

North Pacific Fishery Management Council

Stephanie Madsen, Chair
Chris Oliver, Executive Director



605 W 4th Avenue, Suite 306
Anchorage, AK 99501-2252

Telephone: (907) 271-2809

Fax: (907) 271-2817

Visit our website: www.fakr.noaa.gov/npfmc

March 25, 2004

DRAFT AGENDA
166th Plenary Session
North Pacific Fishery Management Council
March 31st - April 6, 2004
Anchorage Hilton
Anchorage, AK

The North Pacific Fishery Management Council will meet March 30 through April 6, 2004 at the Anchorage Hilton in Anchorage, AK. Other meetings to be held during the week are:

Committee/Panel

Advisory Panel
Scientific and Statistical Committee
Joint meeting Council/Board of Fisheries
Enforcement Committee
Public Hearing - EFH EIS
Seabird Seminar

Beginning

Mar. 29, Mon. - Dillingham/Katmai Room
Mar. 29, Mon. - King Salmon Room
Mar. 30, Tue. - 1:00 pm - Aleutian Room
Mar. 30, Tues. - 8:00 am - 12:00 pm - Aleutian Room
Mar. 31, Wed. - 6:00 pm - Dillingham/Katmai Room
Apr. 1, Thur. - 5:30 pm - Aleutian Room

All meetings will be held at the Hotel unless otherwise noted. All meetings are open to the public, except executive sessions of the Council. Other committee and workgroup meetings may be scheduled on short notice during the week, and will be posted at the hotel.

INFORMATION FOR PERSONS WISHING TO PROVIDE PUBLIC COMMENTS

Sign-up sheets are available at the registration table for those wishing to provide public comments on a specific agenda item. Sign-up must be completed **before** public comment begins on that agenda item. Additional names are generally not accepted **after** public comment has begun.

Submission of Written Comments. Written comments and materials to be included in Council meeting **notebooks** must be received at the Council office **by 5:00 pm (Alaska Time) on Wednesday March 24.** Written and oral comments should include a statement of the source and date of information provided as well as a brief description of the background and interests of the person(s) submitting the statement. Comments can be sent by mail or fax—please **do not** submit comments by e-mail. **It is the submitter's responsibility to provide an adequate number of copies of comments after the deadline.** Materials provided **during** the meeting for distribution to Council members should be provided to the Council secretary. A minimum of **25** copies is needed to ensure that Council members, the executive director, NOAA General Counsel, appropriate staff, and the official meeting record each receive a copy. If copies are to be made available for the Advisory Panel (28), Scientific and Statistical Committee (18), or the public after the pre-meeting deadline, they must also be provided by the submitter.

FOR THOSE WISHING TO TESTIFY BEFORE THE ADVISORY PANEL

The Advisory Panel has revised its operating guidelines to incorporate a strict time management approach to its meetings. Rules for testimony before the Advisory Panel have been developed which are similar to those used by the Council. Members of the public wishing to testify before the AP **must** sign up on the list for each topic listed on the agenda. Sign-up sheets are provided in a special notebook located at the back of the room. The deadline for registering to testify is when the agenda topic comes before the AP. The time available for individual and group testimony will be based on the number registered and determined by the AP Chairman. **The AP may not take public testimony on items for which they will not be making recommendations to the Council.**

FOR THOSE WISHING TO TESTIFY BEFORE THE SCIENTIFIC AND STATISTICAL COMMITTEE

The usual practice is for the SSC to call for public comment immediately following the staff presentation on each agenda item. In addition, the SSC will designate a time, normally at the beginning of the afternoon session on the first day of the SSC meeting, when members of the public will have the opportunity to present testimony on any agenda item. The Committee will discourage testimony that does not directly address the technical issues of concern to the SSC, and **presentations lasting more than ten minutes will require prior approval from the Chair.**

COMMONLY USED ACRONYMS

| | | | |
|---------------|--|--------------|--|
| ABC | Acceptable Biological Catch | mt | Metric tons |
| AP | Advisory Panel | NMFS | National Marine Fisheries Service |
| ADFG | Alaska Dept. of Fish and Game | NOAA | National Oceanic & Atmospheric Adm. |
| BSAI | Bering Sea and Aleutian Islands | NPFMC | North Pacific Fishery Management Council |
| CDQ | Community Development Quota | OY | Optimum Yield |
| CRP | Comprehensive Rationalization Program | POP | Pacific ocean perch |
| CVOA | Catcher Vessel Operational Area | PSC | Prohibited Species Catch |
| EA/RIR | Environmental Assessment/Regulatory Impact Review | SAFE | Stock Assessment and Fishery Evaluation Document |
| EEZ | Exclusive Economic Zone | SSC | Scientific and Statistical Committee |
| EFH | Essential Fish Habitat | TAC | Total Allowable Catch |
| FMP | Fishery Management Plan | VBA | Vessel Bycatch Accounting |
| GHL | Guideline Harvest Level | VIP | Vessel Incentive Program |
| GOA | Gulf of Alaska | | |
| HAPC | Habitat Areas of Particular Concern | | |
| IBQ | Individual Bycatch Quota | | |
| IFQ | Individual Fishing Quota | | |
| IPHC | International Pacific Halibut Commission | | |
| IRFA | Initial Regulatory Flexibility Analysis | | |
| IRIU | Improved Retention/Improved Utilization | | |
| ITAC | Initial Total Allowable Catch | | |
| LAMP | Local Area Management Plan | | |
| LLP | License Limitation Program | | |
| MSFCMA | Magnuson-Stevens Fishery Conservation and Management Act | | |
| MMPA | Marine Mammal Protection Act | | |
| MRA | Maximum Retainable Amount | | |
| MRB | Maximum Retainable Bycatch | | |
| MSY | Maximum Sustainable Yield | | |

March 25, 2004

DRAFT AGENDA
166th Plenary Session
North Pacific Fishery Management Council
March 31st - April 6th, 2004
Anchorage Hilton

Estimated Hours

- A. CALL MEETING TO ORDER
- (a) Approval of Agenda
 - (b) Approval of minutes (T)
- B. REPORTS
- B-1 Executive Director's Report (6 hrs)
 - B-2 NMFS Management Report
 - B-3 Enforcement Report
 - B-4 Coast Guard Report
 - B-5 ADF&G Report
 - B-6 USFW Report
- C. NEW OR CONTINUING BUSINESS
- C-1 Draft Programmatic Supplemental Environment Impact Statement (18 hrs)
 - (a) Final Action on Groundfish PSEIS.
 - (b) Final Review of Groundfish FMP Revisions.
 - C-2 Habitat Area Particular Concern (HAPC) (8 hrs)
 - (a) Receive report from Plan Team on HAPC proposals.
 - (b) Develop problem statement and alternatives for analysis.
 - C-3 Aleutian Island Pollock (6 hrs)
 - Initial Review of analysis to establish Adak pollock allocation.
 - C-4 GOA Groundfish Rationalization (2 hrs)
 - Discuss State water management issues.
 - C-5 GOA Rockfish Pilot Program (4 hrs)
 - Develop alternatives and options for analysis.
 - C-6 IR/IU (2 hrs)
 - Receive progress report on Am 80 and provide input as necessary.
 - C-7 Observer Program (T) (2 hrs)
 - (a) Receive Observer Advisory Committee report.
 - (b) Receive update on analysis and provide input as necessary.

- C-8 CDQ Program (2 hrs)
(a) Receive report on status of BSAI Amendment 71.
(b) Discuss fishery management issues.
- C-9 National/Regional bycatch plans (1 hr)
Receive update.

D. FISHERY MANAGEMENT PLANS

- D-1 Scallop FMP (2 hr)
Review background and develop alternatives to modify the license limitation program and update the FMP.
- D-2 Staff Tasking (2 hr)
Review tasking and provide direction to staff.
- D-3 Other Business

E. CHAIR'S REMARKS AND ADJOURNMENT

Total Agenda Hours: 54 Hours

North Pacific Fishery Management Council

Stephanie Madsen, Chair
Chris Oliver, Executive Director



605 W 4th Avenue, Suite 306
Anchorage, AK 99501-2252

Telephone: (907) 271-2809

Fax: (907) 271-2817

Visit our website: www.fakr.noaa.gov/npfmc

Certified: Paul Bendysen
Date: 3/16/04

MINUTES SCIENTIFIC STATISTICAL COMMITTEE February 2-4, 2004

The Science Statistical committee met February 2-4, 2004 at the Hilton Hotel in Anchorage, AK.
Members present:

Rich Marasco, Chair
Mark Herrmann
Sue Hills
Patty Burke

Gordon Kruse, Vice Chair
Doug Woodby
Terry Quinn
Farron Wallace

Keith Criddle
Ken Pitcher
Franz Mueter
Anne Hollowed

Rich Marasco was elected Chair and Gordon Kruse was elected vice-chair.

C-2 OBSERVER PROGRAM

Dr. Karp (Alaska Fishery Science Center) and Nicole Kimball (NPFMC) provided an overview of the Observer Program and discussed the status of proposed modifications to the program. Public comment was provided by Paul MacGregor (At-Sea Processors Association), Gerry Merrigan (Prowler Fisheries), John Gauvin (Groundfish Forum and Alaska Groundfish Databank), Jon Warrenchuck (Oceana), and Joe Kyle (Observer Advisory Committee).

In April 2000, we noted: "Historically, the SSC has been a strong advocate for an effective and comprehensive observer program. For the SSC these terms imply that the observer program should representatively gather biological data from each of the fisheries engaged in harvest while simultaneously providing data for unbiased estimates of total catch. Secondly, to the extent practicable, the Observer Program should provide requisite data on compliance with the many regulatory requirements imposed on the fisheries."

Many of the concerns that we have with the structure and function of the Observer Program are long-standing. For example, in September 1995, we noted that:

- observer placement must be flexible in order to be representative of the fleet,
- compensation and treatment of observers must be sufficient to retain experienced and well-trained personnel,
- there is a need for flexibility in establishing coverage levels and distribution of coverage across the fleet. Although well distributed observer coverage of 20% to 30% may be

adequate for stock assessment; bycatch estimation levels for some species may need closer to 90% coverage, and management programs requiring individual vessel compliance will require 100% or greater coverage,

- the observer program should undergo a periodic, independent evaluation of objectives, methodologies and data collected, and
- data needs and priorities should be assessed and provided to observer program managers annually.

The SSC is disappointed that, nearly a decade later, so little progress has been made in addressing these concerns. The SSC is concerned that the need for the changes to the Observer Program may have become increasingly overshadowed by discussions over perceptions regarding the equitable distribution of costs, the intricacies of administrative procedure requirements and contract law.

Despite its many laudable characteristics, there is a major flaw in the current Observer Program. For many segments of the fishery, the deployment of observers does not ensure representative sampling of retained and discarded catches. This flaw must be addressed to ensure the quality and representativeness of the data because these data are essential for stock assessment and in-season management. If this flaw is not addressed, the stock assessments and in-season management decisions will become increasingly difficult to defend. This flaw is most acute in the smallest vessel size categories. While vessels in these categories account for a small portion of the total catch, they are often prosecuted in areas where there are elevated concerns about incidental catches and adverse interactions with seabirds and marine mammals. We recognize that there are pragmatic and financial challenges associated with the implementation of changes in Observer Program that must be overcome to address concerns about potential undersampling and strategic biases present under the current program. We have repeatedly encouraged experimentation with electronic monitoring and other approaches that may generate required data at the lowest possible cost to industry.

NMFS is concerned over the inadequacies of the service delivery model, the inability to implement statistically valid sampling protocols, the inability to address performance problems in a timely fashion and its ability to administer different programs in the GOA and BSAI. Failure to address these issues could imperil the credibility for the entire management system groundfish in the North Pacific.

It is our understanding that MRAG has recently completed a review of strategies for the deployment of observers in the GOA. The results of the previous MRAG review (September 2000) have helped elucidate program shortcomings and suggested useful improvements. In preparation for the March-April meeting, the SSC would like an opportunity to review this most recent MRAG analysis.

C-4 HAPC

The SSC received a presentation from Council and NMFS staff providing an overview of initial HAPC proposals, suggested methodology and an evaluation matrix. Public comments were provided by Ben Enticknap (AMCC), John Gauvin (GFF) and John Warrenchuck (OCEANA).

The evaluation matrix is intended to assist the Plan Teams in their detailed assessment of the proposals. Each proposal will be assessed for ecological, socioeconomic and management implications and practicability. The Plan Teams will evaluate each proposal on the basis of how well it meets the Council designated priority areas: (1) Sea Mounts in the EEZ, named on NOAA charts, that provide important habitat for managed species, and (2) largely undisturbed, high relief coral beds that provide important habitats for managed

species. HAPC proposals will then be required to meet at least two of the four HAPC considerations established in the EFH Final Rule: (1) importance of ecologic function; (2) sensitivity; (3) vulnerability; and (4) rarity as a mandatory criterion. Each proposal will be ranked, using the evaluation matrix, on how well it meets Council priorities and the four HAPC considerations. Based on the overall proposed HAPC relative score, the Plan Teams will make recommendations directly to the Council. During the April meeting, the Council will determine which if any of the proposals move forward for analysis or may refer the proposals for further review.

Council staff proposed to sum the rankings across categories to provide an overall measure of how well the proposal meets Council priorities and HAPC considerations. The SSC cautions against performing such a summation without further consideration of the importance of each category. It will be very difficult to define, let alone quantify, the relative merit of the proposals because information is largely deficient to objectively weight categories. The Council will need to clarify its desired weighting of the categories, realizing that the default would be equal weighting of each category.

The SSC stresses the importance of scoring the proposals in a uniform manner to ensure some level of objectivity. A clear definition must be established for all Council priorities and HAPC considerations. The analysts should provide clear definitions for the relative rankings of rarity, sensitivity, and vulnerability as done for "importance of ecological function". For example, is "rarity" thought to be: (1) low if coral is common in GOA and BSAI or (2) medium if coral occurs throughout AI, but uncommon in GOA and BS and (3) high if coral is distributed only in portions of AI? The SSC notes that there is need to distinguish between what is rare on the global scale and what is rare on the local scale. The SSC also noted that rarity in the context of HAPC could refer to a spectacular collection of species (e.g. a coral garden) or a region that supports a rare species of fish or coral. The ranking of HAPC regions could be quite different depending on which of these two definitions is used in a proposal. In cases where HAPC was defined on the basis of a spectacular collection of species, efforts should be made to identify the criteria used to distinguish one region of from another.

Plan Teams when reviewing proposals should provide a short and concise narrative clarifying how the relative score was determined, what data were used, and level of scientific certainty of the information used to support the proposal. Rationale must be clearly defined for each HAPC proposal and include a definition of habitat form and function. Direct or indirect benefits and how the HAPC provides for the production and protection of the resource should be summarized. Finally, an integrative step should be taken by the Plan Teams to jointly consider all proposals to determine if elements of multiple proposals could be combined to constitute an integrated program of protection.

The SSC recommends that HAPC definitions should periodically be reviewed to reflect improved knowledge derived from research. The need for this type of review would be particularly relevant with respect to proposals that based HAPC definitions on encounters with spectacular habitats observed during submersible dives. The fraction of the sea floor that has been mapped by submersibles is currently quite small. Thus, it is possible that as sea floor exploration is expanded habitats that appear to be rare, may occupy large areas of the sea floor. The SSC notes that NMFS and ADF&G scientists are currently working on a research project designed to associate topographic features with incidence of coral. If this project is successful, HAPC definitions may need to be revisited based on the estimates of the aerial extent of coral habitats in the Aleutian Islands.

C-5 CRAB EIS

Gretchen Harrington (NMFS) and Mark Fina (NPFMC) provided an overview of the Initial Council Review Preliminary Draft Analysis of the Environment Impact Statement for the Bering Sea and Aleutian Islands Crab Fisheries. Public testimony was received from Linda Kozak, Arni Thompson (Alaska Crab Coalition), John Garner (North Pacific Crab Association), and Earl Comstock (C.R.A.B.). **The SSC recommends that the analysis be released for public review following consideration of the issues discussed below.**

Comments on Chapter 1-3.

The SSC recommends a more complete discussion of the implications of the alternatives from the interplay of high-grading, soak time, discards, and estimation of total fishing mortality relative to the TAC. Some of these issues are discussed in various sections, such as pages 2-57 – 2.59, 4-19, 4-88 – 4-90. If all sources of fishing mortality are to be counted toward the TAC (not just crab in the landings), these interacting factors should be more fully discussed. Differences in discards (coupled to handling mortality rates) could affect whether the TAC is exceeded by total fishing mortality. Another issue is that the biological effects of differences in pot soak times are not entirely clear. Some experimental studies have found that pots soaked longer result in more selective catches of legal males and greater escape of sublegal males and females, whereas other studies are not so clear. On page 4-89, in the last paragraph before “Deadloss,” pot selectivity is incorrectly termed “highgrading.” Whereas the net effect could be somewhat similar, the SSC takes highgrading to mean the conscious selection of crabs with particularly desirable attributes (e.g., size or shell condition) from the catch brought aboard the vessel while deadloss are crabs that have died upon landing for processing. Other factors to discuss include potential additional mortality within pots associated with longer soaks, including predation by octopi, injuries inflicted by fish (e.g., halibut), and amphipod predation. Such mortalities could counteract reduced handling mortality of females and sublegal males associated with more selective catches.

The SSC received public comment about the desirability of including references to ADF&G reports, such as RIR 4K03-02, in which observer data are analyzed in detail for bycatch, discards, CPUE, and soak times in both CDQ and open access crab fisheries. The SSC agrees that reference to these reports would strengthen the discussion of these topics. Lastly, in Table 4.2-6 and the preceding discussion, the estimated number of legal males in the discards is taken as an index of highgrading. While this is reasonable, as a caveat the SSC notes that other factors can account for some legal crabs in the discards, including measurement errors (e.g., crabs mismeasured as sublegal when they were actually legal) by the crew. One would expect measurement errors to increase in crab fisheries with higher CPUEs. Perhaps some estimate of these measurement errors could be obtained by considering the amounts of sublegal males in the retained catch. Also, if onboard observers estimate whether male king crabs are legal by converting crab length to width rather than using a “stick,” then some crabs identified as legal could result from errors in this conversion.

The SSC recommends strengthening the discussion contrasting the Status Quo relative to the other alternatives concerning changes in crab abundance. For instance, the qualitative impacts of future increases in crab abundance should be considered over the long-term, when contrasting the Status Quo with the other alternatives. Characteristics of the fishery under present low crab abundances may differ markedly when crab populations are high. For instance, the proportionate distribution of landings among BS/AI processors and those in GOA home ports may differ particularly for vessels with GOA home ports depending upon whether vessels make only one landing during a short season (e.g., current low crab abundance) or multiple landings during a long season (e.g., future high crab abundance).

Section 2.6 (Alternatives Considered and Eliminated from Detailed Study) of the EIS should be expanded to include a brief discussion of alternatives suggested for consideration in the SSC minutes (April 2002), or if these alternatives are addressed in the RIR, the corresponding discussion from the RIR should be summarized in section 2.6. Specifically, section 2.6 should include a rationale for including all BSAI crab fisheries in a single rationalization program rather than developing programs specifically tailored to each crab fishery. In addition, section 2.6 should include a discussion of the rationale for not considering a rationalization alternative based on species specific spatial use rights.

Major Comments on Chapter 4 -- Economics.

1) The definition of efficiency used in the document is critical. In the EIS the concept of sector efficiency gets confused with the concept of "overall efficiency" and the discussion of efficiency in the harvesting and processing sectors is not consistent. In this report, efficiency is defined sector-by-sector which embeds the distribution of net national benefits in the measurement of efficiency. This definition of efficiency is pivotal for the economic discussion that takes place from 4-138 to 4-171. Key to this discussion is that any changes in the exvessel price simultaneously affect both harvester and processor efficiency. This definition can be used to directly evaluate the intent of the Council's *BSAI Crab Rationalization Problem Statement*, to select an alternative that "maintains healthy harvesting and processing sectors." If this is assumed to mean existing harvesting and processing sectors, measuring harvester and processor efficiency separately allows the direct evaluation of whether the individual sectors will win or lose under each of the alternatives.

2) The definition of the time period, whether it be the short-run (the transitional period) or the long-run, plays a critical role in an analysis of the different alternatives. The entire theoretical justification of using processor quotas to protect existing processors is to provide compensation to processors during the period when their capital is nonmalleable (the short-run – which may be a quite lengthy period of time if physical capital is durable and technological change is absent). In the long-run processor compensation is not an issue and it is not clear that compensation needs to be provided on an essentially permanent (long-term) basis. In fact, the only reason to give individual transferable quota to any party is to assure that there are no policy-induced transitional losses in asset values. This is true for both harvesters and processors. And by making quota a permanent allocation, the initial recipients of the quotas exclusively capture the full benefits of rationalization. A more thorough discussion of short-run vs. long-run perspectives needs to take place in the document. The Table of "significance conclusions" (4-140) appears to refer to long-run outcomes. It needs to be reproduced for the short-run. In this short-run table the S+ in processor efficiency under alternative 3 needs to be changed to an S- (with the understanding that this judgment applies to existing processors on average). Again, this focus on transitional impacts is very important as it is the entire theoretical justification for processor quotas.

3) Throughout the document there seems to be an assumption that binding arbitration will occur and that prices will not be successfully negotiated without resort to binding arbitration. In fact, it may be that the threat of binding arbitration (which is potentially expensive in terms of delays to fishing and out-of-pocket expenditures for arbitration services) is what is actually important. Arbitration is designed only for the purpose of price dispute resolution, not price formation. For example, (4-145 – 11th from the bottom) the text reads "*Whether these efforts maximize efficiencies across both sectors will depend, in part, on the ability of parties and the arbitration system to balance the different efficiencies across the two sectors in setting price.*" Binding arbitration need not occur to have a successful price negotiation (and therefore an acceptable level of negotiated rent-sharing).

4) It is not clear that U.S. consumers will benefit from any alternative under crab rationalization. Indeed it is theoretically possible that increased product quality, and landings dispersed over time, could make a crab product more desirable in Japan, thus raising domestic prices, decreasing domestic quality, and therefore

decreasing the nation's consumer surplus. In the Table of "significance conclusions" (4-140) "Consumer benefits" should be changes to "U.S. Consumer benefits" and the S+ (under alternatives 2-4) should be changed to U.

5) The discussion of several important issues is limited due to data confidentiality constraints. The recent action by Congress contains specific language regarding confidential data that may allow the analysts to expand the discussion of several issues being considered; for example, the discussion of which communities are eligible for the first right of refusal program). The SSC encourages the Council to seek clarification on the Congressional language (Sec. 801(8)) and to incorporate as much information on the distribution of benefits as possible into the EIS.

6) The SSC expressed concern that the thrust of the legal opinion regarding "delegation of authority" included in the briefing book under the Gulf Rationalization item (see Agenda Item C-1(B) Attachment D) would logically apply to the crab rationalization program. The crab rationalization program features leasing, cooperative sub-assignments of harvest opportunities, CDQ allocations (with attendant sub-allocations), and community protection measures that all arguably contain delegations of authority similar to those addressed in the legal opinion. Council staff indicated that the legal opinion was confined to the specific community allocation options in the Gulf Rationalization program. The SSC suggests that the Council specifically request clarification on this issue as it could alleviate considerable confusion in the future.

7) The discussion regarding the effect of the various alternatives on fish tax revenues in the local communities should be expanded. First, it is not clear that the community protection measures will unambiguously result in maintaining or increasing local tax revenues. As we have seen under the halibut/sablefish programs, ex-vessel price increases in a competitive market situation may (or may not) make up for the migration of deliveries to different locations. Conversely, the restriction of markets under the crab plan may lead to lower prices relative to an unrestricted rationalization program and thus lower tax revenues even though the geographical pattern of deliveries is preserved. Further, the preservation of delivery patterns is not at all certain. As the document notes, the right of first refusal provision applies to firms, not plants. The implication of this detail is that only small processing firms (those with only one plant) are effectively restricted by the right of first refusal provision. Second, the current discussion does not address the potential for various communities to engage in aggressive taxation policies. The degree to which a community is able to expropriate resource rents through taxation corresponds to the extent that deliveries are effectively guaranteed into that community (e.g., the north region).

8) The document suggests that relatively little can be said about the effects of the proposed action on communities. In contrast, it would seem that coastal Alaska offers abundant evidence of the community-level effects of more versus less market competition.

9) The document should contain some discussion of the potential value of the harvesting and processing privileges being created and distributed by this action. For example, public testimony suggested that harvesters are already trading in a market for future shares at a level suggesting an overall value of \$500 million for harvest shares distributed among the 250-300 participants. While the current distribution of rents between harvesting and processing sectors is not known, for the purposes of illustration, a 50/50 split would imply an equal \$500 million value in processing shares distributed among eligible processing firms (public testimony suggested that in excess of 85% of the crab harvested in the Bering Sea is processed by 9 firms).

Comment 1 Examples

Example 1: Because of the sector-by-sector definition of efficiency, for balance, in Tables ES-2 and Table 4.6-1 (page 4-144) after "Harvester efficiency", "(revenues and costs)" should be inserted for each of the first

points in alternatives 2-4. This should duplicate what was done for processor efficiency in Table 4.6-2 (page 4-148).

Example 2: (Third sentence top of page 4-141). "Consequently, the primary differences in harvester efficiency under the different alternatives arises from differences in costs of harvest and landing of crab." Under the sector efficiency definition it would seem that the primary differences would be due to the distribution of quasi-rents.

Example 3. (Last paragraph 4-142 and footnote 2). Again, in this section there is a failure to note that harvesting sector efficiency is based on net benefits. If fully compensated for traveling longer distances, harvesting efficiency is not decreased, despite the fact that more fuel is burned (see footnote bottom of page 4-143).

Example 4. (4-143) The second full paragraph concerning B-shares. The fourth sentence incorrectly states that if a processor is willing to pay more for B-shares, then naturally occurring gains in harvesting efficiencies (lower delivery costs) would be lost. But higher exvessel prices would negate higher costs in terms of harvester efficiency. Here again is an error that results from considering harvesting efficiencies only in terms of costs rather than net benefits.

Example 5. (Last sentence 4-143). "A harvester may choose to sacrifice efficiency by delivering to a processor that is willing to pay a greater price." But under the sector definition of efficiency if a processor is willing to pay a greater price this is an increase in efficiency to a fishermen. Harvester efficiency cannot be sacrificed to gain a higher price. Price is part of efficiency.

Example 6. In the Table of "significance conclusions" (4-140) the row measuring "Distribution of benefits between the harvest and processing sectors" should be deleted. It is redundant with the measurement of processor and harvest efficiency.

Other Comments on Chapter 4 -- Economics.

1) (Page 4-145 – first sentence) The first sentence is not necessarily correct because processor-provided goods and services are nothing more than negative revenues. If more G&S are paid out presumably the benefits of those services would be countered by lower exvessel price.

2) (Page 4-145 – the last paragraph lines 9-11 beginning "*Some processing efficiencies could be lost to accommodate harvester preferences, if the processors are able to reduce exvessel prices by accommodating harvesters.*" Some processing efficiencies will be lost if the processors have to pay higher prices that result in harvester efficiency gains.

3) (Page 4-151 – the middle paragraph) Opportunities for substitution are misrepresented. For example, see the statement in the middle of the page: "*So, although fewer crab lines will be required under rationalization, some of the facilities that become excess might be usable for other processing activity.*" In the next paragraph. "*Since processors can use many of the facilities used for crab processing in other processing activities..., the capitalization of the processing sector may not change dramatically...*" misrepresents what "capitalization" refers to. Capitalization is not a physical concept; it is an economic concept.

4) (Page 4-154) The concept of intrinsic value introduced in the first two paragraphs needs to be changed "Intrinsic value" does not only occur when a crab is harvested. Crab has both "existence value" and value as part of the ecosystem.

5) (Page 4-157) The last sentence on this page "*If harvesters are able to drive processors to compete for B share landings....*" is conditional. It should not be. Replace "IF" with "Depending on the extent that".

6) (Page 4-159 – first full paragraphs) The SSC recommends the removal of the second sentence of the first full paragraph. "Vertical integration reduces any dependence on harvesters for landings and provides additional information to processors that can be used in negotiations." That is only true if the firm is 100% integrated. Crab firms are substantially less integrated than that.

7) (Page 4-166) The first full paragraph suggests a leasing market for quota is not likely because processors might wish to protect long-term interests in the fishery. Why does leasing jeopardize a long-term ownership interest? Clarification is needed.

C-8 DPSEIS

The SSC received a report on the biological assessment (BA) for the Draft Programmatic Supplemental Environmental Impact Statement (DPSEIS) from Mr. Steve Davis and Ms. Brandee Gerke (NMFS). The conclusion of the BA is that the scope of the proposed action of the preliminary preferred alternative does not require re-initiation of a formal section 7 consultation under the Endangered Species Act regarding adverse effects on listed species or critical habitats. Mr. Davis described the timeline of the BA process, noting that the final BA will be available prior to the April Council meeting.

C-9 SSL MITIGATION

Larry Cotter (Chair of the SSLMC) and Bill Wilson (NPFMC Staff) presented reports. The only public testimony was from Julie Bonney (AK Groundfish Data Bank). Shane Capron (NMFS PR) clarified issues with the Informal Section 7 consultation. The majority of the SSC's questions were regarding the lack of detail in the Informal Consultation. The SSC was reminded that the Consultation is a "first cut" and that the complete analysis will be included in the coming EA. The EA analysis will explain how the proposed actions are consistent with "no net loss" policy.

D-1 GROUND FISH MANAGEMENT

D-1(a) National Bycatch Strategy and Alaska Region Report

Sue Salveson (NMFS) presented a report on the "Alaska Region Current Bycatch Priorities and Implementation Plan." The SSC received a supplemental report on the "NOAA Fisheries Objectives, Protocol, and Recommended Precision Goals for Standardized Bycatch Reporting Methodologies." Public testimony was provided by Lori Swanson (Groundfish Forum), Paul MacGregor (At-sea Processors Association), and Julie Bonney (Alaska Groundfish Databank).

The SSC offers three comments on the Alaska Regional Implementation Plan. First, under Section 3.3 that addresses gear technology to reduce bycatch, the SSC recommends explicit mention of experimental fishing permits as a means to achieve this objective. Involvement of industry expertise is important to developing practical means to reduce bycatch through technological developments. Second, the Alaska Plan proposes new funding for bycatch-related activities, and potential new Congressional appropriations for the amounts identified would go a long way toward meeting the goals of the National Strategy. However, these funds may be insufficient and new federal funding is uncertain, so developing creative ways for additional funding

should be considered. Options include advancing bycatch research priorities in the Saltonstall-Kennedy Program, North Pacific Research Board funds, and potentially Alaska Sea Grant. Third, the SSC noted that there is substantial overlap in the objectives of the Alaska Regional Implementation Plan and the objectives in proposed revisions to the observer program.

The SSC received testimony and discussed the definition of "bycatch" in the MSFCMA and National Bycatch Strategy document. Apparently, the MSFCMA considers only discards as bycatch, whereas the National Bycatch Strategy considers bycatch as the sum of discards and retained incidental catch. The difference is more than a matter of semantics, because the National Bycatch Strategy strives "to implement conservation and management measures ... that will minimize ... bycatch." Whether retained bycatch should be reduced depends upon the stated objective. Certainly, if retained bycatch causes the ABC or OFL to be exceeded, then such bycatch reduction is needed to achieve conservation objectives. However, if a species is not targeted by any fishery, but is caught and retained as bycatch in a multispecies fishery and that catch falls within acceptable TAC levels, the goal of reducing this bycatch is unclear. On the other hand, if a species is taken and retained both as catch in a directed fishery and as bycatch in a non-directed fishery, then decisions to apportion this species' TAC among these fisheries are probably best left for arbitration by the Regional Council. The SSC recommends that NOAA Fisheries consider these implications.

The four-page NOAA Fisheries document also addresses standardized bycatch reporting methodologies. Precision goals are 20-30% coefficient of variation (CV) for each protected species and for total discards of fish for each fishery. NOAA Fisheries notes that these levels are goals it "strives to achieve" (not requirements) and lists several caveats. Nevertheless, the SSC notes that a variety of factors ultimately determine the CV, including size of the fishery, sample size, species-specific aggregating behaviors, proportion of the fishery observed, and the distribution of bycatch amounts and species by area, time, and vessel. Without a database of CV values for current levels of bycatch, it is impossible to evaluate whether these precision goals are achievable or useful.

Moreover, an equally important consideration in catch or bycatch estimation is the bias, the expected difference between the observed bycatch and the true bycatch due to failures to achieve a strictly random sample. NOAA Fisheries should also include a goal to develop statistically sound sampling strategies that minimize significant levels of bias.

D1(b) Exempted Fishing Permit (EFP) Request for Rockfish Fishery in SEO/GOA

Mr. Chip Treinen (Alaska Fisheries Development Foundation: AFDF) and Dan Falvey (Alaska Longline Fishermen's Association: ALFA), the EFP Project Manager and Project Contractor/Coordinator respectively, presented the details of the proposal. AFDF is requesting an EFP for the SE Outside (SEO) District of the GOA. The purpose is to analyze the feasibility of using two longline gear designs to access the underutilized rockfish TAC in the SEO. These rockfish species have traditionally been harvested by trawl gear, which has been prohibited in the SEO since 1998. A two phase EFP is being proposed. The first phase will focus on the development of longline gear types and the efficacy of fishing operations in targeting desired species. The second phase will compare catch rates among gear types and evaluate economic viability of this fishery.

NPFMC Executive Director, Chris Oliver introduced the EFP proposal to the SSC and reported that, in its review of this proposal, the Alaska Region determined that halibut and sablefish bycatch retention will be covered by IFQ held by the participants in the EFP. The EFP proposers objected to this requirement, stating that this would limit the EFP at-sea work and constrain the time necessary to adequately conduct the research. **This issue must be resolved prior to proceeding with the EFP.**

The SSC supports forwarding the EFP to the Council for consideration with the following suggestions to enhance the design of the proposed EFP:

- Phase 1 of this EFP should include a specific analytical design that would measure the efficacy and performance between gear types. Data collection must provide for estimation of species specific catch of non-targeted species on a per set basis. This will be required in order to establish the feasibility of Phase 2.
- The experimental design and data requirements for Phase 2 of the EFP are not fully developed. The AFSC recommended that the EFP for Phase 2 be dependent on the results of Phase 1. The SSC supports this recommendation and requests the opportunity to review the results of Phase 1 and the analytical/research design for Phase 2 at that time.
- This EFP will require the use of smaller vessels. The SSC recommends that individuals employed to perform observer duties and data collection in this EFP have equivalent training. NOAA Fisheries Observer Program staff informed the SSC that they will be working to accommodate this recommendation.

D-1(c) Groundfish Management (SSC only)

D-1(c)(1) National Standard 1 Guidelines

For the past few years, the NPFMC and NMFS have disagreed over the guidelines for National Standard 1 regarding harvest policy and definition of overfishing. In April 2003, the SSC assisted the Council in preparing comments regarding a NMFS proposal to revise these guidelines. Since then, NMFS formed a workgroup to prepare the revision, which should soon be released as a proposed rule. Grant Thompson (AFSC) briefed the SSC on this revision, though it should be noted that the actual language in the proposed rule is not yet available. It appears that NMFS has been very responsive to the issues raised by the Council. The revised set of guidelines will likely contain increased flexibility to respond to the needs of different Councils and fisheries. It will directly acknowledge the NPFMC's conservative harvest policy that provides for automatic rebuilding. It will provide more consistency in specifying rebuilding times. It will replace the onerous term "overfished" with "depleted" in most cases. **The SSC commends the workgroup for their excellent work and their careful consideration of issues raised by the Council. The SSC looks forward to the opportunity to examine revisions to the NPFMC overfishing definitions after the revised guidelines are published.**

One of the proposed changes to the guidelines would direct NMFS to distinguish between core species and other species. Core species would include target species and stocks that are vulnerable to unintended mortality. Other species would include non-target species. Core species would be managed as single species while other species would be managed as assemblages. The SSC noted that this change could impact the non-target management proposals currently under discussion by the Council and NMFS. In previous meetings, Council staff presented a framework for management of non-target species that would treat non-target species as a new category of species. Under the proposed framework, estimates of ABCs, OFLs and MSSTs would not be required for species in the non-target category. The SSC notes that some vulnerable species may be included in the non-target category under the proposed framework. The proposed change to the guidelines could impact NMFS approval of the proposed framework.

D-1(c)(2) Crab Overfishing

Lou Rugolo (NMFS) and Shareef Siddeek (ADF&G) presented an overview of the progress of their working group to revise the overfishing definitions in the crab FMP. Public comment was provided by Arni Thomson of the Alaska Crab Coalition.

The crab working group is comprised of four members, two from NMFS and two from ADF&G. When the overfishing definitions were originally developed by the crab plan team, they had intended that they be revisited in a period of 5 years or so. Now, 5 years later, this working group is embarking on this task. In its September 2003 meeting minutes, the crab plan team specified that the charge of the working group is to "lead the analysis of a new FMP amendment to revise overfished/overfishing definitions."

The SSC believes that it is appropriate to undertake a review of these crab plan definitions. A number of inconsistencies and unnecessary complexities have been uncovered, and improvements can be made.

Top priority should be given toward a careful examination and revision of the definitions of overfishing and overfished, as indicated by the crab plan team. In the course of embarking on this priority task, other closely related issues must be reevaluated, such as B_{msy} , natural mortality rate (M), MSST, and MFMT. There is a linkage among all these parameters, so population simulation modeling, biomass dynamic modeling, and yield-per-recruit analyses would inform this analysis. For instance, MFMT should be considered under alternative definitions of MSST in the context of stock rebuilding and attainment of other management objectives. Effects of natural variation in recruitment and uncertainty in stock assessments and mortality on these estimates should be considered.

The SSC notes that the estimation of M and B_{msy} is difficult for these crab species. For instance, estimates of B_{msy} depend upon the period over which data are used, and the choice of the appropriate time period may be subjective. The current FMP defines overfishing using explicit values of M for king and Tanner crab stocks that were developed based on estimates of longevity. As new estimates of M are developed, the SSC recommends frameworking these definitions in the FMP so that future plan amendments are unnecessary when new data and analyses result in new estimates of M .

The working group discussed an intention to explicitly link M estimates in population models with M estimates used in harvest control rules. The SSC supports this goal, but also notes that there could be reasons for these two sets of estimates to differ. First, M used to define harvest control rules may be based on life history considerations, whereas M may be estimated internal to the population dynamic model such that best fits are attained. However, survey catchability and selectivity are confounded with M in population models, so neither one of these parameters may be estimated with much confidence. It may be possible to craft a stock assessment scenario, in which M is fixed at the same level as in the harvest control rule, allowing catchability and/or selectivities to be estimated. Second, to the extent that some crab stocks apparently experience large, short-term increases in M perhaps due to disease or environmental causes, it may be undesirable to trigger commensurate increases in F at a time of population crash. Presumably, this would be the outcome if population model estimates of M were directly translated into harvest policy. Instead, simulation modeling can be used to develop long-term harvest policies that are more risk averse to these and other uncertainties in stock dynamics.

The SSC recommends that the working group consider one additional facet in their work plan. Typically, crab abundance is estimated by summer crab surveys or population models that incorporate summer survey data. To estimate the overfishing level, MFMT should be applied to estimated crab abundance at the time of the fishery. As crab fisheries occur in fall or winter, summer crab abundance should be discounted for the

natural mortality that occurs between the time of the survey and the time of the fishery. Failure to do so results in misapplication of the overfishing definition.

Since the analysis has not yet been conducted, statements made during the presentation suggested that a plan amendment could include higher estimates of B_{msy} , higher MSSTs, lower estimates of M , lower MFMTs, and perhaps lower target harvest rates to stay safely below MFMT. Such statements should be avoided until the analyses are completed and reviewed.

As a plan amendment is developed, it should be brought forward to the NPFMC and Alaska Board of Fisheries on parallel tracks. This should be workable, as the Board of Fisheries is scheduled to address BS/AI crabs in March 2005.

For its next meeting, the SSC asks the working group to present an outline of the new draft control rule system that might be applied to BS/AI crabs. A more formalized procedure for setting overfishing levels, such as the tier system for groundfish, is preferred. Like the groundfish tier system, rather than a constant F limit reference point, the working group should consider scaled-down reductions in F_{OFL} as the stock declines to low levels.

D-1(c)(3) Population Modeling and Harvest Strategies

At the SSC's request Joshua Sladek Nowlis (NMFS) give a presentation of his evaluation of the North Pacific groundfish fishery management system. This work evaluates how well various harvest control rules perform that are similar in character to those used in the Council's Tier system. Performance measures for five different management objectives (such as maximizing yield and maintaining high abundance) are calculated with computer simulation modeling and compared with each other. This work is novel and informative both in its methodology and its results. The results show that there are tradeoffs in achieving management objectives, so that it is important to explicitly state the goals of management in constructing a management policy. The results also suggest that the Council's management strategy of reducing fishing mortality when biomass is low (along with similar policies) is a good idea to promote rebuilding and to avoid population collapse. Furthermore, treating MSY as a limit rather than a target (by keeping fishing mortality below the MSY level) is necessary to achieve particular management goals related to conservation. Another implication of this work is that current work by NMFS to improve stock assessment is desirable to move stocks from low-information tiers.

This work also contains an interesting evaluation of the Tier system regarding reductions in TAC relative to biomass status. Biomass status was estimated from time series by taking current biomass over maximum biomass across the series. While there was not an increase in the reduction in TAC at poorer levels of biomass status (as might be expected with a conservative management system), further work is needed to understand whether other factors such as species groupings, socio-economics, or various management actions are more important than biomass status. When the Council revisits overfishing definitions, it may be worth considering whether these levels of biomass status could be used to further refine the classification of fish stocks into Tiers. For example, could a correction factor to adjust fishing mortality downward be developed from these biomass indices for species in Tiers 4 and 5? The adjustment could be done similarly to the way it is now done in Tiers 1 - 3.

D-1(c)(4) Multispecies/Ecosystem Models

Dr. Kerim Aydin (AFSC) provided an overview of current multispecies and ecosystem modeling efforts at the Alaska Fishery Science Center. Models in development include MSVPA/MSFOR (operational for the

EBS), a multispecies statistical model for EBS pollock and cod (under development), and the Ecopath/Ecosim approach (operational or under development for GOA, AI, and EBS). An extension of the Ecopath/Ecosim approach (Ecosense), developed at AFSC, provides retrospective fits to time series of abundance and diet composition for various groups (100+ groups, ranging from size classes of individual species to large functional groups such as phytoplankton). Ecosense model outputs include estimates of diet composition for each predator (possibly by year, depending on data availability), estimates of predator-specific predation rates on each prey item (by year, where possible), and the corresponding estimates of natural mortality for each prey group. In addition, various composite indices (e.g. average trophic level across groups) are available or under development. The Ecosim/Ecosense approach allows forward projections to examine various fishing scenarios.

In addition to continuing to develop these models, it may be advantageous to explore multivariate time series modeling approaches. These models could be stand-alone representations of the dynamic behavior of population and recruitment trajectories, or as a mechanism for adjusting the forecasts and simulations that derive from the multispecies and ecosystem models already being developed. When structural relationships involve latent variables, when the form of functional relationships is unknown, or when the dynamics of modeled processes are important relative to contemporaneous relations with other variables, simple multivariate time series procedures may have an advantage over complex structural models so long as the processes that generate the time series are stationary. (Zellner and Palm¹). The choice of model complexity involves tradeoffs between added sampling error from joint modeling and reduced specification error due to representation of additional interactions.

While the SSC encourages continued development of multispecies and ecosystem models, we note that models are metaphors; abstractions intended to approximate certain aspects of the behavior of real systems. When models are used in simulations or for forecasting, there is valid concern as to whether the simulations (forecasts) reflect the behavior of the system or are merely an artifact of the model specification, a concern that cannot be resolved based on how closely the model tunes to data used in the estimation of model parameters or fitting of free variables.

D-2 Scallop SAFE

The SSC received a report on the scallop SAFE and the scallop FMP from Diana Stram (Council Staff) and Jeff Barnhart (Scallop Plan Team chair, ADF&G). Public testimony was presented by Teresa Kandianis. The SSC notes that this is the first SAFE report since the implementation of the FMP. We fully support the Plan Team's intentions to prepare a SAFE document annually. The SSC suggests several improvements and additions for future SAFE reports as follows:

1. The SAFE report should be more user-friendly by summarizing important information up front, with clear identification of where supporting, detailed information may be found in any attachments or published documents. The BSAI or GOA groundfish SAFE documents are recommended as templates.
2. Tables of past and present survey abundance estimates and time series of age composition should be included in the SAFE document.
3. Survey biomass and catch must be presented in consistent units.

¹ Zellner, A. and F. Palm. 1974. Time series analysis and simultaneous equation models. *Journal of Econometrics* 2:17-54.

4. The current practice of limiting surveys to regions previously fished may misrepresent scallop biomass. Efforts should be made to design surveys that will serve as index areas for biomass estimation. A time series of abundance should be maintained for areas that are consistently sampled over time. If new beds are discovered, survey abundance estimates should be treated separately from the historical index areas.
5. If possible, index areas should be established for scallop beds currently not surveyed. If cost is prohibitive, ADF&G should explore whether NMFS trawl surveys, NMFS – ADF&G small mesh surveys or depletion estimators could be utilized for abundance estimation.
6. Given that there are a number of apparently discrete beds dispersed across large areas of the Gulf of Alaska and the Bering Sea, the treatment of Alaskan scallops as a single stock for overfishing determinations needs further evaluation. This evaluation might include results of recent genetic analyses, duration of the larval stage, and estimation of advection rates by dominant currents.
7. The determination of stock status should be supported by catch data in the summary section, including a graph of catch history relative to the OY level for the state as a whole.

The SSC supports use of an age-structured analysis in the estimation of population biomass, mortality rate, and historic harvest rates for the Kamishak Bay population. We requests that the model be fully specified and that the parameters be clearly identified as to which are fixed and which are free. Likewise the document should distinguish data from parameters. The SSC requests a presentation when the model is updated.

The SSC notes that the cooperative structure of the industry is a unique and salient feature of the fishery, for which a more complete treatment would be useful. The SSC appreciates Ms. Kandianis's offer to supply economic information for inclusion in a SAFE report, and the SSC suggests that this could be incorporated into the Economic SAFE report, and referenced in the scallop SAFE report. A separate, standalone report that describes this cooperative may be worthwhile for comparison to other cooperative systems.

The SSC supports an amendment of the scallop FMP that, at a minimum, would be a housecleaning rewrite to bring the plan up to date in a coherent, easier-to-read document. As noted by the presenters, the FMP has gone through a number of amendments without a substantial rewrite. In its current form, it is a challenge to read the FMP and determine how the fishery is managed.

MISCELLANEOUS

The SSC recommends that Mr. David Carlile be appointed to the Bering Sea/Aleutian Islands Groundfish Plan Team.

North Pacific Fishery Management Council
Advisory Panel Minutes
Anchorage Hilton Hotel
Anchorage Alaska, February 2-7, 2004

Signed: _____

Date: _____

The following members were present for all or part of the meeting:

John Bruce
Al Burch
Cora Crome
Craig Cross
Tom Enlow
Dan Falvey
Duncan Fields
Dave Fraser
Jan Jacobs

Bob Jacobson
Teresa Kandianis
Mitch Kilborn
Kent Leslie
John Moller
Kris Norosz
Eric Olson
Jim Preston
Michelle Ridgway
Jeff Stephan

Lance Farr was absent.

The AP unanimously approved the minutes from the December 2003 meeting, and voted to postpone election of a chairman and vice-chair until the April 2004 meeting.

VMS

The AP recommends that the Council approve the temporary use of the VVS system as developed by Ocean Logic as an alternative to the VMS system for the 2004 BSAI and GOA groundfish fishery or until NMFS approved VMS's become available or until VVS is permanently approved. *Motion passed 18/0.*

C-2 Observer Program

The AP recommends the Council task the OAC with: reviewing and potentially adding to the Problem Statement; refining the existing Alternatives; and exploring new alternatives that will address the issue of combining BSAI and GOA as one program. Additionally the OAC should explore the potential use of a mixed model for collecting observer cost in any service delivery model that may be chosen as well as the potential cost of these different models to industry.

Additionally, the AP recommends the Council task the OAC to:

- 1) Investigate the "fishing operation exemption" of FLSA;
- 2) The cost of NMFS recommendation to provide "overtime" coverage for Observers;
- 3) Investigate how to increase flexibility in the current service model to address NMFS observer program issues.

Further, the AP recommends the Council direct staff draft a letter to NMFS headquarters requesting the reconsideration of the adoption of the FLSA agency policy to the industry funded observer program in Alaska. Specifically, the letter should question whether the agency considered the fisheries exemption. If not, why not? The letter should further query headquarters as to their decision to extend the provisions of FLSA outside the territorial area. *Motion passed 19/0*

C-3 IRIU

Needs and Purpose statement

The BSAI groundfish fisheries support a number of sectors using different gears and specializing in certain species and /or areas within the BSAI region. Currently, those sectors fish on common pools of target species, secondary species and prohibited species. Competition inter sector as well as intra sector has fostered derby style fisheries that increase waste and does not allow fishers to utilize fishing methods that better reduce waste and prohibited species catch.

The NPFMC's overarching mandate is to maintain a healthy marine ecosystem. Incorporated within this mandate is the MSA directive to Councils to reduce bycatch, minimize waste, and improve utilization. Over the past eight years, the Council has approved measures to further the region's attainment of these goals. During this time, the annual waste in the BSAI groundfish fisheries has declined steadily with utilization goals met in fisheries where margins are adequate to cover the increased costs of full retention. However, in the non AFA multispecies CP trawl sector, costs of increased retention in low margin fisheries imposed substantial costs that were not balanced with associated benefits. Subsequent to this finding, NMFS determined that the full retention of these low value species would impose such significant harm to a number of vessels within this sector that the full retention of yellowfin and rocksole did not meet the "to the extent practicable" test also mandated by the MSA. The Council has determined from their knowledge of existing rationalized fisheries that such measures could pass the practicability test when accompanied by appropriate tools enabling fishers to slow the race for fish.

The Council has determined the first step in devising these tools must be to allocate BSAI target species, secondary species, and prohibited species amongst the different sectors. This allocation will be done in a manner consistent with the MSA directives in regard to allocation. These include, among others, present participation, economic dependence, and capacity to engage in other fisheries. The Council has also determined that these sector splits could allow cooperative formation in these sectors if all participants agree; and that formation of cooperatives gives fishers the tools necessary to reduce waste and prohibited species catches, thus allowing the Council to reduce bycatch where practicable.

The greatest need for tools to reduce discards and PSC is in the non AFA CP trawl fleet who are reaching the maximum achievable under the current management system.

The purpose of the proposed action is to create a management program that increases utilization and retention, improves conservation, reduces bycatch and provides economic stability for fishers, processors, and communities. The sector split portion of this action will provide economic stability to current participants in the BSAI fisheries and remove the inter sector race for fish. It will also provide the foundation on which each sector can subsequently build a rationalization program that suits the unique characteristics that define the different sectors.

The proposed action will facilitate the construction of a cooperative for the non AFA trawl CP sector recognizing the near term need in this fishery for tools enabling compliance with Amendment 79 of the BSAI FMP (the groundfish retention standard).

This proposed action should also examine a management program to continue the reduction of prohibited species bycatch over time through cooperative formation, and examine how PSC reduction could be shared with the affected fisheries. *Motion passed 17/0/2*

The cooperative design should recognize and preserve the diversity of vessels, ownerships, and targets within the sector. Some consolidation is expected; however, that is not a primary goal of this action. The Council, in designing this cooperative, recognizes the monitoring model will be complex, given that the vessels range in length from 107' to 300' and in capacity from 15 mt/day to 120 mt/day, and that the monitoring model should examine capacities as well as length in achieving adequate data collection so as not to disadvantage low producing vessels to the extent they cannot join a cooperative.

The proposed action should slow the race for fish, stabilize fisheries and fisheries dependent communities, improve the safety of life at sea, maintain the relative efficiencies and diversity of the industry while recognizing long term investments in the fisheries.

Motion passed 18/1

Additionally, the AP requests the Council incorporate the following into the Components and Options in 80A and 80B:

80A Component 5: Option 5.2.1 Change “exclude” to “include AFA-9 catch history...” (Alternative 2)
Motion passed 18/0

80A Component 5: Option 5.4 Change “include” to “exclude AFA-9 catch history...” (Alternative 3)
Motion passed 18/0

80A Component 5: Add an Option 5.6, 2000-2003 with a suboption to exclude 2001 *Motion passed 16/1*

80A Component 10: Delete *Motion passed 18/0*

80B Component 4: Add Option 4.7 - 100% *Motion passed 15/2/1*

80B Component 6: Option 6.3 add suboption
don't drop a year
Motion passed 19/0

80B Component 6: Add suboption to 6.4 98-03 drop 2 years *Motion passed 19/0*

C-5 Crab Rationalization Environmental Impact Statement

The AP recommends the release of the Draft BSAI Crab EIS for public review and comment. The AP further recommends staff incorporate the SSC's comments and the following AP recommendations if inclusion of these comments and recommendations can be done prior to release and will not delay final action.

- ✓ Include the “Council Motion for BSAI Crab Rationalization June 10, 2002 as updated April 2003” in the EIS. *Motion passed 19/0.*
- ✓ Include discussion relative to 4.6.7.3 on page 4-217 of the EIS, be updated to include discussion of the DOJ letter dated August 27, 2003 relative to anti-trust risk associated with binding arbitration. *Motion passed 18/0.*
- ✓ The AP endorses the SSC's recommendation #5 on page 5 of their February 2004 minutes. Additionally, the AP requests staff prepare a document to be circulated to the public before the June meeting which would show the allocation of IPQs to individual processors and the distribution of IPQs among communities. *Motion passed 19/0.*
- ✓ The discussion of the August 5, 2002 letter to congress identifies that other (non-MSFCMA) statutes would need to be amended to implement the mandatory data collection program. This section of the EIS should identify those statutes and whether the data collection may be constrained, given that 801 (j) (I) only addresses MSFCMA restrictions on data collection. (4.6.7.5 pate 4-224) *Motion passed 18/0*
- ✓ Expand discussion of the short and long term effects of crab rationalization, and that efficiency be clearly defined and applied consistently to both the harvesting and processing sectors. *Motion passed 18/0/1.*

C-6 Congressional Legislation

Crab Rationalization

The AP recommends the Council initiate a trailing amendment that analyzes a range of alternative ratios of A shares and B shares in the BSAI crab fishery. The amendment would have as its range of alternatives: 50/50, 60/40, 70/30 and 80/20.

Further, the AP recommends that the amendment be ready no later than December 30, 2005. As a suboption, all shares originally designated as A shares shall retain their regional designations, should the ratios between A shares and B shares be modified. Motion passed 13/6.

Minority Report:

We, the undersigned members of the Advisory Panel respectfully disagree with the motion to initiate a "trailing amendment" on the percentage of fishing quota that should be A share and B share.

This issue was initially decided in June 2002 in the main Council motion. The Council then had before it the motion to adopt any of the range of alternatives in this motion. The June 2002 motion was debated fully, in public, voted on, and a motion to reconsider the vote was rejected. This amendment will take staff and Council time even though there has been no information developed from program operation that suggests a need for change. The Council, and staff, has many other high priorities that will be affected by taking on this additional project. In fact, the motion is simply requesting another vote on the issue with no new information and no experience with implementation. Following the June 2002 Council meeting, the Council considered various trailing amendments over the succeeding eleven months. A motion to rescind the vote on the 90/10 split could have been scheduled and made in order. That would have provided finality. Now, as NMFS works on implementation of the program, this motion calls for a vote in late 2005, in the middle of implementation to sow uncertainty in the entire program.

The Council program calls for a cool down period during the first two years of the program in which A shares must be utilized in the historical community if processing. The AP trailing amendment would remove that requirement for any shares converted from A shares to B shares under the motion.

We all hope that everyone will work together to successfully implement the crab rationalization program. With this trailing amendment, some may instead focus on strategies to lower the portion of A share fishing quota, which may in turn negatively affect the program.

Signed: Jim Preston, Teressa Kandianis, Tom Enlow, Kris Norosz, and Mitch Kilborn.

GOA Rockfish

The AP recommends the Council not take action at this time pending further input by the stakeholders and proposers. Additionally, the AP recommends the Council request staff agenda this item for the April 2004 meeting.

Further, the AP expresses its intent that the rockfish pilot program should not slow down the GOA Groundfish Rationalization package and requests that the proposers align the program with the options for rockfish under GOA Groundfish rationalization where possible.

Motion passed 18/0

AI Pollock

The AP recommends that an amendment to the BSAI FMP be initiated for an AI pollock fishery that would follow the April/June schedule alternative to mesh with the normal specifications process for a fishery to occur in 2005.

Further, the AP provides the following comments on the potential FMP amendment alternatives:

Optimum Yield (OY) cap:

- Require, in the FMP, that pollock allocations to an AI fishery com from within the OY cap

Use of B season allocation:

- No action. Maintain current 40/60 season apportionment requirement for pollock fisheries
- Put B season allocation in a reserve, permitting reallocation of harvest amount to another gear group in the B season, to the EBS subarea, or to another species or species group
 - SUBOPTION: Pro-rate to the species which it was deducted

Small vessels

- Provision for small vessels to fish starting in 2005
- Defer small vessel participation until a later date 2 or 5 years from now to allow for development of a management program

Economic development mandate

- Require an annual report to the Council

Mandatory vessel activity

- Have NMFS staff consult with enforcement and provide the Council with options.
- Mandatory shoreside monitoring

Expand the charge of the SLL Mitigation Committee to include discussion of modifying Aleutian Islands SSL closure areas to accommodate small vessels fishing during the A season for the Aleut Corporation pollock allocation.

Motion passed 17/0

C-9 Steller Sea Lions

The AP recommends the Council move forward with the 5 elements of the proposed amendment package that NMFS has concluded would not require further mitigative action and would not require reinitiation of formal Section 7 consultation.

Additionally, the AP requests that the Council charge the SSLMC to re-examine the three proposed regulation changes which would initiate a formal section 7 consultation, and include in this process an evaluation of other potential changes to SSL protection measures, not only in the GOA but also in the BSAI.

Finally, the AP requests the Council direct NMFS to prepare a summary of research completed subsequent to the FMP level bi-op then subsequent to the 2001 and 2003 supplemental, and a list of current research projects and their expected completion dates. *Motion passed 19/0*

DRAFT

DRAFT

**NPFMC Advisory Panel
GULF OF ALASKA GROUND FISH RATIONALIZATION
February 2004**

The AP recommends the Council adopt the staff and AP recommendations as noted, with the AP recommendations being in reverse type. *Motion passed 19/0*

The following provisions apply to Alternative 2 only:

Throughout alt 2 the use of CP or CPs, should read "trawl and/or longline or pot CPs". *Motion passed 9/6/3.*

2.2 Harvest Sector Provisions

2.2.1 Management Areas:

Areas are Western Gulf, Central Gulf, and West Yakutat—separate areas

For Pollock: 610 (Western Gulf), 620 and 630 (Central Gulf), 640 (West Yakutat (WY))

- Shortraker and rougheye (SR/RE) and thornyhead rockfishes will be divided between Southeast Outside (SEO) and WY
- The allocation of rockfish bycatch to the halibut IFQ fishery will be on a NMFS management area basis
- Non-SR/RE and thornyhead rockfish trawl catch history in SEO during 95-98 will be used in the calculation of WYAK allocation
- SEO is exempt except for SR/RE and thornyhead rockfishes as secondary species. Allocation will be based on target catch in sablefish, halibut, Demersal Shelf Rockfish and P. cod fishery

Gear: Applies to all gear except jig gear—

Option 1. The jig fishery would receive an allocation based on its historic landings in the qualifying years – the jig fishery would be conducted on an open access basis.

Option 2. Gear would be accounted for in a manner similar to sport halibut harvests in halibut IFQ fishery.

Suboption: Cap jig harvest at ___% of current harvest by species and area:

1. 100% *Motion passed 19/0*
2. 1. 125%
3. 2. 150%
4. 3. 200%

2.2.2 Qualifying periods and landing criteria (same for all gears in all areas)

(The analysis will assess AFA vessels as a group)

Option 1. 95-01 drop 1

Option 2. 95-02 drop 1

Option 3. 95-02 drop 2

Option 4. 98-02 drop 1

Suboption: For Pacific cod under all options ~~2, 3, and 4~~, consider only A season harvests for 2001 and 2002. *Motion passed 15/4. A motion to delete the entire option failed 10/7/2.*

Suboption 2: For Pacific cod consider a sector allocation based on specified percentages prior to individual allocations. *Motion passed 16/2/1.*

2.2.2.1 Qualifying landing criteria

Landings based on retained catch for all species (includes weekly processor report for Catcher/Processor sector)

NOTE: Total pounds landed will be used as the denominator.

DRAFT

DRAFT

Catch history determined based on the poundage of retained catch year (does not include meal)

Suboption: catch history for P. cod fisheries determined based on a percentage of retained catch per year (does not include meal)

2.2.2.2 Eligibility

LLP participation

Option 1. Eligibility to receive catch history is any person that holds a valid, permanent, fully transferable LLP license.

Suboption 1. Any person who held a valid interim LLP license as of January 1, 2003.

Suboption 2. Allow the award of retained incidental groundfish catch history arising from the halibut and sablefish IFQ fishery.

Basis for the distribution to the LLP license holder is: the catch history of the vessel on which the LLP license is based and shall be on a fishery-by-fishery basis. The underlying principle of this program is one history per license. In cases where the fishing privileges (i.e., moratorium qualification or LLP license) of an LLP qualifying vessel have been transferred, the distribution of harvest shares to the LLP shall be based on the aggregate catch histories of (1) the vessel on which LLP license was based up to the date of transfer, and (2) the vessel owned or controlled by the LLP license holder and identified by the license holder as having been operated under the fishing privileges of the LLP qualifying vessel after the date of transfer. (Only one catch history per LLP license.)

Option 2. Non-LLP (State water parallel fishery) participation

Suboption 1. Any individual who has imprinted a fish ticket making non-federally permitted legal landings during a State of Alaska fishery in a state waters parallel fisheries for species under the rationalized fisheries.

Suboption 2. Vessel owner at time of non-federally permitted legal landing during a State of Alaska fishery in a state waters parallel fisheries for species under the rationalized fisheries.

2.2.2.3 State Waters - Parallel Fisheries and State Groundfish Management

Option 1. Status Quo –Federal TAC taken in federal waters and in state waters, during a ‘parallel’ fishery, plus state-water fisheries exist for up to 25% of the TAC for Pacific cod.

Option 2. Direct allocation of portion of TAC to fisheries inside 3 nm.

No ‘parallel’ fishery designation, harvest of remaining federal TAC only occurs in federal zone (3 – 200 nm); and

Council allocates _____ % of the TAC, by species by FMP Amendment, to 0-3 nm state water fisheries representing a range of harvests that occurred in state waters. This could include harvest from the status quo parallel fishery and the state waters P. cod fisheries. State waters fisheries would be managed by ADF&G through authority of, and restrictions imposed by, the Board of Fisheries.

Area or species restrictions:

Suboption 1. Limited to Pollock, P. cod, flatfish, and/or pelagic shelf rockfish (light and dark dusky rockfishes).

Suboption 2. Limited to Western, Central GOA management areas and/or West Yakutat.

Option 3. Parallel fishery on a fixed percentage (____ %) allocation of the federal TAC, to be prosecuted within state waters with additional State restrictions (e.g., vessel size, gear restrictions, etc to be imposed by the BOF).

Fixed allocation for:

- Suboption 1. P. cod
- Suboption 2. Pollock
- Suboption 3. All other GOA groundfish species

Council requests that staff provide an analysis of catch data showing harvest inside 3 nm by gear, species, vessel size and area. The Council recommends that this issue be reviewed by the Joint Protocol Committee at its next meeting (tentatively identified as July 28/29 in Anchorage).

2.2.3 Primary Species Rationalization Plan

Primary Species by Gear

2.2.3.1 Initial Allocation of catch history

Allocate catch history on an individual basis

- a. Trawl CV and CP:
Pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, Pelagic shelf rockfish
- b. Longline CV and CP:
Pacific Cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if turbot is targeted), northern rockfish, Arrowtooth flounder
- c. Pot CV and CP:
Pacific Cod

2.2.3.2 Harvest share (or QS/IFQ) Designations

2.2.3.2.1 Vessel Designation of low producers and high producers in the fixed gear class.

Low producing vessels are:

- ~~Option 1. less than average harvest shares initially allocated by gear, primary species and area.~~
- ~~Option 2. less than the 75th percentile harvest shares initially allocated by gear, primary species and area.~~

- Option 1: less than average primary species harvest shares initially allocated by gear and area.
- Option 2: less than the 75th percentile primary species harvest shares initially allocated by gear and area.

High producing vessels are the remainder.

Motion passed 19/0

2.2.3.2.2 Harvest share sector designations:

Designate harvest shares (or QS/IFQ) as CV or CP. Annual CV harvest share allocation (or IFQ) conveys a privilege to harvest a specified amount. Annual CP harvest share allocation (or IFQ) conveys the privilege to harvest and process a specified amount. Designation will be based on:

Actual amount of catch harvested and processed onboard a vessel by species.

2.2.3.2.3 Harvest share gear designations

Designate CV harvest shares as Trawl, Longline, and Pot
Designate CP harvest shares as CP trawl, CP longline, CP pot.

Option: Designate harvest shares as high and low producer fixed gear

2.2.3.2.4 Harvest Share Restrictions—Harvest restrictions apply to primary species only.

Harvest restrictions for primary harvest shares (or IFQ) may be used by other gear types except that:

Option 1: No restrictions

Option 2: Fixed gear harvest share (or IFQ) may not be harvested using trawl gear

Option 3: Pot gear harvest shares may not be harvested by longline or trawl gear

~~Option 4: Pot and longline harvest shares may not be harvested by trawl gear~~

2.2.3.2.5 If a ~~closed class of processor~~ **limited entry** alternative is chosen, CV harvest shares will be issued in two classes. Class A shares will be deliverable to a **qualified licensed** processor ~~or processor shareholder (as applicable)~~. Class B shares will be deliverable to any processor as authorized under this program.

Option 1. A shares be at the QS level and separable from B shares.

Suboption: Processor affiliated vessels would receive their entire allocation as A shares.

Option.2.Only the annual allocations will be subject to the Class A/Class B distinction. All long term shares or history will be of a single class.

2.2.3.3 Transferability and Restrictions on Ownership of Harvest shares (or QS/IFQ)

2.2.3.3.1 Persons eligible to receive harvest shares by transfer must be (not mutually exclusive):

Entities eligible to document a vessel (apply to CP).

Initial recipients of CV or C/P harvest share.

Community administrative entities would be eligible to receive harvest shares by transfer.

~~Suboption 1:~~ Individuals eligible to document a vessel with at least 150 days of sea time (apply to CV shares) **OR**

~~Suboption 2:~~ Entities eligible to document a vessel that have a US citizen with 20% ownership and with at least 150 days of sea time (apply to CV shares).

~~Select Suboption 1 and 2 as preferred provisions~~ *Motion passed 17/0*

Definition of sea time:

Sea time in any of the U.S. commercial fisheries in a harvesting capacity.

2.2.3.3.2 Restrictions on transferability of CP harvest shares

CP harvest shares maintain their designation when transferred to persons who continue to catch and process CP harvest shares at sea, if CP harvest shares are processed onshore after transfer, CP harvest shares convert to CV harvest shares.

~~Option 2: Redesignate CP shares as CV shares upon transfer to a person who is not an initial issuee of CP shares~~ *otion passed 16/0.*

2.2.3.3.3 When CP shares are redesignated as CV shares;

CP harvest shares retain their gear designation upon transfer.

Purchaser must further identify which processing provision and regionalization provision apply to the shares, consistent with the gear type.

2.2.3.3.4 Vertical integration

Harvest shares initial recipients with more than 10% limited threshold ownership by **licensed** processors are capped at:

~~Option 1. initial allocation of harvest CV and CP shares.~~

~~Option 2. 115-150% of initial allocation of harvest CV shares.~~

~~Option 3. 115-150% of initial allocation of harvest CP shares.~~ *Motion passed 18/0*

2.2.3.3.5 Leasing of QS ("leasing of QS" is defined as the transfer of annual IFQ permit to a person who is not the holder of the underlying QS for use on any vessel and use of IFQ by an individual designated by the QS holder on a vessel which the QS holder owns less that 20% -- same as "hired skipper" requirement in halibut/sablefish program).

DRAFT

DRAFT

~~Option 1. No leasing of CV QS (QS holder must be on board or own at least 20% of the vessel upon which a designated skipper fishes the IFQ).~~

~~Option 2. Allow leasing of CV QS, but only to individuals eligible to receive QS/IFQ by transfer.~~

The AP selects the following options as the preferred provision:

Option 3. Allow leasing of CP QS, but only to individuals and entities eligible to receive QS/IFQ by transfer.

Option 4. For individuals and corporations with CV QS no leasing restrictions for the first three years. After this grace period, leasing will be allowed in the following 18 months if the QS holder owns 20% or greater of a vessel on which made 3, 5, or 10 landings or 30% of the primary species shares held by the QS holder in at least 2 of the most recent 4 years were harvested. This provision applies to independent lessees and not within cooperatives. Motion passed 10/6.

2.2.3.3.6 Separate and distinct harvest share use caps

Caps will be expressed as QS units indexed to the first year of implementation. Motion passed 19/0

Option 1. Caps apply to all harvesting categories by species with the following provisions:

1. Apply individually and collectively to all harvest share holders in each sector and fishery.
2. Percentage-caps by species and management area are as follows (a different percentage cap may be chosen for each fishery):
 - i. Trawl CV and CP (can be different caps):
Use cap based at the following percentile of catch history for the following species:
(i.e., 75th percentile represents the amount of harvest shares that is greater than the amount of harvest shares for which 75% of the fleet will qualify.)
pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, pelagic shelf rockfish
Suboption 1. 75 %
Suboption 2. 85%
Suboption 3. 95 %
 - ii. Longline and Pot CV and/or CP (can be different caps)
based on the following percentiles of catch history for the following species:
Pacific cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if Greenland turbot is targeted), northern rockfish
Suboption 1. 75 %
Suboption 2. 85%
Suboption 3. 95 %

Option 2. Caps equal to a percentage that would allow contraction of QS holders in the fishery by 20%, 30% or 50% of the number of initially qualified QS recipients by species and sector. Motion passed 19/0

Suboption 1. Conversion of CP shares:

- i. CP shares converted to CV shares

Option 1. will count toward CV caps

Option 2. will not count toward CV caps at the time of conversion.

- ii. Caps will be applied to prohibit acquisition of shares in excess of the cap. Conversion of CP shares to CV shares alone will not require a CP shareholder to divest CP shares for exceeding the CP share cap. Motion passed 19/0

Vessel use caps on harvest shares harvested on any given vessel shall be set at two times

100%

150%

200% Motion passed 19/0

the individual use cap for each species. Initial issues that exceed the individual or vessel use caps are grandfathered at their current level as of a control date of April 3, 2003, including transfers by contract entered into as of that date.

2.2.3.3.7 Owner On Board Provisions

Provisions may vary depending on the sector or fishery under consideration (this provision may be applied differently pending data analysis)

- i. All initial issues (individuals and corporations) would be grandfathered as not being required to be aboard the vessel to fish shares initially issued as "owner on board" shares. This exemption applies only to those initially issued harvest share units.

Suboption 1. No owner on board restrictions.

The AP selects the following as the preferred provision:

Suboption 2. A range of 5-50% for fixed gear CVs and 5-40% for trawl gear CVs, of the quota shares initially issued to fishers/harvesters would be designated as "owner on board." *A motion to apply the range only to low producing fixed gear only failed 7/10.*

~~A portion (range of 5-100%) of the quota shares initially issued to fishers/harvesters would be designated as "owner on board."~~

~~All initial issues (individual and corporate) would be grandfathered as not being required to be aboard the vessel to fish shares initially issued as "owner on board" shares for a period of 5 years after implementation.~~

~~Shares acquired in the first five years by original issuee shall:~~

~~a) retain owner on board designation, and~~

~~b) be exempt from owner on board provisions as long as original issuee holds these shares~~

In cases of hardship (injury, medical incapacity, loss of vessel, etc.) a holder of "owner on board" quota shares may, upon documentation and approval, transfer/lease his or her shares a maximum period of ~~Range 1-3~~ years out of any 10 year period.

Motion passed 15/4.

2.2.3.3.8 Overage Provisions

A 7 day grace period after an overage occurs for the owner to lease sufficient IFQ to cover the overage. Failure to secure sufficient IFQ would result in forfeiture of the overages and fines.

- i. Trawl CV and CP:

Suboption 1. Overages up to 15% or 20% of the last trip will be allowed— greater than a 15% or 20% overage result in forfeiture and civil penalties. An overage of 15% or 20% or less, results in the reduction of the subsequent year's annual allocation or IFQ. Underages up to 10% of harvest shares (or IFQ).

Suboption 2. Overage provisions would not be applicable in fisheries where there is an incentive fishery that has not been fully utilized for the year. (i.e., no overages would be charged if a harvest share (or IFQ) holder goes over his/her annual allocation (or IFQ) when incentive fisheries are still available).

- ii. Longline and pot CV and CP:

Overages up to 10% of the last trip will be allowed with rollover provisions for underages up to 10% of harvest shares (or IFQ).

Suboption. Overages would not be applicable in fisheries where there is an incentive fishery that has not been fully utilized for the year. (i.e., no overages would be allowed if a harvest share (or IFQ) holder goes over his/her annual allocation (or IFQ) when incentive fisheries are still available).

DRAFT

DRAFT

2.2.3.3.9 Retention requirements for rockfish, sablefish and Atka mackerel:

- Option 1. no retention requirements.
- Option 2. require retention (all species) until the annual allocation (or IFQ) for that species is taken with discards allowed for overages
- Option 3. require 100% retention (all species) until the annual allocation (or IFQ) for that species is taken and then stop fishing.

2.2.3.3.10 Limited processing for CVs

- Option 1. No limited processing
- Option 2. Limited processing of rockfish species by owners of CV harvest shares of rockfish species not subject to processor landing requirements are allowed up to 1 mt of round weight equivalent of rockfish per day on a vessel less than or equal to 60ft LOA.
Motion passed 18/0.

2.2.3.3.11 Processing Restrictions

- Option 1. CPs may buy CV share fish not subject to processor landing requirements.
Suboption. 3 year sunset
- Option 2. CPs would be prohibited from buying CV fish.
- Option 3. CPs may buy incentive fish and incidental catches of CV fish not subject to processor landing requirements.
CPs are not permitted to buy fully-utilized species (cod, pollock, rockfish, sablefish, and allocated portion of flatfish) from CVs.
Suboption. Exempt bycatch amounts of these species delivered with flatfish.

Motion passed 18/0

A CP is a vessel that harvests CP shares under the program in a year. *Motion passes 17/0*
A motion to reconsider the above motion failed 14/4

2.2.4 Allocation of Secondary Species

Thornyhead, roughey, shortraker, other slope rockfish, Atka mackerel, and trawl sablefish
Includes SEO shortraker, roughey, and thornyhead rockfish.

i. Allocation of shares

- Option 1. Allocate shares to all fishermen (including sablefish & halibut QS fishermen) based on fleet bycatch rates by gear:
 - Suboption 1. based on average catch history by area and target fishery
 - Suboption 2. based on 75th percentile by area by target fishery
- Option 2. Allocation of shares will be adjusted pro rata to allocate 100% of the annual TAC for each bycatch species.
 - Suboption 1. Other slope rockfish in the Western Gulf will not be allocated, but will be managed by MRB and will go to PSC status when the TAC is reached.

Option 3. ~~Bycatch~~ Secondary species allocations will be awarded to the owners of sablefish and halibut QS, rather than the LLP holders.

ii. Include these species for one gear type only (e.g., trawl). Deduct the secondary species catch from gear types from TAC. If deduction is not adequate to cover secondary species catch in other gear types, on a seasonal basis, place that species on PSC status until overfishing is reached.

iii. Retain these species on bycatch status for all gear types with current MRAs.

- iv. Allow trawl sablefish catch history to be issued as a new category of sablefish harvest shares (“T” shares) by area. “T” shares would be fully leasable, exempt from vessel size and block restrictions, and retain sector designation upon sale.
Suboption. These shares may be used with either fixed gear or trawl gear.

- v. Permit transfer of secondary species QS
 - Option 1. Primary species shares and secondary species shares are non-separable and must be transferred as a unit.
 - Option 2. Primary species shares and secondary species shares are separable and may be transferred separately

2.2.5 PSC Species

2.2.5.1 Accounting of Halibut Bycatch

Pot vessels continue their exemption from halibut PSC caps.

Hook and line

- Option 1: Modeled after sablefish IFQ program (no direct inseason accounting of halibut PSC. Holders of halibut IFQ are required to land legal halibut. Estimates of sub-legal and legal size incidental mortality are accounted for when setting annual CEY.

- Option 2: Halibut PSC will be managed through harvest share allocations.

- Option 3: Continue to fish under PSC caps.

- Suboption (to all options): Holders of halibut IFQ are required to land legal halibut. Halibut bycatch occurring without sufficient IFQs would count against PSC allocations.

Trawl Entities:

- Option 1: Halibut PSC will be managed through harvest share allocations.

- Option 2: Continue to fish under PSC caps.

2.2.5.2 Halibut PSC Allocation

Each recipient of fishing history would receive an allocation of halibut mortality (harvest shares) based on their allocation of the primary species shares. Secondary species would receive no halibut allocation. Initial allocation based on average halibut bycatch by directed primary species during the qualifying years. Allocations will be adjusted pro rata to equal the existing PSC cap.

By sector average bycatch rates by area by gear:

- Option 1. Both sectors

- Option 2. Catcher Processor/Catcher Vessel

2.2.5.3 Annual transfer/Leasing of Trawl or Fixed Gear Halibut PSC mortality

Option A: Halibut PSC ~~harvest shares~~ **annual allocations** are separable from primary groundfish ~~harvest shares~~ **annual allocations** and may be transferred independently within **gear types** ~~sectors~~. When transferred separately, the amount of Halibut PSC allocation would be reduced, for that year, by:

- Suboption 1. 0%

- Suboption 2. 5%

- Suboption 3. 7%

- Suboption 4. 10%

- Suboption 5: Exclude any halibut PSC transferred for participation in the incentive fisheries (includes transfers outside the cooperative).

- Suboption 6: Exclude any halibut PSC transferred within a cooperative.

Option B: No leasing/annual transfer of PSC outside of cooperatives.

All PSC reductions under this section will remain unfished (in the water).

2.2.5.3.1 PSC Reduction for Non-Members of Cooperatives

Non-members of cooperatives would have PSC reduced by:

- i 0%
- ii 5%
- iii 15%
- ~~iii 30%~~ *Motion passes 16/3*

PSC reduction will not apply to low-producing fixed gear participants.

All PSC reductions under this section will remain unfished (in the water).

2.2.5.4 Permanent transfer of Halibut PSC harvest share mortality

Option 1. Groundfish **primary species** harvest shares **(QS)** and Halibut PSC harvest shares **(QS)** are non-separable and must be transferred as a unit

Suboption. exempt Pacific cod

Option 2. Groundfish **primary species** harvest shares **(QS)** and Halibut PSC harvest shares **(QS)** are separable and may be transferred separately

2.2.5.5 Retention of halibut incidentally caught by fixed gear vessels

~~Retention of h~~ Halibut incidentally caught may be retained outside the halibut season from Jan. 1 to start of commercial fishery. Any person retaining halibut must have adequate halibut IFQ to cover the landing. Retention is limited to (range 10-20%) of primary species.

Option 1: In all GOA areas.

Option 2: Limited to Areas 3A, 3B, and 4A.

The Council requests that staff notify the IPHC concerning these provisions.

2.2.6 Incentive species

Arrowtooth flounder, deepwater flatfish, flathead sole, rex sole, shallow water flatfish.

Owners of shares must utilize all their shares for an incentive species before participating in incentive fishery for that species.

Option. The portion of historic unharvested West Yakutat **Pacific cod** TAC will be made available as an incentive fishery, subject to provision of incentive fisheries. *Motion passed 18/0*

2.2.6.1 Eligibility to fish in the incentive fisheries

A. The unallocated QS for the incentive fisheries are available for harvest, providing the vessel has adequate PSC and secondary species. ~~and the vessel is a member of a GOA fishing cooperative.~~

~~Suboption: and the vessel is a member of a GOA fishing cooperative.~~ *Motion passed 18/0*

~~B. Open access participants will be permitted to harvest incentive species as long as the open access fishery remains open and NMFS determines that the secondary and PSC allocations remaining in the open access fishery are adequate to support prosecution of incentive species.~~

~~C.~~ Any holder of halibut or sablefish IFQ that has adequate IFQ or PSC and secondary species.

2.2.6.2 Catch accounting for the incentive fisheries – Allocated QS and Incentive fishery quota

Option 1. The individual co-op member’s apportionment of the allocated incentive species QS must be used prior to the individual gaining access to the incentive fishery unallocated portion. The co-op will notify NMFS when a vessel enters the incentive fishery quota pool.

Option 2. The co-op’s allocation of incentive species QS must be fished before gaining access to the unallocated portion of the incentive species quotas. The co-op members through a contractual coop agreement will address catch accounting amongst the co-op members.

Option 3. For ~~vessels~~ **shareholders** not participating in ~~a sector~~ co-op, the unallocated incentive species are available for harvest once the ~~non coop sector’s allocation of the incentive~~

~~species has been used or individual IFQ holder's allocation of the incentive species has been used. *Motion passes 18/0*~~

~~Option 4. For open access participants, the harvest of incentive species quota allocated to open access participants must be fished prior to gaining access to the unallocated portion of the incentive species quota.~~

2.2.7 Preserving entry level opportunities for P. cod

2.2.7.1 Each initial allocation of P.cod harvest shares based on the final year of the qualifying period to fixed gear catcher vessels below the block threshold size would be a block of quota and could only be permanently sold or transferred as a block.

- Option 1 10,000 pounds constitutes one block
- Option 2 20,000 pounds constitutes one block
- Option 3 No Block Program

Suboption. Lowest producer harvest shares earned as a bycatch in the halibut sablefish ITQ program would be exempt from the block program

2.2.7.2 Eligible participants would be allowed to hold a maximum of:

- Option 1, 1 block
- Option 2. 2 blocks
- Option 3. 4 blocks

2.2.7.3 Any person may hold: (Alternatives 2 ~~and 3~~)

- Option 1. One block and any amount of unblocked shares
- Option 2. Two blocks and any amount of unblocked shares
- Option 3. Four blocks and any amount of unblocked shares

2.2.8 Skipper/Crew

A skipper is defined as the individual owning the Commercial Fishery Entry Permit and signing the fish ticket.

- Option 1. No skipper and/or crew provisions
- Option 2. Allocate to skippers and/or crew
 - Suboption 1. Initial allocation of 5% shall be reserved for captains and/or crew
 - Suboption 2. Initial allocation of 10% shall be reserved for captains and/or crew
 - Suboption 3. Initial allocation of 15% shall be reserved for captains and/or crew
- Option 3. Establish license program for certified skippers. For initial allocation Certified Skippers are either:
 - i. Vessel owners receiving initial QS or harvest privileges; or
 - ii. Hired skippers who have demonstrated fishing experience in Federal or State groundfish fisheries in the BSAI or GOA for 3 out of the past 5 years as documented by a CFEC permit and signed fish tickets and/or appropriate NMFS documentation (starting date for five years is 2003).
 - Suboption 1. include crew in the license program.
 - Suboption 2. require that new Certified Skippers licenses accrue to individuals with demonstrated fishing experience (Groundfish – BSAI/GOA, state or federal waters) similar to halibut/sablefish program.

Under any alternative that establishes QS and annual harvest privileges, access to those annual harvest privileges is allowed only when fishing with a Certified Skipper onboard. Certified Skipper Licenses are non-transferable. They accrue to an individual and may not be sold, leased, bartered, traded, or otherwise used by any other individual.

Defer remaining issues to a trailing amendment and assumes simultaneous implementation with rationalization program.

2.2.9 Communities

Note: Bering Sea/Aleutian Islands communities (CDQ or otherwise) and communities adjacent to the Eastern GOA regulatory area Southeast Outside District (except Yakutat) will not be included in any Gulf rationalization community protection programs.

2.2.9.1 Regionalization

Option 1: Regional designations shall be implemented for a period of 5, 10, or 15 years. In the first five years, regional designations shall be imposed for 80, 90, or 100% of allocated QS. Regional designations beyond 5 years shall be equally reduced on an annual basis by a percentage of the remaining years (e.g. If 10 years, the restriction during the second 5 years would be reduced by 20% per year for years 6-10.)

Suboption a. Regionalization will be maintained until transportation cost differentials between regions or sub-regions are substantially corrected. If transportation cost differentials are substantially corrected on a sub-region basis, regional boundaries may be modified to permit competition between communities with similar transportation costs.

Motion carries 11/5

Regionalization options may be selected under any of the proposed alternatives for Gulf rationalization.

If adopted, all processing licenses (for shore-based and floating processors) will be categorized by region.

- Processing licenses that are regionally designated cannot be reassigned to another region.
- Catcher vessel harvest shares are regionalized based on where the catch was processed, not where it was caught.
- Catcher processor shares and incentive fisheries are not subject to regionalization.
 - Option: Secondary species shares are not subject to regionalization
- Qualifying years to determine the distribution of shares between regions will be:
 - Option 1. consistent with the preferred alternative under "Section 2.2.2 Qualifying Periods."
 - Option 2. 1999 – 2002
- In the event harvest shares are regionalized and the processor linkage option is chosen, a harvester's shares in a region will be linked to the processor entity in the region to which the harvester delivered the most pounds during the qualifying years **used for determining linkages under 2.3.1.1.2.**

Central Gulf: Two regions are proposed to classify harvesting shares: North - South line at 58 51.10' North Latitude (Cape Douglas corner for Cook Inlet bottom trawl ban area) extending west to east to the intersection with 140° W long, and then southerly along 140° W long.).

The following fisheries will be regionalized for shorebased (including floating) catch and subject to the North - South distribution: Pollock in Area 630; CGOA flatfish (excludes arrowtooth flounder); CGOA Pacific ocean perch; CGOA northern rockfish and pelagic shelf rockfish (combined); CGOA Pacific cod (inshore); GOA sablefish (trawl); WY pollock.

2.2.9.2 Community Fisheries Quota (CFQ) Program

The purpose of the Community Fisheries Quota Program and the Community Quota Purchase Program is to mitigate economic impacts from rationalization on smaller, isolated, Gulf of Alaska fisheries dependent communities. Community fishing quota will provide for the sustained participation of the qualifying communities in the rationalized fisheries and acknowledges the importance of fisheries resources to these communities. These purposes will be obtained by allocating QS to a community entity so that the community

entity can derive revenues from leasing QS to ensure the retention of fishing opportunities and/or support community development.

2.2.9.2.1 Administrative Entity

A Gulf-wide administrative entity will receive and hold CFQ on behalf of eligible communities. The administrative entity representing ~~a community~~ or one or more eligible communities must be a non-profit entity qualified by NMFS.

~~Gulf-wide administrative entity~~

2.2.9.2.2 Eligible Communities

Option 1. Population (based on 2000 Census):

- a. Less than 1,500
- b. Less than 2,500
- c. Less than 5,000
- d. Less than 7,500

Option 2. Geography

- a. Coastal Communities without road connections to larger community highway network
- b. Coastal communities adjacent to salt water
- c. Communities within 10 nautical miles of the Gulf Coast
- d. Communities on the south side of the Alaska Peninsula that are adjacent to Central and Western GOA management areas (including Yakutat) within 5 nautical miles from the water, but not to include Bering Sea communities included under the Western Alaska CDQ program.

Option 3. Historic Participation in ~~Groundfish~~ Fisheries

- a. Communities with residents having any commercial permit and fishing activity as documented by CFEC in the last ten years (1993 - 2002)

Option 4. Government Structure

- a. Communities recognized by the State of Alaska as a first class, second class, or home rule municipality
- b. All other eligible communities

2.2.9.2.3 Species

Option 1. All rationalized groundfish species **including PSC** *Motion passed 18/0*

Option 2. **Pollock and Pacific cod** ~~Limited to species that can be caught without (hard on) bottom trawling~~

2.2.9.2.4 Allocation

- Option 1. 5% of annual TAC
- Option 2. 10% of annual TAC
- Option 3. 15% of annual TAC

2.2.9.2.5 Harvesting of Shares

Option 1. Limited to residents of any eligible community

2.2.9.2.x Clarify that CFQ awarded to a gulf-wide administrative entity should not be transferred. *Motion passed 18/0*

2.2.9.2.6 Allocation Basis

The initial allocation (harvest shares) of CFQ would be made to the administrative entity representing eligible communities.

- Option 1. 0% - 100% of the annual harvest rights from the CFQ owned by the administrative entity would be distributed amongst qualified communities on an equal basis.
- Option 2. 0% - 100% of the annual harvest rights from the CFQ owned by the administrative entity would be distributed amongst qualified communities on a pro rata basis based on population.
- Option 3. 0% - 100% of the annual harvest rights from the CFQ owned by the administrative entity from each GOA groundfish management area, by species, would be distributed amongst qualified communities located in the management area on an equal basis.

2.2.9.2.7 Qualification of Administrative Entity

The administrative entity must submit a detailed statement of eligibility to NMFS and the State prior to being qualified. The State may comment on the statement of eligibility but does not have a formal role. The required elements of the eligibility statement will be in regulation.

2.2.9.2.8 Administrative Oversight

A report submitted to NMFS detailing the use of QS by the administrative entity. The required elements and timing of the report will be outlined in regulation.

2.2.9.3 Community Purchase Program

The purpose of the ~~Community Fisheries Quota Program~~ and the Community Quota Purchase Program is to mitigate economic impacts from rationalization on smaller, isolated, Gulf of Alaska fisheries dependent communities. Community fishing quota will provide for the sustained participation of the qualifying communities in the rationalized fisheries and acknowledges the importance of fisheries resources to these communities.

2.2.9.3.1 Administrative Entity

The administrative entity representing a community or communities must be a non-profit entity qualified by NMFS.

2.2.9.3.2 Eligible communities

- Option 1. Population (based on 2000 Census):
 - a. Less than 1,500
 - b. Less than 2,500
 - c. Less than 5,000
 - d. Less than 7,500
- Option 2. Geography
 - a. Coastal Communities without road connections to larger community highway network
 - b. Coastal communities adjacent to salt water
 - c. Communities within 10 nautical miles of the Gulf Coast
 - d. Communities on the south side of the Alaska Peninsula that are adjacent to Central and Western GOA management areas (including Yakutat) within 5 nautical miles from the water, but not to include Bering Sea communities included under the Western Alaska CDQ program.
- Option 3. Historic Participation in ~~Groundfish~~ Fisheries
 - a. Communities with residents having any commercial permit and fishing activity as documented by CFEC in the last ten years (1993 – 2002)

Option 4. Government Structure

- a. Communities recognized by the State of Alaska as a first class, second class, or home rule municipality
- b. All other eligible communities

2.2.9.3.3 Qualification of Administrative Entity

The administrative entity must submit a detailed statement of eligibility to NMFS and the State prior to being qualified. The State may comment on the statement of eligibility but does not have a formal role. The required elements of the eligibility statement will be in regulation.

2.2.9.3.4 Administrative Oversight

A report submitted to NMFS detailing the use of QS by the administrative entity. The required elements and timing of the report will be outlined in regulation.

2.2.9.4 Community Incentive Fisheries Trust (CIFT)

The CIFT has full ownership of CIFT harvest shares and holds these shares in trust for the communities, processors and crewmembers in the region to use as leverage to mitigate impacts directly associated with implementation of a rationalization program.

2.2.9.4.1 Harvest Share Distribution

10-30 % of harvest shares shall be originally reserved for GOA CIFT associations. These harvest shares will be a pool off the top before individual distribution of harvest shares.

2.2.9.4.2 CIFT Designation

- Option 1. One CV CIFT for entire GOA (exclude SEO)
- Option 2. Regional CV CIFTs:
 - Suboption 1. Central GOA (Kodiak, Chignik)
 - Suboption 2. Western GOA
 - Suboption 3. North Gulf Coast (Homer to Yakutat)
- Option 3. CP-based CIFT

Defer remaining issues to a trailing amendment

2.2.10 PSC for Crab and Salmon

Proposed staff analysis on salmon and crab bycatch measures:

The Council recommends that the alternatives on p.5 of the *Salmon and Crab Bycatch Measures for GOA Groundfish Fisheries* paper not be adopted at this time and that the analysis be expanded to include, to the extent practical, a discussion of the following:

A comparison of salmon bycatch with hatchery salmon releases (in Alaska, Japan and Canada) and regional salmon run strength and catch of foreign origin salmon.

Red king crab and Bairdi bycatch data relative to population estimates for all gear types.

Use of observer data. The discussion would include a table of the % of observed catch by region by season and methods of extrapolation for unobserved vessels (smaller long line fleet), conversion of observer data to identify catch in State waters, and any known problems with the use of observer data.

Other fisheries in which salmon and crab bycatch occurs — i.e. pot codfish and pollock bottom trawl.

The reasons for the high bycatch of the "other salmon" category between 1993-95 and provide salmon bycatch data by month by area.

Description of gear specific salmon and crab mortality rates.

Bairdi bycatch in the pacific cod pot fishery - extrapolate as needed to provide numbers for state waters fishery.

Inclusion in the draft alternatives of a BSAI style bycatch pool hotspot management alternative, an alternative that provides for red king crab bycatch protections and an "other salmon" bycatch protections alternative.

Changes in the regulatory requirements for observer coverage in the pot cod fishery.

Discussion of how crab and salmon bycatch limits integrate with Gulf Rationalization.

Distribution and population information on Tanner and king crab will be provided from survey data.

2.2.11 Review and Evaluation

2.2.11.1 Data collection.

A mandatory data collection program would be developed and implemented. The program would collect cost, revenue, ownership and employment data on a periodic basis to provide the information necessary to study the impacts of the program. Details of this program will be developed in the analysis of the alternatives.

2.2.11.2 Review and Sunset

Option 1. The program would sunset unless the Council decides to continue or amend the program. The decision of whether to continue or amend would be based on a written review and evaluation of the program's performance compared to its objectives.

- Suboption 1. 5 years after fishing under the program
- Suboption 2. 7 years after fishing under the program
- Suboption 3. 10 year schedule after fishing under the program
- Suboption 4. No sunset provision.

Option 2. Formal program review at the first Council Meeting in the 5th year after implementation to objectively measure the success of the program, including benefits and impacts to harvesters (including vessel owners, skippers and crew), processors and communities, by addressing concerns, goals and objectives identified in the problem statement and the Magnuson Stevens Act standards. This review shall include analysis of post-rationalization impacts to coastal communities, harvesters and processors in terms of economic impacts and options for mitigating those impacts. Subsequent reviews are required every 5 years.

2.2.12 Sideboards

GOA Groundfish sideboards under the crab rationalization plan and under the AFA would be superceded by the GOA rationalization program allocations upon implementation.

Vessels (Steel) and LLPs used to generate harvest shares used in a co-op may not participate in other federally managed open access fisheries in excess of sideboard allotments.

Participants in the GOA rationalized fisheries are limited to their aggregate historical participation based on GOA rationalized qualifying years in BSAI and SEO groundfish fisheries.

The Council should consider adding sideboards for the GOA jig fishery, which will not be included in the rationalization program.

Staff analysis of sideboard issues should examine the potential consequences of the creation of a double set of sideboards relating to BSAI fisheries for vessels already subject to AFA sideboards in BSAI fisheries.

2.3 Processing Sector Provisions

For alternative 2A apply provisions at company level. For 2B, provisions at facility (plant) level.

2.3.x Provisions affecting Option 2C

- 1. Processors are eligible to receive an allocation of QS if they meet allocation criteria identified in 2.3.1.2.1
- 2. Up to 30% of CV shares shall be designated as "CVP" shares and eligible to be held by processors and CV recipients. A portion of the CVP share allocation will be divided among eligible processors proportional to their history in the qualifying years as outlined in 2.3.1.2.1. Any balance of CVP shares not initially distributed to processors would be proportionally distributed to CV recipients.
- 3. CVP is transferable between eligible CV holders and /or processors. The market place will determine whether a separate class of QS remains with processing entities.
- 4. CVP shares may be fished on any catcher vessel and subject to existing share designations and existing vessel use caps
- 5. CVP shares may be transferred or leased to any entity eligible to receive CV QS by transfer in 2.2.3.3
- 6. Caps of CVP will apply at the company level by management area and will be a 10-30% of the total pool of CVP shares available in the management area. Recipients of CVP that exceed the cap will be grandfathered.
- 7. No processors (and processor affiliated vessels using the 10% rule) may own or control CV quota shares. CV initially issued to processor affiliated vessels will be grandfathered.
- 8. CVP shares will be regionalized.

Motion passed 14/2

2.3.1 Provisions for a ~~Closed Class of Processors~~ Processor License Limitation

2.3.1.1 Harvester Delivery requirements

2.3.1.1.1 ~~Closed class delivery~~ Harvester delivery requirements

- Option 1. 50-100% of CV harvest share allocation will be reserved for delivery to:
 - i. the linked licensed ~~qualified~~ closed trawl or fixed class processor (Applies to 2B).
 - ii. Any licensed ~~qualified~~ closed trawl or fixed or large or small ~~class~~ processor Applies to 2A

The remaining (50 -0%) CV harvest share allocation can be delivered to:

- any processor excluding CPs
- any processor including CPs

Option 2. Low producing vessels are exempt from ~~closed class delivery~~ requirements (Applies to Fixed Gear 2 Low only)

2.3.1.1.2 Linkage (Linkages apply by area) (Applies to 2B):

Option 1. A harvester's processor linked shares are associated with the ~~qualified~~ fixed or trawl ~~closed class~~ (large or small) processor to which the harvester delivered the most pounds of groundfish during

~~Option 2~~ the last ___ years of the ~~harvester allocation base period~~ qualifying years.

- i. 1
- ii. 2
- iii. 3 *Motion passed 17/0*

Option A: If the ~~processor~~ processing facility with whom the harvester is associated ~~with~~ is no longer operating in the community the harvester is eligible to deliver to any qualified licensed processor. *Motion passed 13/4*

~~Option B: If the processor processing entity with whom the harvester is associated with is no longer operating, the harvester is eligible to deliver to any qualified licensed processor. Motion passed 18/0~~

Option 2 Fishermen that, during the qualifying years, delivered the majority of their harvest (all species combined) to a community with a single qualified processor are exempt from processor linkages.

Motion passed 13/4/1

The Council requests that staff provide a discussion paper addressing the effect of a use cap on the number of processors in a region.

2.3.1.1.3 Movement between linked processors (Applies to 2B)

Any vessel that is linked to a processor, may with the consent of that processor, deliver A shares to another plant Motion passed 13/4

Option 1. ~~No share reduction for moving between processors year to year~~

Option 1 2. Share reductions of 10-20% each time a harvester moves to a different linked processor for:

- i. 1 year
- ii. 2 years
- iii. 4 years

The share reduction shall be redistributed to:

- i. The shareholders in association with that processor that the shareholder left (if it continues to exist).
- ii. To all cooperatives in the sector on a pro rata basis. ~~(applies if mandatory cooperatives)~~

Suboption 1 Penalties apply only to the first transfer

Option 2 3. Penalty to move depends on the amount of open access B share fish. Vessel leaves A share for one year.

Suboption 1: Penalty applies to both A and B shares.

Suboption 2: Full penalty applies to first move, subsequent moves are penalized at half of that rate.

Suboption 3: Penalties apply only to the first transfer Motion passed 15/3/2

| Closed A share class | Open B share class | Penalty on total amount of A and B shares | Ratio of penalty on A shares to B shares |
|----------------------|--------------------|---|--|
| 90% | 10% | 10% | 9:1 (9%) |
| 80% | 20% | 20% | 4:1 16% |
| 70% | 30% | 30% | 7:3 (21%) |
| 60% | 40% | 40% | 3:2 (24%) |
| 50% | 50% | 50% | 1:1 (25%) |

~~Option 3 4. No penalty. Movement allowed only upon agreement between co-op members and affiliated processor.~~

The following motion failed 10/7 Option 3. Linkage can be broken upon agreement between QS holder and processor.

2.3.1.1.4 Low producing vessel provisions

~~i. Low producing vessels are defined as:~~

~~Option 1. H&L or pot CVs receiving less than average QS initially allocated by gear, species and area~~

~~Option 2. H&L or pot CVs receiving less than the 75th percentile QS initially allocated by gear, species and area~~

~~ii. Provisions for low producing vessels~~

~~Option 1. Low producing vessels are exempt from closed class delivery provisions~~

~~Option 2. Subject to block program~~

Closed Class Processor License Qualifications (Applies to 2A and 2B)

2.3.1.2.x (Applies to 2A and 2B)

Suboption : In circumstances where the facility operator was not affiliated with the facility owner during the processor license qualifying years, if the facility and/or entity met a license qualifying threshold, processing history would be credited to both the facility operator and facility owner for purposes of issuing the related processor limited entry licenses. Harvester associations and /or linkages would be accrued to the facility operator's license. Affiliation would be determined using the AFA common interest/control standard. *Motion passed 14/4*

2.3.1.2.1 To ~~purchase groundfish required to be delivered to a qualified~~ qualify for a processor license, a processor must have purchased and processed a minimum amount of groundfish by region as described below in at least 4 of the following years:

- Option 1. 1995-99.
- Option 2. 1995-01
- Option 3. 1995-02

Option 1. If a processor meets the threshold for total purchased and processed groundfish for all their facilities combined, but does not meet the threshold for any one facility then the processor would be issued a license for the facility in which it processed most fish

Option 1. a. Trawl eligible Processors

- Suboption 1. 2000 mt
- Suboption 2. 1000 mt
- Suboption 3. 500 mt

b. Fixed gear eligible Processors

- Suboption 1. 500 mt
- Suboption 2. 200 mt
- Suboption 3. 50 mt

c. Trawl and Fixed gear eligible processors

Meet criteria for both the ~~closed-class trawl processor license catch~~ and ~~closed-class fixed gear processor license catch~~ as described above

Option 2. a. Large ~~closed-class~~ processor license

- Suboption 1. 2000 MT
- Suboption 2. 1000 MT
- Suboption 3. 500 MT

b. Small ~~closed-class~~ processor license

- Suboption 1. 500 MT
- Suboption 2. 200 MT
- Suboption 3. 50 MT

~~e-~~ Open class processor – no groundfish landing qualifications – can purchase any amount of open class B share landings QS.

2.3.1.2.2 Processor history would be credited to (and licenses would be issued to):

Option 1. Operator – must hold a federal or state processor permit.

Option 2. Facility owner

Suboption. Custom processing history would be credited to:

- i. the processor that physically processes the fish
- ii. the processor that purchases the fish and pays for processing

2.3.1.2.3 Transferability of eligible processor licenses

Processor licenses can be sold, leased, or transferred.

Option 1. Within the same community

If the license is transferred within the community of origin, then vessel linkages are broken and vessels are allowed to deliver to any licensed processor

Option 2. Within the same region

If the license is transferred outside the community of origin, then vessel linkages are broken and vessels are allowed to deliver to any licensed processor. Motion passed 13/4

2.3.1.2.4 Processing Use caps by ~~closed-class~~ processor license type (trawl, fixed or trawl and fixed (~~low~~ small or large), by CGOA and WGOA regulatory areas:

Option 1. Range 70% to 130% of TAC processed for all groundfish species for the largest ~~closed-class~~ licensed processor

Option 2. Processing use caps for small ~~closed-class~~ licensed processors

i. 1000 to 2000 MT

ii. 2000 to 3000 MT Motion passed 17/0

Option 3. Processing use caps would be equal to a percentage that would allow contraction of processing companies in the fishery by 20, 30, or 50% of the number initially qualified processing companies) Motion passed 17/0

(Note: There is no limit on the amount of fish either a small or large ~~closed-class~~ licensed processor can buy from the open B share classed fish)

2.3.1.2.5 Processing Caps may apply at:

Option 1. the facility level

The AP recommends the Council adopt option 2 as the preferred option Motion passed 16/0

Option 2. the entity level

2.3.1.2.6 ~~Closed-class~~ License ownership restrictions on processors

Option 1. No restrictions

Option 2. Trawl/fixed license holders cannot hold any additional fixed gear only licenses.

Option 3. Large ~~closed-class~~ processor license holders cannot hold small ~~closed-class~~ processor licenses.

2.4 Cooperative Provisions

2.4.1 Cooperative requirements type (~~voluntary or mandatory~~)

Cooperative membership is not required to receive an annual harvest share allocation. ~~will be voluntary~~ (i.e., ~~harvest shares~~ (IFQ) will be allocated to non-members)

2.4.2 Cooperative formation

2.4.2.1 Co-ops can be formed

a. between holders of harvest shares or history in an area:

Trawl catcher vessels

“High producing” fixed gear catcher vessels

“Low producing” fixed gear catcher vessels

b. between holders of harvest shares or history of a catcher/processor Motion passed 19/0

Each group of share/history holders of a defined class that may form cooperatives is defined as a “sector.”

2.4.2.1.1 Co-op/processor affiliations

Option 1. No association required between processors and co-ops

Option 2. CV cooperatives must be associated with

- a) a processing facility
- b) a processing company

The associated processor must be:

- a) ~~any a licensed federally permitted~~ processor *Motion passed 19/0*
- b) a ~~qualified processor~~ **limited entry processing license holder** (if **processor limited entry closed processor class** is selected)
- c) a closed class processor limited entry processing license holder to which the share holder's shares are linked

~~Option 3. A harvester is eligible to join a cooperative associated with the qualified licensed fixed or trawl closed class large or small processor to which the harvester delivered the most pounds of groundfish during the last [1, 2, or 3] years of the harvester allocation base period. If the processor with whom the harvester is eligible to form a co-op is no longer operating, the harvester is eligible to join a coop with any qualified processor.~~

- Suboption 1. Processors can associate with more than one co-op
- Suboption 2. Processors are limited to 1 co-op per plant for each sector.
- Suboption 3. Processor affiliated vessels may join coops. (*moved from header*)

Note: A processor association will not be required for a C/P cooperative.

2.4.2.2 Cooperatives are required to have at least:

- Option 1. 4 distinct and separate harvesters (using the 10% threshold rule)
Suboption: trawl CP sector, all less 1 of distinct and separate harvesters, using the 10% threshold rule).
- Option 2. 40 -100 percent of the harvest shares (or catch history) of its sector (may choose different percentages for different sectors)
- Option 3. 40 -100% of separate and distinct shareholders (using the 10% threshold rule) belonging to its sector. Council may choose different percentages for different sector.
- Option 4. 40 -75 percent of the harvest shares (or catch history) **eligible for the cooperative** ~~of the eligible harvest share (or catch history) for each co-op associated with its processor~~

Note: Requirements may differ across sectors (or for CV and CP cooperatives)

2.4.2.3 Duration of cooperative agreements:

- Option 1. 1 year
- Option 2. 3 years
- Option 3. 5 years

~~2.4.2.4 Allocation Prerequisites:~~

~~Allocations to CV co-ops will only be made under the following conditions:~~

~~Required Co-op agreement elements:~~

~~Harvesters and processors are both concerned that rationalization will diminish their current respective bargaining positions. Therefore, a pre-season co-op agreement between eligible, willing harvesters and an eligible, willing processor is a pre-requisite. The co-op agreement must contain a fishing plan for the harvest of all co-op fish.~~

Motion passed 19/0

2.4.3 Rules Governing Cooperatives

2.4.3.1 Annual Allocations

- Option 1. Annual allocations of cooperative members would be issued to the cooperative.
- Option 2. Annual allocation of the sector would be issued to the sector cooperative (if "true" sector cooperative alternative is selected)

- Co-op members may internally allocate and manage the co-op's allocation per the co-op membership agreement. Subject to any harvesting caps that may be adopted, member allocations may be transferred and consolidated within the co-op to the extent permitted under the membership agreement.
- Monitoring and enforcement requirements would be at the co-op level. Co-op members are jointly and severally responsible for co-op vessels harvesting in the aggregate no more than their co-op's allocation of primary species, secondary species and halibut mortality, as may be adjusted by inter-co-op transfers.
- Co-ops may adopt and enforce fishing practice codes of conduct as part of their membership agreement. Co-ops may penalize or expel members who fail to comply with their membership agreement. Processor affiliates cannot participate in price setting negotiations except as permitted by general antitrust law.
- Co-ops may engage in inter-cooperative transfers to the extent permitted by rules governing transfers of shares among sectors (e.g., gear groups, vessel types).
- Require that a cooperative accept membership of any eligible participant subject to the same terms and conditions that apply to other cooperative members.

2.4.4 Ownership and Use Caps and Underages

2.4.4.1 Set co-op use caps at 25 to 100% of total TAC by species (must choose 100 percent for a "true" sector cooperative)

2.4.4.2 Co-op use caps for harvest shares on any given vessel shall be:

- Option 1. Set at the same level as the individual vessel level.
- Option 2. 3 times individual vessel use cap.
- Option 3. No use caps

- To effectively apply individual ownership caps, the number of shares or history that each cooperative member could hold and bring to cooperatives would be subject to the individual ownership caps (with initial allocations grandfathered). Transfers between cooperatives would be undertaken by the members individually, subject to individual ownership caps.
- Underage limits would be applied in the aggregate at the co-op level

2.4.5 Movement between cooperatives

2.4.5.1 Harvesters may move between cooperatives at:

- Option 1. the end of each year.
- Option 2. the expiration of the cooperative agreement.
- Option 3. No movement in the first two years

2.4.5.2 License Transfers Among Processors (applies to processor limited entry ~~only if closed class of processors~~)

- Option 1. any cooperative association with that license will transfer to the processor receiving the license. All harvest share/history holders will be subject to any share reduction on departing the cooperative, as would have been made in the absence of the transfer.
- Option 2. any cooperatives associated with the license will be free to associate with any qualified licensed processor. Harvest share/history holders in the cooperative will be free to move among cooperatives without share/history reduction.

~~2.4.6 Non Members of Cooperatives (applies only if mandatory cooperatives)~~

~~2.4.6.1 Harvest share/history holders that do not choose to join a co-op~~

- ~~Option 1. May fish in open access, provided NMFS determines that the non-cooperative allocation is sufficient to conduct an open access fishery. The open access fishery will be comprised of all shares of harvesters that are not cooperative members of the same sector (i.e., area, vessel type (CV or C/P), and/or gear). NMFS will have the discretion to determine the~~

~~distribution of bycatch among target species open access fisheries from shares of harvesters in the open access fishery.~~

~~Option 2. Are not allowed to participate in the rationalized fisheries until they join a co-op.~~

2.5 Provisions relating to the IFQ halibut/sablefish fishery

2.5.1 Management areas:

Applies to Sablefish areas SE, WY, CG, WG. Applies to halibut areas 2C, 3A, 3B, 4A.

2.5.2 Primary species include: P.cod, Greenland turbot, POP,

A) QS will be issued to the halibut/sablefish QS holder. Any QS/IFQ issues for these primary species will not be subject to regionalization, mandatory coop, closed class processor, or processor linkage provisions of GOA rationalization.

2.5.3 Secondary species include RE/SR, Thornyheads, Pelagic shelf, Other Slope, Northern, and Other rockfish. Allocation to the halibut/sablefish IFQ fishery shall be determined by:

- A) Sablefish: Allocation based on the average rate and 75th percentile of observed bycatch rates, by area (the rate which 75% of observed sets did not exceed)
 - B) Halibut: Allocation based on the average rate and 75th percentile of bycatch rates experienced in IPHC surveys by area (the rate which 75% of survey sets did not exceed).
- The IPHC survey data will look at the years 1995-2002 and 1998-2002.

2.5.3.1 Management provisions for secondary species

A) Management of RE/SR, Thornyheads, Pelagic, Other Slope, Northern, and Other rockfish shall be
Option 1: Managed in aggregate on an area basis using current MRA regulations.

Option 2: Allocated to individual sablefish or halibut QS owners proportional to their QS holdings. Secondary species QS can only be permanently transferred with the underlying parent QS, but IFQ may be leased across vessel categories and species within the halibut and sablefish IFQ program.

Suboption 1: Allow an individual to choose, on an annual basis, individual allocations or to participate in the common pool.

Suboption 2: Allow a 7 day grace period after an overage occurs for the owner to lease sufficient Secondary species IFQ to cover the overage. Failure to secure sufficient IFQ would result in forfeiture of the overage and fines.

B) An estimate of non commercial use of secondary species will be made based on observer and IPHC data. Non commercial use of secondary species for gurdy bait will not require QS/IFQ.

C) Require full retention of Secondary species listed under A.

2.6: Provisions relating to the SEO Area

2.6.1 SEO is exempt from GOA rationalization program except for the management of RE/SR, Thornyheads, and Other Slope as secondary species

2.6.2 Management provisions for secondary species

A) Any QS/IFQ issued for these secondary species will not be subject to regionalization, mandatory coop, closed class processor, or processor linkage provisions of GOA rationalization

DRAFT

DRAFT

B) Management of RE/SR, Thornyheads, and Other Slope rockfish shall be:

Option 1: Managed in aggregate on an area basis using current MRA regulations.

~~Suboption 1: separate allocations for each target fishery~~

~~Option 2: Allocated to the vessel owner or qualified lease holder as a ratio of target species at time of landing during the qualifying period based on retained catch. Secondary species QS can only be permanently transferred to an individual with 150 days of sea time in a U.S. fishery. Secondary species IFQ may be leased.~~

~~Suboption 1: Allow an individual to choose, on an annual basis, individual allocations or to participate in the common pool.~~

~~Suboption 2: Allow a 7 day grace period after an overage occurs for the owner to lease sufficient Secondary species IFQ to cover the overage. Failure to secure sufficient IFQ would result in forfeiture of the overage and fines. Motion passed 17/3.~~

C) Non commercial use of secondary species for gurdy bait will not require QS/IFQ.

D) Develop sideboards for the SEO area *Motion passed 19/0*

TRAILING AMENDMENTS

The Council intent is for these trailing amendments to be implemented simultaneously with the main rationalization program.

1. Fee and Loan Program
2. Skipper/Crew Share Program issues
3. Remaining issues of CIFT program

Alternative 3 Sector Allocations and Voluntary Coop Structure

Alternative 3 is a sector allocation and voluntary Coop proposal. A mandatory coop program would require harvesters to either join coops or not fish. Unlike Alternative 2, which is mandatory, processor specific IFQ program requiring landings by a harvester to a specific processor, this proposal allows new processor entrants and provides a mechanism for harvesters to voluntarily either enter coops voluntarily, or continue to fish in LLP/Open Access fisheries. The Alternative provides a flexible structure, which is reflective of the diversity of the fisheries in the GOA. It recognizes that harvesters, processors, and communities all have a stake in the fishery, but that the nature of the fisheries in the Gulf requires that these interests need flexibility as rationalization systems develop. This Alternative would:

- Allocate primary, secondary (bycatch) and PSC species by sector.
- Establish a mechanism which would facilitate Coops to form within sectors.
- Specify the operational rules for Coops once they are established under the rules for initial Coop formation.
- Provide for continuation of fishing opportunities for harvesters that choose not to participate in the voluntary Coops
- Include community protection measures appropriate to a Coop-based program.

The proposal sets up a step-wise process for the establishment of Coops. The first step includes a sectoral allocation and the initial formation of Coops within sectors. This is followed by an initial Coop formation period to provide time for the Coops to refine their operations. The third step is ongoing, and establishes rules for Coop formation, dissolution, and operation following the initial period of Coop formation.

This proposal would not require the assignation of A and B class Gulf History shares. GH would be generic, and would originate from a vessel's history. GH can only be developed through the establishment of a Cooperative pursuant to the rules for initial Coop formation. However, Coop participation is strictly voluntary and a harvester may choose to continue to fish in a limited entry (LLP) open access fishery.

The proposal does not include a closed class of processors. Harvesters and processors may form Cooperatives based on landings of the primary species by a harvester to a processor during the qualification period. An interim initial Coop formation period is established before harvesters joining a Cooperative may move from one Coop to another. Formation of the initial Coop will be by Coop contract, and the program will establish requirements for those contracts, including a requirement that the contract contain the terms for dissolution of the Coop or the movement of a harvester from one Coop to another. During the initial Coop formation period inter-Coop agreements are allowed within sectors to address operational issues and ensure further rationalization of the fishery between Coops.

Following the initial formation of Coops, and after the initial Coop formation period, new Coops can form and harvesters can move from Coop to Coop or exit a Coop and move back into open access. The rules for such movement, including compensation to other members of the Coop, will be specified in their Coop contracts. New processors can enter the fishery at any time, and following the initial coop formation period, harvesters can form coops with those processors.

Because this is a voluntary program, and does not develop individually assigned IFQ or processor shares, community protection provisions are simplified to only include options for regionalization and a community quota system.

Monitoring of harvest and PSC for the Coop fishery will be at the Coop level. Assignments of Gulf history (GH), including transfers, will be monitored by RAM to ensure proper catch allocation. The annual GH will result in a Gulf Quota (GQ) for actual poundage. Current monitoring programs for the open access fishery will continue.

The following provisions apply to Alternative 3 only:

The AP accepts staff's recommendations and also addressed the following specific issues:

How do co-ops and open access work?

Vessels may move back into open access after joining a co-op, however the amount of GH initially issued must move back with them. *Motion passed 19/0.* If a vessel spends 1, 2 or 3 years in open access, the vessel then re-qualifies to enter a new coop—Same as AFA rules. *Motion passed 16/2*

Should you drop a year in the sector split?

The AP is unable to make a decision at this time absent information from staff. *Motion passed 19/0*

I. SECTOR ALLOCATION PROVISIONS.

3.1 Management Areas:

Areas are Western Gulf, Central Gulf, and West Yakutat—separate areas

For Pollock: 610 (Western Gulf), 620 and 630 (Central Gulf), 640 (West Yakutat (WYAK))

- Shortraker and roughey (SR/RE) and thornyhead rockfishes will be divided between Southeast Outside (SEO) and WY
- The allocation of rockfish bycatch to the halibut IFQ fishery will be on a NMFS management area basis
- Non-SR/RE and thornyhead rockfish trawl catch history in SEO during 95-98 will be used in the calculation of WYAK allocation
- SEO is exempt except for SR/RE and thornyhead rockfishes as bycatch species. Allocation will be based on target catch in sablefish, halibut, Demersal Shelf Rockfish and P. cod fishery

Gear: All gear types are considered.

Option 1. The jig fishery would receive an allocation based on its historic landings in the qualifying years –

1. 100%
2. 125%
3. 150%
4. 200%

3.2 Sector definitions and allocations:

CV trawl
 CV longline
 CV pot
 C/P trawl
 C/P longline
 C/P pot
 jig
 low producing fixed gear

Low producing vessel sector are

- Option 1. fixed gear vessels under 60 feet **that are below the** ~~which harvest less than the 75th percentile~~ **of qualified harvest history** by primary species and area.
- Option 2. fixed gear vessels less than average **qualified harvest history** ~~shares initially allocated~~ by gear, **primary** species and area
- Option 3. fixed gear vessels **that are below the** ~~less than the 75th percentile~~ **in qualified harvest history** ~~shares initially allocated~~ by gear, **primary** species and area

High producing vessels are the remainder and are divided into a catcher vessel longline and catcher vessel pot sector. Sector definitions apply throughout Alternative 3.

A CP is a vessel that harvests CP shares under the program in a year. GH will be based on:
Actual amount of catch harvested and processed onboard a vessel by species.

~~To be determined as a CP a vessel Designation must process no less than 90% of its qualifying catch processed on board on average over the qualifying period.~~

~~Option 1: determined on a species by species basis~~

~~Option 2: determined by the aggregate of all species~~

Suboption 1: jig sectors would be exempt from co-op provisions.

Suboption 2: Fixed Gear Low Producer Provisions:

- Option 1. Apply same rules for initial co-op formation and general co-op operation as apply to other sectors.
- Option 2. Exclude from co-op program, provide sector allocation and continue as an LLP/Open Access fishery.
- Option 3. Apply all co-op rules except processor affiliation requirement for initial co-op formation (i.e. harvester-only co-op **without processor association**).

3.2.1 The sector allocations are the total of the qualifying catch histories of the eligible participants (see Note below). Sector allocation qualifying periods and landing criteria (same for all gears in all areas). The analysis will assess AFA vessels as a group.

Option 1. 95-01

Option 2. 95-02

Option 3. 98-02

3.2.2 Sector Qualifying landing criteria (same for all gears in all areas)

Landings based on retained catch for each species (includes weekly production report for Catcher/ Processor sector). Total pounds landed will be used as the denominator.

~~Option A: Include retained catch that is used for meal production~~

Option B: Exclude retained catch that is used for meal production

Motion passed 19/0

3.2.3 Sector Allocation: Primary Species:

Allocate catch history by sector and gear type as follows:

Trawl CV and CP:

Pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, Pelagic shelf rockfish

Longline CV and CP:

Pacific cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if turbot is targeted), northern rockfish, Arrowtooth flounder

Pot CV and CP:

Pacific cod

Fixed gear low producers:

Pacific cod

Jig gear

Pacific cod

3.2.4 Sector Allocation: Secondary (~~Bycatch~~) and PSC species:

Secondary species: Thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, and trawl sablefish. Includes SEO shortraker, rougheye, and thornyhead rockfish.

Option 1: Sector allocation for each primary species will be based on PSC and secondary species average catch by gear during the sector qualifying period by area. Sector allocation will be adjusted pro-rata to equal 100% of PSC limit or secondary species TAC. ~~fleet average for each sector during sector allocation qualifying period by area.~~

Suboption. ~~based on fleet bycatch rates or~~ Use 75th percentile rather than average catch ~~for each sector by area by target fishery~~ *Motion passed 19/0*

Option 2: Maintain current PSC allocations, and MRA management for secondary species.

Suboption: Allocate PSC by sector based on fleet average for each sector during sector allocation qualifying period.

Note: Sector allocations will be based on the criteria specified above and will be based on the aggregate history of vessels in each sector, which legally fished in the federal fishery and in the state parallel fishery during the qualifying period. The criteria for sectoral allocations may be different than the qualifying and allocation criteria for developing ~~Quota Share~~ **Gulf History** pursuant to the co-op program because there might be different sector constraints under SSL measures or within state waters.

II. Voluntary Co-op Structure

3.3 INITIAL CO-OP FORMATION PROVISIONS. Voluntary co-ops may form between eligible harvesters and processors. Harvesters may elect not to join a co-op, and continue to fish in the LLP/Open Access fishery.

3.3.1 Eligibility.

LLP participation

Option 1. Any person that holds a valid, permanent, fully transferable LLP license is eligible to receive an initial allocation of Gulf catch history (as generic GH) through co-op membership.

Suboption 1. Any person who held a valid interim LLP license as of January 1, 2003.

Suboption 2. Allow the award of retained incidental groundfish catch history arising from the halibut and sablefish IFQ fishery.

Basis for the distribution to the LLP license holder is: the catch history of the vessel on which the LLP license is based and shall be on a fishery-by-fishery basis. The underlying principle of this program is one history per license. In cases where the fishing privileges (i.e., moratorium qualification or LLP license) of an LLP qualifying vessel have been transferred, the distribution of harvest shares to the LLP shall be based on the aggregate catch histories of (1) the vessel on which LLP license was based up to the date of transfer, and (2) the vessel owned or controlled by the LLP license holder and identified by the license holder as having been operated under the fishing privileges of the LLP qualifying vessel after the date of transfer. (Only one catch history per LLP license.)

Option 2. Non-LLP (State water parallel fishery) participation

Suboption 1. Any individual who has imprinted a fish ticket making non-federally permitted legal landings during a State of Alaska fishery in a state waters parallel fisheries for species under the rationalized fisheries.

Suboption 2. Vessel owner at time of non-federally permitted legal landing during a State of Alaska fishery in a state waters parallel fisheries for species under the rationalized fisheries

3.3.2 Initial Allocation of primary species catch history

Allocate catch history as generic ~~Quota Share~~ **Gulf history (GH)** on an individual harvester basis for the following primary species:

Trawl CV and CP:

Pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, Pelagic shelf rockfish

Longline CV and CP:

Pacific Cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if turbot is targeted), northern rockfish, Arrowtooth flounder

Pot CV and CP:

Pacific Cod

~~Quota shares are~~ **GH is** designated by sector:

Option 1. Trawl ~~GH/GQ~~ may be fished using fixed gear, if yes – appropriate mechanism to transfer GH/GQ across sectors needed.

Gulf Quota (GQ) is the annual allocation to a cooperative based on the GH of its members.

3.3.2.2 Qualifying periods and landing criteria (same for all gears in all areas) for determining GH (The analysis will assess AFA vessels as a group).

- Option 1. 95-01 drop 1
- Option 2. 95-02 drop 1
- Option 3. 95-02 drop 2
- Option 4. 98-02 drop 1

Options to drop years would be to accommodate SSL restrictions or the inclusion of the state portion of the parallel fishery.

Individual GH will be based on retained catch for each species (includes weekly production report for Catcher/Processor sector). The denominator shall be total landed catch by species.

~~Option A: Include retained catch that is used for meal production~~ *Motion Passed 10/0*
 Option B: Exclude retained catch that is used for meal production

3.3.3 Allocation of Secondary and PSC Species

3.3.3.1 Allocation of secondary species:

Secondary species are: thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, and trawl sablefish. Includes SEO shortraker, rougheye, and thornyhead rockfish.

Allocation of secondary GH to co-op members:

Option 1. Allocate GH to co-op members based on fleet secondary species catch rates by sector gear:

- Suboption 1. based on average catch history by area and target fishery
- Suboption 2. based on 75th percentile by area by target fishery

Option 2. Include these species for co-ops for one gear type only (e.g., trawl). Deduct the secondary species from other gear types from TAC. If deduction is not adequate to cover secondary species in other gear types, on a seasonal basis, place that species on PSC status until overfishing is reached.

Option 3. Retain these species on secondary species status for all gear types with current MRAs.

3.3.3.2 Halibut PSC Allocation:

~~Each cooperative~~ Upon entering a co-op, each recipient of fishing history would receive an allocation of halibut mortality (harvest shares) based on their allocation of the primary species GH. Secondary species would receive no halibut allocation.

3.3.3.3 Transfer of secondary species GH and PSC:

~~Permit transfer of secondary species GH and associated fishing quota GQ subject to the rules for initial co-op formation during the initial co-op formation period, and the general co-op rules following the period of initial Co-op formation:~~ **As permitted by and subject to any other transfer rules:**

- Option 1. Primary species and **the associated** secondary species **and/or PSC history GH** are non-separable and must be transferred as a unit.
- Option 2. Primary species and **the associated** secondary species **and/or PSC history GH** are separable and may be transferred separately.

III. Co-op Rules for all CPs, trawl, longline, pot and catcher vessels

Option: Jig and low producer fixed gear exempted.

Initial Co-op Formation Rules:

~~Voluntary Coops may be formed between harvesters and processors during the initial co-op formation period established below. Harvesters have the choice to either remain in the LLP/Open access fishery or to join a co-op. The history of harvesters that choose to join a co-op will be subtracted from the open access sector allocation. Formation of a co-op under the rules for initial co-op formation generates Gulf History (GH) to members. Annual harvest amounts (Gulf Quota GQ) are issued to the co-op based on these GH. History, in the form of the GH, is transferable among members at any time. Within the initial co-op formation period, no permanent transfers of GH may be made between co-ops. During this period GQ is transferable between co-ops by inter-cooperative agreement to facilitate further rationalization and address operational issues. Following the initial co-op formation period the general rules for co-ops would apply. For catcher vessel cooperatives, a pre-season co-op agreement between eligible, willing harvesters in association with and an eligible and willing processor is a pre-requisite to a cooperative receiving an allocation of GQ. The harvesters and processor that enter into the agreement shall be the members of the co-op. The processor will be an associate of the cooperative but will not be a cooperative member. The agreement will be filed with the RAM division. The co-op agreement must contain a fishing plan for the harvest of all co-op fish. Monitoring will be at the co-op level. After initial co-op formation, members who choose to leave their original co-op and join a new co-op may join through an agreement that is not required to include provisions regarding transfers or exiting from a co-op, including compensation to the members of the new co-op or the associated processor.~~

3.3.5 Catcher Vessel Co-ops.

~~During the initial co-op formation period e~~ Catcher vessel co-ops may be established within sectors between eligible harvesters **in association with and an eligible** processor. **A harvester is initially eligible to join a cooperative in association with the processor to which** the harvester delivered the most pounds of primary species to during the **qualifying period:**

- a) **the allocation base period qualifying years.**
- b) **most recent 1, 2, or 3 years from the qualifying years base period.**

~~Suboption 1. On a species by species basis~~

~~Suboption 2.~~ In the aggregate ~~by region~~ *Motion passed 19/0*

3.3.6 Catcher processor co-ops may be formed by eligible CPs within each CP sector. No processor affiliation is required for CP co-op formation.

3.3.7 Cooperatives are required to have at least:

- Option 1. 4 distinct and separate harvesters (using the 10% threshold rule)
- Option 2. 50-100 percent of the ~~harvest shares (or catch history)~~ **GH** of its sector. Council may choose different percentages for different sectors.
- Option 3. 50-100% of ~~shareholder entities~~ holders of GH belonging to its sector. Council may choose different percentages for different sector.
- Option 4. 50-75 percent of the ~~harvest shares (or catch history)~~ of the eligible **GH** ~~harvest share (or catch history)~~ for each co-op associated with its processor
- Option 5 Any number of eligible harvesters within the sector

Note: Requirements may differ across sectors (or for CV and CP Cooperatives)

3.3.8 Duration of initial cooperative agreements:

- Option 1. 1 year
- ~~Option 2. 2 years~~
- ~~Option 3. 3 years~~
- ~~Option 3. 5 years~~
- ~~Option 4. 10 years~~
- ~~Option 4.5~~ Any length agreed between the co-op participants.

Motion passed 19/0

3.3.9 Catcher Vessel co-op/processor affiliations

~~A harvester is eligible to join a cooperative associated with the processor to which the harvester delivered the most pounds of primary species of during:~~

- ~~a) the allocation base period.~~
- ~~b) most recent 1, 2, or 3 year from the qualifying base period.~~

Option A: If the processor with whom the harvester is **initially** eligible to form a co-op is no longer operating, the harvester is eligible to join a co-op with any qualified processor (i.e. any processor eligible to participate in the initial formation of a co-op).

Option B: If the processor with whom the harvester is **initially** eligible to form a co-op is no longer operating in the community, the harvester is eligible to join a co-op with any qualified processor (i.e. any processor eligible to participate in the initial formation of a co-op).

- Option 1. CV cooperatives must be associated with
 - a) an eligible processing facility
 - b) an eligible processing company
- Option 2. Processors can associate with more than one co-op.
- Option 3. Processors are limited to 1 co-op per plant for each sector.

3.3.10 Initial co-op agreements are required to have the following:

See staff proposed replacement provisions for 3.3.10 through 3.4.2 attached to the end of this document. That proposal is intended to capture all of the requirements of the sections in a simplified manner.

- A pre-season co-op agreement between eligible, willing harvesters in association with and an eligible and willing processor is a pre-requisite to a cooperative receiving an allocation of GQ. The harvesters ~~and processor~~ that enter into the agreement shall be the members of the co-op. The processor will be an associate of the cooperative but will not be a cooperative member. The agreement will be filed with the RAM division. The co-op agreement must contain a fishing plan for the harvest of all co-op fish. *Cooperative formation is assumed to be a prerequisite to the GQ allocation. The processor would not be a cooperative member, but would be an associate of the cooperative. This provision applies to all cooperatives.*
- Co-op members may internally allocate and manage the co-op’s allocation per the co-op membership agreement. Subject to any harvesting caps that may be adopted, ~~history~~ GH or GQ may be transferred and consolidated within the co-op to the extent permitted under the membership agreement. *Provision applies to all cooperatives.*
- The co-op agreement will have a monitoring program. Monitoring and enforcement requirements would be at the co-op level. Co-op members are jointly and severally responsible for co-op vessels harvesting in the aggregate no more than their co-op’s allocation of primary species, secondary species and PSC mortality, as may be adjusted by inter-co-op transfers. *Provision applies to all cooperatives.*
- Co-ops may adopt and enforce fishing practice codes of conduct as part of their membership agreement. Co-ops may penalize or expel members who fail to comply with their membership agreement. *Provision applies to all cooperatives.*
- Co-op agreements will specify that processor affiliates cannot participate in price setting negotiations except as permitted by general antitrust law. *Provision applies to all cooperatives.*
- Co-ops may engage in inter-Cooperative transfers (leases) of GQ during and after the initial co-op formation period. During the initial cooperative formation period, GH transfers will be permitted between members of the same cooperative, but not between members of different cooperatives. Following the initial do-op formation period, members of a co-op may transfer GH and/or GQ to members of other co-ops. All transfers will be subject to such terms and conditions as may be specified in the applicable co-op agreement and any ownership or use caps or other conditions as may be established pursuant to this program. *Provision applies to all cooperatives defining rules for transfers during and after the initial cooperative formation period. This provision could be incorporated into a single section on transfers (that includes all provisions affecting transfers) for clarity.*
- Initial Cooperative Membership The following provision is required for the initial co-op agreement entered into by any harvester:
 - Co-op agreements shall specify the terms and conditions for entering and exiting the co-op or transferring GH from the cooperative, including mechanisms whereby a member exiting the co-op (or transferring GH from the co-op) compensates the remaining co-op members and/or the associated processor for exiting the co-op (or transferring GH from the co-op). Compensation will be limited as follows:
 - a. No limitation --Compensation can take on any form agreed to by the members and the associated processor
 - b. Compensation of no more than 5, 10, or 15% of the GH generated by the exiting participant.
 - c. Compensation could be no more than the exiting participant’s GH multiplied by a declining fraction of the years in the initial coop formation period. (e.g. if the formation period is 10 years, compensation in the first year would be limited to no more than 100% and compensation in the 9th year would be limited to no more than 10%) *Motion passed 19/0*
- Following the initial co-op formation period, new GH can be generated by eligible harvesters that have never been co-op members ~~eligible under the requirements for initial co-op formation~~ only by joining a co-op in association with the eligible processor pursuant to the terms of an agreement that meets the requirements for an initial co-op formation.

- Co-op agreements shall allow for the entry of other eligible harvesters into the co-op under the same terms and conditions as agreed to by the original agreement.

3.3.11 Allocation to CP co-ops will be based on the above, with the following exceptions:

- CP co-ops do not need a processor ~~affiliation~~ **association**.
- CP co-ops will be within CP gear sectors. Transfers of GH or leases of GQ across CP gear types is not permitted.
- CP co-ops are subject to the other terms and conditions specified for CPs under this program

3.3.12 Initial Co-op Formation Period.

An Initial Co-op Formation period shall be established beginning with year one of program implementation and extended for the period identified below. ~~During this period, no permanent transfers of GH may be made between co-ops. GH transfers can take place at any time between members of the same Co op. Leasing of annual harvest allocations (IFQ) between Coops is allowed pursuant to an inter Co op agreement. During is period, harvesters may join Coops for which they would otherwise be eligible under the same conditions as the original founding members.~~

Option 1. period is 1 year

Option 2. period is 2 years

Option 2. period is 3 years

3.4 General Operational Co-op Rules.

3.4.1 Following the initial co-op formation period the following rules for co-op operation would apply:

- New GH can be generated by **eligible** harvesters ~~eligible under the requirements for initial co-op formation~~ only by joining a co-op pursuant to the terms for initial co-op formation. An initial co-op formation period shall apply to transfers for these new co-op entrants which shall be the same as the initial co-op formation period specified above.
- **After the initial cooperative formation period, the cooperative may be associated with any processor. Motion passed 19/0 A pre-season co-op agreement between eligible, willing harvesters in association with and the eligible and willing an eligible processor is a pre-requisite to a cooperative receiving an allocation of GQ. The harvesters and processor that enter into the agreement shall be the members of the co-op. The agreement will be filed with the RAM division. The co-op agreement must contain a fishing plan for the harvest of all co-op fish.**
- Co-op members may internally allocate and manage the co-op's allocation per the co-op membership agreement. Subject to any harvesting caps that may be adopted, member allocations may be transferred and consolidated within the Co-op to the extent permitted under the membership agreement. **Provision applies to all cooperatives.**
- The co-op agreement will have a monitoring program. Monitoring and enforcement requirements would be at the co-op level. Co-op members are jointly and severally responsible for co-op vessels harvesting in the aggregate no more than their co-op's allocation of primary species, secondary species and PSC mortality, as may be adjusted by inter-co-op transfers. **Provision applies to all cooperatives.**
- Co-ops may adopt and enforce fishing practice codes of conduct as part of their membership agreement. Co-ops may penalize or expel members who fail to comply with their membership agreement. **Provision applies to all cooperatives.**
- Processor affiliates cannot participate in price setting negotiations except as permitted by general antitrust law. **Provision applies to all cooperatives.**
- Co-ops may engage in inter-cooperative transfers of GH and/or GQ to other co-ops. **Members of a co-op may transfer GH to any individual that is a member of any co-op. Any transfers will be subject**

to such terms and conditions as may be specified in the co-op agreement and any ownership or use caps or other conditions as may be established pursuant to this program. *Provision applies to transfers and could be worked into a section that defines all transfer provisions. Combining with the second bullet will clarify the inconsistency between these bullets.*

- Co-op agreements shall allow for the entry of other eligible harvesters into the co-op under the same terms and conditions as agreed to by the original members.

3.4.2 Co-op formation and GH transfers

~~Option 1. Harvesters who entered a co-op during the initial co-op formation period may transfer GH or GQ to other members within the original co-ops or to a new co-op at any time pursuant to the terms of the original co-op agreement. This provision is inconsistent with the bullet on transfers in the initial cooperative provision. That provision only allows transfers of GH to members of other cooperatives after the initial cooperative formation period. The bullets in 3.4.1 are also inconsistent with this provision. The Council should clarify whether the transfer requires the consent of the cooperative and the associated processor. In any case, either the bullet above or this provision should be deleted to avoid inconsistencies.~~

~~Option 2. Harvesters who choose to not join a co-op during the initial co-op formation period may generate new GH by joining a co-op or form a new cooperative with the processor they delivered the most pounds of primary species during the allocation qualifying period. Transfers of GH or GQ may take place at any time thereafter pursuant to the terms of the agreement. This provision is inconsistent with the limit on GH transfers in the first bullet in section 3.4.1. That provision would allow GH transfers after a period of length equal to the initial cooperative formation period. Since the provisions are mostly redundant, but somewhat inconsistent, one provision should be selected and the other deleted.~~

Suboption: The rules for transferring the initial co-op formation period shall apply to these new co-op entrants.

The provision appears to be intended to apply the initial cooperative formation transfer rules to persons that join cooperatives after the initial cooperative formation period. This is inconsistent with the last sentence of Option 2. Also, it is not clear whether these rules apply in perpetuity or only for a period of years.

3.4.2.1 Qualified Persons.

Persons qualified to **receive GH by transfer**, must be (not mutually exclusive):

- ✓ Entities eligible to document a vessel (apply to CP).
- ✓ Initial recipients of CV or C/P harvest share.
- ✓ Community administrative entities would be eligible to receive harvest shares by transfer.
- ✓ **Suboption 1:** Individuals eligible to document a vessel with at least 150 days of sea time (apply to CV shares) OR
- ✓ **Suboption 2:** Entities eligible to document a vessel that have a US citizen with 20% ownership and with at least 150 days of sea time (apply to CV shares).

Select Suboption 1 and 2 as additional preferred provisions Motion passed 19/0

3.4.2.2 Definition of sea time

Sea time in any of the U.S. commercial fisheries in a harvesting capacity.

~~Note: Following the initial Co-op formation period, any processor may form a Co-op with any eligible harvester who has GH or form a new cooperative.~~

3.4.3 Ownership caps.

Ownership of GH by a co-op member shall be capped at:

- Option 1. 15% of the GH by area, sector and species
- Option 2. 25% of the GH by area, sector and species
- Option 3. 45% of the GH by area, sector and species
- Option 4. no cap.

Ownership caps of the original issues would be grandfathered in at the original level of GH.

3.4.4 Use caps.

Use by a co-op of annual allocations (GQ) generated by GH shall be capped at:

- Option 1. 15% by area, sector and species
- Option 2. 25% by area, sector and species
- Option 3. 45% by area, sector and species
- Option 4. no cap

Use caps of the original issues would be grandfathered in.

3.4.5 Vertical integration

Initial recipients of GH with more than 10% limited threshold ownership by any processor are capped at:

- Option 1. initial allocation of harvest CV and CP shares.
- Option 2. 115%-150% of initial allocation of CV GH.
- Option 3. 115%-150% of initial allocation of CP GH.
- Option 4. No cap

3.4.6 Catcher/Processor Provisions

In addition to the rules specified above, the following provisions apply to Catcher/Processors:

3.4.7 Restrictions on transferability of CP harvest shares:

- Option 1. ~~CP GH may only be transferred to other CP GH holder sea ops.~~
 - ✓ Entities eligible to document a vessel (apply to CP).
 - ✓ Initial recipients of CV or C/P harvest share.

- Option 2. CP GH may be ~~transferred~~ converted to CV GH ~~sea ops~~. CP GH harvest shares maintains ~~its~~ their designation when transferred to persons who continue to catch and process the resulting CP GO harvest shares at sea ~~pursuant to a CP sea op~~, if CP GO is harvested by a CV and delivered to a processor harvest shares are transferred to a CV Co-op, the underlying CP GH harvest shares convert to CV GH harvest shares.

- ~~Option 3. CP GH harvest shares maintains its their designation after transfer for 5 years following date of implementation, after which time any transfer of CP GH (or transfer of GO outside of a cooperative) shares converts the underlying GH to CV GH shares.~~

~~3.4.7.1 Re-designate CP shares (GH) as CV shares (GH) upon transfer to a person who is not an initial issuee of CP shares:~~

- ~~Option 1. all CP shares~~
- ~~Option 2. trawl CP shares~~
- ~~Option 3. longline CP shares~~

3.4.7.2 Leases of CP annual harvest allocations (GQ):

- Option 1. Allow leasing pursuant to an inter-Co-op agreement within CP sectors

Suboption (Allow CP leases across gear types).

- ~~Option 2. No leasing of CP GQ allowed~~

~~Suboption: Allow for the first 3 years after program implementation. -Motion passed 15/4~~

Option 3. Allow leasing within a cooperative

3.4.7.3 Conversion of CP shares **GH and GO**:

Option 1. CP **GH and GO** converted to CV **GH and GO**

Suboption 1. will count toward CV caps

Suboption 2. will not count toward CV caps at the time of conversion.

Option 2. Caps will be applied to prohibit acquisition of shares in excess of the cap. Conversion of CP **GH or GO** to CV **GH or GO** alone will not require a CP **GH holder or cooperative** to divest CP **GH and GO** for exceeding the CP caps.

3.5 Skipper/Crew Provisions

A skipper is defined as the individual owning the Commercial Fishery Entry Permit and signing the fish ticket.

Option 1. No skipper and/or crew provisions

Option 2. Establish license program for certified skippers. For initial allocation Certified Skippers are either:

i. Vessel owners receiving initial GH or harvest privileges; or

ii. Hired skippers who have demonstrated fishing experience in Federal or State groundfish fisheries in the BSAI or GOA for 3 out of the past 5 years as documented by a CFEC permit and signed fish tickets and/or appropriate NMFS documentation (starting date for five years is 2003).

Suboption 1. include crew in the license program.

Suboption 2. require that new Certified Skippers licenses accrue to individuals with demonstrated fishing experience (Groundfish – BSAI/GOA, state or federal waters) similar to halibut/sablefish program.

Under any alternative that establishes GH and annual harvest privileges, access to those annual harvest privileges is allowed only when fishing with a Certified Skipper onboard. Certified Skipper Licenses are non-transferable. They accrue to an individual and may not be sold, leased, bartered, traded, or otherwise used by any other individual. Defer remaining issues to a trailing amendment and assumes simultaneous implementation with rationalization program.

3.6 LLP/Open Access fishery provisions:

Harvesters that choose not to participate in a co-op may continue to fish in the LLP/Open Access fishery. The LLP/Open Access fishery will be conducted in a manner similar to current practices.

Option 1. The allocation for each sector of primary species, secondary species, and PSC to the LLP/Open Access fishery will be those amounts remaining after allocation to the co-ops.

Suboption: Manage LLP/Open Access fishery sector allocations for primary species only. Continue current MRA and PSC management

Option 2. PSC allocations to the LLP/Open Access fishery will be reduced by:

| | |
|-----------|--------|
| Option A. | 5 10% |
| Option B. | 10 20% |
| Option C. | 15 30% |

Note: This reduction may differ by sector.

Can a person enter the open access who was previously in a cooperative? If so, does it matter if a person sold GH while in a cooperative. At the onset, it is clear that a person must have an LLP for the open access, but if GH is freely tradable, what is the requirement for entering the open access after being in a cooperative?

Holdings may change substantially, in which case, the amount of GH going to the open access may be very different after trades than before trades.

The need for the suboption is not clear. The option is for the continued management of the open access under current rules (including continuing current MRA and PSC management). The differences between the suboption and the option are not clear.

3.7 Communities

Note: Bering Sea/Aleutian Islands communities (CDQ or otherwise) and communities adjacent to the Eastern GOA regulatory area Southeast Outside District (except Yakutat) will not be included in any Gulf rationalization community protection programs.

3.7.1 Regionalization

Regionalization options may be selected under any of the proposed alternatives for Gulf rationalization.

If adopted, ~~all~~ GH will be categorized by region (for the fisheries identified below).

- GH that is regionally designated cannot be reassigned to another region.
- Catcher vessel GH is regionalized based on where the catch was processed, not where it was caught.
- Catcher processor GH is not subject to regionalization.
- Qualifying years to determine the distribution of GH shares between regions will be consistent with the qualifying period under cooperative formation.

Central Gulf: Two regions are proposed to classify harvesting shares: North - South line at 58 51.10' North Latitude (Cape Douglas corner for Cook Inlet bottom trawl ban area) extending west to east to the intersection with 140° W long, and then southerly along 140° W long.).

The following fisheries will be regionalized for shorebased (including floating) catch and subject to the North - South distribution: Pollock in Area 630; CGOA flatfish (excludes arrowtooth flounder); CGOA Pacific ocean perch; CGOA northern rockfish and pelagic shelf rockfish (combined); CGOA Pacific cod (inshore); GOA sablefish (trawl); WY pollock.

The regionalization provisions under Alternative 3 are not exactly the same as those provided under Alternative 2. Staff has provided suggestions only where the inconsistencies between the two alternatives were thought to have been potentially inadvertent.

Staff suggests the above modifications to the introductory sentence, to make it consistent with the regionalization provisions that follow. In effect, the change clarifies that not all GH would be regionalized under Alternative 3. Only those species and areas that are identified explicitly would be regionalized: pollock in Area 630 and 640, Gulf sablefish (trawl), as well as all other primary species in the Central GOA (Areas 620 and 630) with the exception of arrowtooth flounder. The only secondary species that is explicitly included is Gulf trawl sablefish, based on the expectation that at some point under a rationalization regime, the trawl sablefish fishery may become a directed harvest. These are the same fisheries proposed for regionalization under Alternative 2.¹ The change serves to clarify a sentence that could be potentially misinterpreted.

The proposed change to the last bullet would make the terminology consistent among all provisions. Note also that this provision is slightly different from that provided in Alternative 2, due to the different cooperative options proposed under Alternative 3. Alternative 2 provides two options for determining the

¹ Note that Alternative 2 also provides an option to regionalize all secondary species.

distribution between the north and south regions: 1) the qualifying period for receiving shares, and 2) 1999 – 2002.² By contrast, Alternative 3 bases the distribution between regions on the qualifying period for cooperative formation, which could be different from the qualifying years established to determine GH.³ Alternative 3 also does not include an explicit option to regionalize based on 1999 – 2002, although 2000 – 2002 or 1999 – 2001 could be derived from the current options.

Lastly, the regionalization provisions under Alternative 3, when combined with the harvester/processor cooperative association provisions, could create an inconsistency under which a portion of the harvester's shares could not be delivered to the associated processor. This same concern was identified and addressed in Alternative 2 at the December meeting. The following language is proposed to avoid a situation in which the regional designation conflicts with the processor association provisions:

- *In the event GH is regionalized, a harvester will be eligible to bring its history in a region to a cooperative associated with the processor in the region to which the harvester delivered the most pounds during the cooperative formation qualifying period.*

Depending on the delivery pattern of the individual harvester, a typical harvester could have history in both the north and the south regions. The cooperative/processor association provisions in Section 3.3.9, however, would require a harvester to deliver to the one processor to which he/she delivered the most pounds during the qualifying period. Absent the proposed language, a harvester could have substantial history in both regions, but have an obligation to deliver all of its harvest to the processor with which it is associated overall, in one region. Because the ability of a harvester to receive an annual harvest allocation is dependent upon the processor's association with the cooperative, the processor would influence whether the harvester is able to use this history in the rationalized fishery.

The proposed language resolves the potential conflict by creating a harvester/processor association within each region. In effect, a harvester's north region history would be associated with the processor in the north to which the harvester delivered the most pounds during the qualifying period. The harvester's south history would be associated with the processor in the south to which it delivered the most pounds during the qualifying period.

3.7.2 Community Fisheries Quota (CFQ) Program

All of the provisions of the CFQ Program below are identical to the provisions included in the CFQ Program under Alternative 2, with the exception of Section 3.7.2.9. Please see Section 2.2.9.2 for comments regarding proposed changes or suggestions for the CFQ Program under both Alternative 2 and Alternative 3. Section 3.7.2.9 is addressed separately, below.

The same legal concerns identified under the CFQ Program in Alternative 2 (Section 2.2.9.2) apply to the CFQ Program under Alternative 3, as the fundamental concept and specific options are the same. A legal opinion provided by NOAA GC (Attachment D) identifies potential legal concerns regarding the process by which a Gulf administrative entity would decide which fishermen within an eligible community could fish the annual harvest shares resulting from the CFQ. The opinion states that this process denotes a sub-allocation of quota share by an outside entity, without Secretarial approval, and thus, without an appeals process, risking violation of the Administrative Procedure Act and the U.S. Constitution. While the legal implications need to be resolved, the proposed options for the CFQ Program could be relevant under various program designs. Thus, while additional effort needs to be undertaken to further develop the proposed CFQ Program

² The option for 1999 – 2002 was included at the December 2003 meeting, to allow for a set of years that accounts for the Steller sea lion mitigation measures that likely changed delivery patterns starting in 1999.

³ The qualifying period under cooperative formation (Section 3.3.5) includes an option to use the most recent 1, 2, or 3 years from the overall GH qualifying period (Section 3.3.2.2) to determine the processor with which the harvester is associated.

to make it both complete and legally viable, the proposed options to date are not made inapplicable due to the legal opinion.

The purpose of the Community Fisheries Quota Program and the Community Quota Purchase Program is to mitigate economic impacts from rationalization on smaller, isolated, Gulf of Alaska fisheries dependent communities. Community fishing quota will provide for the sustained participation of the qualifying communities in the rationalized fisheries and acknowledges the importance of fisheries resources to these communities. These purposes will be obtained by allocating QS to a community entity so that the community entity can derive revenues from leasing QS to ensure the retention of fishing opportunities and/or support community development.

3.7.2.1 Administrative Entity

A Gulf-wide administrative entity will receive and hold CFQ on behalf of eligible communities. The administrative entity representing ~~a community~~ **or one or more eligible communities** must be a non-profit entity qualified by NMFS.

~~Gulf wide administrative entity~~

3.7.2.2 Eligible Communities

Option 1. Population (based on 2000 Census):

- a. Less than 1,500
- b. Less than 2,500
- c. Less than 5,000
- d. Less than 7,500

Option 2. Geography

- a. Coastal Communities without road connections to larger community highway network
- b. Coastal communities adjacent to salt water
- c. Communities within 10 nautical miles of the Gulf Coast
- d. Communities on the south side of the Alaska Peninsula that are adjacent to Central and Western GOA management areas (including Yakutat) within 5 nautical miles from the water, but not to include Bering Sea communities included under the Western Alaska CDQ program.

Option 3. Historic Participation in ~~Groundfish~~ Fisheries

- a. Communities with residents having any commercial permit and fishing activity as documented by CFEC in the last ten years (1993 - 2002)

Option 4. Government Structure

- a. Communities recognized by the State of Alaska as a first class, second class, or home rule municipality
- b. All other eligible communities

3.7.2.3 Species

Option 1. All rationalized groundfish species

Option 2. **Pollock and Pacific cod** ~~Limited to species that can be caught without (hard on) bottom trawling~~

3.7.2.4 Allocation

- Option 1. 5% of annual TAC
- Option 2. 10% of annual TAC
- Option 3. 15% of annual TAC

3.7.2.5 Harvesting of Shares

- Option 1. Limited to residents of any eligible community

3.7.2.6 Allocation Basis

The initial allocation (harvest shares) of CFQ would be made to the administrative entity representing eligible communities.

- Option 1. 0% - 100% of the annual harvest rights from the CFQ owned by the administrative entity would be distributed amongst qualified communities on an equal basis.
- Option 2. 0% - 100% of the annual harvest rights from the CFQ owned by the administrative entity would be distributed amongst qualified communities on a pro rata basis based on population.
- Option 3. 0% - 100% of the annual harvest rights from the CFQ owned by the administrative entity from each GOA groundfish management area, by species, would be distributed amongst qualified communities located in the management area on an equal basis.

3.7.2.7 Qualification of Administrative Entity

The administrative entity must submit a detailed statement of eligibility to NMFS and the State prior to being qualified. The State may comment on the statement of eligibility but does not have a formal role. The required elements of the eligibility statement will be in regulation.

3.7.2.8 Administrative Oversight

A report submitted to NMFS detailing the use of QS by the administrative entity. The required elements and timing of the report will be outlined in regulation.

3.7.2.9 CFQ Management

The CFQ Program will be managed in a manner similar to the halibut/sablefish community purchase program. The Council shall establish a CFQ implementation committee to implement this program as a trailing amendment. The committee will advise on the provisions of the program.

Staff assumes that the committee referenced under Section 3.7.2.9 would be tasked with making recommendations to the Council on the details of managing the CFQ Program. If initiated, the committee will need legal guidance during the development of the management provisions of the program. The fundamental differences between the CFQ Program and the halibut/sablefish community purchase program may necessitate different management provisions. The CFQ Program is a direct allocation to a community entity on behalf of eligible communities, while the purchase program allows qualified administrative entities to be included as a type of eligible holder of QS, facilitating the purchase of shares by these entities.

Have staff re-number as appropriate for Alternative 3

2.5 Provisions relating to the IFQ halibut/sablefish fishery

2.5.1 Management areas:

Applies to Sablefish areas SE, WY, CG, WG. Applies to halibut areas 2C, 3A, 3B, 4A.

2.5.2 Primary species include: P.cod, Greenland turbot, POP,

A) QS will be issued to the halibut/sablefish QS holder. Any QS/IFQ issues for these primary species will not be subject to regionalization, mandatory coop, closed class processor, or processor linkage provisions of GOA rationalization.

2.5.3 Secondary species include RE/SR, Thornyheads, Pelagic shelf, Other Slope, Northern, and Other rockfish. Allocation to the halibut/sablefish IFQ fishery shall be determined by:

C) Sablefish: Allocation based on the average rate and 75th percentile of observed bycatch rates, by area (the rate which 75% of observed sets did not exceed)

D) Halibut: Allocation based on the average rate and 75th percentile of bycatch rates experienced in IPHC surveys by area (the rate which 75% of survey sets did not exceed). The IPHC survey data will look at the years 1995-2002 and 1998-2002.

2.5.3.1 Management provisions for secondary species

C) Management of RE/SR, Thornyheads, Pelagic, Other Slope, Northern, and Other rockfish shall be
Option 1: Managed in aggregate on an area basis using current MRA regulations.

Option 2: Allocated to individual sablefish or halibut QS owners proportional to their QS holdings. Secondary species QS can only be permanently transferred with the underlying parent QS, but IFQ may be leased across vessel categories and species within the halibut and sablefish IFQ program.

Suboption 1: Allow an individual to choose, on an annual basis, individual allocations or to participate in the common pool.

Suboption 2: Allow a 7 day grace period after an overage occurs for the owner to lease sufficient Secondary species IFQ to cover the overage. Failure to secure sufficient IFQ would result in forfeiture of the overage and fines.

D) An estimate of non commercial use of secondary species will be made based on observer and IPHC data. Non commercial use of secondary species for gurdy bait will not require QS/IFQ.

C) Require full retention of Secondary species listed under A.

2.6: Provisions relating to the SEO Area

2.6.1 SEO is exempt from GOA rationalization program except for the management of RE/SR, Thornyheads, and Other Slope as secondary species

2.6.2 Management provisions for secondary species

D) Any QS/IFQ issued for these secondary species will not be subject to regionalization, mandatory coop, closed class processor, or processor linkage provisions of GOA rationalization

E) Management of RE/SR, Thornyheads, and Other Slope rockfish shall be:
Option 1: Managed in aggregate on an area basis using current MRA regulations.
Suboption 1: separate allocations for each target fishery

Option 2: Allocated to the vessel owner or qualified lease holder as a ratio of target species at time of landing during the qualifying period based on retained catch. Secondary species QS can only be permanently transferred to an individual with 150 days of sea time in a U.S. fishery. Secondary species IFQ may be leased.

Suboption 1: Allow an individual to choose, on an annual basis, individual allocations or to participate in the common pool.

Suboption 2: Allow a 7 day grace period after an overage occurs for the owner to lease sufficient Secondary species IFQ to cover the overage. Failure to secure sufficient IFQ would result in forfeiture of the overage and fines. Motion passed 17/3.

F) Non commercial use of secondary species for gurdy bait will not require QS/IFQ.

D) Develop sideboards for the SEO area Motion passed 19/0

3.8 Program Review and Data Collection:

3.8.1 Data collection.

A mandatory data collection program would be developed and implemented. The program would collect cost, revenue, ownership and employment data on a periodic basis to provide the information necessary to study the impacts of the program for this and other Management Councils. Details of this program will be developed in the analysis of the alternatives.

3.8.2 Program Review.

Formal program review at the first Council Meeting in the 5th year after implementation to objectively measure the success of the program, including benefits and impacts to harvesters (including vessel owners, skippers and crew), processors and communities, by addressing concerns, goals and objectives identified in the problem statement and the Magnuson Stevens Act standards. This review shall include analysis of post-rationalization impacts to coastal communities, harvesters and processors in terms of economic impacts and options for mitigating those impacts. Subsequent reviews are required every 5 years.

3.9 Sideboards

GOA Groundfish sideboards under the crab rationalization plan and under the AFA would be superceded by the GOA rationalization program allocations upon implementation.

Participants in the GOA rationalized fisheries are limited to their historical participation based on GOA rationalized qualifying years in BSAI and SEO groundfish fisheries.

Vessels (actual boats) and LLPs used to generate harvest shares used in a Co-op unless specifically authorized may not participate in other state and federally managed open access fisheries in excess of sideboard allotments.

Participants in the GOA rationalized fisheries are limited to their aggregate historical participation based on GOA rationalized qualifying years in BSAI and SEO groundfish fisheries.

State water provisions are being developed that would apply to all rationalization alternatives.

STAFF PROPOSED REPLACEMENT FOR

3.3.10 through (and including) 3.4.2

3.3.10 Initial Cooperative Membership

The following provision is required for the initial co-op agreement entered into by any harvester:

Co-op agreements shall specify the terms and conditions for entering and exiting the co-op or transferring GH from the cooperative, including mechanisms whereby a member exiting the co-op (or transferring GH from the co-op) compensates the remaining co-op members and/or the associated processor for exiting the co-op (or transferring GH from the co-op). Compensation can take on any form agreed to by the members and the associated processor, including permanent transfer of some or all GH generated by the existing participant to the remaining co-op members or the associated processor.

Following the initial co-op formation period, new GH can be generated by eligible harvesters that have never been co-op members ~~eligible under the requirements for initial co-op formation~~ only by joining a co-op in association with the eligible processor pursuant to the terms of an agreement that meets the requirements for an initial co-op formation.

3.4.1 Cooperative Agreement Requirements

All cooperative agreements are required to have the following:

- A pre-season co-op agreement between eligible, willing harvesters in association with and an eligible and willing processor is a pre-requisite to a cooperative receiving an allocation of GQ. The harvesters ~~and processor~~ that enter into the agreement shall be the members of the co-op. The processor will be an associate of the cooperative but will not be a cooperative member. The agreement will be filed with the RAM division. The co-op agreement must contain a fishing plan for the harvest of all co-op fish.
- Co-op members may internally allocate and manage the co-op's allocation per the co-op membership agreement. Subject to any harvesting caps that may be adopted, ~~history~~ GH or GQ may be transferred and consolidated within the co-op to the extent permitted under the membership agreement.
- The co-op agreement ~~will~~ must have a monitoring program. Monitoring and enforcement requirements would be at the co-op level. Co-op members are jointly and severally responsible for co-op vessels harvesting in the aggregate no more than their co-op's allocation of primary species, secondary species and PSC mortality, as may be adjusted by inter-co-op transfers.
- Co-ops may adopt and enforce fishing practice codes of conduct as part of their membership agreement. Co-ops may penalize or expel members who fail to comply with their membership agreement.
- Co-op agreements will specify that processor affiliates cannot participate in price setting negotiations except as permitted by general antitrust law.
- Co-op agreements shall allow for the entry of other eligible harvesters into the co-op under the same terms and conditions as agreed to by the original agreement. Harvesters that have never been a member of a cooperative must enter an agreement that meets all requirements for an initial cooperative agreement, including mechanisms whereby a member exiting the co-op (or transferring GQ or GH from the co-op) compensates the remaining co-op members and/or the associated processor for exiting the co-op (or transferring GQ or GH from the co-op). Compensation can take on any form agreed to by the members and the associated processor, including permanent transfer of some or all GH generated by the existing participant to the remaining co-op members or the associated processor. A harvester that has left its initial co-op (or has GH that was transferred from its initial co-op) may ~~negotiate participation with other existing or potential~~ enter a co-op without any agreement concerning or limitation on exit (or transfers of GH) from the co-op.

These provisions are intended to provide the associated processor with approval of the cooperative agreement, including any provisions that govern transfer of GH or GQ from the cooperative and exit from the cooperative. The processor association is intended to create a better working relationship between the cooperative and the processor.

3.4.2 General Provisions Concerning Transfers of GH and GQ.

Co-ops may engage in inter-Cooperative transfers (leases) of GQ during and after the initial co-op formation period.

During the initial cooperative formation period, GH transfers will be permitted between members of the same cooperative, but not between members of different cooperatives.

Following the initial co-op formation period, members of a co-op may transfer GH and/or GQ to members of other co-ops.

All transfers will be subject to such terms and conditions as may be specified in the applicable co-op agreement and any ownership or use caps or other conditions as may be established pursuant to this program.

For persons that join cooperatives for the first time after the initial cooperative formation period, limits on transfers that apply during the initial cooperative transfer period shall apply for a ~~n initial co-op formation period of time shall apply to transfers~~ which shall be the same length as the initial co-op formation period specified above.

These provisions are intended to govern transfers of history and annual allocations. Since all transfers must be made in accordance with the cooperative agreement, which requires a cooperative/processor association, the processor will have prior approval of the provisions governing transfers.

In addition, the AP wishes to note the following unresolved issues associated with Alternative 3. The AP requests that the Council direct staff to prepare a discussion paper regarding these issues and, where possible, suggest options for resolution.

1. The consolidation allowed through alt. 3 may substantially reduce vessels, skippers and crews involved in the rationalized fisheries as well as fisheries related suppliers and services. What community benefits from alt. 3 type rationalization replace the jobs, families and businesses that will be lost to Alaska's coastal communities
2. What entry level opportunities will exist with alternative 3 type cooperatives?
3. Coop agreements are outside the purview of the council process and may inhibit the council in managing the fishery in accordance with the Magnuson national standards
4. What provisions in alternative 3 limit a strong majority from disadvantaging a weak minority within the coop?
5. If a coop member sells most of his GH to a cooperative, what prohibits the member from taking a small amount of his GH back to open access and thereby gain a disproportionate share?
6. Allows substantial absentee ownership without any tie to the water front.

C-1 (c) Salmon and crab bycatch measures for GOA Groundfish fisheries

The AP recommends the Council direct staff to provide the draft bycatch paper to ADF&G GOA crab and salmon managers and solicit their input regarding:

1. Species for which bycatch measures should be prioritized
2. Efficacy of alternatives drafter for achieving bycatch reduction measures
3. Prioritize geographic areas where bycatch/trigger measures would be most effective
4. Other comments and recommendations

Further, the AP recommends the Council request staff to further refine the discussion paper considering the following :

1. Provide bycatch rates in tables
2. Add a P.cod pot bycatch alternative for tanner crab
3. Provide maps showing distribution of king and tanner crab relative to bycatch hotspots and show existing distribution maps
4. Provide size and age of tanner crab caught as bycatch to ascertain impact on population and harvestable stock.

Refine and quantify the discussion on relationship between observed and unobserved vessel data

Motion passed 17/1