

ADVISORY PANEL
Motions and Rationale
January 28-31, 2020 - Anchorage, AK

C3 CGOA Rockfish

AP Motion

The AP recommends that the Council take final action at this meeting and select alternative 2 as the preferred alternative to reauthorize the Rockfish Program (RP) with the existing management framework and make the following regulatory changes under the elements and options (**bold**):

Element 1: Modify regulations at 679.80 (a) (2) to specify the duration of the program.

Option 1: Remove the sunset.

Option 2: Replace with new sunset date (10-20 years).

Element 2: Reallocate unharvested RP Pacific cod from RP cooperatives to open access fisheries after the RP fisheries close on November 15th. The Regional Administrator would consider a reallocation of the projected unused allocation first to the CV pot, jig, and hook-and-line sectors, and then to other open access fisheries, then any additional reallocations according to regulations at 679.20 (a) (12) (ii).

Element 3: Exempt crab program sideboard limits for vessels when fishing in the RP.

Element 4: Require annual NMFS cost recovery reports in regulations.

Element 5: Clarify regulations at 679.5 (r) (10) to specify that only shoreside processors receiving RP Cooperative Quota (CQ) must submit the Rockfish Ex-vessel Volume and Value Report.

Element 6: Remove the regulations in 679.5 (r) (6) (iii) (B) requiring that an annual RP cooperative report be submitted to NMFS. The Council may request that the RP cooperatives voluntarily provide annual reports to the Council.

Element 7: Revise 679.5 (r) (6) (iii) (D) to replace “any action” with “any civil action”.

Element 8: Revise 679.81 (i) (D) (3) to remove requirements for a Fishing Plan to be submitted with a cooperative application for CQ.

Element 9: Revise 679.84 (f) (1) to exempt shoreside processors under the RP from the requirement to provide an observer work station and observer communication described at 679.28 (g) (7) (vii) and (viii).

Element 10: Allow NMFS to reallocate unused rockfish ICAs to RP cooperatives.

Element 11: Clarify regulations regarding accounting for inseason use caps to specify that any transfer of unused rockfish ICAs and CP CQ to CV cooperatives does not apply to CV ownership, cooperative, harvester CQ, or shoreside processor CQ use caps.

Element 12: Modify cooperative check-in times from 48 to 24 hours.

†Element 13: Remove CP sideboard limits in the WGOA rockfish fisheries in 679.82 (e) (4).

Element 14: Modify regulations at 679.23 (h) (1) by removing the 3-day stand down for CVs that fish for groundfish in the BSAI while pollock or Pacific cod is open to directed fishing in the BSAI from the GOA stand down if they check into the RP and fish in the CGOA RP.

Amendment¹ (to remove element 13 from the recommendations) failed 4-17

Amendment² (to include underlined text in Element 2) passed 11-9

Motion as amended passed 20-1

Rationale for overall Motion:

- *The Rockfish Program has been a success. There have been improvements in safety, ex-vessel value, product utilization, and bycatch management and there has been no public comment to indicate that the program is not working, that the National Standards are not being met, or that the program is not meeting its stated objectives. Reauthorizing the program will allow the benefits to keep accruing to harvesters, processors, the resources, the community, the state of Alaska, and the nation. There is urgency to take final action at this meeting to ensure the program does not end with the original sunset date.*
- *The analysts have concluded that the Council's PPA, as well as the two new elements under consideration, do not jeopardize the continued participation of any fishing community under this program. The elements included under the recommended PA are looking to increase efficiency, eliminate unnecessary regulations and provide flexibility in how the fishery is prosecuted.*
- *Regarding Element 1, the MSA requires a periodic review of all LAPP programs. Additionally, managers and stakeholders can initiate a check-in or request a change to the program at any time based on compelling evidence to do so. As such, retaining the sunset date offers no practical benefit to the program or its participants. A sunset date undermines the success of the program by introducing unnecessary uncertainty and unpredictability. A sunset date also increases the costs of managing the program both from a financial and human resources perspective due to the considerable time and expense associated with reauthorizing the program, which would be in addition to those associated with the MSA-required program reviews. National Standard 7 requires that management measures minimize costs and avoid unnecessary duplication and retaining the sunset date violates this Standard.*

- *Element 4 ensures that NMFS will provide a cost recovery report. Transparency in costs of management is critical for all stakeholders and managers and enshrining this component of the program helps achieve National Standard 7 requirements.*
- *Elements 5, 6, 8 and 9 are housekeeping components that streamline the program by reducing redundancies and expense and eliminating processes that are not required or necessary for the program. Element 6 was reworked to absorb element 7 so that inclusion of Element 7 is not a necessary part of the recommended PA.*
- *Element 10 meets National Standard 1 by reallocating unused rockfish, at NMFS discretion, to limited entry fisheries and ensuring full utilization and achievement of Optimum Yield. The suboption is not included based on public comment indicating that the amount is taken off the top and not from one sector therefore when the fish is reallocated back to the sectors, it should be done so with an equal opportunity to the other sectors.*
- *Element 11 benefits NMFS staff and the CV sector and adjusts regulations to better meet the original intent of how CV ownership and use caps are determined. Element 12 was requested by the industry and changes cooperative check-in times, which improves flexibility and efficiency in the program.*
- *Element 14 again provides flexibility and efficiency in prosecuting fisheries by eliminating the 3-day stand down period for vessels leaving the BS and checking in to the rockfish program. The analysis shows there is no detrimental impact on CVs in the program.*
- *While supporting the overall reauthorization of the Rockfish Program, some concern was voiced regarding future lost opportunity for independent open access catcher vessels fishing in the Western Gulf once the Amendment 80 Sideboards are dropped as well as with the loss of the sunset date. It will be important to evaluate any potential changes or unintended consequences related to these two elements during the required periodic program reviews.*

Rationale in Support of Amendment 1:

- *The Rockfish Program CP sideboard limits for the WGOA act to protect opportunity for CVs as there is no division of TAC between CV and CP.*
- *While WGOA fishermen have not historically participated in this fishery because it occurs when the local boats are fishing salmon, these fishermen hope to maintain potential future opportunity for participation especially under a changing environment.*
- *While the removal of the WGOA sideboards may create economic efficiencies for Am 80 CPs, they are not necessary for these vessels to prosecute their fisheries. Sideboards are an accepted component of rationalized fisheries and their removal could erode trust in the management process.*

Rationale Against Amendment 1:

- *Under Element 13 in the proposed PA, the reasons that the WGOA sideboards were initially implemented no longer exist (protect Amendment 80 from Amendment 80). In order to improve efficiency and flexibility for the CP fleet, it makes sense to eliminate these unnecessary operational hurdles. Stakeholder comment indicated that increasing efficiency not only benefits fishing operations, but can also provide conservation benefits for the resource as well.*

The more efficient these operations are, the better for the vessel, the crew, other sectors participating in the Gulf, and the environment.

- *Under Element 13 in the proposed PA, CVs will continue to have the same level of opportunity to participate based on their individual fishing plans and choices. This opportunity is not diminished or negatively impacted under this action. As such, it is important to recognize the improved efficiency and flexibility that will be gained.*

Rationale in Support of Amendment 2:

- *Element 2 of the PPA identified by the Council in Dec 2019 intended to allocate unharvested RP Pacific cod from RP cooperatives to the directed fixed gear fishery at the close of the rockfish season. The main motion as proposed reallocated rollover quota to all open access sectors, including the trawl sector for bycatch use. This changes the original intent of the Council's PPA under Element 2 as it did not clarify criteria for allocation or how to determine which sector needs are met. This change to Element 2 from the Council's PPA lacks analysis, due to pending final action, to inform what the potential outcomes or implications of the modified language would be.*
- *The amendment Element 2 is intended to reflect the original intent to allocate unharvested Pacific cod first to the open access fixed gear CV pot, jig, and hook & line sectors and then providing additional opportunity to all other open access fisheries, including trawl. This amendment provides the opportunity sought in the overall main motion while maintaining the original intent of the Council's PPA under Element 2 for the directed fishery.*

Rationale Against Amendment 2:

- *The modified language in Element 2 of the original proposed preliminary alternative provides NMFS with the authority to reallocate unused quota pounds to open sectors that are able to utilize the reallocation, at their discretion based on the best information they have via conversations with those sectors, which helps to achieve Optimum Yield and meet National Standard 1. It is unnecessary to codify a reallocative priority of fixed gear with trawl allocated cod. Understanding that this has been general practice for NMFS with their knowledge and discretion, it does not need to be codified in regulation.*
- *In 2018, Pacific cod went on PSC status in October and had to be discarded. Flexibility is needed to allow cod from the Rockfish Program to be reallocated to the flatfish fishery, as deemed warranted by the Agency, in order to avoid this type of situation in the future and to continue the halibut bycatch benefits that have been realized under the Rockfish Program.*