

North Pacific Fishery Management Council

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ADVISORY PANEL MINUTES

April 8-11, 2014
Anchorage, Alaska

The following members were present for all or part of the meetings (absent ~~stricken~~):

Ruth Christiansen
Kurt Cochran
John Crowley
Jerry Downing
Jeff Farvour
Becca Robbins Gisclair
John Gruver

Heath Hilyard
Jeff Kauffman
Mitch Kilborn
Alexus Kwachka
Craig Lowenberg
Brian Lynch
Chuck McCallum

Paddy O'Donnell
Joel Peterson
Theresa Peterson
Sinclair Wilt
Lori Swanson
Anne Vanderhoeven
Ernie Weiss

Minutes from the February 2014 meeting were approved

C2 GOA Trawl Bycatch – EDR Report

The AP recommends the EDR report come back to Council and AP one more time with revisions, with the intent to start collecting data in 2015. *Motion passed 21/0.*

C2 GOA Trawl Bycatch Management

Industry Proposal:

The AP recommends that the Council move the industry workgroup proposal ([Attachment 1](#)) forward for analysis with the following changes and section-by-section comments below. *Motion passed 13/8.*

Add an alternative to reduce halibut PSC by 5, 15, or 30% and include consideration of king and tanner crab bycatch. *Motion carried 11/10*

Comments:

Introduction

- Concern: The introduction does not clearly outline PSC reductions
- PSC reductions are part of coop responsibilities. Regulation should not specify how reductions will be achieved.
- Concern: Language implies that purpose is to structure around existing PSC numbers rather than future reductions.

1. Sector definitions

- Clarification: LLPs that do not meet qualification criteria can still be used in the program (e.g., can lease quota, fish on unallocated species, etc)
- Addition: Section 1.3 (Eligibility to fish), insert 'all trawl vessels in the GOA will have 100% observer coverage.'

2. Sector allocations

2.2 Primary and secondary species

- Need to address which species could become a race for fish under the new program.
- Concern: allocating species which are not fully harvested (e.g., arrowtooth) could prevent future participation in those fisheries
- Concern: allocating species which are shared between sectors (e.g., skates) could restrict access by other sectors
- Concern: do not allocate anything in the WGOA except cod and pollock
- Concern: WGOA rockfish fishery is currently a race-for-fish that has precluded even opening the fishery in some years. It needs to be included in the program.

2.3 PSC allocations

- Concern: allocating Chinook PSC up to the cap is not responsive to bycatch reduction
- Comment: Hard caps on PSC at coop level will not be reached, resulting in savings

3. Inshore Catch Share Program Elements

3.3 Program structure: cooperative style program

- Comment: Current practice includes single processor receiving deliveries from single vessel

3.4 Harvester-Processor Community-Based Association Provisions

- Concern: Using older history may force harvesters into a cooperative with a processor they are no longer delivering to.
- Comment: Coop formation percentage requirement assures coop can't be halted by one or few members
- Concern: the coop agreement should include community as a signator
- Concern: communities should not be able to veto coop agreement. Local politics are a concern.
- Concern: community access to coop agreement may result in release of confidential business data and anti-trust concern.
- Concern: requiring community signature on coop agreement may inhibit coop formation.

3.6 Options for Harvester movement from Tier 1 co-op to another co-op

- Concern: Coop contract could include any type of provision regarding ability to leave coop
- Question: Council can't mandate provisions that it can't enforce, but can it prohibit provisions that it can't enforce (e.g., harvesters leaving quota behind if departing coop)?
- Clarification: Analyze specific range of amounts for processor-controlled PSC (0 to 5%, 5 to 25% options)

3.7 Cooling-off period

- Concern: harvesters could be forced to stay in a cooperative with a processor they have not been delivering to recently

3.9 Community Landing requirements/Processor Participation requirements

- Concern: Some vessels historically deliver to Petersburg on the last trip of the season. Landing requirements could preclude this.
- Concern: Some communities had processing capability in the past that is no longer there. Landing requirements could preclude replacing that processor.
- Concern: Landing requirements could preclude opportunities for additional GOA communities to process underutilized species.
- Concern: Fish that has recently been processed outside the region cannot come back under these delivery requirements.

4. Inshore use caps

4.1 Processor caps

- Concern: Caps set too low could prohibit new vessels joining a processor coop
- Concern: what about areas that have only one or two processors?

4.2 Control, individual ownership and use caps for harvesters

- Concern: Caps set too low may make it difficult for processors to attract harvesters with processor controlled PSC
- Comment: Vessels that are more efficient should be able to focus on particular species
- Concern: Caps should be set lower to provide consolidation controls to mitigate negative impacts to communities.

5. Inshore Limited Access Fishery

- Clarification: Regional landing requirement does not apply to limited access fishery

7. General Cooperative Provisions

7.5 LLP transfers

- Clarification: Allocation can be severed from LLP
- Concern: severed allocations can become commodities
- Concern: If allocations are tied to the LLP, purchaser has to buy everything associated with that LLP (e.g., other area and gear endorsements)
- Concern: Severed quota should be linked to size of original vessels

Minority Report: A minority of the AP did not support the motion to move the industry proposal forward for analysis. The minority felt this complex proposal would set a specific program outline in place for the Gulf program. The proposal was just provided during public comment and there was not sufficient time to review and adopt as the path forward at this time. Substantively, this is a by catch management program and the proposal does not contain specific measures and metrics for reducing bycatch. The industry proposal guts the community protection measures contained in the Council's October motion (community sign-on on co-op agreements, limited duration quota issuance) and it is not acceptable to

advance a catch share program without adequate protections for fishing communities and providing for entry into the fishery.

Signed by: Becca Robbins Gisclair, Ernie Weiss, Joel Peterson, Theresa Peterson, Alexis Kwachka, Chuck McCallum, Jeff Kauffman

CFA Proposal:

The AP recommends that the Council move the CFA workgroup proposal (Attachment 2) forward for analysis with the following changes and section-by-section comments. *Motion passed 13/8.*

I. Structure

- Concern: Program puts authority in a board that may or may not understand the fishery
- Concern: Local politics may influence CFA board decisions
- Comment: Board would be broadly representative with transparent process
- Comment: Board will include a processor representative

II. Community eligibility

- Concern: Allocations for fully subscribed species may be re-directed by CFA (e.g., to non-participants in fishery).
- Comment: Quota for underharvested species could provide new opportunities for communities
- Concern: Interpretation of 'community' goes beyond MSA definition. Including communities without historic participation is a take-away from other communities.
- Comment: CFA allocation will be used to leverage community issues (lease rates, etc)
- Comment: CFA allocation provides flexibility to address unintended consequences without the need to revisit the Council action.

III. Allocation

- Concern: This takes away quota from participants that have invested in the fishery.
- Concern: analysis should include an option for no initial allocation to CFA (allocation will be purchased)
- Concern: If CFA purchases fish it will result in a lease fee to pay back purchase price, which is part of the initial concern.
- Comment: The point of a CFA is to implement best practices in reducing bycatch.
- Concern: Even if lease fee only covers administrative costs it will be significant.
- Comment: Adjust range of allocation to 0 to 25%

IV. Quota Distribution

- Concern: vessel use caps could preclude returning quota to vessels that contributed, resulting in a reallocation.
- Question: are lease fees paid up front or as the fish are harvested?
- Comment: Include analysis of lease fees of 1, 2, and 3%.
- Comment: lease fees should be considered as high as 10%

VI. How CFA intersects with the overall program.

- Question: Can a coop lease from the CFA, or is it on an individual vessel basis?
- Comment: PSC associated with leased target would be a part of the lease. Non-severable.

VIII. Goals and Objectives

- Comment: goals don't address bycatch reduction except in C8.
- Comment: Intent is to address impact of coop program which facilitates bycatch reduction
- Comment: Home ports (C1) are not necessarily associated with vessel activities
- Concern: Local employment mandates (C2 and C3) constrain vessel operations and selection of best crew
- Concern: Maintaining crew compensation levels (C5) will be difficult with added lease fee for CFA set-aside.
- Comment: CFA will have control on lease fees whereas lease fees from individuals are not controlled.
- Concern: Mandates for local hiring contradict National Standard 4 (no discrimination between residents of different states).
- Comment: CFA is about community protections and community input that is flexible and responsive to unforeseen consequences is important.

General comments:

- Industry workgroup proposal contains community protection measures (use caps, regionalization, etc).
- Allocations become commodities with no protection for the community.

Industry Discussion Paper Q&A (Attachment 3):

The AP recommends that the Council accept the responses below to questions from pages 4 and 5 of the staff discussion paper. *Motion passed 15/6.*

- 1) If a person or an entity holds multiple LLPs, each of which having a majority of qualifying landings history to different shorebased processors in different areas, does the Council intend for that person to have the option to join multiple cooperatives?

Response: For a person holding more than one LLP, it is assumed that the motion intends for initial cooperative membership to be calculated on an LLP-by-LLP basis, and not aggregated for all LLPs held by that person or on a single vessel. Staff treatment is correct.

- 2) What are the alternatives for criteria used to establish the initial two-year linkage between catcher vessels and processors in a cooperative? How can these criteria be explicit, but flexible enough to account for cases where delivery patterns have shifted during the most recent analyzed years?

Response: the Industry proposal for associations is as follows:

Basis for establishing initial association is the majority aggregate trawl groundfish deliveries, excluding rockfish, for all species combined:

Option 1: During the QS/history qualifying period.

Option 2: During the 2011-2012 period.

This provides a needed contrast between recent history vs the qualifying history. Until the analysis is brought back it is difficult to determine whether additional flexibility is needed to account for cases where delivery patterns have shifted.

- 3) If target species quota is regionalized, is the Council concerned about a conflict with any delivery requirements that might be a part of the privately negotiated contract between the harvesters and processor members of a CV cooperative?

Response: regionalization of landings allows for vessels to be members of multiple processor centric cooperatives – i.e. WYAK, CGOA and WG so that there is not a conflict with regionalization. Private contracts between processor and harvests cannot conflict with other regulations within the program.

- 4) Is there a minimum number of vessels that are required to form a cooperative? If not, is the Council concerned about the activity of a cooperative being treated as confidential information?

Response: Since the inshore cooperatives are processor affiliated cooperatives and only one processor is a member of the cooperative, single vessel cooperatives are necessary. It is unclear whether the activity of cooperatives with < 3 members can be provided versus deemed confidential. Cooperative agreements could include provisions for release of this data if necessary. Or could cooperatives with small numbers of vessels aggregate their data? Does staff have a solution for this?

- 5) If PSC is allocated, should prohibited species quota (PSQ) use be limited by season and by fishery? If PSQ is allocated by season, are rollover allowed?

Response: PSC should be allocated to the cooperatives, and be allowed to be used in any fishery during the year. Maximum flexibility will allow each cooperative to manage and reduce bycatch and use PSC wisely. As the discussion document states, “The allocation of PSC based on historical target fisheries landings, but not linking PSC to those fisheries for use, will likely allow each participant to achieve the greatest value in the fishery, given a limited quantity of permitted PSC. Each vessel would need to balance the value of using their PSC for the target fisheries that are allocated versus saving quota to participate in lower margin fisheries for flatfish (page 5).” Allocations of PSC to the cooperatives, and providing opportunities through inter-cooperatives to utilize creative and cooperative bycatch management is the most likely path to successful PSC management while achieving OY.

- a) Rockfish halibut rollover

Option 1: Roll over the unused halibut PSC by sector proportionally to the rockfish LLP holdings within each sector that are also allocated halibut PSC in the comprehensive GOA program.

Option 2: Roll over the unused halibut PSC to the co-op in the Rockfish Program that realized the savings.

- b) Chinook salmon rockfish rollover (inshore)

Option 1: Redistributed to LLPs that are allocated non-pollock quota and that participated in the Rockfish Program.

Option 2: Roll over the available amount to the processor affiliated co-op in the Rockfish Program that realized the savings.

- c) West Yakutat district Pollock fishery

Option 1: Exempt this regulatory area from Chinook salmon limits

Option 2: Impose Chinook salmon limits in the WYAK district pollock fishery and allocate an additional 200 to 500 Chinook salmon to historical WYAK pollock participants.

Suboption: Eliminate the 360 fish buffer construct and instead allocate the 360 fish buffer to support the WYAK pollock fishery.

- 6) Should AFA vessels that are exempt and non-exempt from limitations in the GOA be treated differently for PSQ allocations? The Council will need to determine what its policy will be for AFA sideboards.

Response: AFA exempt and non-exempt will not be treated differently for PSQ allocations and AFA sideboards will not be a consideration in policy decisions.

- 7) If target fisheries other than Pacific cod and pollock are allocated as part of program, should the Council only consider species that have a TAC for the West Yakutat district, as opposed to a species with a TAC set for the entire Eastern GOA?

Response: Only species that have a TAC for WYAK (pollock/rockfish) should be considered for allocation as part of this program.

- 8) Should the Council set sideboard limits for Eastern GOA Pacific cod, or any other fishery?

Response: No – catch amounts are so low for WYAK which is open to trawling why dampen down the ability to meet OY in this region. The Council always has the ability to develop restrictions in the future if need be.

- 9) Are persons required to hold PSQ for Chinook and halibut if they fish in the West Yakutat district with trawl gear?

Response: Yes – however an additional allocation for the WYAK allocated target fisheries may be in order (see above).

- 10) Is target species catch history severable from the LLP on which it was earned? If so, and if the history is transferred to another eligible license, does the pro rata share of PSQ transfer with the target catch history? The Council may wish to consider the case where pollock and Pacific cod are the only allocated target species. If a license holder transfers all of his or her target quota, the license might not have any PSQ remaining to cover activity in rockfish or flatfish fisheries.

Response: Because allocations of PSC to cooperatives are determined based on target catch, PSC will be distributed to the initial cooperatives on a pro-rata basis. After initial allocation, and subject to the cooperative agreement, target and PSC should be divisible, and severable.

- 11) For the purpose of measures meant to promote fishery dependent communities, how are communities defined? How might a license or an individual seeking to buy or sell quota be deemed to have an association with a community?

Response: See industry letter. The term “fishing communities” is defined under the MSA. Residency cannot be a required condition for eligibility to purchase or own an LLP under the MSA (National Standard 4). Any provisions to protect GOA communities must take into account the degree to which a community is dependent on GOA trawl fisheries and the economic and social impacts potential community measures might have on communities that are traditionally involved in GOA trawl fisheries.

12) If gear conversion is allowed, should the 100% observer coverage requirement also apply to vessels using longline gear? What type of license or endorsement (s) does a fixed gear vessel need to hold in order to fish trawl quota?

Response: Gear conversion should be a trailing amendment. See industry letter response.

13) If the Council includes the measure to make the retention of a portion of target species allocation subject to a periodic bycatch performance review, how will the portion of quota that is not retained be managed? Who might have access to this quota, and for how long? Will issues of due process and appeals be more tractable if the incentive program is framed as a reward, as opposed to a penalty?

Response: See industry letter. PSC management programs are best conducted at the cooperative level. The Council is required to conduct a 5 year review of the program under the MSA. The Council review should include evaluation of performance for cooperative PSC control programs, community protections, and the achievement of OY. The program should specifically be evaluated against the National Standards and program objectives.

Motion passed 15/6.

Minority Report: A minority of the AP opposed the final motion, having voted in favor of amendments to remove the responses to questions 11 and 12; both of those amendments failed 10-11. The minority believes the industry response to question 11 does not adequately describe the definition of a community for the purposes of the program, nor provide for sufficient community protections. The minority feels in regards to question 12 that gear conversion should be included as an option in the program, not as a 'trailing amendment'.

Signed by: Ernie Weiss, Alexis Kwachka, Theresa Peterson, Becca Robbins Gisclair, Chuck McCallum

C5 Am 80 5-year Review

The AP recommends the Council request staff to expand the discussion on decreased CDQ harvests and its effects on CDQ communities, and cooperative structure and stranded fish.

Motion passed 19/0.

C6 Round Island Transit

The AP recommends the Council adopt the preliminary preferred Alternative 2, option 1 and Alternative 3 for final action.

Motion passed 19/1.

Rationale:

- Maintains protections for walrus
- No visible disturbance to walrus from vessels passing outside 3nm from Round Island (p.53)
- Alternative 3 relaxing closure increases protection.
- Voluntary fleet efforts to not transit the small areas near Crooked Island (FW best practices).

- Restores access for tenders.
- Action is responsive to hypothetical question related to unintended consequences of Council action; therefore, there is no operational need to change VMS requirements.
- Hunting season opens September 10. AP discussed a later date in response to tenders delivering late season (August 30).

C8 Scallop SAFE

The AP recommends the Council accept the annual SAFE report. *Motion passed 18/0.*

C9 Bering Sea Canyons

The AP recommends the Council take no further action on this agenda item until the AFSC visual camera surveys are completed and a report of the findings is presented to the Council.

Motion passed 15/5.

Rationale:

- To date the Council has been extremely responsive to public comment and concern that initially focused on coral habitat areas in the Bering Sea canyons.
- Research has been prioritized and is underway by the AFSC in response to previous Council direction.
- Scientific control areas are a different "ask" from initial public comment focused on coral habitat areas. It was noted by Council staff that scientists at the AFSC are beginning discussions on what these control areas would look like.
- Completion of the summer camera survey work will provide substantially more information for the consideration of any potential conservation policies.
- Development of a Purpose and Need statement (with associated goals and objectives) will be better informed and crafted with more data, which is why additional scientific information was requested initially.

Minority Report: A minority of the AP supported an amended substitute motion as follows 'The AP recommends the Council adopt the Ecosystem Committee recommendations for Bering Sea canyons as found on page 1 of the Committee April 9, 2014 meeting minutes, as amended to include the following under item 2:

Analysis should include

- *How to monitor compliance with area closures (geo-fencing, VMS, etc.).*
- *The effect of displaced effort from closed areas, especially in terms of PSC bycatch*
- *The status of gear modification research.*
- *Protocols established by Regional Fisheries Management Organizations for encounters with coral.*
- *Criteria for determining any management actions.*

The minority felt the Ecosystem Committee recommendations represented a reasonable approach and was supported by all public testimony heard by the AP, and the amended language specified valuable analyses.

Signed by: Ernie Weiss, Becca Robbins Gisclair, Theresa Peterson, Alexis Kwachka, Chuck McCallum

D2 EFH 5-year Review

The AP echoes the Ecosystem Committee report and comments and supports the 5-year approach as it has been laid out. The AP hopes that the review will specifically highlight any new information relevant to the habitat of the Bering Sea shelf break, slope and canyon areas. *Motion passed 20/0.*

E1 Staff Tasking

The AP recommends the Council initiate a discussion paper to consider the current insurance coverage required by observer providers and potential modifications. *Motion passed 20/0.*

The AP recommends the Council schedule any action on PSEIS no sooner than October 2014.

Motion passed 20/0.

April 7, 2014

Gray shade: reference to Council motion

Italics: Instruction for analyst

GULF OF ALASKA SECTOR ALLOCATION AND CATCH SHARE PROGRAM

INTRODUCTION

Over the past few years the Council has adopted a number of actions to reduce prohibited species bycatch in the Bering Sea/Aleutian Islands (BSAI) and Gulf of Alaska (GOA) fisheries. The Council recently introduced Chinook salmon PSC limits in the GOA pollock and non-pollock fisheries, and adopted measures for reducing halibut PSC caps in the trawl and catcher-vessel fixed gear fisheries in the GOA by 15%. The groundfish trawl fisheries in the Gulf of Alaska do not have the management structure or the tools to fully adapt to these new PSC reductions.

The Council has recognized that there is a need to develop a new management structure whereby fishery participants are able to work cooperatively to adapt fishing practices to accommodate reduced PSC allocations. Such a structure needs to balance the interests of the catcher processors, harvesters and inshore processors in these fisheries while meeting conservation objectives and community goals.

At its June 2013 meeting the Council received proposals from several different interest groups for developing a GOA trawl bycatch management program. At its October 2013 meeting the Council developed a proposed program structure and requested staff to further develop a discussion paper identifying key issues.

This paper lays out elements and options for further analysis and consideration by the Council. It builds off a proposal provided to the Council in June of 2013 as well as the program structure described in the Council's October motion on agenda item C-5(a).

The program is designed to minimize allocation disputes between the trawl catcher-processor and inshore trawl sectors, and to build cooperative arrangements in both the inshore and catcher-processor sectors. Allocations between the inshore and catcher-processor sectors would be based on historical participation by each sector. For underutilized species, the intent is to develop measures to fairly allocate future opportunities between the sectors.

The proposal expands on the Council framework for a voluntary cooperative program for the inshore sector. Inshore participants believe the program should recognize and be founded on historical participation and investments by both harvesters and processors in these fisheries. The analysis of these elements and options should address the principle that the new management structure should not result in devaluation of one sector's investments or capital assets to benefit a different sector. The overall objective is to develop a program that balances the interests of both sectors, does not erode the assets of either sector, and provides similar opportunities for increased benefits to all participants in these fisheries while meeting conservation goals and community needs.

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This document also builds off proposals from the catcher-processor sector for a cooperative program for their fisheries, including additional elements and options to more fully develop such a program.

Industry also believes that any new GOA management program needs to consider and address historical community involvement in these fisheries, including employment in the harvesting and processing sectors as well as the effects of management measures on community infrastructure, services, and support businesses.

1. SECTOR DEFINITIONS

1.1. Inshore sector harvester participants

LLP holder qualification.

A CV LLP, or

A CP LLP license that did not process catch on board,

a) Would qualify for the program in the CG and WY

If the LLP was used for:

Option 1: at least ten trawl groundfish deliveries in the CG or WY the qualifying years.

Option 2: at least one trawl groundfish delivery in the CG or WY in the last ____ years before December 31, 2012 (range of analysis 2-3 years).

b) Would qualify for the program in the WG

If the LLP was used for:

Option 1: at least ten trawl groundfish deliveries in the WG the qualifying years.

Option 2: at least one trawl groundfish delivery in the WG in the last ____ years before December 31, 2012 (range of analysis 2-3 years).

Any CP LLP license not used to process catch offshore during the qualifying years will, at time of implementation of the program, convert to CV.

Note: no CP license holders are believed to have both delivered to shore and processed onboard during the qualifying years.

1.2. Offshore sector participants

Catcher processor sector: Those A80 vessels, and their replacement vessels, defined by Column A of Table 31 CFR part 679, and the LLPs currently issued to them.

Option: Amendment 80 definition of eligibility to fish in the Gulf of Alaska flatfish fisheries is maintained.

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1.3. Eligibility to fish

All vessels participating in the fisheries governed by this program will need to have an eligible LLP with the appropriate gear, operation type, and area endorsement assigned to the vessel at the time of fishing.

2. SECTOR ALLOCATIONS

Three alternatives sector allocations are considered for each sector. In all cases, halibut and Chinook salmon PSC are allocated to both sectors.

2.1. ICA Set Aside

Prior to calculating annual cooperative allocations, NMFS shall set aside an Incidental Catch Allocation (ICA) to meet the incidental catch needs of fisheries not included in the cooperative program.

2.2. Primary and secondary species allocations

Note: the proposed options suggest species allocations by sector. In some cases MRA management, co-op management for catch avoidance or sector allocations for directed harvest caps may be appropriate to build the needed flexibility to meet OY and bycatch management objectives. If a historical allocation for a sector is too low for operational flexibility under a hard cap, other management tools such as MRAs should be considered.

The preliminary analysis should examine, by management area, the potential for future TACs of the species listed below to constrain harvests under the program. The analysis should consider whether allocations or other management measures (including MRAs) are appropriate for overcoming that potential. The effects and possible management measures will be examined separately for the inshore and offshore sectors.

Arrowtooth flounder, Deep-water flatfish, Flathead sole, Shallow water flatfish, Atka mackerel, Shortraker rockfish, Rougheye and blackspotted rockfish, Thornyhead rockfish, Other rockfish CG, WG and WY sablefish, Big skate and long-nose skate

Unless otherwise specified all allocations will be made using the sector allocation qualifying years (Section 2.2.3).

Sector allocations of target species and PSC: Allocations for the trawl CP and CV sectors for WG and CG Pacific cod (Am 83), CGOA rockfish program (Am 88), and GOA pollock (Am 23) are maintained. Council motion 4.

Allocated Species: target species are pollock and Pacific cod. Council motion 5.

2.2.1. Option 1: Minimal allocations

For both sectors

CG rockfish – Primary and secondary species allocations as currently defined by Amendment 88 (the rockfish program)

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Inshore sector

Pollock (610/620/630/640) – as currently defined by Amendment 23.

Pacific cod (CG/WG) as currently defined by Amendment 83

Offshore sector

Pollock (610/620/630/640) – catch by the offshore sector is regulated through MRAs.

Pacific cod in the CG and WG – catch by the offshore sector is regulated through MRAs.

2.2.2. Option 2: Medium allocations

For both sectors

All option 1 allocations will be made. Pollock, Pacific cod, and CG rockfish as defined by option 1.

Inshore sector

WG rockfish

Option A: Allocate WG Pacific ocean perch, northern rockfish and dusky rockfish.

Option B: Catch by the inshore sector is regulated through MRAs.

WY rockfish

Option A: Allocate WY Pacific ocean perch and dusky rockfish using the selected qualifying years.

Option B: Catch by the inshore sector is regulated through MRAs.

CG flatfish – Allocate rex sole and deep-water flatfish.

CG sablefish – Continue allocation of sablefish under the CG rockfish program. Allocated the remaining CG sablefish.

CG skates – Allocate CG big skate and long-nose skate.

Offshore sector

WG rockfish –

Option A: Allocate WG Pacific ocean perch, northern rockfish and dusky rockfish.

Option B: WG Pacific ocean perch, northern rockfish, and dusky rockfish will be allocated to the offshore sector in an amount equal to the Amendment 80 sideboards. For dusky rockfish, recalculate A80 sideboard based on catches of dusky only, since black rockfish, blue rockfish, and dark dusky rockfish were removed from pelagic shelf rockfish complex and are now managed by the State of Alaska.

WY rockfish –

Option A: Allocate WY Pacific ocean perch, northern rockfish and dusky rockfish.

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Option B: WY Pacific ocean perch and dusky rockfish will be allocated to the offshore sector in an amount equal to the Amendment 80 sideboards. For dusky rockfish, recalculate A80 sideboard based on catches of dusky only, since black rockfish, blue rockfish, and dark dusky rockfish were removed from pelagic shelf rockfish complex and are now managed by the State of Alaska.

CG flatfish – Allocate CG Rex sole and deep-water flatfish.

CG sablefish – Continue allocation of sablefish under the CG rockfish program. Allocate the remaining CG sablefish.

CG skates – Allocate CG big skate and long-nose skate.

Option 3: Full allocations

For both sectors

All option 1 and 2 allocations and management will be included.

Inshore sector

Additional CG flatfish – Allocate CG shallow-water flatfish, arrowtooth flounder, and flathead sole.

WG/WY Sablefish – Allocate WG and WY sablefish.

GOA Atka mackerel – Allocate GOA Atka Mackerel.

Offshore sector

Additional CG flatfish – Allocate CG shallow-water flatfish, arrowtooth flounder, and flathead sole.

WG/WY Sablefish – Allocate WG and WY sablefish.

WG other rockfish, thornyhead rockfish, shortraker rockfish, rougheye and blackspotted rockfish

Option A: Consider allocation of other rockfish, thornyhead rockfish, shortraker rockfish, rougheye and blackspotted rockfish.

Option B: Consider other management (such as required cooperative measures) of other rockfish, thornyhead rockfish, shortraker rockfish, rougheye and blackspotted rockfish to prevent closure of WG rockfish fisheries to avoid overharvest.

GOA Atka mackerel – Allocate GOA Atka mackerel.

2.2.3. Qualifying years

Except where allocations are otherwise specifically defined, the allocations to a sector will be based on total catches by the sector catches during:

Option 1: 2010-2012

Option 2: 2008-2012 (since A80)

Option 3: 2007-2012 (since CGOA rockfish)

Suboption: Apply only to WYAK and WGOA directed rockfish

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Option 4: 2003-2012

Option 5: 1998-2004 (A80 qualifying years)

2.2.4. MRA management

For the CP sector, all species under MRA management will be subject to offload to offload MRA accounting;

For the CV sector, all species under MRA management will be subject to trip to trip MRA accounting.

2.3. PSC Allocations

Sector allocations of target species and PSC: Allocate halibut and Chinook salmon PSC caps between the CP and CV sectors. Council motion 4.

2.3.1. Halibut

The annual PSC limit will be apportioned between the following sectors and areas:

Offshore sector (Gulfwide)

Inshore sector (subdivided between the WGOA and CGOA/WYAK)

Allocations to each sector/area will be based on relative historical PSC usage from:

Option 1: 2010-2012

Option 2: 2008-2012 (since A80)

Option 3: 2007-2012 (since CGOA rockfish)

Option 4: 2003-2012

Option 5: 1998-2004 (A80 qualifying years)

2.3.2. Chinook

Apportionment to the inshore and offshore sectors will be based on the current apportionment to the pollock fishery and non-pollock fisheries Council's June 2013 motion.

The offshore sector allocation will be based on the apportionment to non-pollock fisheries under the Council's June 2013 motion. The allocation to the CP sector will apply to the CGOA and WGOA.

3. INSHORE CATCH SHARE PROGRAM ELEMENTS

Cooperative management: A system of cooperative management is best suited to managing and reducing bycatch (such as, hotspot program, gear modifications, excluder use, incentive plan agreements) while maximizing the value of available target species. Cooperatives are intended to facilitate a flexible, responsive, and coordinated effort among vessels and processors to avoid bycatch through information sharing and formal participation in a bycatch avoidance program. Council motion 1 c.

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Allocate target species (pollock, Pacific cod) at the cooperative level (to each coop), based on aggregate catch histories associated with each coop member vessels' LLPs. Council motion 6 a.

Apportion halibut PSC and Chinook salmon PSC limits to each cooperative on a pro rata basis relative to target fisheries of GOA trawl vessels in the cooperative [such as, pollock Chinook salmon PSC cap divided based on pollock landings; non-pollock Chinook salmon cap divided based on non-pollock landings (excluding rockfish); halibut PSC apportioned in proportion to the cooperative's allocation of target species.] Council motion 6 b.

3.1. Target and secondary species allocations

Species allocated between sectors (Section 2.2 options 1, 2 or 3 above) will be allocated to the inshore cooperatives. Species regulated through MRA management will not be allocated to inshore cooperatives. *Note: The analysis needs to consider and evaluate the possibility that some species or species groupings that are part of the sector splits, are not allocated as part of the inshore cooperative program.*

3.2. Allocation basis

Target species and secondary species allocated to the sector will be apportioned to the inshore cooperatives based on QS/history derived from landings made on LLP qualifying vessel during qualifying period.

Option 1: retained catch

Option 2: retained catch without meal

3.2.1. Qualifying years for target and secondary species QS/history

Option 1: 2010-2012

Option 2: 2003-2008

Option 3: 2008-2012

Option 4: 2003-2012 Drop 0, 1, 2 years

3.2.2. Apportionment of PSC to Cooperatives

Chinook (excludes CGOA rockfish non-pollock Chinook allocation)

Pollock Chinook cap (CGOA and WG) will be apportioned to the cooperatives based on inshore qualifying year pollock landings of cooperative members.

Non-pollock trawl Chinook cap will be apportioned to cooperatives based on inshore qualifying year historical usage within target fisheries or target fishery groupings of cooperative members based on:

Option 1: total non-pollock landings (excluding CGOA rockfish landings).

Option 2: total qualified target species catches and average Chinook use in the Pacific cod target fishery and aggregated flatfish target fisheries. The Pacific cod

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target fishery and the aggregated flatfish target fisheries will be assigned a percentage of the sector's total non-pollock Chinook PSC based on the sector's Chinook usage in those targets. Each cooperative will then be assigned a share of the sector's available Chinook PSC assigned to the Pacific cod target (and aggregated flatfish) equal to its portion of the catch of Pacific cod (and aggregated flatfish)

Option 3: total qualified target species catches and average Chinook use in the following target species fisheries: 1) Pacific cod, 2) shallow-water flatfish and flathead sole (combined), and 3) deep-water flatfish, arrowtooth flounder, and rex sole (combined). Each target fishery will be assigned a percentage of the sector's total non-pollock Chinook PSC apportioned to the sector based on usage in the target fishery. Each cooperative will then be assigned a share of the sector's available Chinook PSC assigned to the target fishery equal to its portion of that target species.

Note – Chinook PSC apportionments may be made for target species that are not allocated.

Halibut (excludes CGOA rockfish halibut PSC allocation)

Halibut PSC will be apportioned to cooperatives based on the inshore qualifying year historical usage within target fisheries or fishery groupings of cooperative members based on;

Option 1: total groundfish landings (excluding CGOA rockfish landings) .

Option 2: total non-pelagic trawl groundfish landings (excluding CGOA rockfish landings).

Option 3: total qualified target species catches and average halibut use in the Pacific cod target fishery and aggregated flatfish target fisheries. The Pacific cod target fishery and the aggregated flatfish target fisheries will be assigned a percentage of the sector's total halibut PSC based on the sector's halibut usage in those targets. Each cooperative will then be assigned a share of the sector's available halibut PSC assigned to the Pacific cod target (and aggregated flatfish) equal to its portion of the catch of Pacific cod (and aggregated flatfish)

Option 4: total qualified target species catches and average halibut use in the following target species fisheries: 1) Pacific cod, 2) shallow-water flatfish and flathead sole (combined), and 3) deep-water flatfish, arrowtooth flounder, and rex sole (combined). Each target fishery will be assigned a percentage of the sector's total halibut PSC apportioned to the sector based on usage in the target fishery. Each cooperative will then be assigned a share of the sector's available halibut PSC assigned to the target fishery (or aggregate target fisheries) equal to its portion of that target fishery catches.

Note – Halibut PSC apportionments may be made for target species that are not allocated.

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Note: the analysis should provide information on the effects of the above allocations on harvesters, and potential co-ops, taking into account confidentiality issues.

3.3. Program structure: Cooperative style program

3.3.1. Criteria for Voluntary Cooperative Program

Participants can choose to either join a cooperative or operate in a limited access pool [sector-level, non-transferable target allocations and PSC]. Harvesters would need to be in a cooperative with a processor by a specified date prior to the season to access a transferable allocation of target species and PSC. Council motion 6 c.

Note that the analysis should address the following relating to the inshore cooperative fishery. Harvesters must form a cooperative and associate with a processor subject to the criteria specified in the program, including the requirement for an agreement signed by both the harvesters and processor. Cooperatives formed upon implementation of the program will be based on historical participation of harvesters and processors during a qualifying period. These initial cooperatives are termed Tier 1 Co-ops. There is not a closed class of processors, and after a cooling off period harvesters may associate with any processor. They may move from one Tier 1 Co-op to another Tier 1 Co-op, or join a Tier 2 Co-op with a new entrant processor that wishes to enter the fishery after program implementation. This is a voluntary program, and a harvester may choose not to join a Co-op, and remain in the LLP limited access (non-cooperative) fishery. If a harvester that initially elects to fish in the LLP limited access fishery decides at a later date to participate in the cooperative fishery, it must be pursuant to the rules for Tier 1 Co-op formation.

3.3.2. Program Participants

Harvester participants.

Eligible LLP holders as defined above

Processor participants.

Any inshore processor that processes groundfish harvested in the Central/WYAK or Western GOA management areas.

3.4. Harvester-Processor Community-Based Association Provisions

Initial (2 years) cooperative formation would be based on the majority of a license holder's historical landings (aggregate trawl groundfish deliveries, excluding Central GOA rockfish harvested under a rockfish cooperative quota allocation) to a processor. Council motion 6 d.

Each cooperative would be required to have a private cooperative contract. The contract would require signatures of all harvesters in the cooperative and the processor (option: and community in which the processor is located). The contract would include clear provisions for how the parties may dissolve their contract after the first two years. If a harvester wants to leave that cooperative and join another cooperative, they could do so if they meet the requirements of the contract. Council motion 6 e.

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3.4.1 Basis for establishing the Tier 1 initial association is the majority aggregate trawl groundfish deliveries, excluding rockfish, for all species combined (see also community landings/processor participants section 2.9):

Option 1: During the QS/history qualifying period.

Option 2: During the 2011-2012 period.

3.4.2 Formation of a Tier 1 Co-op requires a Co-op agreement that meets criteria specified in this program, signed by no less than ____ (range for analysis 51% - 80%) of the ____ (analyze both number of LLPs, or amount of QS) qualified for the Co-op, and the processor.

3.4.3 Any harvester that wishes to participate in the program must initially join the Tier 1 Co-op associated with the processor where the majority of its QS/historical landings were made during the period specified above.

3.5. Inshore Co-op allocations

Allocations of target species and PSC to Co-op based on aggregate QS/history of LLPs in Co-op.

A Co-op must form and associate with a processor subject to the criteria specified in the program (including the requirement for an agreement signed by both the harvesters and processor) in order to receive an allocation of target and PSC species.

Target QS/history and PSC may be transferred within a Co-op or through inter-cooperative agreements with other inshore cooperatives on an annual basis subject to Co-op rules/contract.

3.6. Options for Harvester movement from Tier 1 Co-op to another Co-op.

Option 1: Limited Movement Model

Require a Co-op agreement that meets criteria specified in this program, signed by the qualified processor and the harvesters qualified for the Tier 1 Co-op associated with that processor. Agreement must specify the terms and conditions whereby a harvester can exit the co-op after the cooling off period and join another co-op. The agreement defining the terms and conditions for exiting a Tier 1 co-op shall be agreed to by both the Co-op harvester members and the processor before QS/history or PSC will be awarded to the Co-op.

Option 2: PSC Sharing Model

Each processor controls a portion of halibut and Chinook salmon PSC within a cooperative and negotiates terms of access through the Co-op agreement. The processor would activate access to the PSC through NMFS, making it accessible to the cooperative. PSC made available by these agreements cannot be used by processor-owned vessels. Council motion 6 option.

The PSC apportionment allotted to this option would originate as:

Suboption 1: a percent of the inshore sector PSC allocation for halibut and Chinook salmon taken off the top of the total inshore allocation, then apportioned to each processor on a pro rata basis based on the target species apportionments to the associated Co-op.

Suboption 2: the processor would control a percent of the PSC allocated to the associated Co-op.

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For each option above, the analysis should investigate the potential for creating a stable business environment for both harvesters and processors. The analysis should address the effects on all affected parties (harvesters in the original Co-op and the associated processor, the harvester leaving the Co-op, and coastal communities with historic participation in GOA trawl fisheries, etc.) and their investments in the fishery. For each model the analysis should investigate the potential effect on employment (harvesting and processing), and the goal of increasing value in the fishery without creating windfalls. The analysis should explicitly evaluate each model as they relate to balancing the desire for flexibility on the part of harvesters while protecting processor investments in the fishery, with the objective of developing measures that do not result in one sector's investments in the fishery being devalued to benefit a different sector. The analysis should also evaluate how different levels of PSC controlled by either sector could impact the working relationships and price negotiations between harvesters and their associated processors.

3.7. Cooling off period

There shall be a ____ (range for analysis 2 to 5 year) cooling off period applied to the program. The cooling off period applies to harvester movement between processors, communities and long-term transfer of associated target / PSC LLP histories.

3.8. Tier 2 Co-ops

After the cooling off period Tier 2 Co-ops may form with new processors entering the fishery after program implementation. Harvesters may join Tier 2 Co-ops provided that they have met requirements for program participation and movement from one Co-op to another.

Tier 2 Co-ops shall:

- be consistent with community protections and landing requirements.
- have a cooperative agreement that meets criteria specified in this program.
- meet all other requirements of the program.

No closed class of processors

No closed class of processors. At program implementation, processor participation is determined by qualifying criteria for Tier 1 Co-op formation. After the cooling off period, and subject to movement rules and regional delivery requirements, any qualifying harvester may go to any other Co-op, including Tier 2 Co-ops established in conjunction with a new entrant processor, subject to the rules of the new Co-op.

3.9. Community Landing Requirements/Processor Participants.

Target species quota would be regionalized (WG or WY/CG designation) based on historical delivery patterns. Option. Target species CG quota that has historically been landed in Kodiak would have a port of landing requirement to be delivered to Kodiak; CG quota not historically landed in Kodiak would be regionalized (WG or WY/CG). Council motion 7b.

CGOA/WYAK Landing Requirements:

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CGOA/WYAK LLP history shall have a community or regional landing designation. CGOA/WYAK LLP history landed in the City of Kodiak will have a port landing requirement for the City of Kodiak. LLP history landed in WYAK communities will have a port landing requirement for either Seward or Cordova

Processors qualified to participate in the CGOA cooperative program at time of implementation and associate with a Co-op to receive landings of CGOA groundfish from history landed in Kodiak must be located in the City of Kodiak and have processed trawl groundfish, excluding CGOA rockfish.

Processors qualified to participate in the cooperative program at time of implementation, and associate with a Co-op to receive landings from WYAK groundfish include CGOA qualified processors above, and any additional processors that processed trawl groundfish, excluding CGOA rockfish, that was harvested in WYAK and delivered into Seward or Cordova.

Option: If no processor is available or willing to associate with a Tier 1 Co-op in either Seward or Cordova, a harvester may join a Tier 1 Co-op for the CGOA and associate their WYAK harvest with the processor they have the majority of their CGOA/WYAK history with (Tier 1 rules).

All other LLP history derived from CGOA/WYAK harvest shall have a regional designation. CGOA/WYAK history landed in the CGOA but not landed in the City of Kodiak shall be required to be landed in the CGOA. Any CGOA LLP history landed in the WGOA region shall have a WGOA landing requirement.

Note: For port landing requirements, the analysis should investigate the pros and cons of requirements for processing in the port community, versus landing requirements for the port community.

WGOA Landing Requirements:

LLP history derived from WGOA harvest shall have a community or regional designation. LLP harvest landed in a WGOA community shall have a port landing requirement for that community. WGOA harvest not landed in a WGOA community but landed in the WGOA shall have a regional designation requiring landing in the WGOA. WGOA harvest history landed in the CGOA shall have a regional designation requiring landing in the CGOA.

Option: WGOA history landed in Akutan shall have a port landing requirement to be landed in either the WGOA or Akutan. WGOA history that was landed in Dutch Harbor/Unalaska shall have a port landing designation for either the WGOA or Dutch Harbor/Unalaska.

4. INSHORE USE CAPS

Consolidation limits. Vessel caps and limits on the percentage of the total allocation that a person can hold (accessible only through a cooperative). Processor caps in each area (WG and CG). Council motion 7a.

4.1. Processor caps

Include processor caps for individual processors in each area (WGOA, CGOA/WYAK).

Range for analysis 20% to 30% for the CGOA/WYAK.

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Range for analysis 20% to 30 % for the WGOA.

Processors that exceed this amount are grandfathered into program.

4.2. Control, individual ownership and use caps for harvesters

Cap the amount of QS/history that an individual may own or control by species by area. Range for analysis 5% to 7%. Individuals that exceed the cap at time of program implementation are grandfathered in.

Note: Using the ranges above for the harvester sector, the analysis should investigate the differences between the halibut program model and the AFA program model.

Vessel use caps

Cap the amount of target species (or subset of target species) that may be used on any one vessel within a Co-op.

Option 1: Range for analysis 7% to 15%.

Option 2: Range for analysis 1.5 to 2 times the ownership cap.

Note: the analysis needs to consider the effects of consolidation in the harvesting sector and should explore various mechanisms to address ownership and use. Trade-offs for harvesting limits should consider the effects of meeting OY for underutilized species.

4.3. Inshore Cooperative Caps

Include limits on the percentage of the total allocation of:

Option 1) Target species that a Co-op can hold.

Option 2) Target species and PSC species that a Co-op can hold.

Range for analysis 20% to 30% (same as processor caps above by regulatory area). Tier 1 Co-ops that exceed that amount are grandfathered into the program.

4.4. Co-op Qualification and Agreement Criteria

The program is based on a voluntary co-op formed by qualified harvesters that associates with a processor. The association is specified by a Co-op agreement signed by the requisite harvester representation and the processor. Allocations are to the co-op based on the aggregate history/QS of member LLPs, and may only be accessed through the harvester-processor associated co-op.

A Co-op, in association with a processor, is eligible to participate in the program upon certification by NMFS that it meets the following criteria:

- The harvesters and processor are qualified to participate in the program and Co-op formation criteria for harvester/processor association have been met
- A Co-op agreement, signed by the requisite harvesters and the processor, has been submitted that includes the by-laws and rules for operation of the Co-op.

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- Co-op membership agreements shall allow for the entry of other eligible harvesters into the co-op under the same terms and conditions as applicable to other qualified catcher vessel members.
- Co-op membership agreements will specify that processor affiliated harvesters cannot participate in price setting negotiations except as permitted by general antitrust law
- Terms and conditions are clearly spelled out and agreed to by the harvesters and the processor in the Co-op agreement whereby the harvester/processor association may be dissolved and a harvester may move to a different Co-op in association with a different processor. Processor affiliated vessels may participate in discussions regarding these terms and conditions, but not vote for their adoption.

The inshore sector may form inter-coop agreements for the CGOA/WYAK and WGOA regions respectively to address PSC bycatch management, post-delivery transfers, community considerations, and other operational factors to improve cooperation within the sector and further the goals of the program.

5. INSHORE LIMITED ACCESS FISHERY

The inshore limited access fishery is prosecuted by eligible LLP participants who elect not to be in a cooperative.

In all cases the LLP requirement would stay in place, thus vessels must have the appropriate LLP and endorsements to participate in a GOA trawl fishery. References to “limited access” are within this context

Annually, the inshore limited access fishery will be allocated a share of the sector’s allocation of each allocated target species equal to the aggregate share of all LLPs that are not assigned to a cooperative. This is a pool available to any LLP participant not part of the cooperative fishery but otherwise qualified to fish in this fishery.

Annually, the inshore limited access fishery will receive allocations of halibut and Chinook PSC equal to the aggregate share of the halibut and Chinook PSC apportionments, respectively, of LLPs that are not assigned to a cooperative.

The inshore limited access fishery will be subject to all current regulations including all seasonal and area restrictions

Option: Annually, the inshore limited access fishery will receive allocations of halibut and Chinook PSC equal to __ percent of the aggregate share of the halibut and Chinook PSC apportionments, respectively, of LLPs that are not assigned to a cooperative. This provision could be used to create an incentive for cooperative membership and participating in the PSC reduction measures required of cooperatives.

6. CATCHER PROCESSOR COOPERATIVE PROGRAM

Cooperative management: A system of cooperative management is best suited to managing and reducing bycatch (such as, hotspot program, gear modifications, excluder use, incentive plan agreements) while maximizing the value of available target species. Cooperatives are intended to facilitate a flexible, responsive, and coordinated effort among vessels and processors to avoid bycatch

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through information sharing and formal participation in a bycatch avoidance program. Council motion 1 c.

6.1. Allocation of groundfish history and apportionment of PSC limits within the catcher processor sector

6.1.1. Allocated target and secondary species:

All allocations from the Central Gulf rockfish program will be maintained (including primary, secondary and PSC).

For distribution of allocations within the catcher processor sector of other allocated target and secondary species, catch history is based on total catch during the qualifying period, with each eligible license receiving history based on catch of the vessel it is assigned to relative to the total catch of all eligible vessels in the sector. All history will be attributed to the LLP license identified by the vessel owner and assigned to the vessel at the time of implementation. To assign history to a license, that license must have gear, operation type, and area endorsements permitting that history.

Note: need to cover any secondary species included under the program.

6.1.2. Halibut PSC:

Apportionment of halibut to LLP licenses under the Central Gulf rockfish program will continue as prescribed by that program.

The remainder of the sector's PSC will be apportioned within the sector to the following target species:

Pacific cod

Rex sole

Arrowtooth flounder

WGOA and WYAK rockfish

(A complete list of species should be developed after examining PSC usage and rates)

based on the average use of halibut PSC in each target species within the CP sector during the CP sector's qualifying years, expressed as a percent of the total halibut PSC allocation to the sector (i.e., same general allocation system used for A80).

Each eligible license will then be assigned a share of the sector's available halibut PSC assigned to each target species based on its catch of those target species in an amount equal to its proportion of the sector's qualified catch history of the target species. (Note – Halibut PSC apportionments may be made for targets that are not allocated under this formula.)

6.1.3. Chinook PSC:

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The sector's Chinook PSC will be apportioned within the sector to the following target species:

Central Gulf Rockfish (Pacific ocean perch, northern rockfish, and dusky rockfish) in the aggregate

Western Gulf rockfish (Pacific ocean perch, northern rockfish, and dusky rockfish) in the aggregate

Pacific cod

Rex sole

Arrowtooth flounder

(A complete list of species should be developed after examining PSC usage and rates)

based on the average use of Chinook PSC in each target species within the CP sector during the CP sector qualifying years, expressed as a percent of the total Chinook PSC allocation to the sector.

Each eligible license will then be assigned a share of the sector's available Chinook PSC assigned to each target species based on its catch of those target species in an amount equal to its proportion of the sector's qualified catch history of the target species. (Note – Chinook PSC apportionments may be made for targets that are not allocated under this formula.)

The PSC apportionments will not change from year to year (i.e., will not fluctuate annually with target TACs).

Catch history used for allocation and eligibility purposes will be legal and documented catch. For the catcher processor sector Production Report data shall be used to determine catch.

6.2. Cooperative provisions for the catcher processor sector

No later than November 1 of each year, an application must be filed with NOAA fisheries by the cooperative with a membership list for the year.

In order to operate as a cooperative, membership must be comprised of:

At least ____ separate entities (using the 10% AFA rule) and

At least ____% of the eligible LLP licenses.

Annually, each cooperative will receive allocations of each allocated target species equal to its members' LLPs aggregate share of the sector's target species allocation.

Annually, each cooperative will receive allocations of halibut and Chinook PSC equal to its members' LLPs aggregate share of the sector's halibut and Chinook PSC apportionments, respectively.

6.3. Offshore caps

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6.3.1. Catcher processor vessel caps

No CP may catch more than 60% of aggregate annual target cooperative allocations for the CP sector. Grandfather provision.

6.3.2. Catcher processor individual caps

Since CP participation is governed by Amendment 80 eligibility, the Amendment 80 individual caps are adequate to prevent excessive consolidation in the CP sector under this program.

6.4. Catcher processor limited access fishery

The catcher processor limited access fishery is prosecuted by eligible catcher processor LLP participants who elect not to be in a cooperative.

Annually, the catcher processor limited access fishery will be allocated a share of the sector's allocation of each allocated target species equal the aggregate share of all LLPs that are not assigned to a cooperative.

Annually, the catcher processor limited access fishery will receive allocations of halibut and Chinook PSC equal to __ percent of the aggregate share of the sector's halibut and Chinook PSC apportionments, respectively, of LLPs that are not assigned to a cooperative. Note: this provision is used to create an incentive for cooperative membership and participating in the PSC reduction measures required of cooperatives.

The catcher processor limited access fishery will be subject to all current regulations including all seasonal and deepwater/shallow water complex fishery regulations and restrictions of the LLP and MRA limitations.

7. GENERAL COOPERATIVE PROVISIONS – applicable to both sectors

7.1. Duration of agreements

The duration of cooperative agreements will be specified in the Co-op agreement.

7.2. Filing Membership agreements.

The cooperative membership agreements will be filed with the RAM Division. Applications to NMFS for QS will be annual. The application shall specify the vessels and LLPs in the Co-op, and include a fishing and bycatch management plan for that fishing year.

Cooperatives will be required to notify RAM division which LLP holders are in a cooperative by _____.

7.3. Cooperative agreement terms

Co-op members shall internally allocate and manage the cooperative's allocation per the cooperative agreement. The cooperative(s) would need to show evidence of binding private contracts and remedies for violations of contractual agreements.

The cooperative agreement must have an explicit monitoring and fishery control program. The cooperative would need to demonstrate adequate mechanism for monitoring and reporting prohibited species and groundfish catch. Participants in the cooperative shall agree by contract to abide by all cooperative rules and requirements.

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Co-op members are jointly and severally responsible for cooperative vessels harvesting in the aggregate no more than their cooperative's allocation of target species, secondary species and PSC mortality allowance, as may be adjusted by inter-cooperative transfers.

A cooperative shall adopt and enforce fishing practice codes of conduct as part of their membership agreement.

The Co-op agreement includes provisions for an annual fishing plan (which in the case of inshore cooperatives will include agreements regarding deliveries, rotations, offload, and other operational matters).

A clear and specific plan for monitoring, controlling, and reducing PSC bycatch is included in the Co-op agreement and annual fishing plan. The plan shall include specific measures for monitoring target and PSC catch, minimizing Chinook bycatch, and more efficiently using halibut PSC in order to provide additional target fishery opportunity.

No Co-op member vessel shall be permitted to begin a fishing trip, unless the cooperative holds unused cooperative quota.

7.4. Cooperative reports

Co-ops shall prepare and submit an annual performance report for review by the North Pacific Fishery Management Council and NMFS. NMFS and the Council shall develop a check list of information to be included in these reports.

Inshore Co-ops shall make these annual reports available to the community where the associated processor is located. In the case of areas within a Borough, the reports shall be provided at the Borough level.

Specific criteria for reporting shall be developed by the Council and specified by NMFS as part of the program implementing regulations.

Transfers

7.5. LLP transfers

Permanent transfers of an eligible license and its associated catch history would be allowed. Eligible LLP licenses and eligibility endorsements would not be separable or divisible.

Transfer of annual cooperative quota/history within a cooperative shall be subject to the applicable cooperative agreement without NOAA Fisheries approval. All transfers of annual cooperative quota/history would be temporary, and QS/history would remain with the original LLP.

- 7.6. Annual cooperative quota/history of a CP cooperative will be transferable to other CP cooperatives.
- 7.7. CP annual cooperative allocations may be transferred to inshore cooperatives. Inshore annual cooperative allocations cannot be transferred to CP cooperatives.
- 7.8. Post-delivery transfers of cooperative quota/history among cooperatives within a sector are permitted. There would be no limits on the number or magnitude of post-delivery transfers. All post-delivery transfers must be completed by December 31st. Post delivery transfers between the inshore and offshore sectors are also permitted subject to 7.7 above, with the distribution and management subject to the inter-coop agreement under 4.4 above.
- 7.9. All inter-cooperative transfers must be processed and approved by NOAA Fisheries.

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8. COST RECOVERY

A fee, not to exceed 3 percent of ex vessel value, will be charged on all program landings to cover the costs of administration of the program.

Community Protection in the Gulf of Alaska Trawl Bycatch Management Program

Submitted by: Gulf of Alaska Coastal Communities Coalition,
Ernie Weiss, Terry Haines, Theresa Peterson, Alexis Kwachka, Dave Kubiak,
Alaska Marine Conservation Council

Introduction

We submit this proposal to the North Pacific Fishery Management Council for inclusion in their Gulf of Alaska bycatch management motion. The current Council motion offers many programmatic benefits including 100% observer coverage and bycatch reduction goals. Nevertheless, the motion's structure allocating transferable quota shares and using co-operatives to manage the GOA trawl pollock and cod fisheries is likely to rearrange the fisheries' relationship to Alaska's coastal communities.

We commend the Council for including several components in the motion specifically addressing possible community impacts. However, these provisions, at best, only address a subset of expected impacts. We believe that an allocation of quota to fishing communities via a Community Fishing Association (CFA) provides additional community protections that are unique and broader than those currently in the motion. Specifically, a Community Fishing Association offers an opportunity to strengthen the relationship of captain, vessel, vessel owner and crew to the community, to address transitional entrance into the trawl fisheries and provide opportunity for future generations, and to encourage equitable crew compensation. In addition, a community that owns quota is likely to remain an active stakeholder in the management and prosecution of the fishery itself. None of these critical community impacts are sufficiently addressed by current components of the motion, and a Community Fishing Association can provide an accessible and flexible way to address these community concerns.

Recent NOAA guidance as well as independent legal analysis confirm that the Magnuson-Stevens Fisheries Conservation and Management Act (MSA) authorizes allocations to fishing communities.¹ In addition, National Standard 8 of the MSA specifically requires that management measures provide for the sustained participation of communities and that adverse impacts on communities are minimized.² The Gulf of Alaska trawl bycatch management program provides an opportunity for this Council to lead the nation in developing a new method for providing for a full suite of protections for fishing communities. **We urge you to take up this challenge and include the following proposal for a Community Fishing Association in the Gulf of Alaska trawl bycatch reduction package.**

¹ See Josh S. Stoll & Mark C. Holliday, U.S. Dept. of Commerce, NOAA, *The Design and Use of Fishing Community and Regional Fishery Association Entities in Limited Access Privilege Programs*, NOAA Technical Memorandum NMFS-F/SPO-138 (2014); 16 USC § 1853a(c)(3). See also George J. Mannina, Jr., *Allocation of Harvest Rights*, Memorandum to the Gulf of Alaska Coastal Communities Coalition and Alaska Marine Conservation Council (Sept. 24, 2013)(submitted to the North Pacific Fishery Management Council for the Oct. 2013 meeting).

² 16 USC § 1851(a)(8).

Proposal for a Community Fishing Association

I. Structure

The Community Fishing Association (CFA) entity must be a non-profit entity qualified by NMFS, with a community sustainability plan approved by the Secretary as specified in the MSA.³ The Council can establish set requirements for the Community Fishing Association entity to be approved, possibly mirroring many of the CQE requirements. The Community Fishing Association could be a single Gulf-wide administrative entity, or a single entity with two divisions, one for the Central Gulf and one for the Western Gulf.

The entity will be governed by a Board of Directors. The Board of Directors will include balanced representation from fishing and community interests, including the cities and boroughs, trawl co-op representatives (note that co-op representatives would not need to be community residents), non-trawl fishermen and conservation interests. Municipalities (city/borough) could appoint their own designees, as well as the non-trawl seats. Co-ops could appoint their own representatives, and the board itself could appoint a conservation seat. The goal for the Board of Directors is to ensure that board composition is broad enough to ensure both fishery and community interests are represented, but small enough to function efficiently.

The specific composition of the Board of Directors will be set in regulation to ensure that all interest groups are represented.

II. Community Eligibility

The MSA defines a fishing community generally as “a community which is substantially dependent on or substantially engaged in the harvest or processing of fishery resources to meet social and economic needs, and includes fishing vessel owners, operators, and crew and United States fish processors that are based in such community.”⁴ Specifically in regards to allocations to fishing communities in the context of Limited Access Privilege Programs (LAPPs), a community must be “located within the management area of the relevant Council,” meet criteria developed by the Council and established by the Secretary and “consist of residents who conduct commercial or recreational fishing, processing, or fishery-dependent support businesses within the Council’s management area.”⁵ Under both of these definitions, a community need only be engaged in fishing or processing within the management area. There is no requirement that they specifically engage in the target species fishery, or in a particular fishery. In fact, in developing participation for a fishing community under the LAPP provisions, Councils are required to consider “economic barriers to access to the fishery,” and “the potential for improving economic conditions in

³ 16 USC § 1853a(c)(3)(A)(i)(IV).

⁴ 16 USC § 1802(17).

⁵ 16 USC § 1853a(c)(3)(A)(i)(I-III).

remote coastal communities lacking resources to participate in harvesting or processing activities in the fishery.”⁶ These considerations, particularly the latter, specifically support the inclusion of communities in the management area which do not currently participate in the trawl fishery in particular. Under the LAPP definition, a fishing community may even consist of residents who conduct fishery-dependent support businesses, harvesting and processing activity is not required.

Under this program we propose fishing community criteria⁷ to include communities within the Central and Western Gulf of Alaska management areas which have:

1. Traditional fishing or processing practices in, and dependence on, fisheries in the management area;
2. Cultural and social ties to fisheries in the management area;
3. Economic barriers to access to the fishery;
4. A high potential for economic and social impacts associated with a LAPP program on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery;
5. There will be no more than two Community Fishing Associations, one for the Western and one for the Central Gulf of Alaska.

III. Allocation

The Community Fishing Association would be allocated fishing quota for all CV target and PSC species allocated under the program. For analysis, the Council should consider an allocation range of 10-20%.

Quota allocated to the Community Fishing Association may not be sold.

IV. Quota Distribution

- Quota will be leased on an annual (option: every 3 years) basis according to allocation criteria established by the Board which meet the goals and objectives for the Community Fishing Association established by the Council in regulation.
- To ensure that quota leased from the Community Fishing Association achieves the goals and objectives established by the Council, quota will be leased subject to specific contract terms which meet the goals and objectives adopted by the Council, and referenced below in Section VII.

⁶ 16 USC § 1853a(c)(3)(B)(iii,vi).

⁷ Note that under the MSA provisions, eligibility criteria must be developed by the Council, approved by the Secretary, and published in the Federal Register. These eligibility criteria are therefore submitted as recommendations, but further refinement should be developed by the Council.

V. Lease Fees

- Lease fees will be used only to directly support the Community Fishing Association's operational and administrative costs and will not exceed reasonable costs as audited by NMFS.

VI. How the CFA Intersects with the Overall Program

- The Community Fishing Association will operate within the co-op structure. Quota leased from the Community Fishing Association must be utilized through a cooperative.
- Community Fishing Association quota will be subject to the same set of rules as other quota in the program in terms of bycatch management, observer coverage, sector allocations, cooperative structure, regionalization, and gear conversion.
- Any vessel and owner consolidation limits established under the overall program will also apply to quota leased by the Community Fishing Association, e.g. the consolidation limit will apply to quota directly owned or fished by a vessel and any quota leased from the Community Fishing Association.
- A participant who leases quota from the Community Fishing Association will be required to fish at least that amount of fish within their co-op (e.g. a vessel may not lease quota from the CFA, then have that quota fished by another vessel in the co-op since the contract terms would not apply to a vessel which had not leased quota from the CFA).

VII. Reporting, Accountability and Transparency

- The Council would set goals and objectives for the CFA (as per Amendment 91 requirements for the Incentive Plan Agreements) and allow the CFA board to adopt CFA policies and operational guidelines to meet those goals and objectives.
- To be eligible to participate in the program, the CFA must "develop and submit a community sustainability plan to the Council and the Secretary that demonstrates how the plan will address the social and economic development needs of coastal communities, including those that have not historically had the resources to participate in the fishery, for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register."⁸
- The Council would receive an annual report from the CFA and evaluate its progress toward meeting the Council's policy goals.
- The annual report must also be distributed to all communities in the relevant management area.
- The Council would also review the CFA as part of the review process of the catch share program overall.

⁸ 16 USC § 1853a(c)(3)(A)(i)(IV).

- The Council could initiate action at any time to modify the catch share program, including modifying or eliminating the CFA if it is not meeting the Council's goals and objectives.

VIII. Goals and Objectives of the Community Fishing Association

- A. Council-established Goals and Objectives for the CFA (in regulation and/or the FMP):
 1. Provide for the sustained (current and historical) participation of fishing communities (MSA National Standard 8).
 2. Minimize adverse economic impacts on fishing communities (MSA National Standard 8).
 3. Assist entry-level and small vessel owner-operators, captains and crew and fishing communities (MSA §303A(c)(5)(C)).
- B. The CFA responds to several of the Council's established Goals and Objectives for the program (numbers refer to Council Goals and Objectives):
 4. Authorize fair and equitable access privileges that take into consideration the value of assets and investments in the fishery and dependency on the fishery for harvesters, processors, and communities.
 6. Promote community stability and minimize adverse economic impacts by limiting consolidation, providing employment and entry opportunities, and increasing the economic viability of the groundfish harvesters, processors, and support industries.
 13. Minimize adverse impacts on sectors and areas not included in the program.
 14. Promote active participation by owners of harvest vessels and fishing privileges.
- C. Possible CFA goals and objectives adopted by the CFA within Council objectives:
 1. Maintain the historical number of active trawl vessels home-ported in CFA communities.
 2. Maintain the historical number of active trawl skippers that are resident in CFA communities.
 3. Maintain the historical number of GOA trawl vessel crewpersons that are resident in CFA communities.
 4. Maintain the amount of quota owned and/or operated by CFA community residents.
 5. Maintain crew compensation at levels established prior to the rationalization program.
 6. Enable fishermen to transition into the GOA trawl fishery under the new management program.
 7. Facilitate gear conversion within provisions of main program.
 8. Incentivize additional bycatch savings beyond standard requirements by rewarding those willing to adopt additional measures to reduce bycatch with access to additional CFA quota.

Rationale for a Community Fishing Association

I. Why a Community Fishing Association?

A catch share program in the Gulf of Alaska trawl fishery has the ability to provide management benefits by ending the “race for fish” and providing the trawl fleet with a tool to reduce bycatch. In addition, this program will provide the added benefit of 100% observer coverage. However, nearly twenty years of direct experience with catch share programs in Alaska, as well as experience around the world, demonstrates clearly how catch share programs can adversely impact fishing dependent coastal communities. Coastal communities suffer when catch share programs result in absentee ownership of quota, fewer locally based vessels, high leasing fees, short term and long term vessel consolidation and consolidation of quota ownership, lower crew pay and job loss. The lessening of the relationships between fishing communities and those owning and fishing the resource as well as the out-migration of fisheries-based wealth and fishery access opportunities from the communities in proximity to the fishery resources is the most enduring impact on communities.

A Community Fishing Association provides an opportunity to expand coastal community protections by allocating a portion of the quota directly to a community entity. According to a recently published NOAA Guidance, “These entities [Fishing Communities and RFAs] represent one way to anchor limited access privileges in place-based and interest-based communities to help maintain their long-term access to federal fisheries.”⁹ Anchoring a portion of quota in the community ensures that the community—and community residents—retain access to some portion of the fishery over the long-term. The community can use this quota to maintain a local fleet, provide opportunities for transition and entry into the fishery (for example, by serving as a stepping stone for residents to transition into quota ownership), and ensure access to the resource for future generations. A Community Fishing Association also provides a mechanism for maintaining equitable crew compensation and maintaining local crew hire. Because the community owns the quota in a Community Fishing Association, they have the ability to set rules on how that quota is used, much as an individual quota owner does.

Impacts from catch share programs are difficult to predict. A Community Fishing Association, managing quota, will have the ability to adaptively respond to unexpected programmatic community impacts. Nothing in the current motion provides this flexibility to address unexpected or unanticipated community impacts. This ability to adapt and address impacts as they arise is critical - experience in the North Pacific shows that once quota is allocated it is very difficult if not impossible for the Council to address these impacts (see, for example, ROFRs in the crab program).

⁹ Stoll & Holliday, U.S. Dept. of Commerce, NOAA, *supra* note 1, at iv.

II. What added benefits does a Community Fishing Association provide beyond the current program options?

The Council's October 2013 motion includes several community protection provisions, such as limited duration of quota shares, community sign-ons on co-op contracts and regionalization. These provisions are significant and potentially address a number of community concerns. A Community Fishing Association, however, addresses issues and community impacts beyond those provided by the current community protection provisions. Specifically, none of the community protections contained in the current motion provide a mechanism for ensuring that some portion of quota remains anchored in the community, and that the economic wealth of quota ownership (not just the landings) does not all migrate away from local fishing communities. The provisions in the motion do not maintain or strengthen ties of skippers, crew, vessel owners or vessels to the fishery dependent community. In addition, the motion does not contain a mechanism for entry/transition into the fishery. A Community Fishing Association provides a mechanism for entry into the fishery addressing the substantial barriers to entry posed by the added cost of acquiring quota. By providing quota to new quota owners, a Community Fishing Association can facilitate transition into the fishery in a manner which allows for access to the fishery and ensures that a path is available for new participants who do not have the capital to purchase quota. Finally, a Community Fishing Association is the only construct that may help to mitigate crew compensation changes. Crew face impacts as a catch share program shifts ownership, increases leasing and changes fishing practices. The Council has struggled with how to maintain equitable crew compensation within a catch share program. A Community Fishing Association may provide unique crew equity constructs within a flexible co-op framework.

In summary, the Community Fishing Association is another "tool in the toolbox" as the Council develops a new management program. At this stage, it is important to have a full range of alternatives and options analyzed. A complete set of community protections is critical to the success of a new management program. A Community Fishing Association, as described in this document, provides unique and additional benefits beyond those contained in the current program framework and should be included as an option within the program design.

III. Why is an initial allocation required?

Our experience in Alaska provides ample examples of why an initial allocation of quota is needed to create a successful community protection entity. The Community Quota Entity (CQE) program in the Halibut and Sablefish IFQ fishery was created to provide community access to the resource and to reverse the impacts of quota and access migrating away from rural fishing communities. However, the CQE program was not provided with an allocation of quota, rather, communities are required to buy quota. As a result, while many communities have formed CQEs, only two have actually acquired quota and the amount purchased is de minimus. While the structure of the trawl bycatch management program is significantly different from the Halibut/Sablefish IFQ program, the dynamics of leasing, consolidation, and inactive participation and how these impact a

community are the same. In contrast to the CQE program, a Community Fishing Association which is allocated quota at the outset can immediately, in the first year of the program, plan mitigation strategies as well as plan for more long term protections for crew and for transitional fishing opportunities.

Providing an initial allocation to a Community Fishing Association is critical to the success of the Association, and to ensuring that community protection goals are met. Direct allocations to fishing communities are well established as a matter of law and policy. The Magnuson-Stevens Act requires that “in developing a limited access privilege program to harvest fish a Council or the Secretary shall...include measures to assist, when necessary and appropriate, entry-level and small vessel owner-operators, captains, crew and fishing communities *through set-asides of harvesting allocations, including providing privileges, which may include set-asides of allocations of harvesting privileges or economic assistance in the purchase of limited access privileges (emphasis added).*”¹⁰ In addition, a recent NOAA Guidance clearly indicates that an allocation to a fishing community is an option for Councils to use to address the types of concerns raised in this situation: “Fishing community allocations (e.g., FC, RFA, Community Fishing Association, etc.) represent an alternative to individual allocations...in instances where small-scale and rural fishing communities exist and/or quota consolidation is a real or perceived concern, they represent a reasonable option for Councils to analyze.”¹¹

Providing an allocation of harvesting allocations to a fishing community to meet the needs of the community, including maintaining community ties with skippers, crew, owners and vessels has been anticipated by those crafting the governance documents for our federal fisheries and is well within the Council’s authority. The ability to allocate directly to fishing communities was provided as a matter of public policy specifically to address these types of challenges, and we urge the Council to take full advantage of the tools provided within the MSA in this regard.

Recommendations for Community Protections in the Current Motion

I. Duration of shares (Element (1)(b))

Limiting the duration of quota shares, or some portion of quota shares, is an important program element. The provision’s impact is primarily on the economic value of the quota which an individual holds/takes to the co-op. This provision could reduce quota value but the cost of entry is likely to remain high. Consequently, limited duration of shares alone is unlikely to provide opportunity for entry into the fishery. More importantly, limited duration of shares will not impact migration of quota and/or skippers, crew and owners away from the community. In addition, the April 2013 discussion paper highlights some significant administrative barriers to implementing a limited duration construct. A Community Fishing Association may be able to achieve the benefits of

¹⁰ 16 USC §1853a(c)(5)(C).

¹¹ Stoll & Holliday, U.S. Dept. of Commerce, NOAA, *supra* note 1, at 29.

a limited duration quota with less administrative burden. Therefore, we support continued development of a limited duration concept, and careful examination of how this concept and a CFA may work in tandem or separately.

II. Community sign-off on co-op agreements

One of the most significant community protection measures included in the current program design framework is the option for requiring community sign-off on contracts. This could also be a powerful mechanism for a community to weigh in on issues of community concern but it is unlikely to address the broader community concerns outlined herein. For this provision to be effective, the community would have to have full signatory (veto) power over the contract. In addition, a community structure would need to be developed to ensure that the “community’s” opinion is not simply the opinion of one single designated community representative. For this to work, co-ops would have to agree to waive confidentiality rights and essentially open up their contracts for public review. It would not be sufficient for the co-ops to waive confidentiality rights only for a single designated community representative. A broader community group would have to be provided with access to co-op contracts to ensure adequate community participation. We support continued development and refinement of this option, with particular attention to the issues raised above.

III. Consolidation limits

Consolidation limits are critical and should be included in the program design. Limits must be placed on both individual quota ownership and vessel quota use. Vessel use limits should not be erased when vessels join co-ops (unlike crab rationalization). Further, the extent of vertical integration of the fishery should be analyzed and better understood.

IV. Regionalized delivery requirements

Regionalization is another consideration in the current program framework. However, regionalization only addresses landings. Landings are important to community sustainability, but there is much more to a healthy fishing community. In addition, regionalization applied too strictly necessarily limits other fishery dependent communities from participation and may inhibit innovation, new product forms, changes in transportation and increase inefficiencies. Also, regionalization does not address maintaining or strengthening ties between community and skippers, crew, owners and vessels, transitional fishing opportunities and equitable crew compensation—all of which can be addressed through the CFA. Nonetheless, landings clearly represent a critical source of community stability, and the Council should continue to consider regionalized delivery requirements.

strategically, and cooperatively, both amongst the vessels themselves and with shore-based processors

3. *Reduce bycatch and regulatory discards by groundfish trawl vessels*
4. *Authorize fair and equitable access privileges that take into consideration the value of assets and investments in the fishery and dependency on the fishery for harvesters, processors, and communities*
5. *Balance interests of all sectors and provide equitable distribution of benefits and similar opportunities for increased value*
6. *Promote community stability and minimize adverse economic impacts by limiting consolidation, providing employment and entry opportunities, and increasing the economic viability of the groundfish harvesters, processors, and support industries*
7. *Improve the ability of the groundfish trawl sector to achieve Optimum Yield, including increased product retention, utilization, landings, and value by allowing vessels to choose the time and location of fishing to optimize returns and generate higher yields*
8. *Increase stability relative to the volume and timing of groundfish trawl landings, allowing processors to better plan operational needs as well as identify and exploit new products and markets*
9. *Increase safety by allowing trawl vessels to prosecute groundfish fisheries at slower speeds and in better conditions*
10. *Include measures for improved monitoring and reporting*
11. *Increase the trawl sector's ability to adapt to applicable Federal law (i.e., Endangered Species Act)*
12. *Include methods to measure the success and impacts of all program elements*
13. *Minimize adverse impacts on sectors and areas not included in the program*
14. *Promote active participation by owners of harvest vessels and fishing privileges*

1.3 Summary of key issues for Council consideration

The following is a non-comprehensive list of points on which Council consideration or clarification might be needed to further advance the development of the program outlined in the October 2013 motion:

1. If a person or an entity holds multiple LLPs, each of which having a majority of qualifying landing history to different shorebased processors in different areas, does the Council intend for that person to have the option to join multiple cooperatives?
2. What are the alternatives for criteria used to establish the initial two-year linkage between catcher vessels and processors in a cooperative? How can these criteria be explicit, but flexible enough to account for cases where delivery patterns have shifted during the most recent analyzed years?
3. If target species quota is regionalized, is the Council concerned about a conflict with any delivery requirements that might be a part of the privately negotiated contract between the harvester and processor members of a CV cooperative?
4. Is there a minimum number of vessels that are required to form a cooperative? If not, is the Council concerned about the activity of a cooperative being treated as confidential information?
5. If PSC is allocated, should prohibited species quota (PSQ) use be limited by season and by fishery? If PSQ is allocated by season, are rollovers allowed?
6. Should AFA vessels that are exempt and non-exempt from limitations in the GOA be treated differently for PSQ allocations?
7. If target fisheries other than Pacific cod and pollock are allocated as part of the program, should the Council only consider species that have a TAC for the West Yakutat district, as opposed to a species with a TAC set for the entire Eastern GOA?
8. Should the Council set sideboard limits for Eastern GOA Pacific cod, or any other fishery?

9. Are persons required to hold PSQ for Chinook and halibut if they fish in the West Yakutat district with trawl gear?
10. Is target species catch history severable from the LLP on which it was earned? If so, and if the history is transferred to another eligible license, does the pro rata share of PSQ transfer with the target catch history? The Council may wish to consider the case where pollock and Pacific cod are the only allocated target species. If a license holder transfers all of his or her target quota, the license might not have any PSQ remaining to cover activity in rockfish or flatfish fisheries.
11. For the purpose of measures meant to promote fishery dependent communities, how are communities defined? How might a license or an individual seeking to buy or sell quota be deemed to have an association with a community?
12. If gear conversion is allowed, should the 100% observer coverage requirement also apply to vessels using longline gear? What type of license or endorsement(s) does a fixed gear vessel need to hold in order to fish trawl quota?
13. If the Council includes the measure to make the retention of a portion of target species allocation subject to a periodic bycatch performance review, how will the portion of quota that is not retained be managed? Who might have access to this quota, and for how long? Will issues of due process and appeals be more tractable if the incentive program is framed as a reward, as opposed to a penalty?

2 Review of Proposed Program Structure

2.1 Bycatch management relative to Council's purpose and need statement

Both the purpose and need statement and the goals and objectives for the action focus on the need to create a management environment in which harvesters are better able to avoid PSC and more efficiently use available PSC. This focus suggests that any catch share program that allocates PSC species would enable better management of those species by participating vessels. The Council intends PSC reductions and efficient utilization to arise from vessels fishing more slowly, strategically, and cooperatively. The elements and structure of the program will affect whether fishing is slowed, or whether fishing strategies are more cooperative among vessels. Slowing fishing to a more optimum level will contribute to the stability of volume and timing of landings to allow better planning by processors.

The allocation of PSC would create an individual incentive for each participant to obtain the greatest value from the PSC they use. Whether PSC allocations alone are sufficient to achieve the goals of the program will depend on whether other measures can be adopted that would allow these PSC allocations to be fished in a manner that provides for the slowing and coordination of fishing and stable timing and volume of landings as intended for the action.⁵

PSC allocations are intended to provide each holder with an exclusive and limiting share of the available PSC. The participant could then choose what species to target, when, where, and how, to attain the greatest value of catch subject to the constraint of the PSC allocation. The allocation of PSC based on historical target fisheries landings, but not linking PSC to those fisheries for use, will likely allow each participant to achieve the greatest value in the fishery, given a limited quantity of permitted PSC. Each vessel would need to balance the value of using their PSC for the target fisheries that are allocated versus saving quota to participate in lower profit margin fisheries for flatfish. Basically participants choose a PSC rate that sacrifices PSC quota at a rate that equalizes the difference between profit attained from the additional share of their target allocations and the profit derived from the use of PSC for harvest of less valuable species later. This incentive structure could affect the ability (or tendency) of the fleet to achieve

⁵ Target species allocations have not been defined for the C/P sector at this time.