

Ecosystem Goal: Humans are part of ecosystems

Fishing overcapacity programs

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Overview

Overcapacity, wherein there is an excessive level of investment or effort relative to the available fisheries resources, is considered a problem in fisheries throughout the world. The problem is often manifested in short fishing seasons, increased enforcement and safety problems, and reduced economic viability for vessel owners and crew-members. Overcapacity can, under certain conditions, have grave implications for conservation as well.

The North Pacific Fishery Management Council (Council) has developed several programs to address overcapacity in the Alaskan fisheries. Moratorium programs were implemented in the crab and groundfish fisheries to limit the number of harvesting vessels that may be deployed off Alaska, and access has since been limited further by replacing the moratoria with license limitation programs (LLP). However, rights-based management such as individual transferable quotas and dedicated allocations to cooperatives has increasingly being used to “rationalize” fisheries.

An Individual Fishing Quota (IFQ) program has been used to manage the halibut and fixed gear sablefish fisheries since 1995. Rather than explicitly limiting the number of harvesting vessels, this program grants quota holders the privilege of harvesting a specified percentage of the Total Allowable Catch (TAC) each year. A similar program developed by the Council, beginning in 2005, placed management of most crab fisheries of the Bering Sea and Aleutian Islands (BSAI) under a quota system, in which quota shares were issued to harvesters (including vessel captains) and processors. The program also includes community protection measures (hence the term “three-pie” program), and provides for voluntary harvesting cooperatives. Some features of this crab program had to be authorized by Congressional action. The Council also is considering comprehensive rationalization of Gulf of Alaska (GOA) groundfish fisheries and sector allocations of groundfish in the BSAI. Congress has provided additional statutory tools to help relieve overcapacity. The American Fisheries Act (AFA) retired nine catcher-processors, limited entry of additional harvesting vessels, authorizes harvesting cooperatives to which a portion of the total allowable catch of BSAI pollock is granted, prevents pollock fishery participants from expanding historical activities to other fisheries, and stabilized deliveries to shoreside processors. Congress later authorized a BSAI crab “buyback” program that, after approval by industry, retired crab licenses, vessels, and vessel histories prior to implementation of the crab quota program. A similar program has been implemented for BSAI longline catcher/processor vessels and is authorized for other sectors in those areas.

As a prelude to a more complex GOA rationalization program, the National Marine Fisheries Service (NMFS), in response to a Congressional mandate and in consultation with the Council, developed a demonstration quota program for Central Gulf of Alaska rockfishes. Most recently, in a program implemented under statutory authority, NMFS attached quota to LLP licenses for historic participants in the non-AFA catcher/processor sector. The quota may be used annually to provide dedicated allocations to harvesting cooperatives or pooled in a limited access fishery; or quota holders may “opt out” of the program.

Moratorium on New Vessels

NMFS implemented a moratorium on new vessel entry into the federally managed groundfish and crab fisheries in 1996. The program was considered a place holder while more comprehensive management

measures were developed. The owners of 1,864 groundfish and 653 crab vessels held moratorium fishing rights at the time the program was sunsetted (December 31, 1999). In addition to limiting the number of vessels the moratorium also restricted the lengths of vessels that could be deployed under moratorium permits. Qualifying vessels that were less than 125' in length overall received licenses that had a maximum length overall of 120 percent of the qualifying vessel's length on June 24, 1992, or up to 125', whichever is less; vessels that were 125' or longer could not increase their length. The concern over increasing vessel length arises because such actions can increase harvesting capacity even though additional vessels are prohibited from entering a fishery, thus undermining the effectiveness of a moratorium.

License Limitation Program for Groundfish and Crab

The LLP for groundfish and crab vessels was implemented on January 1, 2000 to replace the vessel moratorium. The original LLP, approved in 1995, was intended as the second step in fulfilling the Council's commitment to develop a comprehensive and rational management program for fisheries off Alaska. Amendments to that program recommended by the Council in 1998 and April 2000 tightened the LLP program and included additional restrictions on crab vessel numbers and on fishery crossovers. The amendments also limited participation in the non-trawl BSAI Pacific cod fisheries. The LLP reduced the number of harvesting vessels eligible to participate in the BSAI crab fisheries by more than 50% relative to the vessel moratorium (down to about 347 licenses), of which for the third year under rationalization, 128 were licensed and 87 fished under rationalized fisheries, respectively. The number of current LLP groundfish licenses (1,826) is similar to the number that held moratorium permits and some of both types of licenses were or are not actively used. At present, only 1,465 groundfish LLP licenses name vessels. However, the LLP is more restrictive in terms of the crab fisheries in which a license holder may participate, the groundfish areas in which a license holder can fish, and the types of gear that may be deployed. Also important to note is that the vast majority of the vessels that can be deployed under the LLP are longline vessels less than 60' (and are eligible to participate only in Gulf of Alaska fisheries). These vessels have typically had relatively small catch histories in past years. The LLP Program is being modified to accommodate changes implemented under the Crab Rationalization Program (CR Crab). In addition to crab endorsement changes resulting from new quota fisheries, some groundfish licenses were modified to incorporate "sideboard" restrictions, as they have become known, on GOA groundfish activities to avoid "spillover" effects of excess crab capital on groundfish fisheries.

In April, 2008 the Council recommended reducing "latent" capacity in trawl groundfish fisheries by creating a new "recent participation" requirement for licenses and endorsements. Under this provision, harvesting privileges unused in recent years might be forfeit. Vessels not actively fishing as a result of provisions of existing programs (such as AFA cooperatives) might be exempted from these requirements. The Council also recommended adding an Aleutian Islands area endorsement to some trawl groundfish licenses to provide sufficient harvesting capacity, particularly for Pacific cod. This harvesting authority was not earned under original LLP eligibility rules due to absence of processors operating in the remote AI subarea in qualifying years. NMFS is currently developing implementing regulations for this program revision.

License Limitation Program for Scallops (LLPS)

The LLPS was implemented in 2001 to replace a 1997 temporary vessel moratorium program for this fishery. Under the LLPS, nine persons were issued transferable licenses authorizing them to deploy vessels in the scallop fishery off Alaska. The licenses restrict the lengths of vessels and the size and amount of gear that may be used.

Bering Sea and Aleutian Islands Crab Rationalization and Buyback

The North Pacific Fishery Management Council developed, and NMFS has implemented, a plan to rationalize the BSAI crab fishery.

A statutory change to the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA) authorized an industry-funded buyback program for the crab fisheries. This program permanently retired the fishery endorsements of 25 vessels, and LLP crab licenses and vessel histories; as well as 15 limited entry licenses for groundfish (and some halibut quota share) associated with those histories. The program was approved by an industry referendum in which a majority of participants approved the proposed effort reduction and a debt retirement burden of \$97.4 million.

The Council also developed, and NOAA Fisheries Service, has implemented, the Crab Rationalization Program (CR Crab). This program includes allocations to Community Development Quota Groups, an allocation of one species of king crab to the community of Adak, and a complex quota system for harvesters and processors called the “three-pie voluntary cooperative program“. CR Crab program attempts to balance the interests of several identifiable groups that depend on these fisheries. Allocations of harvest shares are made to harvesters, including captains. Processors are allocated processing shares. Community protection measures are designed to help provide economic viability of fishery-dependent communities. Designated regions are allocated landings and processing activity to preserve their historic interests in the fisheries. Harvesters are permitted to form cooperatives to realize efficiencies through fleet coordination. The novelty of the program has compelled the Council to include several safeguards into the program, including a binding arbitration program for the resolution of price disputes and extensive economic data collection and review programs to assess the success of the rationalization program. These safeguards, together with the Council’s continuing development of the program through a series of ongoing amendments and clarifications, demonstrate the Council’s commitment to a fair and equitable rationalization program that protects the interests of those dependent on the BSAI crab fisheries.

As of August 2008, NOAA Fisheries Service has initially issued one or more types of harvesting quota to 489 distinct persons; and processing quota to 27 persons. For harvesters, NOAA Fisheries initially issued quota to 270 applicants who qualified based on holding a transferable LLP crab license; and to 231 individuals who qualified for “Captain” (also known as “crew”) shares by virtue of both historic and recent participation in these crab fisheries. Fishing under Crab Rationalization began with two Aleutian Islands golden king crab fisheries, in August 2005. During the first year of the program, fishery managers determined that for conservation reasons, the Bering Sea *Chionoecetes bairdi* Tanner crab (BST) biomass should be managed in two separate fisheries. Just prior to the start of the second crab fishing year, NMFS issued all current holders of BST quota shares for both the new Eastern and Western Bering Sea *C. bairdi* fisheries. As of the end of the third crab fishing year under rationalization, 478 persons were holding harvesting QS and 29 were holding PQS. Of the persons holding harvesting QS, 283 held “owner” type, and 211 individual persons held “crew” type. Consolidation has occurred in the crab fisheries, due largely to widespread use of cooperatives. During the first three years under rationalization, the numbers of vessels authorized, and actually used, to harvest crab decreased from 154 to 128; and from 101 to 87, respectively.

Starting with the fourth crab fishing year on July 1, 2008 NMFS is implementing a change required by statute as part of crab FMP Amendment 25 (73 FR 29979, May 23, 2008). This change will allow three corporations initially issued certain types of harvesting QS or processing PQS to annually combine the harvester and processor IFQ/IPQ held by them and their affiliates and change it into catcher processor IFQ for use in the north region. This program feature should preserve economic benefits from crab-related State tax revenues shared with northern communities while providing operational flexibility for program participants.

The Council recommended measures to both relieve some restrictions and create some new ones for holders and users of “crew” QS. Under FMP Amendment 26 “crew” quota share and IFQ would be exempt from requirements for delivery to specific processors, delivery within specific geographic regions, and participation in an arbitration system to resolve price disputes, previously due to take effect in the fourth program year. NMFS published a final rule to implement Amendment 26 on June 20, 2008 (73 FR 35084). The Council also made recommendations at its April 2008 meeting on active participation criteria to ensure that persons obtaining, holding, and using “crew” QS and IFQ remain personally involved in crab harvesting activities.

The Council recommended exemptions for custom processed crab from IPQ use caps. NMFS is developing regulations under crab FMP Amendment 27 to implement this provision, which is intended to protect crab revenues historically available to fishery-dependent economies while providing operational and business flexibility to processors.

Finally, the Council received an 18-month status report on crab rationalization in April, 2007, and is analyzing a number of proposed program changes. The Council plans to undergo a major program review at its October 2008 meeting, after three complete crab fishing years have occurred under rationalization.

Sablefish and Halibut Individual Fishing Quotas

The halibut and sablefish fisheries provide good examples of how the Council is working to control overcapacity in fisheries off Alaska. From 1975 to 1994 the Central Gulf of Alaska halibut fishing seasons decreased from approximately 125 days to single day openings, while catches increased. Faced with very short seasons and increasing fishing effort, the Council recommended an IFQ program for both the halibut and fixed gear sablefish fisheries. These programs were initiated in 1995. After implementation, the traditional short, pulse fisheries were extended to more than eight months long. IFQs have allowed participants to better match fishing capacity with the amount of fish they are allowed to harvest during a year, improving economic efficiency for harvesters and decreasing gear conflicts on fishing grounds, among other salutary effects. Since the start of the program, the numbers of vessels and QS holders have continued to decline, even as new persons entered the fisheries and the TACs increased. A total of 4,829 persons were initially issued halibut quota share (QS) and 1,054 were initially issued sablefish QS. At the end of 2007, 3,078 persons held halibut QS and 857 held sablefish QS. The number of vessels landing halibut in the IFQ fishery declined from 3,450 in 1994 to 1,211 at the end of 2007; the number landing sablefish in the IFQ fishery declined from 1,191 in 1994 to 373 in 2007.

American Fisheries Act

The AFA, passed in late 1998, among other things limited the number of harvesting and processing vessels that would be allowed to participate in the BSAI pollock fishery. Only harvesting and processing vessels that met specific requirements, based on their participation in the 1995-97 fisheries are eligible to harvest BSAI pollock. At the inception of the AFA, 21 catcher/processors and 112 catcher vessels qualified, or were specifically identified, as eligible to participate under the AFA guidelines. Nine other catcher/processors were bought out at a cost of \$90 million.

Specific provisions in the AFA allow for the formation of cooperatives among catcher/processors, among the catcher vessels that deliver to the catcher-processors, among eligible motherships and catcher vessels in the mothership sector, and among the eligible catcher vessels in the inshore sector of the BSAI pollock fishery. Within each cooperative, each member company is then contractually allocated a percentage share of the total cooperative allocation based on its historical catch (or processing) levels. The catcher-processor cooperative is called the Pollock Conservation Cooperative (PCC) and is made up of eight companies that own 19 of the 20 catcher-processors currently eligible to fish in the pollock fishery (the fishing privileges of the 21st eligible vessel were purchased by the PCC in 2000, and one eligible vessel has not joined the PCC). The catcher vessel cooperative is called the High Seas Catchers' Cooperative

(HSCC), and comprises seven catcher vessels authorized under the AFA to deliver to the eligible catcher/processors (these vessels had traditionally delivered the majority of their pollock to catcher/processors).

Under the AFA, the PCC is currently allocated 91.5% of the total offshore pollock allocation (the rest is allocated to members of the HSCC). When the new fishery cooperative structure was adopted in 1999, not all of the eligible catcher/processors fished during the 1999 late winter and early spring pollock seasons; four catcher/processors opted not to fish during the winter season and six chose not to fish during the summer season. This pattern continued in 2000 and 2001 when four and three catcher/processors were idle in the winter season, respectively. Five of the catcher/processors were idle in both 2000 and 2001 for the summer season. In 2002, three vessels were idle in the winter season and four were idle in the summer season. For 2003 to 2005, and again in 2007, two vessels were idle during the winter and four vessels were idle in the summer season. In 2006, two vessels were idle in the winter season and three vessels were idle in the summer season. The variations in vessel participation can probably be attributed to the variations in the pollock TAC.

The HSCC is allocated 8.5% of the offshore pollock allocation. However, since the formation of the cooperative, they have leased much of their TAC allocation for pollock to catcher/processors. In fact, since 1999, none of the seven HSCC vessels have engaged in directed fishing for pollock, choosing instead to lease their catch to the AFA catcher/processor fleet.

The AFA also authorizes three motherships to participate in the BSAI pollock fishery. In 1998, 31 vessels landed greater than 10 mt of pollock to be processed by offshore motherships. In 1999, this number decreased to 27. In 2000, the first year in which a cooperative was operating in the mothership sector, 19 of the 20 catcher vessels eligible to deliver pollock to these motherships actually did so. The same number of vessels made deliveries to motherships in 2001, dropped to 17 vessels annually in 2002 and 2003, increased to 18 in 2004, and dropped again to 17 annually for the three years 2005-2007.

In 1998 107 inshore catcher vessels each delivered more than 10 mt of pollock to inshore processors (including stationary floating processors). That number decreased slightly in 1999 (100 vessels), again decreased in the 2000 roe fishery (91 vessels), remained at that level in 2001, and dropped to 85 in 2002. The number of vessels delivering at least 10 mt of pollock to inshore processors remained at 85 vessels for the four years 2003-2006, and then fell to 83 in 2007.

Finally, it should be noted that the AFA also restricts eligible vessels from shifting their effort into other fisheries. "Sideboard" measures prevent AFA eligible vessels from increasing their catch in other fisheries beyond their average 1995-97 levels. Sideboard restrictions reduce the likelihood that the fishing capacity of AFA eligible vessels will spill over and compete in other fisheries.

Two recent acts of Congress provided additional authority and guidance to the Council and NMFS for developing and implementing dedicated access privilege (DAP) programs. Under these authorities, the Rockfish Pilot Program, a BSAI groundfish capacity reduction ("buyback") program, and Amendment 80 to the FMP for the BSAI are in various stages of development or implementation by the Council and/or NMFS.

Rockfish Pilot Program

Congress granted NMFS specific statutory authority to manage Central GOA rockfish fisheries in Section 802 of the Consolidated Appropriations Act of 2004 (Pub. L. 108-199; Section 802). The North Pacific Fishery Management (Council) was required to establish the Rockfish Pilot Program, to provide exclusive harvesting and processing privileges for a specific set of rockfish species and for associated species harvested incidentally to those rockfish in the Central GOA, an area from 147 W. long. to 159 W. long.

The Program is intended to increase resource and improve economic efficiency for harvesters and processors who participate in the fishery. Initially for two years, later extended to the five year period through December, 2011, exclusive harvesting and processing privileges were allocated for three primary rockfish species and for five incidentally harvested secondary species in the Central GOA, with annual associated pounds. NMFS also allocated a portion of the total GOA halibut mortality limit to participants based on historic halibut mortality rates in the primary rockfish species fisheries.

Under the Rockfish Program NMFS:

1. Assigned quota share (QS) for primary rockfish species to an LLP license with a trawl gear designation in the Central GOA.
2. Established eligibility criteria for processors to have an exclusive privilege to receive and process primary rockfish species and secondary species allocated to harvesters in this Program.
3. Allows a person holding a LLP license with QS to form a rockfish cooperative with other persons (i.e., harvesters) on an annual basis.
4. Allows rockfish cooperatives to transfer all or part of their CFQ to other rockfish cooperatives, with some restrictions.
5. Provides an opportunity (annually) for a person not in a rockfish cooperative, but who holds an LLP license with QS, to fish in a limited access fishery.
6. Establishes a small entry level fishery for Central GOA rockfish for harvesters and processors not eligible to receive QS under this Program.
7. Allows holders of catcher/processor LLP licenses to opt-out of the Program annually, with certain limitations.
8. Limits the ability of processors to process catch outside the communities in which they have traditionally processed primary rockfish species and associated secondary species.
9. Establishes catch limits, commonly called "sideboards", to limit the ability of participants eligible for this Program to harvest fish in fisheries other than the Central GOA rockfish fisheries.
10. Created a monitoring and enforcement mechanism to ensure that harvesters maintain catches within their annual allocations and will not exceed sideboard limits.

In 2007, QS was initially awarded and attached to 62 distinct LLP licenses, 47 of which were catcher processor licenses and 15 of which were catcher vessel licenses. LLP holders formed 7 catcher vessel harvesting cooperatives. Cooperatives may transfer primary species allocation to other cooperatives.

Capacity Reduction in Non-Pollock Groundfish Fisheries of the Bering Sea and Aleutian Islands

Under the Consolidated Appropriations Act of 2005 (Public Law 108-447) and Consolidated Appropriations Act of 2004 (Public Law 108-199), NMFS implemented a capacity reduction program pursuant to applicable provisions of the MSA (15 U.S.C. 1861a(b-e)). The program reduced current and future effort in the non-pollock groundfish fisheries in the BSAI through a "buyback" program to retire vessels, licenses, and vessel histories. The legislation provided for a total loan of up to \$75 million and authorizes specific amounts for four subsectors in the fishery: longline catcher processors, AFA trawl catcher processors, non-AFA catcher processors, and pot catcher processors. A separate program will be developed for each subsector, with the first, for longline catcher processors, in effect. The objective of the program is to achieve a permanent reduction of capacity to: increase post-reduction harvester's productivity, help financially stabilize the fishery, and help conserve and manage fishery resources.

On September 29, 2006, NMFS published the final rule in the **Federal Register** (71 FR 57696) to implement this buyback program. On January 5, 2007, the Freezer Longline Conservation Cooperative (FLCC) submitted their Fishing Capacity Reduction Plan (Plan) to the NMFS Financial Services Division. The Plan included four (4) formal offers for catcher processor groundfish licenses that would be removed from the fishery, and that the FLCC members had selected. The 4 offers included three (3) active fishing licenses that were associated with 3 catcher processor vessels. The fourth offer was that of

an inactive license, with no vessel associated with the license. The total amount of the government loan was \$35 million, to be repaid over a thirty (30) year period using a percentage of future fish landings of BSAI Pacific cod.

On March 16, 2007 NMFS approved the FLCC's plan. On March 21, 2007, NMFS issued ballots to the voting members of the FLCC to vote in a referendum to determine industry support of the fishing capacity reduction loans. On April 6, 2007, voting in the referendum was completed, with 87 percent participation in the referendum. Thirty-four (34) voters cast ballots, unanimously in favor of the reduction plan. Therefore, the referendum was successful, and the referendum voters approved the repayment fees for the \$35 million fishing capacity reduction loan.

On April 26, 2007, NMFS issued a payment tender notice in the Federal Register (72 FR 20836), and provided thirty (30) days for public notice before tendering payment. On May 29, 2007, NMFS disbursed payments to the owners of the 4 fishing licenses that were being relinquished as part of the reduction capacity program. In exchange for payment, the owners relinquished their fishing licenses, reduction privilege vessels where appropriate, and fishing histories.

Amendment 80

The Council adopted Amendment 80 in June, 2006 to meet the broad goals of: (1) improving retention and utilization of fishery resources by the non-AFA trawl catcher/processor fleet by extending the groundfish retention standard (GRS) to non-AFA trawl catcher/processor vessels of all lengths; (2) allocating fishery resources among BSAI trawl harvesters in consideration of historic and present harvest patterns and future harvest needs; (3) authorizing the allocation of groundfish species to harvesting cooperatives and establishing a limited access privilege program (LAPP) for the non-AFA trawl catcher/processors to reduce potential GRS compliance costs, encourage fishing practices with lower discard rates, and improve the opportunity for increasing the value of harvested species; and (4) limiting the ability of non-AFA trawl catcher/processors to expand their harvesting capacity into other fisheries not managed under a LAPP.

In response to requirements of the Consolidated Appropriations Act of 2005 (Public Law 108-447) on September 14, 2007 NMFS published a Final Rule in the **Federal Register** with regulations to implement Amendment 80 to the FMP for the BSAI (72 FR 52668). Under this Amendment, vessels owned, and/or LLP licenses held, by eligible participants were allocated quota for target groundfish species, based on historic participation. Including combinations of allocated species and fishing areas, there are a total of 11 quota categories. Quota holders annually receive pound allocations based on quota holdings, and can elect to form harvesting cooperatives or participate in a limited access fishery. Cooperatives and the limited access fishery are each allocated amounts of bycatch of Pacific halibut and crab, which are prohibited species in groundfish fisheries; and may conduct inter-cooperative allocation transfers. Caps limit the amounts of quota a person may hold at any time. Sideboard provisions limit "spillover" effects of this program on other fisheries and required reporting allows NMFS and the Council to monitor the efficacy of the program over time. Regulations list 28 vessels and LLP groundfish licenses that would be designated Amendment 80 vessels and licenses, respectively. The groundfish species in the BSAI directly affected by Amendment 80 include:

- Atka mackerel
- Aleutian Islands Pacific ocean perch
- Flathead sole
- Pacific cod
- Rock sole
- Yellowfin sole

In addition, Amendment 80 modifies the management of halibut and crab prohibited species catch (PSC) limits.

Amendment 85

At its April, 2006 meeting, the Council took final action to recommend Amendment 85 to the FMP for the BSAI, which would modify the current annual allocations of BSAI Pacific cod (after deductions for the CDQ fishery) among jig, trawl, and fixed gear (hook-and-line and pot) subsectors. The recommended allocations were determined based on a set of historic participation criteria, with consideration for small boats and coastal communities dependent on the Pacific cod resource. The Council also recommended seasonal apportionments for jig and trawl gear and a hierarchy for reallocating projected unused allocations among the various sectors. The number of eligible persons subject to this Amendment would be reduced to the extent that prior capacity reduction programs first reduce the size of the fleet. NMFS has implemented these changes starting in 2008.

Guided Sport Halibut

On March 31, 2007 the Council recommended a moratorium on entry into the guided sport fishery for IPHC areas 2C and 3A, using a control date of December 9, 2005. NMFS is currently developing implementing regulations. This sector has been operating under a guideline harvest level (GHL) for several years. For both areas the GHL has been exceeded, in 2C by a substantial amount in the past few years, with future service demand expected to increase. Under the program, NMFS would issue Federal licenses to individual U.S. citizens and to primarily U.S.-owned businesses with historical participation based on required State logbook reporting and State and USCG licensing. Other program features include:

1. minimum participation tests to receive a license(s);
2. caps on the number of licenses that could be held by a person;
3. transferability of most permits, with a prohibition on permit leasing;
4. permit endorsements for numbers of clients;
5. special licenses to be issued to communities identified under IFQ Amendment 66; and
6. a military hardship provision.

The Council is considering additional measures to supplement guided sport needs, including a program to use “guided angler fish” (GAF) in which annual allocation of halibut could be purchased from the commercial fishery for use in guided sport fisheries.