisions would risk upsetting business plans on which many vessel owners and crew members rely.

The committee **made a statement that it wishes to identify specific and measurable targets that serve the objective of providing entry level opportunities that further the original objective of promoting an owner-operated fleet.** The committee noted that the Council identified an owner-operated fleet as an original program objective, but never defined what such a fleet would look like. The committee recognizes that this is not a new problem statement and that the program has been amended many times for reasons relating to this objective, but that work remains to be done. The committee also recognizes that this statement is not refined to the level of proposing an amendment package or discussion paper to the Council that could then be tasked out. Rather, the committee identified interim tasks that could be taken on through committee work and then developed into proposal form at a future committee meeting.

Committee members identified the following study questions and information requests, some of which might be tasked to staff at the Council’s discretion:

- Develop an accepted definition of “owner-operator” that serves the program’s objectives.
- Define and describe all the different scenarios under which use of a hired master is permitted, ranging from A shares to medical transfer provisions to initial QS issuees who choose not to run their own vessel. Develop counts of participants operating in each of these classes by year and vessel size class.
- Consider the impact of increasing the minimum sea-day threshold that must be met in order to have your IFQ fished as a “walk-on.”
- Consider examples of addressing new entry in other fisheries, including Iceland and Norway (presented by Dr. Carothers) and the lease-to-own QS model that was considered but not adopted in the Gulf of Mexico. Consider means to develop future “owner-operators.”

Other comments on the 20-Year Program Review

The committee commended the scope and detail of the Program Review document. The committee’s discussion on this agenda item yielded the following list of issues that could be covered in greater detail in subsequent reviews:

- Comparison and explanation of items that are being charged to the IFQ program’s cost recovery fees but are not being charged through cost recovery in other Alaska programs.
- Contextualize the distributional impacts of the program in some manner other than pre/post-rationalization.
- Include a review of the CDQ halibut/sablefish fishery. (It was noted that a comprehensive CDQ review will be conducted by the State of Alaska between the present and the anticipated time of the next IFQ program review.)
- Include a table that lists all IFQ Program amendments since implementation.
- Improve the method for reporting safety/incident events. Interface with NIOSH on how incidents are coded. The committee noted one known example of a former (buyback) fishing vessel that sank when operating as a freight vessel, but was reported as a lost fishing vessel.

Public Testimony

The committee received testimony from the following individuals:

Duncan Fields, Jan Standert, Paul Clampitt, Gus Linville, Jack Knutsen, Tim Knapp, Bob Alverson, Dwight Riederer, Dave Fraser, and Jeff Peterson.