

## **Gulf Rationalization Community Committee Report**

**January 28, 2005  
Captain Cook Hotel, Voyager Room  
Anchorage, Alaska  
8 am – 5 pm**

Committee: Hazel Nelson (Chair), Nicole Kimball (staff), Julie Bonney, Duncan Fields, Chuck McCallum, Pat Norman, Joe Sullivan, Chuck Totemoff, Ernie Weiss

Other participants: Rachel Baker, Phil Smith, Greg Cashen, Dan Malarkey

### **Summary of Formal Committee Recommendations**

The committee made recommendations to modify and add to the elements and options for the Community Fisheries Quota (CFQ) Program and the Community Purchase Program (CPP). The discussion related to those recommendations is provided in the text of this report. The explicit changes recommended for the Council's December motion on Gulf Rationalization Community Provisions are provided as **Attachment 1** to this report.

#### **I. Review and approve agenda**

This is the second meeting of the Gulf Rationalization Community Committee (committee), and all committee members were in attendance. The committee approved the agenda. Staff reviewed the materials provided prior to and at the meeting. Materials included the agenda (**Attachment 2**), the Council's December 2004 motion, revised draft eligibility tables, public testimony from the December Council meeting, and proposed edits to the community provisions proposed by the Gulf of Alaska Coastal Communities Coalition (GOAC3).

#### **II. Approval of the December Committee report**

The committee was provided a final opportunity to provide feedback on the December committee report. One member noted an addition should be made reflecting his comments at the prior meeting. It was his view that the funding of the CFQ Program should be entirely upfront. The report captured one perspective that the CFQ allocation may serve to harm individuals with already marginal history, and funding of a portion of the community QS over time could have less impact. His perspective was that the quota share (QS) allocation method (and the vessel owners/processors receiving the largest share) could also be considered as serving to harm individuals with marginal history. Staff will make the requested addition.

#### **III. Review of the purpose statement and options for the CFQ Program and CPP (Council motion as of December 2004)**

Staff provided an overview of the revisions made to the Community Fisheries Quota (CFQ) Program and the Community Purchase Program (CPP) at the December Council meeting. The committee noted that the new language added to the purpose statement for the CPP in December (third paragraph) is not entirely consistent with the original first two paragraphs. Specifically, the original language in the purpose statement outlines the type of community the program is targeting (small, less than 1,500 population, isolated, historical dependence on groundfish). Because the Council has additional criteria proposed (e.g., population of less than 7,500) that would define eligible communities differently than that described in the purpose statement, it may need to choose a (portion of the) purpose statement at final action that aligns with the options selected. Staff expressed concern with that approach, as the purpose statement is typically expected to drive the selection of the options at final action.

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The primary concerns with the CPP purpose statement are the specific references to Amendment 66 and the criteria of less than 1,500 persons in the second paragraph. The committee did not recommend explicit changes to the purpose statement, but wanted to note this concern for the Council. In addition, the committee noted that the last sentence of the second paragraph appears to be direction to staff and notice to the public: “It is the intent of the Council that staff will adjust the options and elements below to align them consistent with Amendment 66.” At some point, as the Council and the committee further develop the program to consist of the necessary elements and options, this sentence may no longer be appropriate.

Some members also expressed concern with the addition of the ‘population of less than 7,500’ eligibility criterion in the Community Purchase Program (C 2.2 Option 2b), but the committee did not debate this issue as it was an explicit Council motion in December. Most members agreed that a larger cumulative cap should be considered under the CPP, if the 7,500 population criterion is selected and more communities (5 additional) are deemed eligible. The committee noted that they view the ownership caps added under C 2.5 as placeholders and would like the opportunity to comment on the caps as additional data is available.

Finally, there was some additional discussion about eligible communities. One member noted that communities such as Akutan and False Pass could be considered for inclusion under the Community Purchase Program. These communities are similarly situated communities to some of the other GOA communities and residents fish in both the BSAI and the GOA. The committee noted that this would likely be discussed in the analysis, but the Aleutians East Borough would need to make a specific request to the Council to change its overall stated intent to only include GOA communities, and not BSAI and/or CDQ communities, in the GOA rationalization community programs.

The committee also noted that several potentially eligible communities do not seem to be distinct ‘communities,’ which is a typical result when using objective criteria to determine eligibility. Examples were Kodiak Station and Womens Bay, areas which are typically considered part of the city of Kodiak, but which are identified as separate Census Designated Places by the U.S. Census and thus are identified as separate communities. The committee noted that the analysis would provide more information on each individual community, which would assist in identifying those that might be more appropriately combined as one community. However, several members expressed concern for deviating from the use of objective criteria, and noted that some of the other criteria (historical fishing participation) would likely eliminate some communities of concern.

#### **IV. Administrative entity representing communities**

The committee received GOAC3’s (Duncan Fields) proposed edits to the community provisions prior to the meeting. The committee agreed to review the handout at this time, as it generally follows the remaining agenda items and is more comprehensible to address in order. Overall, the proposed edits were intended to reflect the community quota entity (CQE) form of management that was established under the halibut/sablefish community quota program. While the Gulf CFQ Program is admittedly different, the proposal uses the existing CQE management structure in order to take advantage of administrative efficiencies. The concept is that the overall CFQ management (administrative) entity that holds and manages Gulf groundfish CFQ has a Board of Directors that is comprised of representatives from each eligible community CQE. It is implicit that a community must have formed a CQE in order to participate in the Gulf CFQ Program.

The committee discussed GOAC3’s proposed edits and a new section on the Board membership of the Gulf administrative entity (or entities). The committee emphasized fair representation and agreed that the options for analysis should provide some mandated structure for the Board. The committee focused primarily on two options for Board structure, both of which involve representation by the CQE Boards

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under Amendment 66: 1) each eligible community provides a representative to the Board from its CQE; 2) a group of communities is represented by CQE members on a regional basis.

The committee agreed that both of these options should be included for analysis, the first of which would require that every eligible community has a member on the Board. This option would be applicable under any of the options proposed for the number of administrative entities under C 1.1. The second option divides the Gulf communities into six identifiable geographic regions (Aleutians East Borough, Lake & Peninsula Borough, Kodiak Borough, Yakutat, Chugach, Cook Inlet), and proposes a specific number of CQE representatives from each region. The committee thought that grouping communities by commonly understood geographic and native corporation regions, as opposed to fishery management areas (610, 620, 630, etc.) would facilitate better cooperation among communities and make more sense. This option would only be applicable under a Gulf-wide management entity.

Thus, the committee agreed to include an option which would reflect the following regions and representation in a 13 member Board:

- 3 representatives for Aleutians East Borough (King Cove, Sand Point, Cold Bay)
- 3 representatives for Lake and Peninsula Borough (Chignik, Chignik Lagoon, Chignik Lake, Perryville, Ivanof Bay)
- 3 representatives for Kodiak Borough (Akhiok, Aleneva, Karluk, Larsen Bay, Old Harbor, Ouzinkie, Port Lions)
- 1 representative for Yakutat
- 2 representatives for Chugach (Tatitlek, Chenega, Port Graham and Nanwalek)
- 1 representative for Cook Inlet (Seldovia, Seldovia Village, Tyonek, Point Mackenzie, Susitna, Halibut Cove, Beluga)

The committee also discussed what happens if a community is not satisfied with how the administrative entity is functioning. For example, would a community have the opportunity to opt out of the overall management entity and manage its own CFQ? The committee discussed that under the Community Purchase Program (similar to Am. 66) there remains the ability of each community to determine how it wants to organize itself to purchase Gulf groundfish quota. The CPP program is different from the CFQ Program in that each community raises its own capital to purchase groundfish quota on the open market. In contrast, the CFQ Program represents an initial allocation, and the Council has stated its intent to have one or a few administrative entities, so that the CFQ is allocated directly to one or more entities and not thirty or so individual communities. If a community is dissatisfied with how the Board is operating under the program, it can work on those issues internal to the management entity, and always has the ability to raise issues in the Council forum. The committee agreed that the concern lies in protecting the interests of all communities in the process.

The committee also discussed the concern of varying population estimates reported by the U.S. Census and other sources. The current options use the U.S. Census as a population source, in order to be consistent with NOAA Fisheries (Alaska Fisheries Science Center) efforts to profile fishing communities and start from a universe of communities that are identified by the Census as cities or census designated places. The committee suggested having the analysis provide community population data reported by the State Department of Labor for comparison. The committee also agreed that the Council should approve a set of eligible communities at final action, and those communities would remain eligible unless the Council approves a regulatory amendment to modify the list of communities. Communities not determined eligible at final action could petition the Council to be added through a regulatory amendment.

## V. Funding of the CFQ Program

While there was strong support from several committee members at the last committee meeting to provide the full allocation to the CFQ Program upfront, some alternatives to that approach for at least a portion of the CFQ warranted discussion. The committee discussed GOAC3's proposed options and a new section on "Timing of the CFQ Allocation," which would address both how the allocation to the program would be provided (whether through initial allocation or some other method) and the period of time it would take to allocate the entire amount of CFQ (5%, 10% or 15%) to the program should a step-wise approach be selected.

If the Council does not fund the CFQ program entirely upfront, the committee discussed two ways to incrementally increase the CFQ program allocation. One approach was to divert a portion (5% or 10%) of each individual holder's QS upon first transfer (sale) and allocate that QS to the CFQ Program. This would only affect holders who sold (and likely bought) their QS, as individuals either sell out of the groundfish fishery or reposition themselves in the rationalization program. Similar to the halibut/sablefish IFQ Program, the expectation is a significant amount of QS would be transferred in the first several years of the rationalization program. Staff will provide this data from the halibut/sablefish IFQ Program for the next meeting, as well as the ratio of individual holders to the number of transfers.

The committee also discussed diverting a portion of a holder's QS upon a *lease*, but agreed the issue was increasingly complicated by the potential duration and complexity of leases in a multi-species fishery. It would also not be consistent with the concept of capturing a portion of the potential 'windfall' gain from those that are selling off their QS, and impair the efficiencies of the cooperatives. The committee noted that while basing the approach only on transfers provides an incentive for a holder to lease QS instead of sell it, the Council motion for the general rationalization program has multiple options for addressing leasing and an owner-on-board policy. Phil Smith (RAM) noted that not all transfers of QS result in payment; many transfers of halibut/sablefish IFQ have been 'gifted' transfers between family members. The committee agreed an option should be provided to exempt 'gifted' transfers between immediate family members. Some members also voiced concern with the extended time it may take to 'fund' the CFQ Program in full by relying only on transfers of QS (and not also leases).

The second overall approach was to create new quota share incrementally each year by adding new QS to the QS pool(s), effectively 'diluting' the quota share pools for all QS holders and issuing the new QS to the CFQ Program. Phil Smith provided a brief description of how this process might work. Each holder's QS in a pool would be reduced by equal shares in order to create the QS allocated to the CFQ Program on an annual basis, until the CFQ Program is funded to its entire 5%, 10% or 15%. The interest in this approach stems partially from the idea that it may have less of an impact on individual holders, since the full value of a rationalized fishery may not be evident in the first few years of the program.

The committee endorsed analyzing both concepts, as both models have different impacts on the fleet and communities eligible under the CFQ Program. The discussion led the committee to combining the approaches so that each year the CFQ Program would be guaranteed a minimum of 20% of their *remaining* CFQ allocation (if 100% of the CFQ is not allocated in the first year). In effect, the CFQ Program would be guaranteed its full allocation after 5 years, but could be fully allocated sooner depending on the number and amount of transfers (the 20% guarantee represents a minimum amount). The committee agreed that because the QS transfer pattern is uncertain, and cannot be assumed to be similar to the halibut/sablefish experience, a drop-dead date of five years should be provided for full implementation.

**The committee thus agreed that the option should provide for a (5% or 10%) reduction of an individual holder's QS upon first transfer, and then if the program does not reach its annual allocation (20% of the remaining allocation per year for 5 years) through transfers, the remainder**

would be ‘funded’ by creating new QS and adding it to the QS pool(s). The amount of new QS needed to make up the difference is expected to be relatively small, but would depend on the number and amount of QS transfers per year, as well as the amount of CFQ that is initially allocated to the program. The committee agreed that the analysis should include options of 33%, 50%, 66%, and 100% for the initial (year one) CFQ allocation.

## **VI. Determining how the quota may be used**

The committee recommended specific language under C 1.5 (*Harvesting of Shares*) that would implement a priority for the leasing of CFQ in a specific management area (WG, CG, WY) to residents of communities located in that management area. This priority would be established as the intent, but the administrative entity would be responsible for determining how to implement it. By contrast, the committee also recommended including an explicit method (for analysis) by which the administrative entity would be required to distribute 0% - 100% of the annual harvest privileges derived from CFQ, by management area and species, equally among eligible communities located in that management area.

### Individual use caps and vessel IFQ caps

The committee discussed four options proposed by GOAC3 to establish individual use caps (the maximum amount of CFQ that an individual resident can lease) and vessel IFQ caps (the maximum amount of CFQ that can be fished on one vessel). One member noted that these elements were also included under Amendment 66 (50,000 lbs for each cap). They are intended to address ‘fairness’ issues and mitigate the concern that all of the CFQ would be used on very few vessels by very few residents. The options proposed for determining the caps were formulas and not fixed numbers: 1) no caps; 2) the same caps as applied in the general program; 3) caps equal to an approximation of what is needed for viable participation in the fishery; 4) caps equal to 1½ times the caps in the general program.

Similar to the options in the general rationalization program, the committee agreed that the caps must be species specific. Because it is easier and less costly to gear up for fishing Pacific cod than it is flatfish, more community residents could potentially operate in that fishery. The committee agreed that at a minimum, Pacific cod should be treated differently in terms of use caps than other species, given that the goal is to sustain participation and create economic opportunity and employment in the communities. The committee proposed options to reduce the individual use cap for Pacific cod to 25%, 50%, or 75% of the selected use cap for non-CFQ quota fishermen.

### Sector and Gear Designations

The committee agreed to include a provision that all IFQ resulting from QS held by communities shall be designated for use only on catcher vessels. This language tracks the intent that the committee agreed upon at its last meeting. The committee also discussed the notion of whether CFQ should be designated by gear type. The consensus of the committee was that gear designations are not appropriate for this program, and that the administrative entity will have the primary role of determining which vessels will be leasing CFQ (with several approved distribution criteria and the restrictions discussed above). The committee also noted that any quota share that is purchased by the administrative entity (if the Community Purchase Program is approved) or received through transfer (if the CFQ is not fully allocated at year one), will retain its original designations, even if they do not apply when held or used by communities.

### Blocks

The committee discussed the use and appropriateness of blocks in the CFQ Program, and agreed that the intent of blocks would be effectively served by the individual use caps and vessel use caps discussed above. The committee thus agreed that blocks would be an unnecessary complication to this program.

### Landing Requirements

The committee discussed the concept of requiring that community residents land fish in a specific region, such as is proposed in the general rationalization program. Because CFQ does not by nature have any associated fishing history to determine historical processing patterns, any options suggested would need to propose a method by which to establish landing designations (north/south regions) on CFQ. Some members expressed concern with maintaining market share in historical processing communities, while also wanting to provide new opportunities in eligible communities that want to expand their processing capability. The committee noted that it is difficult to make recommendations not yet knowing the distribution of QS by north/south region resulting from the overall program.

The committee primarily discussed three options: 1) no regional landing requirements; 2) regional landing requirements proportional to those established for QS in the general program; and 3) regional landing requirements for only a portion of CFQ (50% - 100%). Some committee members strongly support a regional landings requirement, while others believe it will unnecessarily serve to further restrict communities' flexibility in managing CFQ. One member emphasized the potential destabilizing effect on a small number of historical processing communities like Kodiak, if CFQ changes the pattern of landings (movement to the road system). It was noted that support for this program from the Kodiak City Council is conditioned on including some sort of regionalization that maintains the historical regional distribution of processing activity. Other members disagree generally with any characterization of 'giving' something to communities, and rather see it as the Council's decision to distribute or redistribute the use of a public resource based on a policy choice.

The committee did not come to consensus as to whether to recommend an option that allows for no regional landing requirement for CFQ. However, it was understood that the Council may select this option as a default if it does not choose to include a landings requirement in its preferred alternative. One member noted that this issue effectively only addresses the Cook Inlet and Prince William Sound areas, since there is no regionalization proposed for the western Gulf. In addition, the Council modified its motion in December, such that it only proposes to regionalize specific species in the Central Gulf, and not species in the Western Gulf or West Yakutat.

Because at least some portion of the CFQ would be initially issued, the regionalization designation for that portion could be established at the start of the program. However, the committee did not thoroughly discuss how to address CFQ that is obtained through the transfer of QS that already has a regionalization designation from an individual holder's history; specifically, whether to retain or modify that designation when the quota is held by the administrative entity on behalf of eligible communities. One member suggested using a normalization function, but the committee agreed not to discuss further details at this point.

In sum, the committee agreed to recommend two options for establishing a regional landings requirement and three suboptions to address the duration of the requirement (in perpetuity, 5 years, or 10 years). The first option would mirror the regionalization distribution in the general program, and the second would increase the flexibility for communities by only regionalizing a portion of the CFQ (50% - 100%).

### **VII. Determining how the funds generated from leasing community quota may be used**

The committee flagged this issue at its first meeting as requiring significant discussion, as the current Council motion does not include options to address this issue. This section address three related issues: 1) restrictions on the use of funds generated by the lease of CFQ; 2) whether the administrative entity is required to distribute lease proceeds to eligible communities; and 3) the allocation basis used to distribute lease proceeds to eligible communities.

#### Use of Lease Proceeds by Administrative Entity

The committee discussed potential restrictions on the administrative entity's use of the funds generated by leasing CFQ. Generally, the committee discussed restricting the use of funds to: administrative expenses; distribution to member community CQEs; purchase of additional Gulf groundfish QS; fisheries related investments; and investments in economic development in eligible communities. There was committee consensus on modifying the current motion to provide options to reflect the above restrictions.

The committee also discussed whether similar options should be provided to restrict a CQE's use of these funds, if the administrative entity is allowed to distribute lease proceeds to the member communities' CQEs. While it is assumed that the CQE in each community would need to use the income to purchase QS or toward debt repayment of such purchases and administrative expenses, there may be a need to explicitly state such restrictions. Requiring limits on how the CQEs spend funds received from the CFQ administrative entity would impose an additional recordkeeping and reporting requirement on the CQEs (and an additional monitoring responsibility for NMFS), as they would be required to identify the amount of funds received from the administrative entity and how those funds were spent, distinct from the lease proceeds they receive from the lease of halibut and sablefish community quota share. In effect, however, the same restrictions would apply at both the overall management entity and the CQE level.

Some members expressed concern with the level of scrutiny applied to communities, and not similarly applied to individuals or processors, with regard to the use of funds derived from a public resource. The two issues are: 1) requiring the administrative entity to provide information to NMFS to determine that the program is being implemented the way it was intended to benefit communities, and 2) requiring that the administrative entity only spend money on specific activities. The issue discussed was primarily related to #2, in that there is continued concern with the level of 'shepherding' applied to communities and the notion that communities are treated differently in that they are told how to spend their revenues. One member also noted that it is at times helpful to have the mission statement for a program outlined so explicitly, as it contributes to meeting the goals of the program more quickly and effectively. The key is to find a balance between the bias involved with providing an allocation to an entity other than an individual or processor and the need for structure to facilitate an effective program.

#### Distribution of lease proceeds to member communities

The committee also recommended two options to address whether the administrative entity is required to distribute lease proceeds to member community CQEs on an annual basis, as the administrative entity may want to put a majority of funds into purchasing more quota or debt repayment. If the administrative entity is required to distribute rents annually, the committee recommended three options for a minimum amount of lease income (10%, 20%, 30%) that must be distributed (after administrative expenses of the management entity.) Thirty percent was discussed as an appropriate maximum amount, given that the intent is not to have the administrative entity act as a 'pass-through' organization, but rather as an entity with adequate capital to operate in the QS market on behalf of eligible communities.

#### Allocation Basis

The Council's current (December 2004) motion provides three formulas to distribute the *annual harvest privileges* (leasing) from the CFQ held by the administrative entity to residents of individual eligible communities. These options are not entirely consistent with the concept endorsed by the committee to allow the management entity primary responsibility to determine how to effectively lease multi-species CFQ among residents of eligible communities. The concept generally endorsed by the committee is to allow the administrative entity some flexibility in this regard, with several restrictions in regulation (e.g., that the CFQ must be fished by eligible community residents, a priority given to residents wanting to lease CFQ designated for the area in which their community is located, etc.) and a requirement to develop distribution criteria that must be submitted to and approved by NMFS prior to qualifying as the administrative entity.

Thus, given that the committee does not believe it will be effective or beneficial to the communities or the program to dictate a formula that would require that the administrative entity lease a portion of *each* species/type of CFQ to residents of *each* community on an annual basis, **the committee recommended modifying the options under C 1.6 Allocation Basis in the current motion to provide methods for distributing the lease proceeds resulting from the CFQ as opposed to the privilege to fish the CFQ.** Thus, while only residents of eligible communities would be fishing the CFQ, there would not be a mandate that residents from each community would have to be leased a very small portion of each species of quota in each management area on an annual basis.

In sum, the committee recommended retaining the first two formulas contained in the current Council motion under C 1.6, but applying them to the distribution of *proceeds* resulting from the lease of CFQ to community residents. This ensures that every eligible community CQE would receive some benefit under the program on an annual basis (subject to the use restrictions discussed previously), and allow flexibility for the administrative entity to manage the fishing of the CFQ more effectively and practically. The committee did not recommend retaining the third formula, as it did not seem appropriate to apply to lease proceeds. In addition, the committee recommended a new option that would allow the lease proceeds to be distributed among eligible communities at the discretion of the administrative entity (no formula). The committee thought this was an appropriate option for analysis, in the case that sufficient safeguards are developed in the program as a whole such that they are not necessary to include here.

#### Qualification of administrative entity

The committee recommended three options for elements that would comprise, at a minimum, an entity's application to NMFS to act as the administrative entity on behalf of eligible communities. The intent was to add some substantive elements to the Council's current motion, which only requires that an application be submitted. At a minimum, the committee recommends the report include: 1) identification of the community CQEs represented by the administrative entity; 2) allocation criteria to use when resident fishermen apply to lease CFQ; and 3) documentation of the entity's accountability to the communities.

### **VIII. Community Purchase Program**

While the committee did not have sufficient time to evaluate the elements of the CPP, it did agree to recommend several new options to *C 2.5 Ownership/Use Caps*. Generally, the committee recommended individual community use caps (the maximum amount of QS that each individual eligible community would be allowed to purchase) that track the individual use caps approved in the general rationalization program. Thus, while the Council currently has fixed options of 1%, 2%, and 3%, the committee agreed that additional options should be analyzed that base the individual community cap on the cap developed in the regular program, or an increase of that cap.

The committee agreed to the same approach for the options for an aggregate community cap (the maximum amount of QS that all eligible communities would be allowed to purchase cumulatively). In addition, an option of no aggregate cap was recommended, as the individual caps (and the set number of eligible communities established in regulation) would provide a default aggregate cap.

### **IX. Other Issues/Schedule**

The committee agreed that it was a productive meeting, noting that it is valuable to have the opportunity to filter out the details of these issues with members' constituencies. The committee would like to continue its efforts, and agreed that more time is warranted to refine options as data is provided and the Council makes progress on the overall rationalization program. At a minimum, one more meeting is needed prior to the analysis, to flesh out the details of the Community Purchase Program. If the Council determines that another meeting is warranted, the committee could next meet on **March 30**.