

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Chris Oliver *CO*
Executive Director

DATE: October 1, 2003

SUBJECT: Gulf of Alaska Groundfish Rationalization

ESTIMATED TIME 14 HOURS all C-1 items

ACTION REQUIRED

- (a) Receive report from Joint Protocol Committee and staff report on State groundfish fisheries.
- (b) Review discussion papers on: alternative descriptions, LLP transfers, open access fisheries, monitoring issues, community protection options, and GOA crab/salmon bycatch.

BACKGROUND

State issues

The Council revised its draft suite of alternatives, elements, and options for rationalizing Gulf of Alaska groundfish fisheries in June 2003. The Council adopted three options for managing State of Alaska parallel fisheries as a placeholder for additional review and consideration by the Alaska Board of Fisheries Item C-1(a)(1). The options were referred to the Joint (Board and Council) Protocol Committee during its July 28, 2003 meeting. The committee report is under Item B-4 supplemental.

The committee recommended that the Board adopt the following timeline: (1) State staff would report to the Board at its October 2003 work session on its progress in identifying a possible management solution(s); (2) the Board would identify a work group in October 2003 to address the issue; the work group would report on its recommendations to the Joint Protocol Committee at its December 2003 meeting; (3) the Board would meet with the Council in February 2004; (4) the Board would refine the options or recommend a preferred alternative at its February 2004 meeting; and (5) the Board would report its recommendations to the Council in April 2004. The BOF notice for forming the task force is under Item C-1(a)(2). A report on the formation of the Board task force and timeline will be provided during the meeting. A discussion paper identifying the issues now deferred to the State is under Item C-1(a)(3).

Discussion papers

In June 2003, the Council adopted a matrix of three alternatives to rationalize the GOA groundfish fisheries for analysis (Item C-1(b)(1)). The matrix noted, "Because of the number, diversity, and complexity of GOA groundfish fisheries, no single alternative will be appropriate for all fisheries. Mixing and matching should be expected by sector upon further analysis." Guidelines for preparing an Environmental Impact Statement (EIS) state, "it should present the environmental impacts of the proposal and the alternatives in comparative

form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public.”

To assist the Council in differentiating between its individual alternatives, Council and NMFS staff have prepared five discussion papers. One paper proposes an approach to address the complexity of analyzing the proposed alternatives and the multitude of remaining options in the EIS/RIR/IRFA (Item C-1(b)(2)). It identifies two key issues that need further development by the Council. The Council should consider the interaction of the Gulf groundfish rationalization program with the halibut and sablefish IFQ program, either adopting specific elements and options or developing a plan for addressing these issues. The Council should develop a full set of the rules that govern Southeast Outside groundfish fisheries. Refining the options for communities and captain and crew shares would also greatly streamline the analysis. Attachment A1 to the discussion paper lists the elements and options adopted by the Council in June 2003. Attachments A2 and A3 responds to the Council request for staff to fill in the matrix with the appropriate elements and options for it adopted in June 2003 for Alternatives 2 and 3, respectively.

A report on the frequency with which License Limitation Permit transfers also include provisions governing catch history responds to a Council request from June 2003 (Item C-1(b)(3)). A paper on the open access fisheries addresses NMFS concerns regarding: (1) administration of very small open access and associated bycatch allocations; (2) the open access jig fishery; and (3) groundfish species not included in the proposed program (Item C-1(b)(4)).

A paper on monitoring rationalized groundfish fisheries identifies important implementation issues that the Council should consider in its identification of realistic monitoring options for analysis in the EIS (Item C-1(b)(5)). The paper identifies that monitoring of halibut PSC shares and secondary species likely will be the most challenging part of a new monitoring program.

A paper on community protection options is intended to assist the Council in clarifying three specific options and several general questions on how the four proposed community programs fit into the context of the three EIS alternatives (Item C-1(b)(6)). These clarifications will guide the contractor in preparation of the sociological analysis in the EIS.

The Council currently has a placeholder for potential salmon and crab bycatch measures in its suite of alternatives. A summary of GOA crab and salmon bycatch was requested by the Council in April 2003. The discussion paper (Item C-1(b)(7)) provides a review of available bycatch data (amounts, timing, and location) and recommends that bycatch control measures focus only on chinook salmon and Tanner crab. Further, the discussion paper provides a set of possible alternatives for analysis.

Staff will also report on its plans to provide additional analyses of selected program components, in cooperation with the contractor, over the next few Council meetings. These analyses will assist the Council in its continued refinement of the alternatives (i.e., narrowing the range of options) prior to the preparation of the EIS/RIR/IRFA. Development of appropriate options for allocating catch history to State water and parallel groundfish fisheries are required before the environmental impacts of such allocations can be analyzed in the draft EIS. While some of the analyses can be conducted over this winter, receipt of the BOF report in April 2004 on those options likely results in a full preliminary draft EIS not being available until some time after April. October may be the most realistic target for completion of the EIS for formal review.

2.2.2 Eligibility

LLP participation

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

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

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

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

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

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

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

2.2.3 State Waters - Parallel Fisheries and State Groundfish Management

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

Option 2. Direct allocation of portion of TAC to fisheries inside 3 nm.
No ‘parallel’ fishery designation, harvest of remaining federal TAC only occurs in federal zone (3 – 200 nm); and

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

Area or species restrictions:

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

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

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

Fixed allocation for:

Suboption 1. P. cod

Suboption 2. Pollock

Suboption 3. All other GOA groundfish species

FRANK H. MURKOWSKI, GOVERNOR

DEPARTMENT OF FISH AND GAME

BOARDS SUPPORT SECTION

P.O. BOX 25526
JUNEAU, AK 99802-5526
PHONE: (907) 465-4110
FAX: (907) 465-6094

RECEIVED

SEP 11 2003

September 12, 2003

Dear Stakeholder:

N.P.F.M.C

With this letter, the Alaska Board of Fisheries is soliciting nominations for participants in a GOA Groundfish Rationalization Task Force that will be charged with developing recommendations to the Board of Fisheries for state waters groundfish under a rationalized fishery, as described below.

The North Pacific Fishery Management Council is working towards a plan to "rationalize" the groundfish fisheries in the Gulf of Alaska. Through the Board of Fisheries and NPFMC's Joint Protocol Committee, the council has requested the board provide input regarding state waters fisheries under the options identified through the council's motion at its June 2003 meeting, including observer coverage. The motion adopted by the council may be found at: <http://www.fakr.noaa.gov/npfmc/>

The board will empanel a GOA Groundfish Rationalization Task Force to examine possible actions the board may consider regulatory structure for state waters groundfish fisheries in the Gulf of Alaska. The task force will be composed of two board members and approximately ten stakeholders that represent the various communities and interest groups in Alaska, and department staff. The board will select the stakeholder representatives at its October 1-3, 2003, work session in Anchorage. The timeline for the task force to complete its work and report back to the full board will be announced at the work session.

The deadline for nominations for the stakeholder members of the Task Force is 5:00 p.m., September 29, 2003 (nominations must be received by this date; a postmark is not sufficient). Nominations should be sent to the following office:

Alaska Department of Fish and Game
Boards Support Section
P.O. Box 25526
Juneau, AK 99802
Fax: 907-465-6094

Sincerely,



Diana Cote, Executive Director
Alaska Board of Fisheries

Issues Concerning the Management of the Parallel Fisheries in the Gulf of Alaska Groundfish Fisheries.

NMFS Alaska Region Staff
October, 2003
North Pacific Fishery Management Council Meeting

Overview

Management of the Federal total allowable catch (TAC) within State waters (from the baseline to 3 miles from shore) is complicated by the different regulations that apply within Federal and State waters. The "parallel fishery" is the fishery that occurs off of the Federal TAC within State waters. It is different than the State-managed Pacific cod fishery which occurs exclusively in State waters and is managed by the Board of Fisheries. Currently, the State does not have a limited entry program, or quota-based program in place for harvests within State waters for groundfish and the parallel fishery is essentially managed as an open access fishery.

During the Federal fishery, the State traditionally opens state waters to allow access to vessels to fish off of the Federal quota inside state waters – the "parallel fishery." Opening state waters allows the effective harvesting of fishery resources because many fish stocks straddle State and Federal jurisdiction and in some cases a significant portion of the overall Federal TAC is harvested within State waters. Closing state waters during the Federal fishery would severely limit fishing opportunities to both Federal and State permitted vessels. **Attachment 1** summarizes the percentage of the total retained catch coming from the parallel fishery based on a summary of recent catch data compiled by the Alaska Department of Fish and Game (ADF&G) showing harvests of some key commercial species within the parallel fishery.¹

Management of the Parallel Fishery and GOA Rationalization

The State cannot require vessels fishing inside state waters during the Federal fishery to hold a Federal permit. However, the State can adopt regulations similar to those in place for the Federal fishery if those regulations are approved by the Board of Fisheries and meet State statute. The State does not have statutory authority to adopt some forms of IFQs that allocate harvests to individual persons based on historic harvests. Further, the use of some types of quota programs may conflict with the State Constitution. Currently, vessels are able to fish inside state waters during the parallel fishery without Federal licenses, although many boats that fish inside of 3 miles are Federally permitted for use in Federally-managed fisheries. If a rationalization program is adopted, the State would have to establish mechanisms to control harvests in the parallel fishery to prevent overharvests. In addition, if access to the parallel fishery is not controlled, entry into the parallel fishery could exacerbate the race for fish in State waters, while vessels fishing in the Federal fishery would be subject to the allocation under the rationalization program. The lack of effective controls on effort within the parallel fishery could undermine the goals of GOA rationalization, including improving safety and providing economic stability to communities and industry. At this time, it is not clear if all, or only some of the components of the GOA Rationalization alternatives being considered by the Council could be adopted by the State given the existing State law.

¹ Note that parallel fisheries harvests include the harvest of all vessels inside of 3 miles, including Federally licensed vessels. These Federally licensed vessels also participate in the Federally managed fisheries outside of 3 miles.

June 2003 Council Action

In June 2003, the Council adopted three options as possible approaches to the current management of the parallel fishery (Topic 2.2.3 on Page 7 of the Council's June 2003 Motion).

Option 1: Status Quo

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

Under this option, current management would continue. At first blush, this option would appear to be unworkable if rationalization of the GOA fisheries were undertaken because the TAC could not be managed under a share-based program for Federal participants, while State participants continue in a race for fish for the same Federal TAC.²

Option 2: Allocation to the State

Direct allocation of portion of TAC to fisheries inside 3 nm. No 'parallel' fishery designation, harvest of remaining Federal TAC only occurs in Federal zone (3 – 200 nm); and Council allocates _____ % of the TAC, by species by FMP Amendment, to 0-3 nm state water fisheries representing a range of harvests that occurred in state waters. This could include harvest from the status quo parallel fishery and the state waters P. cod fisheries. State waters fisheries would be managed by ADF&G through authority of, and restrictions imposed by, the Board of Fisheries.

Area or species restrictions:

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

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

The second option would directly allocate a portion of the Federal TAC to be managed by ADF&G within State waters. This mechanism is similar to that used in the State Water Pacific cod fishery. The motion indicates that the Council would be responsible for the allocation of some percentage of the TAC to be managed by the State. The percentage allocation to support State managed fisheries could also accommodate the existing State water Pacific cod fishery managed by ADF&G.

² Although not explicitly stated in the Council motion, there are also State managed fisheries for pollock in Prince William Sound, and several sablefish fisheries that are managed within state waters. Management of blue and black rockfish also has been deferred to the State throughout both State and Federal waters.

The Council's motion indicates that the allocation to the State would be based on some percentage of the historical harvests within the parallel fishery relative to the total Federal TAC. Attachments 1 and 2 show historic landings in the parallel fisheries for several recent seasons.³ The extent of the allocation to support State fisheries, however, will likely depend on several factors. For example, the allocations in the Federal rationalization program could credit all harvests of Federally permitted vessels (License Limitation Program licensed vessels) in both Federal and State waters. If these landings are credited in the Federal program, crediting them also in the State fishery allocation could dilute the interests of participants in the Federal fisheries.⁴ Under this option, participants in the Federal program that fished exclusively within State waters in the past could receive an allocation for their catch history that could be used only in Federal waters under the new program.

Participants in the rationalized fishery can operate more flexibly and efficiently. If participants in the rationalized Federal fishery are also allowed in the State fisheries, they could have a competitive advantage over vessels that are limited to participation in the State fishery. Typically, participants in a rationalized fishery are limited to their historic participation in other fisheries, to prevent unfair competition. State regulations to limit entry in a fishery require following a regulatory procedure administered by the CFEC. This process takes considerable time and may not be completed for several years. Therefore, the State may have difficulty limiting entry to the State fisheries beyond area, gear, and time restrictions established by the Board of Fisheries. The State may also have difficulty directly prohibiting vessels that participate in a rationalized Federal fishery from also participating in the State-managed fishery. However, the ability of the Council to adopt a provision that could reduce competition in State fisheries from participants in the Federal rationalization program could also be explored.

Biological Issues:

Establishing an allocation to the State requires fixing some percentage allocation of the resource to a limited geographic region. Currently, the harvests between State and Federal waters is not fixed and the fishery is prosecuted based on the location of the fish, which can change substantially over the course of a year or between years. An average of historical harvest rates may mitigate some of the variability in stock abundance that can occur. Fixing this allocation could modify harvest rates, bycatch species, and rates in various fisheries. Without more extensive analysis, it is unclear whether a cap or reallocation would also have an economic effect on the overall productivity of vessels.

³The information provided in Attachment 1 are based on data compiled by ADF&G, and could differ from data sources currently used by the Council in their analytical process. Because of the reporting methods used, data managers may make differing assumptions about the amount of harvest coming from within State waters. Staff recommends using a single data source to reduce any potential confusion if the Council were to consider a possible allocation mechanism. Attachment 1 compares the retained harvest data provided by ADF&G to the total retained harvest by area and for the each of the fisheries analyzed by NMFS. Some discrepancies may exist between these data sources, but these data provide an indication of the relative range of parallel fishery harvests for each of the fisheries reviewed by ADF&G. Additional analysis would refine these comparisons. Attachment 1 compares retained harvests in the parallel fishery to total retained harvests in the Federal and parallel fishery combined since several of the fisheries are not harvested up to their TAC (e.g., arrowtooth flounder) for a variety of reasons.

⁴ In addition, an option under consideration would allocate harvest shares for all landings in the parallel fisheries (including vessels without Federal permits). Allocation of Federal program harvest shares to these vessels and crediting the same catch to a State water fishery could also dilute interests of participants in both fisheries.

Data Issues:

The reporting methods used on the State of Alaska Fish Tickets require the reporting of the State statistical area in which the harvest occurred. These data are self-reported and based on the best estimates of the vessel operator. These estimates will vary among operator and may be confounded by additional factors, in particular, trawl vessels may transit through both Federal and State waters and multiple statistical areas during a single tow, or within a trip and the statistical area reported by the operator may represent only the location where the net was first placed in the water, or the location where haul back occurred, or an estimate of the amount of harvest within each area. Presumably, these factors would be considered by the Council if they were to consider a direct allocation to be managed by ADF&G.

Bycatch Management of Prohibited Species:

An additional factor for consideration is that under the Council's motion, only some species would be directly allocated to the State. However, in some of these fisheries, depending on the type of gear deployed, there may be bycatch of prohibited species – species that cannot be retained – that are not specifically allocated under the Council's motion. As an example, in the Pacific cod hook and line fishery there can be significant bycatch of halibut. Under the Federally managed fisheries, there are trimester allocations of halibut bycatch mortality which can be harvested in the hook and line fisheries. Once these allocations are taken, the fishery is closed. Moreover, vessels which are participating exclusively in the parallel fishery are not required to adhere to NMFS regulations regarding observers and other reporting requirements. This could affect estimates of bycatch of prohibited species. As an example, estimates of halibut bycatch mortality and discards are obtained through observer data in the Federal fishery. Without observer data within the parallel fishery halibut bycatch mortality would have to be estimated using Federal observer data, or by establishing fixed halibut mortality rates for each of the parallel fisheries. Generally, NMFS would most likely have to modify the existing Federal observer program in the GOA under the rationalization alternatives currently under consideration. Most likely, this would include improving monitoring of individual catch and bycatch. The observer costs will likely preclude using observers for halibut bycatch monitoring on all vessels. NMFS and the Council will be exploring some alternative approaches to halibut bycatch management. Similarly, the State may have to reconsider its approaches to bycatch monitoring within the parallel fishery to ensure accurate and consistent accounting.

Incidental Catch of Groundfish Species:

Based on the analysis provided in Attachments 1 & 2 many Federally managed groundfish fisheries have some component, some rather limited, of their harvests occurring within the parallel fishery. If the goal of this option is to establish a distinct and separate management system for State waters then it may be necessary for the Council to allocate incidentally caught groundfish species for management by the State. Maintaining management of incidental catch with NMFS while a subset of groundfish target species are managed by the State would be cumbersome and would likely result in many of the same problems currently experienced under the existing management system. Without an allocation of incidental catch to a State managed fishery, NMFS would have to monitor a fishery occurring exclusively within State waters.

Without directly allocating incidental catch and deferring its management to the State, vessels would not be limited by separate incidental catch limits within State waters. This could prove to be most problematic for a number of rockfish species that occur in nearshore areas and which have relatively limited TACs. As an example, the Shortraker/Rougheye (SR/RE) complex occurs in relatively nearshore waters. If SR/RE was harvested incidentally at a rate much higher than that in the Federal fishery resulting in harvests of most of the TAC for SR/RE, Federal fishery managers could be forced to compensate for this harvest by limiting or closing rationalized fisheries with significant components of SR/RE incidental catch. These could include the Pacific cod hook and line, or certain rockfish trawl fisheries.

Open Access Implications:

An additional management concern that could result from this option is the need for additional coordination between the State and NMFS to ensure that the overall harvest of groundfish fisheries are maintained within the existing TAC. Presumably, under a direct allocation to the State, the Federal TAC would be adjusted to accommodate any allocations that may be made to the State. NMFS and the State will have to establish a protocol to ensure adequate monitoring and enforcement mechanisms are in place. What is not clear from the Council's proposal is the effect on one fishery if the other fishery exceeds its TAC (Federal) or Guideline Harvest Level (State). In other words, would overages within one jurisdiction be compensated by a reduced TAC or GHF in that fishery in that jurisdiction in subsequent years?

Dusky Rockfish:

The Council's motion also notes that both light and dark dusky rockfish would be allocated to the State for management. Currently, light and dark dusky rockfish are managed as a single species within the Pelagic Shelf Rockfish complex along with widow and yellowtail rockfish. Existing catch data do not distinguish between these two varieties, or subspecies, of dusky rockfish and this factor would need to be considered by the stock assessment scientists, GOA groundfish plan team, and the SSC as well as the Council before any allocation decisions are made. Historically, very limited harvests of these species have occurred within the parallel fishery (see Attachment 1 for additional information).

Rationalization and State Waters: This option would require the Board to adopt new regulations and for ADF&G to adopt new monitoring and enforcement responsibilities. A key component of monitoring efforts would be ensuring that harvests within State and Federal waters are clearly delineated, particularly if both fisheries were prosecuted simultaneously. If a direct allocation were made by the Council and management of this portion of the TAC were undertaken by ADF&G within State waters, the State would continue to be limited in its ability to use share-based management within State waters without additional legislative authority. Presumably, any fishery prosecuted and managed exclusively within State waters would continue to be subject to the existing State management structure for establishing a limited entry program through the Board and Commercial Fishery Entry Commission (CFEC) process.

Depending on the size of the quota and the harvest rate, a State managed groundfish fishery could require additional monitoring and enforcement. As an example, in most of the State managed Pacific cod fisheries season lengths have decreased since their implementation in 1997. The more rapid the rate of harvest and the smaller the allocation, the greater the need for timely data collection, reporting, and management actions.

Option 3: Limit within State Waters

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

Fixed allocation for:

Suboption 1. P. cod

Suboption 2. Pollock

Suboption 3. All other GOA groundfish species

This option would establish a limit, or cap, on the total amount of TAC that could be harvested within State waters during the Federal fishery. This option would maintain the existing management structure, and the Board would retain its authority to establish additional management measures for the parallel fishery. This

option would differ little from the existing management other than limiting the amount of harvest that could come from State waters for a number of species, or possibly all species if Suboption 3 were chosen. The Council's motion does not clarify whether NMFS or ADF&G would be responsible for monitoring and enforcing these harvest limits.

In determining the percentage of the TAC that may be harvested from State waters, the Council will be confronted with many of the same issues that arise under Option 2. For example, if the Council allocates shares in the Federal program based on harvests from State waters (by either Federally or State permitted vessels) these harvests might not also be allocated to the State managed fishery. The division of TAC between these fisheries should depend on several factors, including the scope of allocations under the rationalization program.

Data Issues: Issues concerning establishing an allocation, or limit, within the parallel fishery would be similar to those discussed in the first option. An additional management issue under this option would be the catch accounting requirements that would be imposed by monitoring catches from Federal and State waters for a fishery occurring concurrently. NMFS and ADF&G would have to receive information that would allow them to determine what percentage of the total harvests are made from within State waters during the seasons so that the parallel fishery could be closed once its allocation is reached. This could prove particularly difficult in the situation where vessels transit between State and Federal waters during fishing activities. Catch accounting would need to apportion catches between State and Federal waters in order to ensure the parallel fishery allocation was not exceeded. Given the nature of the GOA fisheries, many of the vessels are unobserved and existing data sources such as State Fish Tickets do not provide harvest data on a timely basis. Effective monitoring of an allocation could require new data collection mechanisms that could account for catch and report that catch to both NMFS and ADF&G to ensure harvests are kept within the allocation to the parallel fishery.

Bycatch and Incidental Catch Issues: Under this option, NMFS would maintain the management of prohibited species and incidental catch in the groundfish fisheries. It is not clear from the Council motion whether there would be a separate bycatch limit for prohibited species established for the parallel fishery or if bycatch would be managed collectively for harvests occurring in both State and Federal waters. If there were not a separate bycatch limit for the parallel fishery, bycatch allowances for a given species and/or gear group could be harvested in one jurisdiction and affect management in another. As an example, if an allocation were established for the Western Gulf Pacific cod hook and line parallel fishery those vessels could potentially harvest the entire trimester allocation of halibut bycatch mortality (for that fishery and gear type) for both the parallel State and the Federal fishery. In that case, Federal managers would be obligated to close fishing to vessels fishing in both State and Federal waters. A similar condition could exist for the incidental harvest of non-target species.

Rationalization and State Waters: Under this option, the number of vessels that could participate in the parallel fishery would not be limited, although the Board could adopt time, area, and gear restrictions that could limit the type of vessels and indirectly the number of vessels that could fish within the parallel fishery. If NMFS were to maintain monitoring and enforcement responsibilities for the parallel portion of the fishery, then there would need to be adequate monitoring to ensure that the parallel fishery harvest were not exceeded. This could require additional measures, including expanding the use of the Vessel Monitoring System, or adding observer coverage. This option would likely require close communication between NMFS and ADF&G to establish openings and closures in the parallel fishery.

This option would not result in the rationalization of the parallel fishery. At best, managers could control

effort through indirect controls such as gear and vessel size restrictions.

Summary of Issues

Allocations to State and Federal fisheries and participation of vessels in both State and Federal waters needs to be considered in determining any allocations to avoid potential "double counting" and the dilution of catch history.

Direct allocations may be required for all species, including prohibited species, to ensure that there is adequate amounts of these species for incidental catch and to reduce the potential "race for bycatch." if these species are shared among State and Federal jurisdictions.

Depending on the size of the TAC or GHL, management may require additional monitoring and enforcement to ensure that the harvests are maintained within TAC/ABC levels.

Attachment 1: Percentage of total retained catch harvested within the Parallel fishery for select fisheries, 1995-2001.

Attachment 1: Percentage of Total Retained Catch Harvested Within the Parallel Fishery

		Area					Area		
Arrowtooth Flounder	610	620	630		Pelagic Shelf Rockfish	610	620	630	
1995	23%	18%	8%		1995(*)	59%		7%	
1996	7%	9%	4%		1996(*)	74%	45%	9%	
1997	8%	47%	4%		1997(*)		4%		
1998	1%	22%	8%		1998(*)		7%		
1999	1%	4%	4%		1999				
2000	3%	2%	1%		2000		12%		
2001	7%	20%	9%		2001		1%		
		Area					Area		
Deep Water Flatfish	610	620	630		Pollock	610	620	630	
1995	1%	1%	1%		1995	36%	22%	25%	
1996		1%	1%		1996	61%	43%	36%	
1997		2%			1997	35%	44%	23%	
1998		3%			1998	61%	51%	16%	
1999	6%				1999	55%	25%	15%	
2000					2000	7%	7%	8%	
2001					2001	72%	18%	9%	
		Area					Area		
Flathead Sole	610	620	630		Pacific Ocean Perch	610	620	630	
1995	2%	11%	11%		1995				
1996	1%	20%	6%		1996				
1997	2%	27%	7%		1997				
1998	1%	45%	8%		1998				
1999	5%	10%	3%		1999				
2000	31%	5%			2000				
2001	20%	13%	3%		2001				
		Area					Area		
Northern Rockfish	610	620	630		Rex Sole	610	620	630	
1995					1995				
1996					1996				
1997		1%			1997			1%	
1998					1998		1%		
1999					1999				
2000					2000				
2001					2001				
		Area					Area		
Pacific Cod	610	620	630						
1995	19%	22%	17%						
1996	31%	13%	14%						
1997	16%	18%	11%						
1998	20%	18%	6%						
1999	17%	24%	9%						
2000	26%	20%	11%						
2001	18%	17%	8%						

Attachment 1: (Con't)

Shallow Water Flatfish	Area			Slope Rockfish	Area		
	610	620	630		610	620	630
1995	6%	50%	13%	1995	14%	2%	46%
1996	1%	51%	5%	1996		40%	25%
1997		68%	5%	1997	1%	1%	1%
1998	5%	31%	8%	1998	2%		9%
1999		4%	1%	1999	6%		2%
2000	6%	7%	1%	2000	14%	3%	2%
2001	6%	5%		2001	24%	2%	2%

Note: Percentages are based on parallel harvest data compiled by ADF&G compared to total retained catch provided by NMFS, Alaska Region. Some discrepancies may exist between these data sources. These data are intended to provide an indication of the likely range of harvests within the parallel fishery.

Black cells indicate that less than 1% of the retained catch came from the parallel fishery in that year within that management area.

(*) Blue and Black Rockfish were managed as part of the Pelagic Shelf Rockfish complex until 1998 and harvest data prior to 1999 do not reflect the species currently managed in this complex. The percentage of harvest within the parallel fishery would include blue and black rockfish prior to 1999.

DRAFT

GOA Groundfish Rationalization Alternatives

(adopted by the Council on June 15, 2003)

Because of the number, diversity, and complexity of GOA groundfish fisheries, no single alternative will be appropriate for all fisheries. Mixing and matching should be expected by sector upon further analysis.

Alternative 1	Alternative 2					Alternative 3		
No action	Harvester IFQ, closed class, linkage, cooperative					Sector Allocations with closed class of processors and processor linkage		
	Harvest shares allocated to individuals					Harvest shares allocated to individuals within sectors		
	Catcher Processors	Trawl CV			Fixed Gear CV		Sectors: CV Trawl, CV Longline, CV Pot, CP Trawl, CP Longline, CP Pot	
					High Producing Vessels	Low* Producing Vessels		
	Mandatory cooperative	Mandatory cooperative			Mandatory cooperative	Voluntary cooperative	Mandatory cooperative	
		Closed Class X%	or	Linkage X%	Closed Class X%	Open Delivery (fished as IFQs)	CP Provisions	CV Provisions
							No Processor Provisions	Closed class of processors, annual harvest allocations (IFQ), linked to processor, penalty to move between processors
		Open access with bycatch allowance reductions	or	Open access with bycatch allowance reductions	or	Open access with bycatch allowance reductions	Fished as Individual Fishing Quotas	Those that do not join cooperatives either:
Fish open access with bycatch allowance reductions or Don't fish	Fish open access with bycatch allowance reductions or Don't fish							

* low producing vessels would be either :

Option 1. less than average harvest shares initially allocated by gear, species and area

Option 2. less than the 75th percentile harvest shares initially allocated by gear, species and area

OCTOBER 2003
Gulf of Alaska Rationalization
Alternative Descriptions and Discussion Paper

At its June 2003 meeting, the Council refined the alternatives that are under consideration for rationalization of the Gulf of Alaska groundfish fisheries. The complexity of the alternatives, together with the number of remaining options within each alternative pose a substantial analytical challenge. This paper first introduces a proposed approach to meet that challenge, then goes on to take the first step in that process.

A proposed approach to the analysis

The simple table showing the alternative structures adopted by the Council at its June 2003 meeting leaves several aspects of the alternatives uncertain. For example, several options for cooperative formation requirements and penalties for movement from a cooperative are contained in the options. To adequately analyze an alternative most elements must be specified (such as the applicable formation requirements and penalties for cooperatives). An adequate analysis must make clear the implications of each option available to the Council, including the interaction of that option with any other option that the Council might choose. If an alternative has too many options, the implications of the interactions of different decisions cannot be fully explained or understood by the decision maker. Not all options must be decided for the EIS analysis to be completed, as staff can analyze the alternatives with multiple options. At the extreme, however, leaving several options in each alternative would create an insurmountable analytical task. In this case, the complexity of the alternatives limits the ability of staff to provide an adequate analysis due to the many outstanding options. In addition, the Council's intention to be permitted to select different alternatives for different sectors complicates the analysis. An analysis that is sufficient for the Council to select different alternatives for different sectors must clearly describe the implications of those choices. For example, the analysis might need to examine the implications of one sector being governed by a mandatory cooperative and another being governed by a voluntary cooperative program. If these different sectors are permitted to trade shares with one another, the analysis must examine the consequences of those trades as well. In the end, the ability of the analysts to accommodate these complexities along with the added complexity of options within an alternative is limited by the need to provide the Council with a document that clearly explains the consequences of these interacting choices.

To address this problem, staff could provide analyses of selected options which the Council may use to further refine the alternatives by selecting options. Doing so, the Council could develop a set of specifically defined alternatives, each with a few open options for analysis in the EIS, from which a preferred alternative could be selected. Using this approach, the analytical process would become tiered. In the first tier, many options would be analyzed in a manner that the Council can understand the implications of including those options in an alternative. In the second tier, alternatives (each with a few options) would be analyzed in a manner that provides the Council with an understanding of the implications of the choice among alternatives and the remaining options. Regardless of the approach taken by staff, retaining multiple options for analysis within an alternative will protract the time for analysis. If a substantial number of options are retained after this meeting, the analysis is likely to be streamlined by the staff providing preliminary analyses that can be used by the Council to reduce the options prior to providing an analysis of alternatives, as required for the EIS. Staff, however, will be unable to complete much of the analysis required in the EIS prior to the Council narrowing the options. The tiered approach to the analysis suggested here has the potential to provide the Council with a sound understanding of the consequences of its decisions in a manner that meets the regulatory analytical requirements.

Preliminary analysis

The description of alternatives and the preliminary analysis that follows is intended to help the Council reduce the number of options in each alternative. Through this process of refining the alternatives, it is possible that the EIS analysis could be streamlined.

The Council has adopted two documents that define its alternatives; a simplified table that summarizes the general structure of the alternatives and a listing of elements and options from which the alternatives will be specifically defined. It is the integration of the two documents that will define the alternatives. This paper presents the staff's understanding of the alternatives and the elements and options that compose those alternatives, to the extent the alternatives have been defined. In addition, the document provides a preliminary analysis of several of the elements and options in the Council's June 2003 motion.

This paper and its attachments can be used by the Council for three primary purposes. First, the document can be used by the Council to advise staff of whether its understanding of the alternatives is correct. Correct understanding of the alternatives is critical to an analysis of the alternatives. A second way the Council can use this paper is to further refine the alternatives. The description of the alternatives, together with the preliminary analysis of elements and options, can be used to define alternatives for analysis in the EIS. A third use of this document is for the Council to assess the range of existing alternatives for EIS analysis. The EIS must analyze a reasonable range of alternatives that meet Council's purpose and need statement. The description of alternatives and the interactions of the elements and options in those alternatives may be used by the Council to confirm that the alternatives cover a reasonable range.

The following section of this paper first briefly describes each alternative. The elements and options applicable to each alternative are identified. Since the alternatives differ across sectors, the paper presents a brief comparison of the alternatives by sector to aid the Council in understanding the breadth of alternatives identified for each sector. The specific elements and options that define the differences in the alternatives with respect to each sector are also listed in this section for clarity.

The second part of this section provides preliminary analysis of some of the elements and options under consideration. This analysis serves two purposes. First, the discussion should provide the Council with staff's understanding of the elements and options, to ensure the staff and Council interpretations of provisions are consistent. Second, the discussion may be sufficient for the Council to make a decisions concerning some of the options. Decisions at this stage on several elements and options could considerably reduce the time necessary to complete the analysis.

As the Council refines its alternatives, perhaps the most difficult hurdle will be for the Council to clearly communicate to the public and staff its alternatives (i.e., exactly how do the elements and options comprise an alternative). Some elements may apply to one alternative and not another. The problem is compounded because elements may apply to only one sector in an alternative but not to other sectors. For example, fixed gear catcher vessels may be subject to different processor landing requirements than trawl catcher vessels, so a provision that pertains to landing requirements needs further explanation. Clarity and understanding of the alternatives is complicated since both rationalization alternatives are constructed from a single listing of elements and options. To clarify its intentions, the Council might consider providing a set of elements and options for each of the rationalization alternatives under consideration. To assist the Council, staff has included separate lists of elements and options for alternatives 2 and 3 (see Attachments A2 and A3). Strikeouts are used to show provisions that staff believes do not apply under an alternative and some clarifications and limitations are suggested in bolded text. In addition, the elements and options are annotated in italicized, bolded text to explain staff's current understanding of the alternatives and suggest possible clarifications.

Description of the alternatives

Alternative 1

Under this alternative all sectors would be subject to the current management. For most fisheries this would be continued management under the License Limitation Program (the LLP). Entry to the jig fishery would continue to be permitted for vessels under 60 feet without an LLP licence. Vessels under 26 feet would not require an LLP. Vessels fishing in the State parallel fishery would not be subject to LLP restrictions. Bycatch of participants in the halibut and sablefish IFQ program would continue under the current management.

Alternative 2

Under this alternative different sectors would be subject to different management. Most participants would be subject to a mandatory cooperative program, under which participants would be required to join a cooperative to receive an exclusive (or protected) annual harvest share allocation. Initial share allocations would be based on historic participation. Separate sectors of catcher/processors, trawl catcher vessels, and high producing fixed gear catcher vessels¹ would all be subject to the mandatory cooperative program. Participants in these sectors that elected not to join cooperatives would be permitted to compete for harvests with other non-members of cooperatives from their sector in a limited open access fishery comprised of the allocations of all non-members of cooperatives from the sector. The allocation of bycatch to the open access fishery would be reduced to encourage cooperative membership and to protect stocks from overharvest. The Council could require that each trawl catcher vessel cooperative deliver a specified percentage of its landings to either a closed class of processors or to the processor with which the cooperative associates. Cooperative eligibility and processor associations would be based on historic landings of the harvester. The fixed gear participants would be separated into two sectors – “high producing” fixed gear participants, those license holders that receive allocations above a specified percentile, and “low producing” fixed gear participants, whose harvest share allocations are below the specified percentile. High producing fixed gear catcher vessel cooperatives would be required to deliver a specified percentage of their harvests to a closed class of processors. Low producing fixed gear participants would not be subject to the mandatory cooperative structure, but would be issued IFQs and would be permitted to form voluntary cooperatives. The low producing fixed gear sector would not be subject to any processor landing requirements.

Attachment 2A is a revision of the Council motion from the June 2003 meeting that defines alternative 2.

Alternative 3

Under alternative 3, all participants would be managed under a mandatory cooperative program, under which participants would be required to join a cooperative to receive an exclusive (or protected) annual harvest share allocation. The fishery would be divided into six sectors, catcher/processor trawl, catcher/processor longline, catcher/processor pot, catcher vessel trawl, catcher vessel longline, and catcher vessel pot. Participants in each sector would be initially allocated shares based on historic participation. As under alternative 2, participants that elected not to join cooperatives would be permitted to compete for harvests with other non-members of their sector in a limited open access fishery comprised of the allocations of all

¹ In assessing the options, it is important to bear in mind that the program would be share-based not vessel-based. Harvest shares would be categorized by the vessel type that created that history. The categorization of the shares could limit the vessel type on which the shares could be used. Cooperative membership also could be limited to holders of a the same category of shares. So, in the discussion that follows, a reference to a cooperative of a certain vessel type should be interpreted as a cooperative made up of holders of shares with that vessel designation.

sector participants in the open access fishery. Bycatch allocations to the open access fishery would be reduced to increase the incentive for cooperative membership. Alternatively, the Council could choose to prohibit participants from fishing outside of cooperatives, making cooperative membership a prerequisite for participating in the fisheries. Catcher vessel cooperatives would be required to deliver a specified percentage of landings to the processor with which the cooperative associates. Cooperative eligibility and processor associations would be based on historic landings of the harvester. Movement between cooperatives would be permitted subject to either a temporary share reduction or a year in the open access fishery to protect the interests of the cooperative and associated processor.

Attachment A3 is a revision of the Council motion from the June 2003 meeting that defines alternative 3.

Interaction with the halibut and sablefish IFQ program

The allocation of target and bycatch groundfish species in the Gulf of Alaska not only affects the groundfish fisheries, but also will have both direct and indirect effects on the halibut and sablefish fisheries in the Gulf. Under the alternatives, participants in the halibut and sablefish IFQ program could be allocated shares of target and bycatch² species. On its face, this allocation will substantially change the management of the IFQ fisheries, which are currently harvest bycatch from a TAC shared with groundfish fisheries. The elements and options suggest that if these bycatch shares are allocated, halibut and sablefish IFQ holders could be individually limited by their bycatch share holdings. Many of the details of the interaction between the rationalized Gulf groundfish fisheries and the halibut and sablefish IFQ program are unclear in the Council motion. For example:

- Will halibut and sablefish IFQ holders be allocated target species to cover bycatch of those species. The current motion contains a suboption for the allocation of "target species" to IFQ holders.
- If a participant holds unused halibut IFQ but has used all shares to support incidental catch (of "target" and "bycatch" species), would that share holder be able to lease groundfish shares from a cooperative.
- Is it intended that IFQ program participants can join cooperatives based solely on their allocations for incidental catch (such as cod) when targeting halibut or sablefish.
- If the Council adopts a mandatory cooperative program, must a halibut or sablefish IFQ holder join a cooperative to receive a groundfish allocation.
- If a halibut or sablefish IFQ holder is also allocated target species in a Gulf fishery (i.e., cod) and joins a cooperative based on its target holdings, how much of that participant's groundfish allocation is allocated to the cooperative and how much is allocated individually to support halibut or sablefish harvests.
- Are halibut and sablefish captains and crew included in any allocation to captains.
- When would a halibut IFQ holder that also holds Gulf groundfish target shares and is not in a cooperative be permitted to fish in the open access fishery. And, what shares of that IFQ holder will be allocated to the open access fishery.

In fisheries that are dependent on bycatch these choices could be very important to participants.

² Generally, NOAA Fisheries prefers to use the term bycatch to refer to unintended harvest of PSC species and "incidental catch" to refer to unintended catch of species other than PSC species.

Alternatively, the IFQ fisheries could continue to be managed under the status quo. Under this approach, an explicit allocation of groundfish would be made to the halibut and sablefish fisheries. If the allocation were binding on the fleet, a "race for incidental catch" could arise among the IFQ fleet.³

The Council should consider the interaction of the Gulf groundfish rationalization program with the halibut and sablefish IFQ program, either adopting specific elements and options or developing a plan for addressing these issues.

Southeast Outside Fisheries

The Council motion contains provisions that would allocate shares of shortraker/rougheye and thornyhead to participants (including halibut and sablefish IFQ holders) in Southeast Outside fisheries. Several of the same issues arise concerning this allocation as arise relative to the allocation of shares to halibut and sablefish IFQ participants. If the Council wishes to pursue this SEO allocation, rules that govern the these shares will need to be developed. For example,

- will these holders of SEO shares be subject to a cooperative or IFQ program and what will be the terms of that program.
- will there be any limitation on the target species that can be harvested by the holders of these shares.
- what sectors will these shares be divided into.
- what rules will govern entry to these fisheries (i.e., if all meaningful bycatch is allocated in shares, is there a reason to retain the LLP).
- how will the bycatch allocations based on groundfish targeting interact with the bycatch allocations to halibut and sablefish IFQ holders.

In short, the Council will need to develop a full set of the rules that govern the SEO fisheries (as are being developed for the other Gulf groundfish fisheries).

Comparison of Alternatives

To assist the Council in considering the breadth and contrast of the alternatives, a brief description of rules governing each vessel group under the different alternatives is contained in this section. At the end of the descriptions for each vessel group, a comparison of the two rationalization alternatives for the vessel group is presented. In addition to helping the Council assess the contrast of the alternatives, the Council may use these comparisons to guide its selection of options that would more fully define each alternative. In selecting options for the alternatives, the Council should consider the need for contrast among the alternatives. Greater contrast across the alternatives would allow analysis to provide a better understanding of the differences between programs that may be reasonable. In selecting options to make distinctions between the alternatives, the Council might also consider the implications of those choices for the analysis. Consistency across sectors within an alternative would likely simplify the analysis by generalizing the analysis of the alternative.

³ Determining the appropriate allocation of incidental catch could prove difficult given the limited information available concerning incidental catch in the IFQ fisheries due to limited observer coverage. Although halibut and sablefish IFQ fisheries are required to retain all rockfish and Pacific cod incidental catch up to the maximum retainable allowance (MRA), any amount over the MRA would need to be discarded and may not be accounted. Incidental catch of other groundfish species are not required to be retained, and data collection is limited to self reporting except on the small percentage of the halibut and sablefish IFQ fleet which is subject to observer coverage.

Catcher/processors

Alternative 2

Under alternative 2,

- Catcher/processor share holders are treated as a single sector.
- Eligible persons with catcher/processor history would be allocated harvest shares based on that catch history.
- To receive an exclusive annual allocation, the holder of shares would be required to join a cooperative.
- The annual allocation would be made to the cooperative and would be fished in accordance with the rules of the cooperative.
- If the holder of harvest shares chooses not to join a cooperative, the shares of that person would be allocated to an open access fishery, comprised of all non-members of cooperative in the catcher/processor sector.
- The bycatch allocation to the open access fishery would be reduced to create an incentive for cooperative membership.

The following elements and options would apply to catcher/processors under alternative 2:

- 4.1, Option 2 - mandatory cooperatives
- 4.2.1 - the sector must be clearly defined under this alternative
- 4.2.1.1 - no processor association for catcher/processor cooperatives
- 4.2.2 - one option should be selected for minimum cooperative membership
- 4.2.3 - defines cooperative agreement duration
- 4.3.1 - Option 1 - if an open access fishery is included the cooperative will receive the annual allocation of its members (not that of the entire sector)
- 4.4 - include all subsections - define individual and vessel use caps
- 4.4 - bullets are a necessary component
- 4.5.1 - rules concerning movement between cooperatives
- 4.6, Option 1 - creates an open access fishery for non-members of cooperatives

Alternative 3

Under alternative 3,

- Catcher/processor share holders are divided into trawl, longline, and pot gear sectors.
- Eligible persons with catcher/processor history would be allocated harvest shares based on that catch history.
- To receive an exclusive annual allocation, the holder of shares would be required to join a cooperative.
- The annual allocation would be made to the cooperative and would be fished in accordance with the rules of the cooperative.
- If the holder of harvest shares chooses not to join a cooperative, the shares of that person would be allocated to an open access fishery, comprised of all non-members of cooperatives of the gear type in the catcher/processor sector. Alternatively, the Council could choose to require cooperative membership for participation in the fisheries.
- The bycatch allocation to the open access fishery would be reduced to create an incentive for cooperative membership.

The following elements and options would apply to catcher/processors under alternative 3:

- 4.1, Option 2 - mandatory cooperatives
- 4.2.1, iii or iv - sectors are defined for each gear type
- 4.2.1.1 - no processor association for catcher/processor cooperatives
- 4.2.2 - one option should be selected for minimum cooperative membership
- 4.2.3 - defines cooperative agreement duration
- 4.3.1
 - Option 1 - if an open access fishery is included the cooperative will receive the allocation of its members (not that of the entire sector)
 - Option 2 - if no open access fishery is included, then the entire sector allocation should be made. If the program rules establish one cooperative for the sector, the entire allocation would be made to the cooperative as provided for by Option 2. If program rules create multiple cooperatives for the sector, the allocation of non-member's shares should be defined.
- 4.4 - including all subsections - define individual and vessel use caps
- 4.4 - bullets are a necessary component
- 4.5.1 - rules concerning movement between cooperatives
- 4.6 - defines rules for non-members of cooperatives

Comparison of catcher/processor alternatives

The two alternatives treat catcher/processors similarly. Both are mandatory cooperative programs. Alternative 2 includes a limited open access fishery for non-members of cooperatives. Alternative 3 includes the same open access provision, but also includes an option under which cooperative membership would be required for any participation in the fisheries. Although the Council may choose to make contrasting distinctions in the two alternatives through differences in the defining options, the management of the participation of the sector will remain largely the same under these two alternatives.

One possible distinction in the alternatives is the level of aggregation across different gear types (i.e., whether catcher/processors form a single sector or three separate sectors, one for each gear type). The table of alternatives suggests that under alternative 2 catcher/processors of all gear types will be considered a single sector, while under alternative 3 the different gear types would be treated as separate sectors. If this distinction is intended, the Council could include options that provide for different levels of aggregation across gear types in the two alternatives.

Trawl catcher vessels

Alternative 2

Under alternative 2,

- Trawl catcher vessel share holders are treated as a single sector.
- Eligible persons with trawl catcher vessel history would be allocated harvest shares based on that catch history.
- To receive an exclusive annual allocation, the holder of shares would be required to join a cooperative.
- The annual allocation would be made to the cooperative and would be fished in accordance with the rules of the cooperative.
- Two options for cooperative delivery requirements are proposed under this alternative. Under the first, the cooperative would be required to deliver a specified percentage of its landings to processors

that are members of a closed class. Class membership would be based on processing history. Under the second option, eligibility for cooperative membership would be based on landings, with each share holder eligible to join a single cooperative associated with the processor to which it delivered the most fish to during the qualifying period. The cooperative, in turn, would be required to deliver specific percentage of its landings to the associated processor.

- If the holder of harvest shares chooses not to join a cooperative, the shares of that person would be allocated to an open access fishery, comprised of all non-members of cooperatives in the trawl catcher vessel sector. The bycatch allocation to the open access fishery would be reduced to create an incentive for cooperative membership.
- Under the option with processor linkages, movement of shares between cooperatives would be subject to a share reduction penalty or would require participation in the open access fishery for one year.

The following elements and options would apply to trawl catcher vessels under alternative 2 (with processor linkages):

- 3.1.1.1, Option 1, i - requires delivery to the linked closed class processor
- 3.1.1.2 - used to determine processor linkages
- 3.1.1.3 - specifies penalties for movement of linked shares between processors
- 3.1.2 - including all subsections - used to define closed class of processors (needed for linkages)
- 4.1, Option 2 - mandatory cooperatives
- 4.2.1, iii or iv. - defines sectors by vessel and gear type (trawl catcher vessel)
- 4.2.1.1, Option 2 - must associate with the linked closed class processing facility or company - (or Option 3, which is mostly redundant with provisions in 3.1.1.2)
- 4.2.2 - Option 1 or Option 4 (cannot have a single cooperative for each sector in a program with multiple licensed processors)
- 4.2.3 - defines cooperative agreement duration
- 4.2.4 - may be included - defines cooperative/processor association
- 4.3.1 - Option 1 (cannot have a single cooperative for the sector in a program with multiple qualified processors) - also may include all bullets
- 4.4 - including all subsections - define individual and vessel use caps
- 4.4 - bullets are a necessary component
- 4.5.1 - rules concerning movement between cooperatives
- 4.5.2 - rules defining affects of processor license transfers on cooperatives
- 4.6, Option 1 - creates an open access fishery for non-members of cooperatives

The following elements and options would apply to trawl catcher vessels under alternative 2 (with a closed class of processors):

- 3.1.1.1, Option 1, ii - must define the processors to which the sector may delivery (i.e., trawl or any large or small closed class processor depending on the processor licensing scheme)
- 3.1.2 including all subsections is used to define closed class of processors and the rules governing those processors
- 4.1, Option 1 - mandatory cooperatives
- 4.2.1, iii or iv, defines sectors by vessel and gear type (trawl catcher vessel)
- 4.2.1.1 - either Option 1 (no processor associations) or Option 2 (associate with any qualified closed class processing facility or qualified closed class processing company)

- 4.2.2 - Option 1 - A cooperative is required to have at least 4 distinct and separate harvesters - (other options may not apply since they would result in one cooperative for all trawl catcher vessel participants)
- 4.2.4 - may be included - defines cooperative/processor association
- 4.3.1, Option 1 - allocation of members is made to the cooperative - all bullets may be included
- 4.4 may include all of these options concerning individual and vessel use caps
- 4.4 - bullets are necessary component
- 4.5.1 may include provisions concerning movement among cooperatives.
- Do not include 4.5.2 - applies to program with processor linkages
- 4.6, Option 1 - creates an open access fishery for non-members of cooperatives

Alternative 3

Under alternative 3,

- Trawl catcher vessels are treated as a single sector.
- Eligible persons with trawl catcher vessel history would be allocated harvest shares based on that catch history.
- To receive an exclusive annual allocation, the holder of shares would be required to join a cooperative.
- The annual allocation would be made to the cooperative and would be fished in accordance with the rules of the cooperative.
- Eligibility for cooperative membership would be based on landings, with each harvester eligible to join a single cooperative associated with the processor to which it delivered the most fish to during the qualifying period (i.e., processor linkage is required). The cooperative, in turn, would be required to deliver a specific percentage of its landings to the associated processor.
- If the holder of harvest shares failed to join a cooperative, the shares of that person would be allocated to an open access fishery, comprised of all non-members of cooperative in the trawl catcher vessel sector. Alternatively, the Council could choose to require cooperative membership for participation in the fisheries.
- The bycatch allocation to the open access fishery would be reduced to create an incentive for cooperative membership.
- Movement of shares between cooperatives would be subject to a share reduction penalty or would require participation in the open access fishery for one year.

The following elements and options would apply to trawl catcher vessels under alternative 3:

- 3.1.1.1, Option 1, i - requires delivery to the linked closed class processor
- 3.1.1.2 - used to determine processor linkages
- 3.1.1.3 - specifies penalties for movement of linked shares between processors
- 3.1.2 (including all subsections) - used to define closed class of processors (needed for linkages)
- 4.1, Option 2 - mandatory cooperatives
- 4.2.1, iii or iv. - defines sectors by vessel and gear type (trawl catcher vessel)
- 4.2.1.1, Option 2 - must associate with the linked closed class processing facility or company - (or Option 3, which is mostly redundant with provisions of 3.1.1.2)
- 4.2.2 - Option 1 or Option 4 (cannot have a single cooperative for each sector in a program with multiple licensed processors)
- 4.2.3 - defines cooperative agreement duration
- 4.2.4 - may be included - defines cooperative/processor association

- 4.3.1 - Option 1 (cannot have a single cooperative for the sector in a program with multiple qualified processors) - also may include all bullets
- 4.4 - including all subsections - define individual and vessel use caps
- 4.4 - bullets are a necessary component
- 4.5.1 - rules concerning movement between cooperatives
- 4.5.2 - rules defining affects of processor license transfers on cooperatives
- 4.6 - rules governing non-members of cooperatives

Comparison of trawl catcher vessel alternatives

The two alternatives have two possible differences in their treatment of participants in the trawl catcher vessel sector. These differences should be clarified by the Council. The first difference relates to the delivery requirements and associations (or linkages) between cooperatives and processors. Alternative 2 could require cooperatives to delivery a specified percentage of their harvests to a closed class of processors without linkage to a specific processor. Alternative 3 would require that a cooperative delivery a specified percentage of its harvest to the processor to which its members delivered the most groundfish during the qualifying period.⁴

A second possible difference is in the treatment of non-members of cooperatives. Under alterative 2, non-members of cooperatives would be permitted to participate in a limited open access fishery comprised of the shares of all shares of trawl catch vessel non-members of cooperatives. Under alternative 3, non-members of cooperatives could be excluded from the fisheries.⁵

Fixed gear catcher vessels

Alternative 2

Under alternative 2,

- Fixed gear catcher vessel share holders are divided into a high producing vessel sector and a low producing vessel sector.
- Eligible persons with fixed gear catcher vessel history would be allocated harvest shares based on that catch history.
- For a high producing vessels
 - To receive an exclusive annual allocation, the holder of shares would be required to join a cooperative.
 - The annual allocation would be made to the cooperative and would be fished in accordance with the rules of the cooperative.
 - The cooperative would be required to deliver a specified percentage of its landings to processors that are members of a closed class. Class membership would be based on processing history.

⁴ If the delivery requirements of the two alternatives are made the same (i.e., cooperatives with a processor association based on historic landings is included under alternative 2), this difference would not exist and the two alternatives would be substantively the same in this respect.

⁵ Note that this distinction in the alternatives also depends on the Council's selection of the "no fishing" option for non-members of cooperatives in alternative 3. Whether the Council wishes to include the "no fishing" option to create a distinction is included in the discussion of options below.

- If the holder of harvest shares chooses not to join a cooperative, the shares of that person would be allocated to an open access fishery, comprised of all non-members of cooperative in the high producing fixed gear sector.
- The bycatch allocation to the open access fishery would be reduced to create an incentive for cooperative membership.
- For low producing vessels
 - Share holders would receive quota shares and annual allocations of IFQs that would be fished by the individual.
 - Share holders would be permitted to form voluntary cooperatives.
 - For cooperative members, the allocation would be made to the cooperative and would be fished in accordance with the rules of the cooperative.

The following elements and options would apply to “high producing” fixed gear catcher vessels under alternative 2:

- 3.1.1.1, Option 1, ii - must define the processors to which the sector may delivery (i.e., fixed gear or any large or small closed class processor depending on the processor licensing scheme)
- 3.1.1.4 defines the low producing sector, effectively defining the “high producing” sector
- 3.1.2 including all subsections is used to define closed class of processors and the rules governing those processors
- 4.1, Option 1 - mandatory cooperatives
- 4.2.1 - should be revised to include an option that cooperatives can be formed between “high producing” fixed gear participants
- 4.2.1.1 - either Option 1 (no processor associations) or Option 2 (associate with any qualified closed class processing facility or qualified closed class processing company)
- 4.2.2 - Option 1 - A cooperative is required to have at least 4 distinct and separate harvesters - (other options may not apply since they would result in one cooperative for all high producing fixed gear participants)
- 4.2.4 - may be included - defines cooperative/processor association
- 4.3.1, Option 1 - allocation of members is made to the cooperative - all bullets may be included
- 4.4 - may include all of these options concerning individual and vessel use caps
- 4.4 - bullets are necessary component
- 4.5.1 - may include provisions concerning movement among cooperatives.
- Do not include 4.5.2 - applies to program with processor linkages
- 4.6, Option 1 - creates an open access fishery for non-members of cooperatives

The following elements and options would apply to “low producing” fixed gear catcher vessels under alternative 2:

- 3.1.1.2, Option 2 exempts sector from closed class processor delivery requirements
- 3.1.1.4 defines the sector and provides for no processor delivery obligations
- 4.1, Option 2 - voluntary cooperatives
- 4.2.1 - should be revised to contain an option that cooperatives can be formed between “low producing” fixed gear participants
- 4.2.1.1 - either Option 1 (no processor associations) or Option 2 (associate with any licensed processing facility or licensed processing company - not closed class)
- 4.2.2 - Option 1 - A cooperative is required to have at least 4 distinct and separate harvesters

- 4.2.4 - may be included - defines cooperative/processor association
- 4.3.1, Option 1 - allocation of members is made to the cooperative - all bullets may be included
- 4.4 - may include all of these options concerning individual and vessel use caps
- 4.4 - bullets are necessary component
- 4.5.1 may include provisions concerning movement among cooperatives.
- Do not include either 4.5.2 or 4.6

Alternative 3

Under alternative 3,

- Fixed gear catcher vessel share holders are divided into two sectors, pot vessels and longline vessels.
- Eligible persons with fixed gear catcher vessel history would be allocated harvest shares based on that catch history.
- To receive an exclusive annual allocation, the holder of shares would be required to join a cooperative.
- The annual allocation of cooperative members would be made to the cooperative and would be fished in accordance with the rules of the cooperative.
- Eligibility for cooperative membership would be based on landings, with each harvester eligible to join a single cooperative associated with the processor to which it delivered the most fish to during the qualifying period (i.e., processor linkage is required). The cooperative, in turn, would be required to deliver a specific percentage of its landings to the associated processor.
- If the holder of harvest shares failed to join a cooperative, the shares of that person would be allocated to an open access fishery, comprised of all non-members of cooperative in the fixed gear catcher vessel sector. Alternatively, the Council could choose to require cooperative membership for participation in the fisheries.
- The bycatch allocation to the open access fishery would be reduced to create an incentive for cooperative membership.
- Movement of shares between cooperatives would be subject to a share reduction penalty or would require participation in the open access fishery for one year.

The following elements and options would apply to fixed gear catcher vessels under alternative 3:

- 3.1.1.1, Option 1, i - requires delivery to the linked closed class processor
- 3.1.1.2 - used to determine processor linkages
- 3.1.1.3 - specifies penalties for movement of linked shares between processors
- 3.1.2 - including all subsections - used to define closed class of processors (needed for linkages)
- 4.1, Option 2 - mandatory cooperatives
- 4.2.1, iii or iv. - defines sectors by vessel and gear type (pot catcher vessel and longline catcher vessel)
- 4.2.1.1, Option 2 - must associate with the linked closed class processing facility or company - (or Option 3, which is mostly redundant with provisions of 3.1.1.2)
- 4.2.2 - Option 1 or Option 4 (cannot have a single cooperative for each sector in a program with multiple licensed processors)
- 4.2.3 - defines cooperative agreement duration
- 4.2.4 - may be included - defines cooperative/processor association
- 4.3.1 - Option 1 (cannot have a single cooperative for each sector in a program with multiple licensed processors) - also may include all bullets
- 4.4 - including all subsections - define individual and vessel use caps

- 4.5.1 - rules concerning movement between cooperatives
- 4.5.2 - rules defining affects of processor license transfers on cooperatives
- 4.6 - rules governing non-members of cooperatives

Comparison of fixed gear catcher vessel alternatives

The alternatives for fixed gear catcher vessel participants are substantively different in a few ways. The two alternatives divide the fixed gear catcher vessel participants differently. Under alternative 2, fix gear catcher vessel participants are separated into a high producing sector and a low producing sector. These two sectors would be subject to different management structures under the alternative. Under alternative 3, fixed gear catcher vessel participants are divided into two sectors by gear type, a longline catcher vessel sector and a pot catcher vessel sector. Whether these different gear types would be subject to different rules is not clear and depends on the Council's decisions on the specific options that will apply to this alternative.

Under alternative 2, high producing fixed gear catcher vessel participants would be required to deliver to a closed class of processors. Members of this sector that chose not to join a cooperative could participate in an open access fishery for non-members of cooperatives. Under alternative 3 (in which the high producing/low producing distinction is not made), these participants would be subject to a mandatory cooperative program in which a cooperative would be required to delivery a specific percentage of its allocation to the processor to which its members delivered most of their catch historically (i.e., cooperative linkage would be required). Alternative 3 would either create an open access fishery for non-members of cooperatives or, alternatively, not permit non-members to participate in the fisheries.

Under alternative 2, "low producing" fixed gear catcher vessel participants would be managed under a voluntary cooperative program that is not applicable to any other sector under either of the alternatives. Under alternative 3, these vessels would be governed by the same mandatory cooperative program as all other fixed gear catcher vessels. Under that program, a participant would be eligible to join the cooperative associated with the processor to which it delivered the most fish historically (i.e., processor linkage would be required). Each cooperative would be required to deliver a specific percentage of its harvests to the associated processor. Alternative 3 would either create an open access fishery for non-members of cooperatives or, alternatively, would preclude their participation in the fisheries altogether.

Under alternative 2, "low producing" fixed gear catcher vessel participants would be governed by a voluntary cooperative alternative that would not be analyzed for any other sector. The Council provided its rationale for not applying this management to other participants at its June 2003 meeting.⁶ It should be noted, however, that the closed class of processors alternative, which is included in alternative 2 for the trawl catcher vessel sector and the high producing fixed gear catcher vessel sector, is not included in any alternative for the low producing fixed gear vessel sector. **The Council should provide its rationale for excluding a closed class of processors alternative for the low producing fixed gear vessel sector.** In doing so, the Council should explain the rationale for including both the less restrictive voluntary cooperative alternative (in alternative 2) and the more restrictive processor linkage alternative (in alternative 3) for this sector.

Interaction with the halibut and sablefish IFQ program

The different alternatives do not contain specific provisions that would govern the relationship of the Gulf rationalization program to the halibut and sablefish IFQ program. The Council motion, however, contains

⁶ The record from the June 2003 meeting shows that the Council believes that the voluntary cooperative structure is not appropriate for other participants in the Gulf fisheries because it would jeopardize the stability of communities and the processing sector.

several provisions that could be applied to define this relationship. Those provisions are briefly reviewed here.

The following elements and options could be applied to halibut and sablefish IFQ participants:

- 2.1 - provides for the allocation of rockfish bycatch on a NMFS management area basis
- 2.1 - provides for allocation of shorttraker/rougheye and thornyhead bycatch in SEO based on target harvests of halibut, sablefish, demersal shelf rockfish, and Pacific cod (otherwise SEO will be excluded from the program)
- 2.2.2 includes a suboption that would make IFQ holders eligible for allocations of incidentally caught groundfish. The nature of these allocations and the rules that IFQ holders would be subject to are not clear.
- 2.3.3.6 - prohibitions on leasing could be applied but would restrict usefulness of bycatch shares
- 2.3.3.8 - owner on board provisions could be applied
- 2.4 - provides for the allocation of bycatch shares
- 2.5.5 - provision for retention of halibut could apply
- 2.6 - incentive species provisions could apply - might require different rules if IFQ holders are not in cooperatives
- 2.8 - skipper and crew provisions could apply (if halibut and sablefish skippers do not receive an allocation, the Council could need to specify rules to distinguish bycatch in the IFQ fisheries from bycatch in target fisheries of the Gulf)
- 2.9.1 - regionalization could apply
- 2.11 - impacts on halibut and sablefish fisheries could be included in the review and evaluation
- 3.1 - interactions with the processor protections should be considered - leasing or sale of shares to halibut and sablefish IFQ holders could be complicated by processor landing requirements (i.e., closed class of processors and processor linkages)
- 4.1 through 4.6 - the interaction of cooperative provisions with halibut and sablefish participants should be considered

Note that application of the general rules of the Gulf rationalization program to the allocation of target species (such as cod) could involve halibut and sablefish IFQ holders that harvested and landed groundfish primarily as bycatch. **The Council should specify the extent to which these allocations will be subject to the rules of the Gulf rationalization program and specify any other rules that are intended to govern participation of these share holders.**

SEO groundfish fisheries

The allocation of bycatch to the SEO groundfish fisheries raise several questions concerning the management of SEO groundfish fisheries. The Council will need to develop rules that define participation in target fisheries that are conducted using these bycatch allocations. **Since target allocations are not made in these fisheries, the rules governing targeting are unclear. The Council should specify the rules that will govern these fisheries.**⁷

⁷ One possible approach is to treat these fisheries similar to the incentive fisheries, in which harvest of targets is limited only by the commonly fished TAC and the participant's holdings of bycatch shares. These fisheries could then be subject to the same alternatives proposed for fisheries in other areas. For example, alternative 3 would establish a mandatory cooperative alternative with processor linkages for these participants. The distinction of halibut and sablefish IFQ holders under this structure would remain problematic.

Definition of the alternatives

Since the table of alternatives developed by the Council at its June 2003 meeting leaves several provisions of each alternative undefined, the Council will need to devote substantial effort to identifying the options that comprise each alternative. In defining the alternatives by selecting options, the Council should consider the need for creating a range of contrasting alternatives. Differentiating the alternatives by including distinct options in the different alternatives will add contrast and broaden the range. In addition, the options selected for each alternative should define a workable alternative that meets the problem statement. Inclusion of options that make an alternative unworkable or infeasible should be avoided. At this meeting, staff will provide the Council with preliminary analysis of some of the options included in its current motion. In some cases, future analysis could be provided through quantitative analysis or greater attention to issues of particular concern. The analysis provided here is intended to provide the Council with an explanation of the operation of the options and the general implications of the different choices. If the Council believes that this analysis, together with its understanding of the issue from prior experience and public testimony, provides adequate information to make a decision, the Council could narrow the options by selecting options that would apply to an alternative. If the Council believes that additional analysis is necessary for making a decision concerning an option, the Council could delay decision concerning the option for a future meeting.

Topic 1: Allocation of target species by gear

Section 2.3.1 of the motion contains the following provision concerning the allocation of target species by gear:

2.3.1	Initial Allocation of catch history
	Option 1. Allocate catch history by sector and gear type
	<u>Option 2. 1</u> Allocate catch history on an individual basis
a.	Trawl CV and CP: Pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, Pelagic shelf rockfish
b.	Longline CV and CP: Pacific Cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if turbot is targeted), northern rockfish, Arrowtooth flounder
c.	Pot CV and CP: Pacific Cod

Option 1 provides for sector allocations, rather than individual allocations. Allocations in the current alternatives appear to be to individuals based on individual histories.⁸ If that is the Council's intention, Option 1 does not appear to be applicable and may be deleted. If some other interpretation of the alternatives and these options is intended, the Council should clarify that intention with staff. Option 2 provides for the allocation of history to individuals in identified sectors. Option 2 parallels both of the alternatives in the current Council motion since both provide for the allocation of harvest shares to individuals. The

⁸ Although the alternative 3 in the table of alternatives provides for "sector allocations," the table also provides for harvest share allocations to individuals under the alternative. So, it appears that the allocation would be based on individual histories and would be subject to individual control, rather than some level of sectoral control. As a result, Option 1 alone could not support the allocation of shares under the program. Option 2, however, alone can support the allocation provided sector definitions are established that carry out the Council's intention to create distinct sectors.

enumeration of species by gear type is applicable to both alternatives in that it provides the basis for target allocations.

The options could include halibut and sablefish IFQ holders in the allocation of these species (through the eligibility provisions of 2.2.2). The Council should provide for some allocation or reservation of these species to IFQ holders. At least two approaches are possible. Allocations of shares of these species could be made to individuals under the 2.2.2 suboption. An alternative is to set aside a bycatch reserve for IFQ holders to fish collectively. The management rules for either allocation would need to be specified.

Topic 2: Harvest share sector designations

Section 2.3.2.2 of the Council motion includes the following provisions for the designation of harvest shares:

2.3.2.2	Harvest share sector designations:
Option 1.	No designation of harvest shares (or QS/IFQ) as CV or CP
Option 2.	Designate harvest shares (or QS/IFQ) as CV or CP. Annual CV harvest share allocation (or IFQ) conveys a privilege to harvest a specified amount. Annual CP harvest share allocation (or IFQ) conveys the privilege to harvest and process a specified amount.
	Designation will be based on:
	Actual amount of catch harvested and processed onboard a vessel by species.

Both of the alternatives appear to distinguish catcher/processor shares from catcher vessel shares. If catcher/processor shares are intended to differ from catcher vessel shares, by providing an onboard processing privilege, option 1 may be deleted. If some other interpretation of the options is intended, the Council should clarify that intention.

Topic 3: Harvest share gear designations

In addition to vessel types, harvest shares could also be designated by gear type. To clarify its intentions concerning the different alternatives, the Council should specify which options apply to which alternatives. Section 2.3.2.3 of the Council motion provides:

2.3.2.3	Harvest share gear designations
Option 1.	No gear designation
Option 2.	Designate harvest shares as Longline, Pot, or Trawl
Option 3.	Longline and pot gear harvest shares (or IFQ) may not be harvested using trawl gear.
Option 4.	Pot gear harvest shares (or IFQ) may not be harvested using longline gear

These options provide for different gear designations and trading of shares among gear types. Under Option 1 no gear designations would apply suggesting that shares could be freely traded among different gear types. Option 2 would designate shares as longline, pot, or trawl. Option 2 appears to apply to alternative 3 for both catcher/processors and catcher vessels, since alternative 3 separates both vessel types into three different gear sectors.

The Council's intent concerning gear designations with respect to alternative 2 is unclear. Whether gear designations would apply to catcher/processors is not clear. Under alternative 2, trawl catcher vessels appear to be treated as a single sector. Fixed gear catcher vessels appear to be treated as a single gear type (but are separated into high and low producers (which is accomplished under 3.2.2.1)). If the Council intends to create two fixed gear catcher vessel sectors under alternative 2 (one for high producers and another for low producers) without distinguishing pot and longline gear, the Council might consider an option that explicitly aggregates pot and longline catcher vessel shares into a single sector. Alternatively, the Council could adopt provisions that limit the use of shares of one gear type using another gear type.

Topic 4: Designation of sectors for cooperative formation

Section 4.2.1 of the Council motion provides:

- 4.2 Cooperative formation
- 4.2.1 Co-ops can be formed between holders of harvest shares or history of:
- i. any type
 - ii. the same area, gear, vessel type (CV or C/P), and/or vessel length class.
 - iii. the following classes of shares/history
 - CV trawl
 - CV longline
 - CV pot
 - C/P trawl
 - C/P longline
 - C/P pot
 - iv. All CV in the same area (WGOA and CGOA & WY combined)
 - CV trawl
 - CV fixed gear
 - CV longline
 - CV pot

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

For each alternative, the Council should define the sectors for purposes of cooperative formation. Designation of sectors for purposes of cooperative formation will clarify the alternatives, possibly shedding light on some of the differences across alternatives intended by the Council. Under alternative 2, the Council should consider whether options should be added that would create separate sectors for "high producing" fixed gear catcher vessels and "low producing" fixed gear catcher vessels. Such a provision could be necessary since these different vessel groups would be subject to different management under the alternative.

Whether the Council creates relatively broad or narrow sectors depends on whether it intends that different vessel groups to operate independently under an alternative. For example, if the Council intends longline vessels to operate independently from pot vessels, as appears to be the case under alternative 3, separate sectors should be specified for the two gear types.⁹ The Council could specify different sector designations under the two alternatives to provide contrast between the alternatives. The current Council motion suggests that the following cooperative sector designations are intended:

⁹ If the Council is concerned that the two vessel groups should interact to a limited degree, that interaction could be supported by allowing trading of shares between the two gear types.

Alternative 2

Catcher/processors

Trawl catcher vessels

“High producing” fixed gear catcher vessels

“Low producing” fixed gear catcher vessels

Alternative 3

Trawl catcher/processors

Longline catcher/processors

Pot catcher/processors

Trawl catcher vessels

Longline catcher vessels

Pot catcher vessels

Topic 5: Share transferability and ownership restrictions

The Council motion contains the following provisions concerning share transfer and ownership:

- | | |
|-----------|--|
| 2.3.3.1 | Persons eligible to receive harvest shares by transfer must be (not mutually exclusive): |
| Option 1. | US citizens who have had at least 150 days of sea time |
| Option 2. | Entities that have a U. S. citizen with 20% or more ownership and at least 150 days of sea time |
| Option 3. | Entities that have a US citizenship with 20% or more ownership |
| Option 4. | Initial recipients of CV or C/P harvest share |
| Option 5. | US Citizens eligible to document a vessel. |
| Option 6. | Communities would be eligible to receive harvest shares by transfer (this provision would be applicable if certain provisions of 2.9 are adopted.) |
| 2.3.3.5 | Definition of sea time |
| | Sea time in any of the U.S. commercial fisheries in a harvesting capacity. |

First, the Council should incorporate the provision from 2.3.3.5 into 2.3.3.1 for clarity, since that provision only applies to 2.3.3.1.

Since the implications of these provisions are not complicated, the Council may consider selecting provisions will apply under the alternatives at this meeting.

Option 1 would permit US citizens with at least 150 days of sea time to purchase harvest shares. Since only individuals are citizens, it would limit share ownership to individuals. Under Section 2.3.3.5, the sea time must be in a US commercial fishery in a harvest capacity.

Option 2 would require any entity to have a 20 percent US citizen owner that meets the 150 days of sea time requirement. A provision of this type would be needed if corporations and partnership are intended to be permitted to purchase harvest shares. In assessing this provision, the Council should bear in mind that the American Fisheries Act (AFA) requires an entity to have at least 75 percent US ownership to document a fishing vessel.¹⁰ If the Council were to adopt this provision, entities could hold harvest shares that they could not harvest because of failure to meet the citizenship requirements of the AFA.

¹⁰ A few vessels have been granted treaty exemptions to the ownership requirements of the AFA.

Option 3 is an alternative provision that could be adopted to allow corporations or partnerships to purchase shares. That provision would maintain the 20 percent US citizen/owner requirement but has no sea time requirement. As under option 2, setting a citizen ownership threshold less than 75 percent would allow entities with less than 75 percent US ownership to hold shares that they could not deploy a vessel to harvest.

Option 4 would permit initial recipients of harvest shares to purchase shares, effectively exempting those participants from any citizenship or sea time threshold requirements.

Option 5 would limit ownership to US citizens eligible to document a vessel. This provision is unclear and should be revised, if it is to be adopted. Since 75 percent US citizen ownership is required for vessel documentation, the provision's limitation to US citizens that meet the documentation requirement is confusing. An alternative would be to simply require that a share holder be eligible to document a vessel.¹¹ The Council could choose an option from among these at this meeting. Since no analytical contrast would be provided by choosing different options for the different alternatives, the Council could consider a simplified option to advance in all alternatives.

Option 6 provides communities the right to purchase harvest shares. A decision on this provision should be deferred until a decision is made on the parallel community purchase provisions in Section 2.9.

Topic 6: Designation of catcher/processor shares on transfer

Sections 2.3.3.2 and 2.3.3.3 of the Council motion contains the following provision concerning the designation of catcher/processor shares on transfer of those shares:

2.3.3.2	Restrictions on transferability of CP harvest shares
Option 1.	CP harvest shares maintain their designation upon transfer.
Option 2.	CP harvest shares maintain their designation when transferred to persons who continue to catch and process CP harvest shares at sea, if CP harvest shares are processed onshore after transfer, CP harvest shares converts to CV harvest shares.
Option 3.	CP harvest shares maintain their designation after transfer for 5 years following implementation, after which time any transfer of CP shares convert to CV shares.
2.3.3.3	Redesignate CP shares as CV shares upon transfer to a person who is not an initial issue of CP shares:
Option 1.	all CP shares
Option 2.	trawl CP shares
Option 3.	longline CP shares

These options would determine whether catcher/processor shares are redesignated as catcher vessel shares on the occurrence of some event, and possibly the passage of time. The decision of whether to redesignate catcher/processor shares as catcher vessel shares is a policy choice that could be made at this time. Under option 1 of 2.3.3.2, catcher/processor shares would maintain their designation on transfer. Under option 2 of 2.3.3.2, catcher/processor shares would maintain their designation on transfer, unless the harvest from the shares were landed and processed on shore, at which time the shares would be designated catcher vessel shares thereafter. Although the intention of this option is to allow continued use of catcher/processor shares as long as the holder has a continuous catcher/processor operation, it is possible that a catcher/processor

¹¹ This interpretation of the provision would include entities with 75 percent or more US ownership, but also those few vessel owners that have applied for and received waivers of that ownership requirement based on treaty exemptions to the requirement for past participants in US fisheries.

could lose its shares, if for some reason it is unable to process its shares on board some year. Under option 3 of 2.3.3.2, catcher/processor shares would retain their designation for 5 years. After 5 years, any transfer of the shares would result in redesignation of the shares as catcher vessel shares. This option would lead to the redesignation of all catcher/processor shares over time.

Under option 1 of 2.3.3.3, any transfer of catcher/processor shares to a person that was not an initial issuee would result in the redesignation of the shares as catcher vessel shares. Under option 2, this redesignation would apply to only trawl catcher/processor shares. Under option 3, only longline shares would be redesignated on transfer to non-initial issuees. No similar option exists for pot catcher/processor shares. Any of these provisions would create a skewed market for catcher/processor shares, as the number of initial issuees declines. As a result, the value of catcher/processor shares could be expected to decline as the number of initial issuees declines over time.

If the Council adopts a provision that results in the redesignation of catcher/processor shares, the Council will also need to provide for the designation of the resulting catcher vessel shares. For example, the Council should state whether the resulting catcher vessel shares would be subject to regional and processing landing requirements. The requirements will likely vary depending on the program that the Council chooses for harvest shares. One possible way that the redesignation could be simplified is to allow the purchaser of the shares to define their designation at the time of purchase. The share purchaser would have the choice of redesignating the shares as any type of catcher vessel shares.¹² Making share designations will be necessary to avoid creating a new class of harvest shares or leaving the share designation uncertain, which would further complicate administration of the program.

Topic 7: Processor licenses and linkages

Several different provisions affect the establishment of processor licenses and the linkage of harvest shares to processors. The following is a discussion of these issues at the most general level. After this discussion, the details of some of the regional and community bases for licenses are discussed including their implications for the processor licensing and processor/harvest share linkage issues.

The Council motion is ambiguous as to the level at which processors are determined. Section 3.1.2 provides for the issuance of processor licenses to processors that meet minimum processing requirements. The provisions of that section, however, do not specify whether these thresholds are applied at the company or plant level. Section 4.2.1.1 provides for catcher vessel cooperatives to associate with a processor, either at the facility level or at the company level. Plant level associations would create an obligation for the harvester's cooperative to deliver a certain percentage of its harvesters to the plant. Company level associations would create an obligation for the harvester's cooperative to deliver those harvests to any plant of the company. Section 3.1.2.5 provides that processing caps are applied at either the facility or entity level. These two later provisions suggest that processor licenses could be established at the plant (or facility) level, rather than at the company (or entity) level. The Council should clarify whether the intention is to define processors at either:

- 1) the company (or entity) level or
- 2) the plant (or facility) level.¹³

¹² The Council could limit the ability of the purchaser to change gear designations, if desired.

¹³ Note that even if the Council decides to define processors at the facility level for most purposes, it may wish to define processors at the company level for purposes of establishing caps.

Because of the different purposes served by these different provisions, the Council could choose to apply some provisions at the company level and others at the plant level.

The specific provisions are:

- | | |
|---------------------------------------|--|
| 3.1.2.5 Processing Caps may apply at: | |
| Option 1. | the facility level |
| Option 2. | the entity level |
| 4.2.1.1 Coop/processor affiliations | |
| Option 1. | No association required between processors and coops |
| Option 2. | CV cooperatives must be associated with |
| a) | a processing facility |
| b) | a processing company |

For purposes of issuing licenses, defining processors at the plant level would require that each plant a processing company owns meet the minimum processing requirements to obtain a license. A license would then be usable at a single plant. An alternative is to determine licenses at a company level. Under this rule, a processor could run multiple plants based on a single license. If the Council chooses to issue licenses at a company level, allowing a processor to run multiple facilities using a single license, the Council should consider whether to limit the number of facilities that can be supported by a single license.

If a program that includes cooperative/processor linkages is established at the plant level, a harvester's allocation would be linked to the plant to which it delivered the most fish. If a harvester delivered to two plants owned by a single company, it is possible that the company could lose the harvest share association to another company that the harvester delivered less fish to, because associations would be determined based on landings at a single facility. On the other hand, if harvester/plant associations are considered more critical than harvester/company associations, use of a company basis for determining linkages could lead to a harvester association that does not include the plant to which the harvester delivered the most fish. In addition, if a associations are determined at the company level, a company that chose to consolidate its processing from multiple facilities at a single facility, could compel a harvester whose shares are linked to the company because of its delivery to a single plant to deliver harvests to another of the company's plants, where the harvester has made no deliveries.

Choice of the level at which to apply use caps involves different policy implications than licensing and processor associations. Plant level application of the caps could lead to caps being illusory, if multi-plant processors spread landings across several plants to avoid the caps. Company level administration of caps would also prevent companies from distributing landings across several plants to avoid the caps.

Topic 8: Regionalization of harvest shares and processing licenses

Section 2.9.1 contains the following provisions concerning the regionalization of harvest shares and processing licenses:

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

- Processing licenses that are regionally designated cannot be reassigned to another region.
- Catcher vessel harvest shares are regionalized based on where the catch was processed, not where it was caught.
- Catcher processor shares and incentive fisheries are not subject to regionalization.
- Qualifying years to determine the distribution of shares between regions will be consistent with the preferred alternative under "Section 2.2 Qualifying Periods".

These provisions, when taken together with the harvest share/processor linkage provisions of Section 3.1, could create an inconsistency under which a harvesters shares could not be used. Section 3.1 contains provisions that would link a harvester's shares to the processor to which the harvester delivered the most pounds during the qualifying years. The harvester would be required to deliver a specific percentage of its harvests (between 50 and 100 percent) to the processor to which its shares are linked. Under the first two sentences from 2.9.1 above, processor licenses would be regionalized and could not be moved to another region. The fourth and fifth sentences would regionalize harvest shares based on the location of landings during the harvester qualifying years. If harvest shares are subject to processor linkages based on landing histories, some inconsistencies are likely to arise. For example, consider a harvester that made 35 percent of its deliveries to a processor in the North region and 65 percent of its deliveries to a processor in the South region. The harvester's shares would be designated 35 percent North and 65 percent South. The harvester would be linked to the processor in the South because the South processor received the most deliveries from the harvester. Any delivery requirement that would require the harvester to deliver in excess of 65 percent its harvests to the linked processor would result in the harvester holding undeliverable North shares.

An alternative approach that the Council could take would be to regionalize the harvester share/processor linkages. In that case, a harvester's shares in a region would be linked to the processor in the region to which the harvester delivered the most pounds during the qualifying period. So, in the example, the harvester's South shares would be linked to the South processor and the harvester's North shares would be linked to the North processor. The regionalization of linkages could be included in the motion by adding the following provision to 3.1.1.2:

In the event harvest shares are regionalized, a harvester's shares in a region will be linked to the processor in the region to which the harvester delivered the most pounds during the qualifying years.

If the Council intends to address this inconsistency in some other manner, the Council should provide guidance.

Topic 9: Community-based or region-based processing licenses

Section 3.1.2.3 would establish geographic restrictions on the transfer of processing licenses:

3.1.2.3 Transferability of eligible processor licenses
Processor licenses can be sold, leased, or transferred.
Option 1. Within the same community
Option 2. Within the same region

Under this provision, the Council could limit the transfer of processing licenses to either the region or community of origin. Geographic limitations on the transfer of licenses will limit the ability of industry to realize efficiencies by consolidating activity. If licenses are designated for communities, it is likely that value and utility of a license will vary significantly by community. Some licenses in remote communities could be made obsolete by the concentration of landings in less remote areas:

Regional restrictions on the transfer of processor licenses is consistent with the requirements of section 2.9.1. Although consistent with regionalization, the restriction of license transfers to a community goes beyond regionalization. The establishment of regionalization or community linkages for processing licenses should be consistent with the licensing rules for processing. These rules can be coordinated in a few different ways. Other ways of coordinating the rules could be developed.

Company-based licensing

Regionalized licenses

If a system of company-based processing licenses is established, a processor would receive a single license. That license could be used in a region, only if the processor achieved the minimum thresholds in the region. If a system of harvest share linkages is established, each harvest share would be regionalized by region of landing that led to the share allocation. So, a harvester could have shares in multiple regions. A harvester with shares in multiple regions would be eligible to join a single cooperative in each region. Each cooperative would be associated with the processing company to which the harvester delivered the most landings in the region in the qualifying period.

Community licenses

If a system of company-based processing licenses is established, a processor would receive a single license. That license could be used in a community, only if the processor achieved the minimum thresholds in the community.¹⁴ The license would not be severable. If a system of harvest share linkages is established, each harvest share would be regionalized by region of landing that led to the share allocation. So, a harvester could have shares in multiple regions. A harvester with shares in multiple regions would be eligible to join a single cooperative in each region. Each cooperative would be associated with

1. the processing company to which the harvester delivered the most landings in the qualifying period and could be delivered to any plant operated by that company, or
2. the processing plant to which the harvester delivered the most landings in the qualifying period. (This would create a community linkage for cooperatives.)

Plant-based licensing

Regionalized licenses

If a system of plant-based processing licenses is established, a processor would receive a license for each plant at which the processor met the threshold processing requirements. Each license could be used in any location in the region of origin and could be transferred independently of any other license held by a company. If a system of harvest share linkages is established, each harvest share would be regionalized by region of landing that led to the share allocation. So, a harvester could have shares in multiple regions. A harvester with shares in multiple regions would be eligible to join a single cooperative in each region. Each cooperative would be associated with the plant to which the harvester delivered the most landings in the qualifying period.

¹⁴ If a processor meets the threshold in total harvesting, but does not meet the threshold in any community, the processor could be issued a license for the community in which it processed the most landings.

Community licenses

If a system of plant-based processing licenses is established, a processor would receive a license for each plant that meets the threshold processing requirements. That license could be used only in the community of origin.¹⁵ If a system of regionalized harvest share linkages is established, each harvest share would be regionalized by region of landing that led to the share allocation. So, a harvester could have shares in multiple regions. A harvester with shares in multiple regions would be eligible to join a single cooperative in each region associated with the processing plant to which the harvester delivered the most landings in the region in the qualifying period. (This would effectively create a community linkage for cooperatives.)

Topic 10: Crediting of processing history

The Council motion contains the following provisions concerning the crediting of processing history:

- 3.1.2.2 Processor history would be credited to (and licenses would be issued to):
- Option 1. Operator - must hold a federal or state processor permit.
 - Option 2. Facility owner
- Suboption. Custom processing history would be credited to:
- i. the processor that physically processes the fish
 - ii. the processor that purchases the fish and pays for processing

Confidentiality protections, aggregation of data across fisheries, and the unavailability of ownership records limit the ability of staff to provide any detailed quantitative analysis of this provision. Consequently, the Council should consider making a decisions on these provisions at this time.

Under the first provision, the Council would have the choice of crediting processing to either the owner of the facility or its operator. The provision would apply only if the owner of a processing facility differs from the operator. The provision could affect either processing licensing (which requires processing in excess of a threshold amount) or harvester/processor associations (which are dependent on the processor receiving the majority of a harvester's landings). Licensing could be affected if a processor does not meet the threshold for licensing because of the crediting of history to another entity during the period of a lease. The implications of the provision on both licensing and processor/harvester associations depend on whether licenses and associations are determined at the facility level or company level and also on the specific circumstances of the lease and the operation of the facility.

Arguments can be made for crediting either the owner or operator of a facility with the facility's processing history. From the standpoint of the operator of the facility, the operator could be argued to have taken a more active role in processing during the lease of a facility. In addition, if the Council chooses to establish processor linkages (or associations) at the company level, landings at a leased facility could affect the establishment of linkages. An operator of a leased facility that also owns another facility may collectively have enough history to establish additional linkages when it is credited with processing at the leased facility. On the other hand, from the owner's standpoint crediting history to the operator could deprive an owner (who acquired substantial history in the facility purchase) of a license for the facility. In addition, linkages with vessels that have a long history of deliveries to a plant could be lost, if landings are credit to the lessee. In

¹⁵ If a processor meets the threshold in total harvesting, but does not meet the threshold in a single community, the processor could be issued a license for the community in which it processed the most landings.

the end, the decision of whether to credit history to a facility owner or operator is policy driven. Both the owner and operator can be argued to have made a significant investment in fish processing; one through the ownership of a facility, the other through the active purchase, processing, and sale of fish.

A similar issue is whether the processing history arising out of custom processing is credited to the person that purchased the fish or the person that processes fish. Both entities can be argued to have made an investment in the processing industry and the fishery. The interests of these participants, however, differ. One operates the plant undertaking the processing of the fish; the other purchases the fish and sells the product onward. Specific implications of this provision cannot be estimated because of the aggregation of data in processing reports. As with the decision of whether to credit history to the owner or operator of a facility, the decision of whether to credit landings to the purchaser or processor of fish is a matter of policy.

Topic 11: Cooperative membership of processor affiliated vessels

Section 4.2.1.1 contains the following provision as a suboption:

Suboption 3. Processor affiliated vessels may join coops.

Since most of the program alternatives under consideration are mandatory cooperatives, the inclusion of this provision as a suboption is inappropriate. If a mandatory cooperative program is adopted and processor affiliated vessels are not permitted to join cooperatives, these vessels would not be able to receive annual harvest allocations. In a voluntary cooperative program, a processor's negotiating leverage with respect to its own vessels would be limited since cooperative formation and membership is voluntary. In a voluntary cooperative program, exclusion of processor owned vessels is likely to only limit the ability of the fleet to achieve efficiencies through voluntary associations. Unless some other interest is intended to be protected by this provision, the provision should be an element of any cooperative program without option.

Topic 12: Processor linkages for harvest shares

Section 3.1.1.2 of the motion contains the following provision concerning the linkage of catcher vessel harvest shares:

3.1.1.2 Linkage:
Option 1. A harvester's processor linked shares are associated with the qualified fixed or trawl closed class large or small processor to which the harvester delivered the most pounds of groundfish during
Option 2. the last ___ years of the harvester allocation base period.
i. 1
ii. 2
iii. 3
If the processor with whom the harvester is associated with is no longer operating, the harvester is eligible to deliver to any qualified processor.

The last sentence of this section would allow a harvester that would associate with a defunct processor to deliver landings to any qualified processor. The Council should clarify whether any association would arise relative to these shares or if they are intended to be shares without processor association in perpetuity. If the shares are not associated with a processor, the harvester may not be eligible to join a cooperative (which may be required for the harvester to receive exclusive shares). A potential way to address this problem is to allow

the harvester that would be associated with a defunct processor to join any cooperative in the first year of the program, provided that on joining a cooperative the harvester's shares become subject to the same linkage of any other shares of the cooperative.

Topic 13: Penalties for moving between linked processors

The Council motion contains the following options concerning penalties for moving linked shares from one

3.1.1.3 Penalties for moving between linked processors

- Option 1. No share reduction for moving between processor year to year
- Option 2. Share reductions of 10-20% each time a harvester moves to a different linked processor for:
 - i. 1 year
 - ii. 2 years
 - iii. 4 years

The share reduction shall be redistributed to:

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

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

Suboption: Penalty applies to both A and B shares.

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

- Option 4. One year penalty in open access.
- Option 5. No penalty. Movement allowed only upon agreement between Coop members and affiliated processor.

processor to another:

The motion provides two potential types of penalties for the movement of shares between processors.¹⁶ In addition, the motion contains provisions that would have no penalty for the movement of shares and a total prohibition on the movement of shares. The Council should consider whether the no penalty option and the no movement option are reasonable alternatives. In the case of the no penalty option, one may question whether the administrative burden of developing an elaborate system of linkages is appropriate, if the linkages are binding in no way. The option that would prevent any movement of shares might be considered

¹⁶ Under the current alternatives, this would apply only to the movement of shares between cooperatives. The only provisions for an exclusive (or protected) share allocation is within a cooperative.

unreasonable, if the Council intends any processor competition for landings of A shares or the development of efficiencies in A share landings under the program.

In considering the two different penalty provisions, the Council should consider its purpose for establishing penalty provisions and the potential effects of the different options. The share reduction penalty should provide a relatively clear and predictable indication to harvesters and processors of the cost of the movement of shares that will allow the harvest share holder and both of the processors involved to determine whether to bear the cost movement and the cost of preventing the movement. For example, if a harvester is faced with the opportunity to relocate to a different processor, the cost of a share reduction penalty would be its loss of returns on that year's of the penalty amount. For a harvester to make the move it must believe that the new processor will pay an ex vessel price that will compensate for the penalty. This may take a few years or could be accomplished by the processor paying a bonus in the first year to cover the cost of the penalty to the harvester. For the processor that is trying to attract the harvester, the cost of establishing the new linkage are payments (either ex vessel prices or a one year bonus) that are higher than that of its competitor by enough to cover the one-year penalty. To the processor that may lose the share linkage, the cost of keeping the harvester is the payment of an ex vessel price that is not so far below the price of the competitor's that the one-year penalty would be compensated for by the competitor.

The open access penalty has an entirely different structure that makes it far less predictable. If the open access fishery has several participants that are moderately successful in an open access fishery, a very good competitor in an open access fishery may face a very limited penalty for a year in the open access. Participants in the open access are likely to be less efficient, but it is possible that a competitive participant may be able to make up for the loss of efficiency through increasing harvests. On the other hand, if the open access fishery has many competitive participants, a harvester that is accustomed to working in a cooperative may perceive a large penalty for participating in the open access fishery. This participant is likely to suffer a loss of efficiency and a loss of catch to harvesters that are geared toward participation in an open access fishery. The reduction of the bycatch allocation to the open access will increase the penalty in fisheries that are constrained by their bycatch allocations. Bycatch could also be a much greater constraint on harvests in the open access fishery where harvesters race for catch during a potentially limited season. The penalty of requiring a year in an open access fishery, however, cannot be predicted and may vary over time and across sectors. In some years with few open access participants, the penalty could be minimal. In other years with several competitive participants, the penalty could be great. Participation and competitiveness of participants is likely to vary across sectors. In addition, the penalty is likely to vary substantially across share holders. Share holders that are able to effectively compete in the open access are likely to face a substantially lower penalty from an open access year than share holders that are less able to compete.

A second issue that arises in considering whether an open access penalty is workable and reasonable is whether some harvesters may be able to use gamesmanship to take advantage of the open access. For example, a harvester may choose to move small quantities of shares through the open access from year to year to enable participation in the open access. If any share holder that has shares in the open access is permitted to fish the open access, it is possible that some participants may use the open access in this manner. By moving shares a few shares through the open access, the harvester will have the right to participate to the detriment of those harvesters attempting to use the open access as intended. One alternative to overcome this problem is to require that a harvester move all of its shares through the open access. Under this approach, all of a harvester's shares would be effectively blocked, so that all movement and transfer of shares would be all-or-nothing.¹⁷ Using this structure, however, is likely to prevent the realization of efficiencies under the program. as harvesters try to reconfigure from their initial allocations to develop a good working multispecies

¹⁷ In the absence of blocking shares, the ability of harvesters to use holding companies

portfolio of shares. Since some of these trades may be required to be across cooperatives (and processors) a rule that prohibits division of initial allocations may not be workable for accomplishing this end.

Topic 14: *Cooperative Formation and Rules*

Several provisions in the Council motion together define the rules for cooperative formation, movement among cooperatives, and participation in the fisheries inside and outside of cooperatives. These provisions together are likely to impact the internal rules of the cooperatives, which in turn will affect the return that different participants are able to realize from their allocations. If these provisions are not carefully developed, some participants may be inadvertently affected by differences in negotiating strength across members of a cooperative. For example, in a cooperative composed primarily of pollock fishermen, a cod fisherman could have little leverage for changing rules to reasonably accommodate cod fishing. In the extreme, share holders with little or no direct activity in fisheries could control the harvests of active participants, if the active participants have no reasonable alternative to joining a cooperative. In considering rules, the Council should be wary of rules that create incentives to modify share holdings. A rule that requires 90 percent of eligible share holders¹⁸ for cooperative formation may create an incentive for a single share holder to subdivide holdings among his friends and family to impose his will on other eligible share holders. This section briefly reviews some of the rules that govern cooperatives and raises several questions concerning the interaction of different influences. In assessing the options, the Council should consider whether adequate information is provided here to make decisions concerning which rules should be advanced and whether additional provisions should be added that might enable the Council to better balance interests of participants.

In analyzing the rules governing cooperatives, it is necessary to consider the different alternatives under consideration. For catcher vessels, these include voluntary cooperatives, mandatory cooperatives with a closed class of processors, and mandatory cooperatives with processor linkages. For catcher/processors the only alternatives are in the form of mandatory cooperatives. Each of these alternatives is discussed in turn. Before examining the details of the different alternatives, development of a few general concepts can help frame the discussion.

In general, the assessment of the relative power of participants in a cooperative depends on several factors. These determinants of negotiating strength can be generalized to two categories, internal and external. Internal effects are generated by the rules governing cooperatives, such as rules of cooperative formation and any rules that define membership. External effects, which are equally important, are generated by the outside options available to a harvester that chooses not to join a cooperative. For example, a person's negotiating leverage with respect to another is highly dependent on the ability to walk away from a transaction and pursue other opportunities. In the context of these cooperatives, the harvester's negotiating strength with respect to members of a particular cooperative depend on the ability of the harvester to choose not to join the cooperative and remain in the fishery. In the discussion that follows both internal and external affects are considered.

Voluntary cooperatives

A voluntary cooperative program is one in which harvesters receive an exclusive allocation (i.e., IFQs) regardless of cooperative membership. A voluntary cooperative program is under consideration for the "low producing" fixed gear sector under alternative 2. Since a harvester may choose to fish IFQs in a voluntary cooperative program, the negotiating strength within a cooperative is of less concern. If a cooperative arrangement is not in the harvester's interest, the harvester has several options, including joining another

¹⁸ Changing the wording from "the holders of 90 percent of eligible shares" to "90 percent of the holders of eligible shares" substantially changes the incentives.

cooperative, forming another cooperative, and fishing IFQs. As a consequence, members of a cooperative derive little negotiating leverage with respect to others from the rules that govern cooperatives.

Mandatory cooperatives with processor linkages

In a mandatory cooperative structure, a harvester will receive an exclusive allocation only by joining a cooperative. In a mandatory cooperative structure with processor linkages, a harvester would receive an exclusive allocation only by joining a cooperative that is associated with a particular processor. Such a structure would apply to trawl catcher vessels under alternative 2 and all catcher vessels under alternative 3.

Under this structure, a harvester's may have a few outside options. Depending on the alternative, the harvester may be able to elect to participate the open access fishery. The harvester may also be able to change cooperatives. This change of cooperatives could have different consequences for the harvester depending on the alternative and the circumstances. If the Council chooses cooperative rules that result in a single cooperative associated with a processor, movement between cooperatives would require changing processors. Having a single cooperative associated with a processor could occur under either of the applicable options governing formation.¹⁹ Under the first applicable option, at least 50 percent of the shares eligible for a cooperative must be held by members for cooperative formation (Section 4.2.2, Option 4). Under this rule, only one cooperative could be formed in association with each processor. Under the second applicable option, four distinct harvest share holders would be required for cooperative formation. Under this rule, some small processors might have a single cooperative. In either instance, if a separate cooperative associated with the processor cannot be formed, a harvester's outside option to participating in a cooperative would be to move to a cooperative associated with a different processor. These movements would be subject to either a share reduction penalty or a penalty year in the open access fishery. As a result, the cooperative could have substantial leverage in dealing with minority members, unless other aspects of the program provide minority members with negotiating strength.²⁰

One reasonable protection that could mitigate harm to minority cooperative members is to require that a cooperative accept membership of any eligible participant subject to the same terms and conditions that apply to other cooperative members. A provision of this type is included in the AFA cooperative program.²¹ This provision, in and of itself, may be inadequate for protecting minority interests particularly if participants have very different portfolios of harvest shares. For example, a cooperative agreement's rules may apply the same to cod fishermen and pollock fishermen, but the rules could favor one group of fishermen over the other.

Rules that govern cooperative formation also could mitigate the potential for minority interests to be subsumed by a majority in a cooperative. Adoption of a rule that requires holders of 50 percent of the eligible harvest shares for cooperative formation would allow the creation of a cooperative by holder's of that majority subject to rules very favorable to that majority. The rules governing formation would prevent others eligible for the same cooperative from forming a separate cooperative associated with the same processor. On the other hand, if a cooperative is required to have 90 percent of the shares eligible for the cooperative

¹⁹ Two of the rules governing formation of cooperatives are sectoral rules that do not apply to processor linked cooperatives.

²⁰ Processors that are associated with a cooperative that asserts this leverage over minority members could be harmed, if minority members move between cooperatives.

²¹ See AFA, section 210(B)(2).

for formation, the holders of the majority of shares would be unable to meet the threshold if they establish rules that are unacceptable to more than 10 percent of eligible shareholders. Although a high threshold for cooperative formation could protect minority members, setting a threshold too high could create difficulties. For example, a high threshold could prevent cooperative formation altogether, if some eligible members are determined to fish in the open access regardless of the terms of the cooperative agreement. Similarly, a high threshold could provide a small minority with excessive leverage in negotiating terms of the cooperative, if a large majority of members would require its consent for cooperative formation.

The alternative rule governing cooperative formation - the rule that requires four distinct harvesters for cooperative formation - would provide harvesters with substantial flexibility in the formation of cooperatives. Several cooperatives could be formed in association with a single processor, if eligible share holders have difficulty reaching compromises concerning harvest of shares. Although efficiencies in harvesting and management could be sacrificed if very many cooperatives are formed, the interests of the different share holders are less likely to be jeopardized by a cooperative majority.

Mandatory cooperatives with a closed class of processors

Under this alternative, a cooperative would receive an exclusive annual allocation based on its members harvest share holdings. Cooperatives would be required to deliver a specified percentage of harvests to processors in a closed class. This structure could apply to trawl catcher vessels and would apply to "high producing" fixed gear catcher vessels under alternative 2.

Under this structure, participants could have a few outside options to joining a cooperative. First, to have a reasonable working system of cooperatives, this structure might best support several cooperatives. In the current options for cooperative formation, only the requirement of 4 distinct shareholders would allow multiple cooperative in each sector (4.2.2, Option 1). Assuming that this criterion for formation is used, then several cooperatives could be formed in any sector. Since the only eligibility criterion would be share holdings, a harvester would be able to join one of several cooperatives limiting the ability of any cooperative to impose unfair or onerous terms for cooperative members.²²

Mandatory cooperative for catcher/processors

Under both alternatives 2 and 3, catcher/processors would be subject to a mandatory cooperative program that would require cooperative membership for an exclusive allocation. In the current motion, all catcher/processors appear to be treated as a single sector under alternative 2. Under alternative 3, catcher/processors would be separated into three sectors based on gear type - trawl, longline, and pot.

The ability of a majority in a cooperative to exert unfair negotiating leverage over minority members will vary with the rules adopted for cooperative formation and the rules governing the open access fishery. If a rule is adopted that requires a majority or more of the harvest share holders or harvest shares, a harvester in this sector would not have the ability to move among cooperatives in the sector.²³

²² A harvester would also have the ability fish in the open access fishery, although the bycatch reductions and uncertainties of the open access fishery limit its appeal.

²³ Depending on the alternatives defined by the Council, an alternative to cooperative membership could be participation in the open access fishery. As noted earlier, any bycatch reduction, the level of competition, and the circumstance of the individual harvester will determine the extent to which the open access fishery is a reasonable option for a harvester faced with an unreasonable cooperative agreement.

If the Council instead adopts a rule that requires 4 distinct share holders for cooperative formation, a catcher/processor could either join another existing cooperative or attempt to form a separate cooperative, if the rules of a cooperative are viewed as unfair. The extent of opportunities in this case could depend on whether catcher/processors are considered a single sector or separated into three sectors by gear type. Pot catcher/processors might have only one or two cooperatives because few catcher/processors participate with pots. In any case, additional opportunity for participation in a cooperative would result since each sector could support multiple cooperatives.

Topic 15: Processor caps

The Council motion contains provisions that would limit the amount of harvests that a closed class processor can process (see section 3.1.2.4). The motion also contains provisions that prohibit the ownership of small processor licenses by the holders of large processor licenses and fixed gear licenses by trawl/fixed gear license holders (see section 3.1.2.6). The motion, however, contains no provision that limits stacking of licenses more generally (i.e., no processor may hold more than ___ licenses that support the same processing activity). Such a provision may be important for ensuring competition and providing for entry to the processing sector, particularly if the Council pursues options that segment the market for landings by region and gear type. If a few processors hold all of the licenses for a region, they could control the market with no possibility for entry or competition from new entrants.

Topic 16: Crediting trawl harvests from SEO in the WYAK allocation

Section 2.1 contains the following bullet:

- Non-SR/RE and thornyhead rockfish trawl catch history in SEO during 95-98 will be used in the calculation of WYAK allocation

Staff assumes that the Council intends this allocation to credit history of trawl vessels that participated in SEO, who have been displaced by the trawl closure in that area, which began in April of 1998. One interpretation is that trawl vessels will be credited catch history for target species in SEO prior to the closure. All pounds of target species harvested in SEO would be counted as if caught in WYAK. Bycatch allocations to these trawl vessels in WYAK would be made in accordance with the rules for allocating bycatch, but would not consider bycatch harvests in SEO. In other words, since bycatch allocations are determined based on bycatch rates in the different target fisheries, the trawl bycatch rates would be calculated based on bycatch in WYAK (not counting any SEO bycatch). Any trawl vessels that receive a target allocation in WYAK (including those that receive an allocation based on credited trawl harvests in SEO) would be allocated bycatch in WYAK based on the trawl bycatch rate in WYAK. If the reference to shortraker/rough eye and thornyhead is to be interpreted differently, the Council should advise staff of its intention.

Topic 17: Individual and vessel caps

Section 2.3.3.7 of the Council motion contains the following provision concerning individual and vessel use caps:

2.3.3.7 Separate and distinct harvest share use caps

Vessel use caps on harvest shares harvested on any given vessel shall be set at two times the individual use cap for each species. Initial issues that exceed the use cap are grandfathered at their current level as of a control date of April 3, 2003; including transfers by contract entered into as of that date. Caps apply to all harvesting categories by species with the following provisions:

1. Apply individually and collectively to all harvest share holders in each sector and fishery.
2. Percentage-caps by species are as follows (a different percentage cap may be chosen for each fishery):
 - i. Trawl CV and/or CP (can be different caps):
Use cap based at the following percentile of catch history for the following species:
(i.e., 75th percentile represents the amount of harvest shares that is greater than the amount of harvest shares for which 75% of the fleet will qualify.)
pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, pelagic shelf rockfish
Suboption 1. 75 %
Suboption 2. 85%
Suboption 3. 95 %
 - ii. Longline and Pot CV and/or CP (can be different caps)
based on the following percentiles of catch history for the following species:
Pacific cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if Greenland turbot is targeted), northern rockfish
Suboption 1. 75 %
Suboption 2. 85%
Suboption 3. 95 %
3. Conversion of CP shares:
 - i. CP shares converted to CV shares
Option 1. will count toward CV caps
Option 2. will not count toward CV caps at the time of conversion.
 - ii. Caps will be applied to prohibit acquisition of shares in excess of the cap. Conversion of CP shares to CV shares alone will not require a CP shareholder to divest CP shares for exceeding the CP share cap.

The provision is confusing for a few reasons. First, including the vessel cap provision prior to the individual caps, which are used to define vessel caps, is confusing. Staff suggests that the vessel use cap provision be moved to the end of 2.3.3.7. Second, the provision concerning grandfathering of initial allocations is prior to the individual caps, suggesting that the grandfather provision may not apply to the individual caps. This provision should be the last sentence in the section, if it is intended to apply to both individuals and vessels. Also a parenthetical "(individual or vessel)" would clarify this issue. Third, adding the words "Individual use" to the beginning of the third sentence will clarify that the numbered paragraphs (1-3) are intended to define the individual use caps. The result of these three changes is shown in Section 2.3.3.7 of Attachments A2 and A3.

In addition, Council should clarify with staff how the use caps are to be interpreted and applied across sectors. Specifically, the Council should specify whether caps are to be applied within each sector (i.e., the high producing fixed gear catcher vessel shares caps would be calculated and applied as a percentage of the pool of high producing fixed gear catcher vessel shares). In addition, if transfers of shares across sectors are

permitted, the Council should specify whether those transfers would affect the application of caps (i.e., should provisions similar to those in 3 be developed for transfers across gear types).

Topic 18: Responsibility for harvests

Section 2.5.1 of the motion contains the following three provisions concerning responsibility for harvest of allocations of hook and line and trawl entities:

2.5.1	Accounting of Halibut Bycatch
	Pot vessels continue their exemption from halibut PSC caps.
	Hook and line and trawl entities
Option 1.	Same as that under IFQ sablefish and halibut programs
Option 2.	Cooperatives would be responsible for ensuring the collective halibut bycatch cap was not exceeded
Option 3.	Individual share or catch history owners would be responsible to ensure that their halibut bycatch allotment was not exceeded

The intent of some of these provisions is unclear. The pot vessel exemption from halibut PSC limits is clear.

The intent of option 1 is unclear. It is assumed that this is intended to either continue certain aspects of the status quo for or extend some aspect of the status quo to hook and line and/or trawl gear. The Council should be explicit concerning the options that staff should analyze for the different gear types and participants. If the provisions apply differently to the different gear types, the provision might be clearest if trawl is separated from hook and line. In addition, sablefish IFQ holders could be separated from other hook and line participants for clarity. Possible interpretations are that current management of halibut should be continued for:

- a) sablefish IFQ holders and/or
- b) all hook and line participants in the Gulf and/or
- c) trawl participants in the Gulf.

Sablefish fish IFQ holders are currently exempt from limitations on halibut bycatch, although an estimate of that fisheries halibut bycatch is accounted for in setting the halibut TAC. Other longline harvesters are allocated halibut PSC, which is monitored inseason using observer data. This management could continue. Alternatively, bycatch of PSC halibut by longline participants (including or excluding sablefish IFQ holders) could be managed by allocation of shares of PSC halibut. Under this approach, PSC halibut allocations and management could be as described in 2.5 and its subsections.

For trawl participants, the current management could be continued under which trawl vessels halibut bycatch is managed by an allocation of halibut PSC. Alternatively, halibut bycatch by trawl vessels could be managed by the allocation of PSC quota, as described throughout 2.5.

The Council should consider restating the options explicitly, separating the options by gear and fishery to the extent that the options are differ across participants.

Options 2 and 3 in their current form are likely unnecessary. The second bullet of Section 4.3.1 provides that the cooperative would management and be responsible for harvest of a cooperative's allocation and the cooperative members are jointly and severally liable for the harvests. Given joint and several liability provided for by the second bullet in section 4.3.1, the cooperative and its members (including the individual

share holder) are each responsible for the harvests. In an IFQ alternative (without cooperatives), the individual share holder would always be responsible for individual harvests. In either case, the intention of the option in 2.5.1 seems redundant with provisions that govern all catch (including halibut PSC harvests). Inclusion of these two options suggest that liability for halibut PSC harvests is subject to different rules from other target and bycatch harvests. Unless different rules are intended to govern PSC harvests, options 2 and 3 should be omitted.

Section 2.5.5 of the motion contains the following provision concerning the retention of halibut caught by longline :

2.5.5 Retention of halibut bycatch by longline vessels

Halibut bycatch may be retained outside the halibut season from Jan 30 to start of commercial fishery, and from end of commercial fishery through December 15.

- | | |
|-----------|---|
| Option 1. | retention is limited to (range 10-20%) of target species |
| Option 2. | permit holder must have sufficient harvest shares (or IFQ) to cover landing |

This provision appears to be directed toward permitting halibut landings outside of the current halibut seasons. In considering this aspect of the program, the Council should bear in mind that permitting holders of halibut longline PSC shares to retain halibut will likely result in a change in the allocation of that species to the halibut fishery and the Gulf groundfish fisheries. In light of that prospect, the inclusion of the IFQ requirement as an option (as opposed to having the provision as a mandatory part of a provision for halibut retention) is unclear. **The Council might consider including option 2 as a requirement (rather than an option), unless it intends to change the halibut allocation to the Gulf groundfish fisheries.**

On its face a provision that permits retention of halibut bycatch that would otherwise be discarded has appeal for its potential to reduce mortality. This provision, however, is not without complication and could create some unintended incentives. The Council should consider that any provision to permit halibut retention outside of the current season will require approval of the IPHC. Whether the IPHC would grant such an approval is uncertain.

Second, permitting retention of halibut bycatch could also increase the cost of accounting in the halibut IFQ program and change rules governing overages, underages, and transfers. RAM Division requires a minimum of approximately 5-6 weeks between seasons to reconcile overages, underages, and share transfers and issue IFQs for the upcoming season. Any provision that would permit retention of halibut in the period between annual seasons is likely to disrupt this accounting system. Although it is possible to develop a system for the reconciliation of accounts if retention of out of season halibut bycatch is permitted, substantial additional accounting costs are likely to be incurred and limitations on harvests and transfers are likely to be necessary. The Council should question whether this additional cost and the significant modifications to the halibut and sablefish IFQ program are appropriate for the retention of halibut bycatch during this brief period between seasons. In addition, since the halibut season is closed during this period, it is possible that some participants in the rationalized Gulf fisheries may top off with (or make minimal effort to avoid) halibut to take advantage of the constrained market when prices might be highest. Even if a harvester does not top off with halibut during this time, the harvesters with the highest bycatch amounts could receive the greatest economic benefit from out of season high prices, while the entire fishery bears the additional management cost.²⁴

²⁴ Unless otherwise specified by the Council, the increased accounting costs would be derived from the cost recovery program. As a consequence, the added cost arising out of the out of season bycatch retention would be born by the entire fleet, not only those that receive the potential benefit of the retained harvests.

Topic 19: Sideboards

The Council motion contains the following sideboard provisions in section 2.12:

2.12 Sideboards

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

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

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

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

The second provision and the fourth provision are very similar. Typically, harvest sideboards have been imposed on aggregate harvests, as individual limits are too difficult and costly to enforce. One of those two sentences should be removed unless a difference is intended. In addition, the Council should consider adding sideboards for the Gulf jig fishery, which will not be included in the rationalization program.

In addition, the Council should also consider whether sideboards for SEO groundfish are appropriate if the Council intends to include an allocation of bycatch to participants in the Gulf groundfish fisheries.

Topic 20: Owner on board requirements and vessel length categories

The Council motion includes the following provision concerning owner on board requirements with possible vessel length categories:

2.3.3.8 Owner On Board Provisions

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

- i. All initial issues (individuals and corporations) would be grandfathered as not being required to be aboard the vessel to fish shares initially issued as "owner on board" shares. This exemption applies only to those initially issued harvest share units.
- Suboption 1. No owner on board restrictions.
 - Suboption 2. A portion (range of 5-100%) of the quota shares initially issued to fishers/harvesters would be designated as "owner on board."
 - Suboption 3. All initial issues (individual and corporate) would be grandfathered as not being required to be aboard the vessel to fish shares initially issued as "owner on board" shares for a period of 5 years after implementation.
 - Suboption 4. Shares transferred to initial issues in the first 5 years of the program would be considered the same as shares initially issued (range of 5 -100% of the quota shares). See above NOTE
 - Suboption 5. "Owner on board" shares transferred by initial issues, after the grace period, would require the recipient to be aboard the vessel to harvest the IFQ.
 - Suboption 6. In cases of hardship (injury, medical incapacity, loss of vessel, etc.) a holder of "owner on board" quota shares may, upon documentation and approval, transfer/lease his or her shares a maximum period of (Range 1-3 years). *but of any 10 year period*
- ii. Vessel categories for owner on board requirements *per A*
- Option 1. No Categories
 - Option 2. Vessel Categories as follows
 - Vessels < 60'
 - Vessels >= 60' and < 125'
 - Vessels >= 125'

The provision contains a range of possible owner on board requirements. Prior to completion of the EIS, the Council will need to decide specific owner on board requirements and the shares to which those requirements will apply.

The application of owner on board designations under Part i. are not entirely clear. Specifically, the interactions of suboptions 4 and 5 with the suboption 2 raises some questions concerning the share designations. Suboptions 2 would create owner on board requirements Under Suboption 2, some percentage of each initial allocation would be designated as "owner on board" shares, while the remaining shares would not have the owner on board designation. This suggests that a share holder could buy or sell shares that have the designation independently. Over time, some persons might hold all owner on board shares; others might hold all shares without that designation. Suboption 4, however, provides that shares purchased by an initial issuee in the first 5 years would be designated the same as shares initially issued (i.e., the same percentage of purchased shares would be subject to the owner on board designation as the initial allocation). On its face, this provision would result in the redesignation of shares on transfer, but only in the case of purchase by an initial issuee. Consider an example in which the Council decides to designate 50 percent of each allocation as owner on board. If a persons sold 100 shares with the owner on board designation to an initial issuee, 50 of those shares would have the owner on board designation removed. Similarly, if a person sells 100 shares without the designation to an initial issuee, 50 shares would be redesignated as owner on board. The intention of the provision could be to apply the grandfathering provision in the introduction of i. to only those shares initially allocated (and not to shares purchase by intial issuees). If this is the intention, suboption 4 is

unnecessary, since the grandfather clause provides that its exemption applies only the initial allocation and not to transferred shares. If the provision is intended to serve some other purpose, that intention should be clarified. Suboption 5 suggests that the owner on board exemption applies to all shareholders in the first 5 years. This appears inconsistent with all of the other grandfather clauses in the section. The provision is not necessary and can be deleted, unless it is intended to somehow modify some of the grandfathering provisions. **Staff has proposed a clarification to this provision in Attachments A2 and A3.**

Part ii. of this section contains possible vessel categories to which the requirements would apply. The categories created would be based on vessel length only. This provision is the only reference to vessel length in the Council's motion. The reference creates some confusion concerning the possible application of vessel length categories to shares. The Council should clarify:

- If shares are categorized by vessel length, would the length designation be based on the LLP designation.
- Would those vessel length designations limit the ability of a vessel owner to use the shares on a vessel of a different length (or simply create owner on board requirements for the use of the shares).
- If vessel length designations are intended to be created, the Council will need to specify the rules governing use of shares. For example, could shares from a vessel category be used on a smaller vessel. (Under the LLP, licenses can be used on a vessel smaller than the MLOA.) If those shares are used on a smaller vessel, would owner on board requirements applicable to the shorter vessel length apply and would the shares be redesignated permanently for use on the shorter vessel length.
- How would the vessel length requirements interact with cooperative rules and formation requirements under the different alternatives. Would shares of different vessel length categories be permitted in a single cooperative. If so, how would the use of the shares be limited by the vessel length rules and owner on board rules. If these provisions are intended to apply only to IFQ program alternatives, the introduction could limit the application of the provision to the "low producing" fixed gear vessels under alternative 2, the only sector that would be subject to an IFQ program. The provision could also be applied to halibut and sablefish IFQ holders that receive allocations.

The Council should clarify any rules related to vessel length.

Topic 21: Leasing provisions

Section 2.3.3.6 of the Council motion contains the following provision concerning the leasing of shares:

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

- Option 1. No leasing of CV QS (QS holder must be on board or own at least 20% of the vessel upon which a designated skipper fishes the IFQ).
- Option 2. No leasing of CP QS (QS holder must be on board or own at least 20% of the vessel upon which a designated skipper fishes the IFQ).
- Option 3. Allow leasing of CV QS, but only to individuals eligible to receive QS/IFQ by transfer.
- Option 4. Allow leasing of CP QS, but only to individuals eligible to receive QS/IFQ by transfer.
- Option 5. Sunset [CP - CV] QS leasing provisions [3 - 5 - 10] years after program implementation.

The leasing provisions appear to be directed toward the same end as the owner on board provisions of section 2.3.3.8 of the Council motion. The Council might consider whether its purpose could be served by including only one of these provisions in an alternative.

Per Mark

Options 3 and 4 do not serve an obvious purpose. These provisions would permit leasing of shares to anyone that is eligible to receive shares. In the absence of a prohibition on leasing, persons eligible to receive shares would be permitted to lease shares. Since persons ineligible to receive shares could not lease shares in any case, these options might not be necessary.

If the Council elects to include leasing prohibitions in an alternative, the application of the options should be clarified. The Council should specify whether the provisions apply to all vessels and sectors or whether the provisions would apply only to certain sectors (i.e., "low producing" fixed gear shares or halibut and sablefish IFQ holders). In addition, if the provisions are applied to sectors that are governed by cooperative programs, the application of the provisions to shares fished by cooperatives should be specified.

Topic 22: Deliveries to catcher processors

Section 2.3.3.12 of the Council motion provides:

2.3.3.12 Processing Restrictions
Option 1. CPs may buy CV fish
 Suboption. 3 year sunset
Option 2. CPs would be prohibited from buying CV fish
Option 3. CPs are not permitted to buy fully utilized species (cod, pollock, rockfish, sablefish, and allocated portion of flatfish) from CVs.
 Suboption. Exempt bycatch amounts of these species delivered with flatfish.

The Council should clarify its intent in this provision. Specifically, the Council should clarify whether the provision applies to deliveries of harvest with A shares (designated for delivery to a qualified or associated processor) and/or B shares (which can be delivered to any processor). If the Council elects to limit deliveries of A shares to catcher/processors that might prevent catcher/processors that have historically accepted deliveries from catcher vessels from continuing that practice. Also, the Council should clarify whether deliveries of "low producing" fixed gear catcher vessels can be made to catcher/processors under alternative 2. The Council should maintain consistency with section 3.1.1.1 of the Council motion, which provides for rules governing the delivery of B share landings (which can be delivered to any processor). That section provides:

3.1.1.1 Closed class delivery requirements
Option 1: 50-100% of CV harvest share allocation will be reserved for delivery to:
 i. the linked qualified closed trawl or fixed class processor (or)
 ii. any qualified closed trawl or fixed or large or small class processor
The remaining (50 -0%) CV harvest share allocation can be delivered to:
 i. any processor excluding CPs
 ii. any processor including CPs
Option 2. Low producing vessels are exempt from closed class delivery requirements

The second part of option 1 contains options that would prohibit or permit the delivery of B shares to catcher/processors. In choosing appropriate options for this provision, the Council should be clear as to whether “low producing” fixed gear catcher vessels would be permitted to deliver harvest to catcher/processors.

Application of any rule that limits processing by catcher/processors will require that catcher/processors be defined. Definition of this sector can be problematic because vessels used as catcher/processors may also be used as floating processors. For purposes of implementing this provision, the Council must decide when a vessel is acting as a floating processor, as opposed to a catcher/processor. The current regulations that define catcher/processors and define the inshore and offshore components of the GOA groundfish fisheries may be useful in developing an appropriate rule. Under the regulations, a catcher/processor is a vessel that is used for catching fish and processing that fish. The regulations also separate the TAC in the GOA groundfish fisheries between an inshore sector and an offshore sector. Processing in the inshore sector is limited to shore plants, stationary floating processors (which must operate within State waters in a single geographic location during a season when processing pollock or Pacific cod), and small processing vessels (including catcher/processors and processors which are less than 125 feet LOA and process less than 18 metric tons of pollock and Pacific cod per day). Vessels may not participate in both the inshore and offshore components in a single year, so the offshore component is defined as processors not in the inshore component. The Council may wish to modify this definition if it intends to limit processing by catcher/processors under the rationalization program.

Topic 23: Incentive fishery participation

The Council motion contains the following provision concerning participation in the incentive fisheries:

- | | |
|-------|--|
| 2.6.1 | Eligibility to fish in the incentive fisheries |
| A. | The unallocated QS for the incentive fisheries are available for harvest, providing the vessel has adequate PSC and bycatch species and the vessel is a member of a GOA fishing cooperative. |
| B. | Any quota holder qualified to be in a coop. |

This provision is unclear concerning eligibility to participate in the incentive fisheries. The two lettered paragraphs appear to be options, but the application of these options under the alternatives is unclear. Under A, only cooperative members that have adequate PSC and bycatch are permitted to participate in the incentive fisheries. Under alternative 2, this provision could prevent “low producing” fixed gear catcher vessel share holders that choose not to join cooperatives from participating in the incentive fisheries. In addition, halibut and sablefish IFQ holders that receive bycatch allocations would be excluded from the incentive fisheries.

Under B, only halibut and sablefish IFQ holders that are not also considered part of the rationalization program would not be permitted to fish the incentive fisheries. Under this provision, even members of the open access fishery would be permitted to fish the incentive fisheries. Participation of open access participants in the fishery, however, is not well-defined. Open access participants could be permitted to harvest incentive species as long the open access fishery remains open and adequate PSC and bycatch are available. A possible revision to this section is provided in Attachments A2 and A3.

Topic 24: *Incentive fishery accounting*

Section 2.6.2 of the Council motion provides:

- | | |
|-----------|--|
| 2.6.2 | Catch accounting for the incentive fisheries - Allocated QS and Incentive fishery quota |
| Option 1. | The individual coop member's apportionment of the allocated incentive species QS must be used prior to the individual gaining access to the incentive fishery unallocated portion. The coop will notify NMFS when a vessel enters the incentive fishery quota pool. |
| Option 2. | The coop's allocation of incentive species QS must be fished before gaining access to the unallocated portion of the incentive species quotas. The coop members through a contractual coop agreement will address catch accounting amongst the coop members. |
| Option 3. | For vessels not participating in a sector coop, the unallocated incentive species are available for harvest once the non-coop sector's allocation of the incentive species has been used or individual IFQ holder's allocation of the incentive species has been used. |

These options in this section provide that a participant's allocation of an incentive species must be fished prior to gaining access to the unallocated portion of the incentive species TAC. Options 1 and 2 address cooperative participation in the incentive fishery. Under option 1, an individual's harvest of an incentive species is deducted from the incentive species TAC as soon as the individual's allocation is harvested. This would allow an individual to begin fishing off the unallocated TAC despite the individual's cooperative holding unused shares of the incentive species. Under option 2, a cooperative's entire incentive species allocation must be used prior to harvest of an incentive species being deducted from the unallocated portion of the incentive species TAC. Option 3 provides for accounting of incentive species for non-members of cooperatives. Under this option, an individual would begin fishing off the unallocated TAC only after the individual's allocation of incentive species is harvested. This provision could be applied to participants in the "low producing" fixed gear catcher vessel share holders under alternative 2 and halibut and sablefish IFQ holders under either alternative. No provision for the accounting of open access participants' harvests from the incentive fisheries is provided. A possible provision is included as option 4 in Section 2.6.2 of Attachment A2 and A3.

Topic 25: *Eligibility of halibut and sablefish IFQ holders*

Section 2.4 of the Council motion provides:

2.4

Allocation of Bycatch Species

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

i. Allocation of shares

Option 1. Allocate shares to all fishermen (including sablefish & halibut QS fishermen) based on fleet bycatch rates by gear:

Suboption 1. based on average catch history by area and target fishery

Suboption 2. based on 75th percentile by area by target fishery

Option 2. Allocation of shares will be adjusted pro rata to allocate 100% of the annual TAC for each bycatch species.

Suboption 1. Other slope rockfish in the Western Gulf will not be allocated, but will be managed by MRB and will go to PSC status when the TAC is reached.

Suboption 2. Pro-rata bycatch reduction allowances in open access fisheries reduced from historical bycatch rates at :

i. 5%

ii. 10%

iii. 15%

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

Option 1 provides that fishermen, including halibut and sablefish QS fishermen would be allocated shares. Option 3 provides for the allocation of bycatch to “owners of sablefish and halibut QS, rather than LLP holders.” The need for and intention of option 3 is unclear given that halibut and sablefish IFQ holders are included in the allocation under option 1. The exclusion of LLP holders from the allocation is very confusing. The purpose of option 3 should be clarified, unless it is redundant, in which case, it should be deleted.

Topic 26

Halibut PSC transfer reductions and cooperatives

Section 2.5.3 of the Council motion provides:

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

Halibut PSC harvest shares are separable from target groundfish harvest shares and may be transferred independently within sectors. When transferred separately, the amount of Halibut PSC allocation would be reduced, for that year, by:

Option 1. 0%

Option 2. 5%

Option 3. 7%

Option 4. 10%

Option 5. Exclude any halibut PSC transferred for participation in the incentive fisheries

The motion is not clear whether the reduction would apply to the transfer of halibut bycatch within a cooperative. If the Council intends to exempt any use of members’ halibut PSC by a cooperative from the reductions on transfer, the Council should explicitly provide for that exemption.

Section 2.7 of the Council motion provides:

2.7	Preserving entry level opportunities for P. cod
2.7.1	P. cod harvest share for H&L and pot lowest producer would remain "tied" to a block of quota and could only be permanently sold or transferred as a block. Option 1. 10,000 pounds constitutes one block Option 2. 20,000 pounds constitutes one block
2.7.2	Eligible participants would be allowed to hold a maximum of: Option 1, 1 block Option 2. 2 blocks Option 3. 4 blocks Suboption. Lowest producer harvest shares earned as a bycatch in the halibut sablefish ITQ program would be exempt from the block program.

The provisions of the section raise several questions. Section 2.7.1 appears to be intended to create a block program similar to the halibut and sablefish IFQ block program. This being the case, the shares allocated would not remain tied to a block, but would be an inseparable block. The pound threshold for creating a block could be interpreted in a few different ways. The most straightforward interpretation, which is analogous to the interpretation in the halibut and sablefish IFQ program is that the allocation would not result in the allocation of more than the threshold number of pounds in the year the block program was adopted, which was the year prior to the commencement of the program. The Council could either specify a year or use the last qualifying year as the basis for determining whether a share allocation would exceed the block threshold.

In the halibut and sablefish program, the block threshold was applied on an person (meaning individual or company) and area basis. So, if the person receives an allocation in excess of the poundage threshold in an area, that particular allocation would not be blocked. If the allocation to the person is below the threshold in another area, that allocation would be blocked. This approach will simplify the application of the rule, but limits the analysis of the rule because of the lack of availability of ownership records.

The motion provides that the block program would apply to hook and line and pot "lowest producer". This provision is unclear since "lowest producer" is not defined. Since pound thresholds are provided, the words "lowest producer" could be omitted. If some other meaning is intended, the Council should clarify its intent.²⁵

Section 2.7.2 provides for limitations on the number of blocks a person may hold. No option is included that would limit the holding of shares by holders of unblocked shares. **If the Council intends to limit the block holdings of holders of unblocked shares, the Council should add a provision such as:**

"any person may hold:

- a) ___ block(s) and any amount of unblocked shares or**
- b) ___ blocks."**

Such a provision is similar to that of the block program in the halibut and sablefish IFQ program.

²⁵ In alternative 2, the Council could apply the "low producing" fixed gear catcher vessel definition to determine blocking of shares. Given the pound threshold, the "low producing" limitation is likely unnecessary and could be inconsistent.

Section 2.7.2 also includes a provision that would exempt shares earned as bycatch in the halibut and sablefish IFQ fishery from the block program. ~~Currently, no option for the allocation of target species (including cod) to IFQ holders is included in the Council motion. Unless the Council motion is revised to provide for the allocation of target species to IFQ holders, this provision can be deleted.~~

Per Mark F.

Topic 28: State fisheries and data analysis

The Council motion contains the following provision concerning State fisheries:

2.2.3 State Waters - Parallel Fisheries and State Groundfish Management

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

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

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

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

Area or species restrictions:

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

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

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

Fixed allocation for:

Suboption 1. P. cod

Suboption 2. Pollock

Suboption 3. All other GOA groundfish species

Option 1 would retain the status quo. This option could only be implemented if the Council chooses to retain the status quo in the federally managed fisheries. Otherwise, the harvest allocations under a rationalized fishery could not be protected, if State water participants could harvest unlimited quantities of fish against the federal TAC.

Option 2 would allocate the historic State water harvest (including both parallel fishery harvest and State water cod harvest) to the State to support a State water fishery, which would be managed by the State. Harvest of the remaining federal TAC would be in federal waters only and would be subject to the rules of the rationalization program. This option raises the questions concerning the extent to which harvests by LLP holders and State water parallel fishery participants would be credited under the rationalization program.²⁶

²⁶ Under section 2.2.2, Option 2, non-federally permitted participants in the State water parallel fisheries would receive harvest allocations in the rationalization program for their State water parallel fisheries harvests.

Specifically, if harvests from State waters (0-3 nm) during the parallel fishery are allocated to a State water fishery, should the Council also allocate those harvests to an individual LLP holder or non-LLP parallel fishery participant under the rationalization program. The Council could choose one of two approaches for each of these groups of participants:

Under the rationalization program, LLP holders could be credited with:

- 1) all landings of harvests from all waters (federal fishery and State water parallel fishery (0-200 nm)) during the federal season, or
- 2) only landings of harvests from federal waters (3-200 nm) during the federal season.

Under the rationalization program, non-federally permitted participants in the State water parallel fishery could be credited with:

- 1) all landings from the State water parallel fishery (0-3 nm) during the federal season, or
- 2) no landings from the State water parallel fishery (0-3 nm) during the federal season.

In making this decision, the Council should bear in mind that if (1) is selected for either group of participants, State water harvests (0-3 nm) would be credited twice in determining allocations; once in making the allocation to the new State water fishery and a second time in making the allocation to the individual LLP holder or historic State water participant for use in the rationalized federal fishery. Depending on the rules governing entry to the State water fishery, favoring one allocation rule over the other could be perceived as more equitable. If a rule limits participation of a harvester in the new State water fishery, including state water harvests of that harvester in the federal fishery allocation would appear to be more justified. In addition, the Council should also consider its objectives in rationalizing the fisheries and which of the different allocation rules best serves those objectives.

The same allocation issues that arises under option 2 could also arise under option 3. Under option 3, a specified percentage of the federal TAC would be allocated to a State managed fishery, which would be prosecuted in State waters.²⁷ Under this provision, both the magnitude and basis for determining the magnitude of the allocation to the State fishery are unstated. The Council could consider several factors in determining the extent of that allocation, including historical harvest patterns, allocations under the federal rationalization program and the rules governing entry to the State water fishery. In any case, the allocation is likely to depend on the Council's balancing its manifold objectives in rationalizing the Gulf fisheries.

The uncertainty concerning the scope of allocations to the federal rationalized fishery and the new State water fishery and inclusion of participants in share allocations or exclusions of historical participants under limitations on entry in State fisheries complicate the analysis of the options. The data analysis is especially complicated since these provisions interact with each other. To estimate individual allocations the analyst must know the participants that will receive an allocation in the federal fishery and the harvests that will be credited in the allocation for the participant. Based on this information alone, the analyst can describe the allocation, but only as a share of the federal fishery. The analyst cannot describe the allocation as a share of the total TAC until the division of that TAC between the federal and State fisheries is decided. In addition, the analyst cannot provide any information concerning whether any participant or group of participants would receive an allocation under the federal fishery (or have a harvest opportunity under the State fishery) that is comparable to the historic harvests of that participant or group of participants. The fairness of an initial allocation is often argued to hinge on whether participants are able to maintain harvests under the new program that are comparable to historic harvest levels. Without more complete information concerning the

²⁷ Option 3 is silent on whether participants in the federal fishery would be permitted to harvest any fish from State waters.

allocation to State water fisheries and participation in those State water fisheries, analysts cannot determine whether any participant's access to harvests will be similar to historic levels.

Topic 29

"Target" and "Bycatch" species

Throughout the motion, the Council has used the term "target" to identify species that will be allocated based on individual landings and "bycatch" to identify species that will be allocated based on a percentage of the average incidental catch. The use of the terms "target" and "bycatch" to identify these species has caused consistent confusion among analysts working on this project and is likely to cause confusion for managers and the public as the program is implemented.

Section 2.3 identifies target species as pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, and pelagic shelf rockfish. Managers typically refer to "targets" as a single species that a harvester is attempting to catch over some period of time (e.g., week) or activity (e.g., set, haul, or landing). Depending on the application, different measures for determining targeting may be applied by managers. In any case, many of the species listed as targets are often harvested incidentally by harvesters targeting another species. Use of the term target suggests to some that allocations will be based solely on harvests made while targeting the species. The Council, realizing that such an interpretation would be impossible to implement because of inadequate records, has chosen to make allocations of the species based on all landings of the "target" species, regardless of whether the species was actually targeted. To avoid the confusion over whether landings would be credited in allocations, staff suggests substituting the neutral term "primary" for "target" in the Council motion.

Section 2.4 identifies bycatch species as thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, and sablefish. The use of the term "bycatch" to describe these species has also caused some confusion. Under the Magnuson Steven Act, "bycatch" is defined as "fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards. . ." (see Sec. 3. 104-297). Since the species the motion refers to as "bycatch" species are frequently landed and processed, the use of the term "bycatch" is a misnomer under the MSA definition and is likely to lead to additional confusion. Staff recommends that the Council use the term "secondary" species to describe these species. Suggested changes are proposed in Section 2.1, 2.3, 2.4, 2.5, 2.6, and 4.6 of Appendices A2 and A3.

**ATTACHMENT A1
TO ALTERNATIVE DESCRIPTIONS AND DISCUSSION PAPER
OCTOBER 2003**

**NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
GULF OF ALASKA GROUND FISH RATIONALIZATION
ELEMENTS AND OPTIONS**

June 16, 2003

1 Status Quo (No Action Alternative)

2 Harvest Sector Provisions

2.1 Management Areas:

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

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

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

Gear: Applies to all gear except jig gear—

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

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

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

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

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

(The analysis will assess AFA vessels as a group)

Option 1. 95-01 drop 1

Option 2. 95-02 drop 1

Option 3. 95-02 drop 2

Option 4. 98-02 drop 1

2.2.1 Qualifying landing criteria

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

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

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

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

2.2.2 Eligibility

LLP participation

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

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

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

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

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

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

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

The Council requests NMFS RAM review LLP transfers and report on the frequency with which the transfers also include provisions governing catch history.

2.2.3 State Waters - Parallel Fisheries and State Groundfish Management

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

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

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

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

Area or species restrictions:

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

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

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

Fixed allocation for:

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

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

2.3 Target Species Rationalization Plan

Target Species by Gear

2.3.1 Initial Allocation of catch history

Option 1. Allocate catch history by sector and gear type

Option 2. Allocate catch history on an individual basis

a. Trawl CV and CP:

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

b. Longline CV and CP:

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

c. Pot CV and CP:

Pacific Cod

2.3.2 Harvest share (or QS/IFQ) Designations

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

Low producing vessels are:

Option 1. less than average harvest shares initially allocated by gear, species and area

Option 2. less than the 75th percentile harvest shares initially allocated by gear, species and area

High producing vessels are the remainder.

2.3.2.2 Harvest share sector designations:

Option 1. No designation of harvest shares (or QS/IFQ) as CV or CP

Option 2. Designate harvest shares (or QS/IFQ) as CV or CP. Annual CV harvest share allocation (or IFQ) conveys a privilege to harvest a specified amount. Annual CP harvest share allocation (or IFQ) conveys the privilege to harvest and process a specified amount. Designation will be based on:

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

2.3.2.3 Harvest share gear designations

Option 1. No gear designation

Option 2. Designate harvest shares as Longline, Pot, or Trawl

Option 3. Longline and pot gear harvest shares (or IFQ) may not be harvested using trawl gear.

Option 4. Pot gear harvest shares (or IFQ) may not be harvested using longline gear

2.3.2.4 If a closed class of processor alternative is chosen, CV harvest shares will be issued in two classes. Class A shares will be deliverable to a qualified processor or processor shareholder

(as applicable). Class B shares will be deliverable to any processor as authorized under this program.

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

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

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

- Option 1. US citizens who have had at least 150 days of sea time
- Option 2. Entities that have a U. S. citizen with 20% or more ownership and at least 150 days of sea time
- Option 3. Entities that have a US citizenship with 20% or more ownership
- Option 4. Initial recipients of CV or C/P harvest share
- Option 5. US Citizens eligible to document a vessel.
- Option 6. Communities would be eligible to receive harvest shares by transfer (this provision would be applicable if certain provisions of 2.9 are adopted.)

2.3.3.2 Restrictions on transferability of CP harvest shares

- Option 1. CP harvest shares maintain their designation upon transfer.
- Option 2. CP harvest shares maintain their designation when transferred to persons who continue to catch and process CP harvest shares at sea, if CP harvest shares are processed onshore after transfer, CP harvest shares converts to CV harvest shares.
- Option 3. CP harvest shares maintain their designation after transfer for 5 years following implementation, after which time any transfer of CP shares convert to CV shares.

2.3.3.3 Redesignate CP shares as CV shares upon transfer to a person who is not an initial issuee of CP shares:

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

2.3.3.4 Vertical integration

Harvest shares initial recipients with more than 10% limited threshold ownership by any processor are capped at:

- Option 1. initial allocation of harvest CV and CP shares.
- Option 2. 115-150% of initial allocation of harvest CV shares.
- Option 3. 115-150% of initial allocation of harvest CP shares.

2.3.3.5 Definition of sea time

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

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

- Option 1. No leasing of CV QS (QS holder must be on board or own at least 20% of the vessel upon which a designated skipper fishes the IFQ).
- Option 2. No leasing of CP QS (QS holder must be on board or own at least 20% of the vessel upon which a designated skipper fishes the IFQ).
- Option 3. Allow leasing of CV QS, but only to individuals eligible to receive QS/IFQ by transfer.
- Option 4. Allow leasing of CP QS, but only to individuals eligible to receive QS/IFQ by transfer.
- Option 5. Sunset [CP - CV] QS leasing provisions [3 - 5 - 10] years after program implementation.

2.3.3.7 Separate and distinct harvest share use caps

Vessel use caps on harvest shares harvested on any given vessel shall be set at two times the individual use cap for each species. Initial issues that exceed the use cap are grandfathered at their current level as of a control date of April 3, 2003; including transfers by contract entered into as of that date. Caps apply to all harvesting categories by species with the following provisions:

1. Apply individually and collectively to all harvest share holders in each sector and fishery.
2. Percentage-caps by species are as follows (a different percentage cap may be chosen for each fishery):
 - i. Trawl CV and/or CP (can be different caps):
Use cap based at the following percentile of catch history for the following species:
(i.e., 75th percentile represents the amount of harvest shares that is greater than the amount of harvest shares for which 75% of the fleet will qualify.)
 pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, pelagic shelf rockfish
 Suboption 1. 75 %
 Suboption 2. 85%
 Suboption 3. 95 %
 - ii. Longline and Pot CV and/or CP (can be different caps)
based on the following percentiles of catch history for the following species:
 Pacific cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if Greenland turbot is targeted), northern rockfish
 Suboption 1. 75 %
 Suboption 2. 85%
 Suboption 3. 95 %
3. Conversion of CP shares:
 - i. CP shares converted to CV shares
 Option 1. will count toward CV caps
 Option 2. will not count toward CV caps at the time of conversion.
 - ii. Caps will be applied to prohibit acquisition of shares in excess of the cap. Conversion of CP shares to CV shares alone will not require a CP shareholder to divest CP shares for exceeding the CP share cap.

2.3.3.8 Owner On Board Provisions

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

- i. All initial issues (individuals and corporations) would be grandfathered as not being required to be aboard the vessel to fish shares initially issued as "owner on board" shares. This exemption applies only to those initially issued harvest share units.
 - Suboption 1. No owner on board restrictions.
 - Suboption 2. A portion (range of 5-100%) of the quota shares initially issued to fishers/ harvesters would be designated as "owner on board."
 - Suboption 3. All initial issues (individual and corporate) would be grandfathered as not being required to be aboard the vessel to fish shares initially issued as "owner on board" shares for a period of 5 years after implementation.
 - Suboption 4. Shares transferred to initial issuees in the first 5 years of the program would be considered the same as shares initially issued (range of 5 -100% of the quota shares). See above NOTE
 - Suboption 5. "Owner on board" shares transferred by initial issuees, after the grace period, would require the recipient to be aboard the vessel to harvest the IFQ.

Suboption 6. In cases of hardship (injury, medical incapacity, loss of vessel, etc.) a holder of "owner on board" quota shares may, upon documentation and approval, transfer/lease his or her shares a maximum period of (Range 1-3 years).

ii. Vessel categories for owner on board requirements

Option 1. No Categories

Option 2. Vessel Categories as follows

Vessels < 60'

Vessels \geq 60' and < 125'

Vessels \geq 125'

2.3.3.9 Overage Provisions

i. Trawl CV and CP:

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

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

ii. Longline and pot CV and CP:

Overages up to 10% of the last trip will be allowed with rollover provisions for underages— greater than a 10% overage results in forfeiture and civil penalties. An overage of less than 10% results in the reduction of the subsequent year's annual allocation or IFQ. This provision is similar to that currently in place for the Halibut and Sablefish IFQ Program (CFR 679.40(d)).

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

2.3.3.10 Retention requirements for rockfish, sablefish and Atka mackerel:

Option 1. no retention requirements.

Option 2. require retention (all species) until the annual allocation (or IFQ) for that species is taken with discards allowed for overages

Option 3. require 100% retention (all species) until the annual allocation (or IFQ) for that species is taken and then stop fishing.

2.3.3.11 Limited processing for CVs

Option 1. No limited processing

Option 2. Limited processing of rockfish species by owners of CV harvest shares is allowed up to 1 mt of round weight equivalent of rockfish per day on a vessel less than or equal to 60ft LOA.

2.3.3.12 Processing Restrictions

Option 1. CPs may buy CV fish

Suboption. 3 year sunset

Option 2. CPs would be prohibited from buying CV fish

- Option 3. CPs are not permitted to buy fully utilized species (cod, pollock, rockfish, sablefish, and allocated portion of flatfish) from CVs.
Suboption. Exempt bycatch amounts of these species delivered with flatfish.

2.4 Allocation of Bycatch Species

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

i. Allocation of shares

Option 1. Allocate shares to all fishermen (including sablefish & halibut QS fishermen) based on fleet bycatch rates by gear:

Suboption 1. based on average catch history by area and target fishery

Suboption 2. based on 75th percentile by area by target fishery

Option 2. Allocation of shares will be adjusted pro rata to allocate 100% of the annual TAC for each bycatch species.

Suboption 1. Other slope rockfish in the Western Gulf will not be allocated, but will be managed by MRB and will go to PSC status when the TAC is reached.

Suboption 2. Pro-rata bycatch reduction allowances in open access fisheries reduced from historical bycatch rates at :

- i. 5%
- ii. 10%
- iii. 15%

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

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

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

iv. Allow trawl sablefish catch history to be issued as a new category of sablefish harvest shares ("T" shares) by area. "T" shares would be fully leasable, exempt from vessel size and block restrictions, and retain sector designation upon sale.

Suboption. These shares may be used with either fixed gear or trawl gear.

v. Permit transfer of bycatch QS

Option 1. Groundfish harvest shares and bycatch shares are non-separable and must be transferred as a unit.

Option 2. Groundfish harvest shares and bycatch shares are separable and may be transferred separately

2.5 PSC Species

2.5.1 Accounting of Halibut Bycatch

Pot vessels continue their exemption from halibut PSC caps.

Hook and line and trawl entities

Option 1. Same as that under IFQ sablefish and halibut programs

Option 2. Cooperatives would be responsible for ensuring the collective halibut bycatch cap was not exceeded

Option 3. Individual share or catch history owners would be responsible to ensure that their halibut bycatch allotment was not exceeded

2.5.2 Halibut PSC Allocation

Each recipient of fishing history would receive an allocation of halibut mortality (harvest shares) based on their allocation of the directed fishery harvest shares. Bycatch only species would receive no halibut allocation.

Initial allocation based on average halibut bycatch by directed target species during the qualifying years. Allocations will be adjusted pro rata to equal the existing PSC cap.

By sector average bycatch rates by area by gear:

Option 1. Both sectors

Option 2. Catcher Processor/Catcher Vessel

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

Halibut PSC harvest shares are separable from target groundfish harvest shares and may be transferred independently within sectors. When transferred separately, the amount of Halibut PSC allocation would be reduced, for that year, by:

Option 1. 0%

Option 2. 5%

Option 3. 7%

Option 4. 10%

Option 5. Exclude any halibut PSC transferred for participation in the incentive fisheries

2.5.4 Permanent transfer of Halibut PSC harvest share mortality

Option 1. Groundfish harvest shares and Halibut PSC harvest shares are non-separable and must be transferred as a unit

Suboption. exempt Pacific cod

Option 2. Groundfish harvest shares and Halibut PSC harvest shares are separable and may be transferred separately

2.5.5 Retention of halibut bycatch by longline vessels

Halibut bycatch may be retained outside the halibut season from Jan 30 to start of commercial fishery, and from end of commercial fishery through December 15.

Option 1. retention is limited to (range 10-20%) of target species

Option 2. permit holder must have sufficient harvest shares (or IFQ) to cover landing

2.6 Incentive species

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

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

Option. The portion of historic unharvested West Yakutat TAC will be made available as an incentive fishery, subject to provision of incentive fisheries

2.6.1 Eligibility to fish in the incentive fisheries

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

B. Any quota holder qualified to be in a coop.

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

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

- Option 2. The coop's allocation of incentive species QS must be fished before gaining access to the unallocated portion of the incentive species quotas. The coop members through a contractual coop agreement will address catch accounting amongst the coop members.
- Option 3. For vessels not participating in a sector coop, the unallocated incentive species are available for harvest once the non-coop sector's allocation of the incentive species has been used or individual IFQ holder's allocation of the incentive species has been used.

2.7 Preserving entry level opportunities for P. cod

2.7.1 P. cod harvest share for H&L and pot lowest producer would remain "tied" to a block of quota and could only be permanently sold or transferred as a block.

Option 1. 10,000 pounds constitutes one block

Option 2. 20,000 pounds constitutes one block

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

Option 1. 1 block

Option 2. 2 blocks

Option 3. 4 blocks

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

2.8 Skipper/Crew

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

Option 1. No skipper and/or crew provisions

Option 2. Allocate to skippers and/or crew

Suboption 1. Initial allocation of 5% shall be reserved for captains and/or crew

Suboption 2. Initial allocation of 10% shall be reserved for captains and/or crew

Suboption 3. Initial allocation of 15% shall be reserved for captains and/or crew

Option 3. Establish license program for certified skippers. For initial allocation Certified Skippers are either:

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

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

Suboption 1. include crew in the license program.

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

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

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

2.9 Communities

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

2.9.1 Regionalization

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

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

- Processing licenses that are regionally designated cannot be reassigned to another region.
- Catcher vessel harvest shares are regionalized based on where the catch was processed, not where it was caught.
- Catcher processor shares and incentive fisheries are not subject to regionalization.
- Qualifying years to determine the distribution of shares between regions will be consistent with the preferred alternative under "Section 2.2 Qualifying Periods".

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

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

2.9.2 Community Fisheries Quota (CFQ)

2.9.2.1 Administrative Entity

- Option 1. Gulf wide administrative entity
- Option 2. Regional administrative entities (Western Gulf, Central Gulf, Eastern Gulf)
- Option 3. Multi-community administrative entities
- Option 4. The administrative entity representing a community or communities must be a non-profit entity qualified by NMFS.

2.9.2.2 Eligible Communities

- Option 1. Population (based on 2000 Census):
 - a. Less than 1,500
 - b. Less than 2,500
 - c. Less than 5,000
 - d. Less than 7,500
- Option 2. Geography
 - a. Coastal Communities without road connections to larger community highway network
 - b. Coastal communities adjacent to salt water
 - c. Communities within 10 nautical miles of the Gulf Coast
 - d. Communities on the south side of the Alaska Peninsula that are adjacent to Central and Western GOA management areas (including Yakutat) within 5 nautical miles from the water, but not to include Bering Sea communities included under the Western Alaska CDQ program.
- Option 3. Historic Participation in Groundfish Fisheries
 - a. Communities with residents having commercial permit and fishing activity as documented by CFEC in the last ten years (1993 - 2002)
 - b. Communities determined by the State of Alaska to have met the customary and traditional use threshold for halibut
- Option 4. Government Structure

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

2.9.2.3 Species

- Option 1. All rationalized groundfish species
- Option 2. Limited to species that can be caught without (hard on) bottom trawling

2.9.2.4 Allocation

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

2.9.2.5 Harvesting of Shares

- Option 1. Limited to residents of eligible communities that own their vessels
- Option 2. Limited to residents of eligible communities
- Option 3. No limitations on who harvests shares
- Option 4. No offshore leases to CPs.

2.9.2.6 Use of Revenue

- Option 1. Community development projects that tie directly to fisheries or fishery related projects and education.
- Option 2. Community development projects that tie directly to fisheries and fisheries related projects, education and government functions.
- Option 3. Education, social and capital projects within eligible communities as well as governmental functions.

2.9.2.7 Qualification of Administrative Entity

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

2.9.2.8 Administrative Oversight

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

2.9.3 Community Purchase Program

2.9.3.1 Administrative Entity

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

2.9.3.2 Eligible communities

Option 1. Population (based on 2000 Census):

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

Option 2. Geography

- a. Coastal Communities without road connections to larger community highway network
- b. Coastal communities adjacent to salt water
- c. Communities within 10 nautical miles of the Gulf Coast

- d. Communities on the south side of the Alaska Peninsula that are adjacent to Central and Western GOA management areas (including Yakutat) within 5 nautical miles from the water, but not to include Bering Sea communities included under the Western Alaska CDQ program.

Option 3. Historic Participation in Groundfish Fisheries

- a. Communities with residents having commercial permit and fishing activity as documented by CFEC in the last ten years (1993 - 2002)
- b. Communities determined by the State of Alaska to have met the customary and traditional use threshold for halibut

Option 4. Government Structure

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

2.9.3.3 Qualification of Administrative Entity

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

2.9.3.4 Administrative Oversight

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

2.9.4 Community Incentive Fisheries Trust (CIFT)

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

2.9.4.1 Harvest Share Distribution

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

2.9.4.2 CIFT Designation

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

Defer remaining issues to a trailing amendment

2.10 PSC for Crab and Salmon

The Council requests that staff prepare a discussion paper showing historical data for the bycatch of salmon and crab by species, area, and year for areas subject to the GOA rationalization program. The Council intends to review these data and develop bycatch measures for salmon and crab which will be implemented as part of this rationalization program. The Council intends to develop options for analysis that could be incorporated no later than the October 2003 meeting.

2.11 Review and Evaluation

2.11.1 Data collection.

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

2.11.2 Review and Sunset

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

Suboption 1. 5 years after fishing under the program

Suboption 2. 7 years after fishing under the program

Suboption 3. 10 year schedule after fishing under the program

Suboption 4. No sunset provision.

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

2.12 Sideboards

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

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

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

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

The Council noted its intent to further develop sideboard measures for analysis.

3 Processing Sector Provisions

3.1 Provisions for a Closed Class of Processors

3.1.1 Harvester Delivery requirements

3.1.1.1 Closed class delivery requirements

3.1.1.1 Option 1. 50-100% of CV harvest share allocation will be reserved for delivery to:

i. the linked qualified closed trawl or fixed class processor.

ii. any qualified closed trawl or fixed or large or small class processor

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

i. any processor excluding CPs

ii. any processor including CPs

Option 2. Low producing vessels are exempt from closed class delivery requirements

3.1.1.2 Linkage:

- Option 1. A harvester's processor linked shares are associated with the qualified fixed or trawl closed class large or small processor to which the harvester delivered the most pounds of groundfish during
- Option 2. the last ___ years of the harvester allocation base period.
 - i. 1
 - ii. 2
 - iii. 3

If the processor with whom the harvester is associated with is no longer operating, the harvester is eligible to deliver to any qualified processor.

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

3.1.1.3 Penalties for moving between linked processors

- Option 1. No share reduction for moving between processor year to year
- Option 2. Share reductions of 10-20% each time a harvester moves to a different linked processor for:
 - i. 1 year
 - ii. 2 years
 - iii. 4 years

The share reduction shall be redistributed to:

 - i. The shareholders in association with that processor that the shareholder left (if it continues to exist).
 - ii. To all cooperatives in the sector on a pro rata basis. (applies if mandatory cooperatives)
- Option 3. Penalty to move depends on the amount of open access B share fish. Vessel leaves A share for one year.
 - Suboption: Penalty applies to both A and B shares.

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

- Option 4. One year penalty in open access.
- Option 5. No penalty. Movement allowed only upon agreement between Coop members and affiliated processor.

3.1.1.4 Low producing vessel provisions

- i. Low producing vessels are defined as:
 - Option 1. H&L or pot CVs receiving less than average QS initially allocated by gear, species and area
 - Option 2. H&L or pot CVs receiving less than the 75th percentile QS initially allocated by gear, species and area
- ii. Provisions for low producing vessels
 - Option 1. Low producing vessels are exempt from closed class delivery provisions
 - Option 2. Subject to block program.

3.1.2. Closed Class Processor Qualifications

3.1.2.1 To purchase groundfish required to be delivered to a qualified processor must have purchased and processed a minimum amount of groundfish as described below in at least 4 of the following years:

Option 1. 1995-99.

Option 2. 1995-01

Option 3. 1995-02

Option 1. a. Trawl eligible Processors

Suboption 1. 2000 mt

Suboption 2. 1000 mt

Suboption 3. 500 mt

b. Fixed gear eligible Processors

Suboption 1. 500 mt

Suboption 2. 200 mt

Suboption 3. 50 mt

c. Trawl and Fixed gear eligible processors

Meet criteria for both the closed class trawl process catch and closed class fixed gear process catch as described above

Option 2. a. Large closed class processor

Suboption 1. 2000 MT

Suboption 2. 1000 MT

Suboption 3. 500 MT

b. Small closed class processor

Suboption 1. 500 MT

Suboption 2. 200 MT

Suboption 3. 50 MT

c. Open class processor – no groundfish landing qualifications – can purchase any amount of open class B share QS.

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

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

Option 2. Facility owner

Suboption. Custom processing history would be credited to:

i. the processor that physically processes the fish

ii. the processor that purchases the fish and pays for processing

3.1.2.3 Transferability of eligible processor licenses

Processor licenses can be sold, leased, or transferred.

Option 1. Within the same community

Option 2. Within the same region

3.1.2.4 Processing Use caps by closed class processor type (trawl, fixed or trawl and fixed (low or large), by CGOA and WGOA regulatory areas:

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

Option 2. Processing use caps for small closed class processors

i. 1000 to 2000 MT

ii. 2000 to 3000 MT

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

3.1.2.5 Processing Caps may apply at:

- Option 1. the facility level
- Option 2. the entity level

3.1.2.6 Closed class license ownership restrictions on processors

- Option 1. No restrictions
- Option 2. Trawl/fixed license holders cannot hold any additional fixed gear only licenses.
- Option 3. Large closed class processors cannot hold small closed class processors licenses.

4 Cooperative Provisions

4.1 Cooperative type (voluntary or mandatory)

- Option 1. Cooperative membership will be voluntary (i.e., harvest shares (IFQ) will be allocated to non-members)
- Option 2. Cooperative membership will be mandatory (i.e., harvest shares will be allocated only to cooperatives)

4.2 Cooperative formation

4.2.1 Co-ops can be formed between holders of harvest shares or history of:

- i. any type
- ii. the same area, gear, vessel type (CV or C/P), and/or vessel length class.
- iii. the following classes of shares/history
 - CV trawl
 - CV longline
 - CV pot
 - C/P trawl
 - C/P longline
 - C/P pot
- iv. All CV in the same area (WGOA and CGOA & WY combined)
 - CV trawl
 - CV fixed gear
 - CV longline
 - CV pot

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

4.2.1.1 Coop/processor affiliations

- Option 1. No association required between processors and coops
- Option 2. CV cooperatives must be associated with
 - a) a processing facility
 - b) a processing company

The associated processor must be:

- a) a licensed processor
- b) a qualified processor (if closed processor class is selected)
- c) a closed class processor to which the share holder's shares are linked
- d) any processing share holder (if processor shares are selected) (*note: should be deleted*)

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

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

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

4.2.2 Cooperatives are required to have at least:

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

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

4.2.3 Duration of cooperative agreements:

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

4.2.4 Allocation Prerequisites

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

Required Co-op agreement elements:

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

4.3 Rules Governing Cooperatives

4.3.1 Annual Allocations

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

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

4.4 Ownership and Use Caps and Underages

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

4.4.2 Coop use caps for harvest shares on any given vessel shall be:

Option 1. Set at the same level as the individual vessel level.

Option 2. 3 times individual vessel use cap.

Option 3. No use caps

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

4.5 Movement between cooperatives

4.5.1 Harvesters may move between cooperatives at:

Option 1. the end of each year.

Option 2. the expiration of the cooperative agreement.

Option 3. No movement in the first two years

4.5.2 License Transfers Among Processors (applies only if closed class of processors)

Option 1. any cooperative association with that license will transfer to the processor receiving the license. All harvest share/history holders will be subject to any share reduction on departing the cooperative, as would have been made in the absence of the transfer.

Option 2. any cooperatives associated with the license will be free to associate with any qualified processor. Harvest share/history holders in the cooperative will be free to move among cooperatives without share/history reduction.

4.6 Non-Members of Cooperatives (applies only if mandatory cooperatives)

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

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

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

TRAILING AMENDMENTS

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

1.Fee and Loan Program

2.Skipper/Crew Share Program issues

3.Remaining issues of CIFT program

**ATTACHMENT A2
TO ALTERNATIVE DESCRIPTIONS AND DISCUSSION PAPER
OCTOBER 2003**

ALTERNATIVE 2

**NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
GULF OF ALASKA GROUND FISH RATIONALIZATION
ELEMENTS AND OPTIONS
June 16, 2003
(ANNOTATED BY STAFF)**

Annotations describing the application of elements and options to the alternatives are bolded and italicized.

Staff proposed revisions are shown in bold and strikeout

Shading denotes differences between alternatives

1 Status Quo (No Action Alternative)

2 Harvest Sector Provisions

2.1 Management Areas:

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

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

- Shortraker and rougheye (SR/RE) and thornyhead rockfishes will be divided between Southeast Outside (SEO) and WY
- The allocation of rockfish bycatch to the halibut IFQ fishery will be on a NMFS management area basis
- Non-SR/RE and thornyhead rockfish trawl catch history in SEO during 95-98 will be used in the calculation of WYAK allocation *Topic 16*
- SEO is exempt except for SR/RE and thornyhead rockfishes as ~~bycatch~~ **secondary** species. Allocation will be based on ~~target catch in landings of~~ **sablefish, halibut, Demersal Shelf Rockfish and P. cod fishery *Topic 29***

Gear: Applies to all gear except jig gear—

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

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

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

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

(All of 2.1 applies to alternative 2)

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

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

(All of 2.2 applies to alternative 2)

2.2.1 Qualifying landing criteria

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

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

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

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

(All of 2.2.1 applies to alternative 2)

2.2.2 Eligibility

LLP participation

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

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

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

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

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

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

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

(All of 2.2.2 applies to alternative 2)

The Council requests NMFS RAM review LLP transfers and report on the frequency with which the transfers also include provisions governing catch history.

2.2.3 State Waters - Parallel Fisheries and State Groundfish Management

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

Retention of the status quo is not possible in a rationalized fishery.

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

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

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

Area or species restrictions:

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

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

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

Fixed allocation for:

Suboption 1. P. cod

Suboption 2. Pollock

Suboption 3. All other GOA groundfish species

Options 2 and 3 apply to alternative 2

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

2.3 Target Primary Species Rationalization Plan

Target Primary Species by Gear

Topic 29

2.3.1 Initial Allocation of catch history

Option 1. Allocate catch history by sector and gear type

Option 2. Allocate catch history on an individual basis

a. Trawl CV and CP:

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

b. Longline CV and CP:

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

c. Pot CV and CP:

Pacific Cod

(Option 2 applies to alternative 2)

Topic 1

2.3.2 Harvest share (or QS/IFQ) Designations

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

Low producing vessels are:

- ~~Option 1. Less than average harvest shares initially allocated by gear, species and area~~
~~Option 2. Less than the 75th percentile harvest shares initially allocated by gear, species and area~~
~~High producing vessels are the remainder.~~

(2.3.2.1 applies only to alternative 2)

2.3.2.2 Harvest share sector designations:

~~Option 1. No designation of harvest shares (or QS/IFQ) as CV or CP~~

~~Option 2. Designate harvest shares (or QS/IFQ) as CV or CP. Annual CV harvest share allocation (or IFQ) conveys a privilege to harvest a specified amount. Annual CP harvest share allocation (or IFQ) conveys the privilege to harvest and process a specified amount. Designation will be based on:~~

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

(Option 2 applies to alternative 2)

Topic 2

2.3.2.3 Harvest share gear designations

~~Option 1. No gear designation~~

~~Option 2. Designate harvest shares as Longline, Pot, or Trawl~~

~~Option 3. Longline and pot gear harvest shares (or IFQ) may not be harvested using trawl gear.~~

~~Option 4. Pot gear harvest shares (or IFQ) may not be harvested using longline gear~~

~~*(This alternative is unclear concerning gear designations and use of shares of one gear type by another gear.)*~~

~~*The Council should consider adding an explicit provision that establishes a fixed gear share designation, if that is intended)*~~

Topic 3

- 2.3.2.4 Trawl and high producing fixed gear CV harvest shares will be issued in two classes. Class A shares will be deliverable to a qualified processor or processor shareholder (as applicable). Class B shares will be deliverable to any processor as authorized under this program. Option. Only the annual allocations will be subject to the Class A/Class B distinction. All long term shares or history will be of a single class.

*This provision would apply to only trawl catcher vessel and "high producing" fixed gear vessels
With the revision this applies to alternative 2*

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

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

- Option 1. US citizens who have had at least 150 days of sea time
- Option 2. Entities that have a U. S. citizen with 20% or more ownership and at least 150 days of sea time
- Option 3. Entities that have a US citizenship with 20% or more ownership
- Option 4. Initial recipients of CV or C/P harvest share
- Option 5. US Citizens eligible to document a vessel.
- Option 6. Communities would be eligible to receive harvest shares by transfer (this provision would be applicable if certain provisions of 2.9 are adopted.)

Definition of sea time

Sea time in any of the U.S. commercial fisheries in a harvesting capacity. *(moved from 2.3.3.5)*

(All of 2.3.3.1 applies to alternative 2 – Council should consider reducing the options and possibly revising Option 5 to provide for "any person eligible to document a vessel")

Topic 5

2.3.3.2 Restrictions on transferability of CP harvest shares

- Option 1. CP harvest shares maintain their designation upon transfer.
- Option 2. CP harvest shares maintain their designation when transferred to persons who continue to catch and process CP harvest shares at sea, if CP harvest shares are processed onshore after transfer, CP harvest shares converts to CV harvest shares.
- Option 3. CP harvest shares maintain their designation after transfer for 5 years following implementation, after which time any transfer of CP shares convert to CV shares.

(All of 2.3.3.2 applies to alternative 2 – the Council should consider selecting a preferred option)

2.3.3.3 Redesignate CP shares as CV shares upon transfer to a person who is not an initial issuee of CP shares:

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

*(All of 2.3.3.3 applies to alternative 2 – the Council should consider selecting a preferred option
If the Council selects an option that results in the redesignation of C/P shares as CV shares, the Council will need to provide for the designation of the resulting CV shares (i.e., any regionalization, processor linkages, etc.)*

Topic 6

2.3.3.4 Vertical integration

Harvest shares initial recipients with more than 10% limited threshold ownership by any processor are capped at:

- Option 1. initial allocation of harvest CV and CP shares.
- Option 2. 115-150% of initial allocation of harvest CV shares.
- Option 3. 115-150% of initial allocation of harvest CP shares.

(All of 2.3.3.4 applies to alternative 2)

~~2.3.3.5 Definition of sea time~~

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

~~*(Moved to 2.3.3.2)*~~

~~2.3.3.6 Leasing of QS (“leasing of QS” is defined as the transfer of annual IFQ permit to a person who is not the holder of the underlying QS for use on any vessel and use of IFQ by an individual designated by the QS holder on a vessel which the QS holder owns less than 20% – same as “hired skipper” requirement in halibut/sablefish program).~~

- ~~Option 1. No leasing of CV QS (QS holder must be on board or own at least 20% of the vessel upon which a designated skipper fishes the IFQ).~~
- ~~Option 2. No leasing of CP QS (QS holder must be on board or own at least 20% of the vessel upon which a designated skipper fishes the IFQ).~~
- ~~Option 3. Allow leasing of CV QS, but only to individuals eligible to receive QS/IFQ by transfer.~~
- ~~Option 4. Allow leasing of CP QS, but only to individuals eligible to receive QS/IFQ by transfer.~~
- ~~Option 5. Sunset [CP – CV] QS leasing provisions [3 – 5 – 10] years after program implementation.~~

~~*The provisions of 2.3.3.6 could apply to “low producing” fixed gear vessels and halibut and sablefish IFQ holders that receive allocations – the Council should clarify the application of these provisions and consider selecting preferred options*~~

~~**Topic 21**~~

2.3.3.7 Separate and distinct harvest share use caps

Individual caps apply to all harvesting categories by species with the following provisions:

1. Apply individually and collectively to all harvest share holders in each sector and fishery.
2. Percentage-caps by species are as follows (a different percentage cap may be chosen for each fishery):
 - i. Trawl CV and/or CP (can be different caps):
 Use cap based at the following percentile of catch history for the following species:
 (i.e., 75th percentile represents the amount of harvest shares that is greater than the amount of harvest shares for which 75% of the fleet will qualify.)
 pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, pelagic shelf rockfish
 Suboption 1. 75 %
 Suboption 2. 85%
 Suboption 3. 95 %
 - ii. Longline and Pot CV and/or CP and high producing and low producing fixed gear CV (can be different caps)
 based on the following percentiles of catch history for the following species:
 Pacific cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if Greenland turbot is targeted), northern rockfish
 Suboption 1. 75 %
 Suboption 2. 85%
 Suboption 3. 95 %
3. Conversion of CP shares:
 - i. CP shares converted to CV shares
 Option 1. will count toward CV caps
 Option 2. will not count toward CV caps at the time of conversion.
 - ii. Caps will be applied to prohibit acquisition of shares in excess of the cap. Conversion of CP shares to CV shares alone will not require a CP shareholder to divest CP shares for exceeding the CP share cap.

Vessel use caps on harvest shares harvested on any given vessel shall be set at two times the individual use cap for each species. Initial issues that exceed the individual or vessel use caps are grandfathered at their current level as of a control date of April 3, 2003; including transfers by contract entered into as of that date.

All of 2.3.3.7 would apply to alternative 2

If trading among gear types is permitted, the Council should consider whether a provision similar to 3 is required to apply caps.

Proposed changes are to clarify the provision

Topic 17

2.3.3.8 Owner On Board Provisions

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

- i. ~~All initial issues (individuals and corporations) would be grandfathered as not being required to be aboard the vessel to fish shares initially issued as "owner on board" shares. This exemption applies only to those initially issued harvest share units.~~
 - Suboption 1. No owner on board restrictions.
 - Suboption 2. A portion (range of 5-100%) of the quota shares initially issued to fishers/ harvesters would be designated as "owner on board."
 - Suboption 13. All initial issues (individual and corporate) would be grandfathered as not being required to be aboard the vessel to fish shares initially issued as "owner on board" shares. This exemption applies only to those initially issued harvest share units.

option: Limit exemption to a period of 5 years after implementation.

~~Suboption 4. Shares transferred to initial issuees in the first 5 years of the program would be considered the same as shares initially issued (range of 5-100% of the quota shares). See above NOTE~~

~~Suboption 5. "Owner on board" shares transferred by initial issuees, after the grace period, would require the recipient to be aboard the vessel to harvest the IFQ.~~

Suboption 26. In cases of hardship (injury, medical incapacity, loss of vessel, etc.) a holder of "owner on board" quota shares may, upon documentation and approval, transfer/lease his or her shares a maximum period of (Range 1-3 years).

ii. Vessel categories for owner on board requirements

Option 1. No Categories

Option 2. Vessel Categories as follows

Vessels < 60'

Vessels >= 60' and < 125'

Vessels >= 125'

Staff suggested revision to i. above.

Note - This is the only provision that would create vessel length classes - the Council should clarify how these vessel classes intended to be applied - see discussion paper

(all of 2.3.3.8 could be applied to alternative 2)

Topic 20

2.3.3.9 Overage Provisions

i. Trawl CV and CP:

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

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

ii. Longline and pot CV and CP:

Overages up to 10% of the last trip will be allowed with rollover provisions for underages— greater than a 10% overage results in forfeiture and civil penalties. An overage of less than 10% results in the reduction of the subsequent year's annual allocation or IFQ. This provision is similar to that currently in place for the Halibut and Sablefish IFQ Program (CFR 679.40(d)).

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

(all of 2.3.3.9 could be applied to alternative 2)

2.3.3.10 Retention requirements for rockfish, sablefish and Atka mackerel:

Option 1. no retention requirements.

Option 2. require retention (all species) until the annual allocation (or IFQ) for that species is taken with discards allowed for overages

Option 3. require 100% retention (all species) until the annual allocation (or IFQ) for that species is taken and then stop fishing.
(all of 2.3.3.10 could be applied to alternative 2)

2.3.3.11 Limited processing for CVs

Option 1. No limited processing

Option 2. Limited processing of rockfish species by owners of CV harvest shares is allowed up to 1 mt of round weight equivalent of rockfish per day on a vessel less than or equal to 60ft LOA.

(all of 2.3.3.11 could be applied to alternative 2)

2.3.3.12 Processing Restrictions

Option 1. CPs may buy CV fish

Suboption. 3 year sunset

Option 2. CPs would be prohibited from buying CV fish

Option 3. CPs are not permitted to buy fully utilized species (cod, pollock, rockfish, sablefish, and allocated portion of flatfish) from CVs.

Suboption. Exempt bycatch amounts of these species delivered with flatfish.

The Council should clarify how these provisions would apply to catcher/processors that are qualified closed class processors – whether the provisions apply to both A and B shares and whether the provisions apply to “low producing” fixed gear vessels

In addition, the Council should consider defining a “catcher/processor”.

(all of 2.3.3.12 could be applied to alternative 2)

Topic 22

2.4 Allocation of Bycatch Secondary Species

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

i. Allocation of shares

Option 1. Allocate shares to all fishermen (including sablefish & halibut QS fishermen) based on fleet ~~bycatch~~ **secondary species catch** rates by gear:

Suboption 1. based on average catch history by area and target fishery

Suboption 2. based on 75th percentile by area by target fishery

Option 2. Allocation of shares will be adjusted pro rata to allocate 100% of the annual TAC for each ~~bycatch~~ **secondary species**.

Suboption 1. Other slope rockfish in the Western Gulf will not be allocated, but will be managed by MRB and will go to PSC status when the TAC is reached.

Suboption 2. Pro-rata ~~bycatch~~ **reduction of secondary species** allowances in open access fisheries reduced from ~~historical bycatch rates at allocation of~~ **participants by:**

i. 5%

ii. 10%

iii. 15%

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

(the purpose of Option 3 should be clarified – Option 1 includes halibut and sablefish IFQ holders in the allocation – is Option 3 intended to provide IFQ holders with some additional allocation – if not it can be deleted

Topic 25

- ii. Include these species for one gear type only (e.g., trawl). Deduct the ~~bycatch~~ **secondary species catch** from gear types from TAC. If deduction is not adequate to cover ~~bycatch~~ **incidental catch** in other gear types, on a seasonal basis, place that species on PSC status until overfishing is reached.
- iii. Retain these species on bycatch status for all gear types with current MRAs.
- iv. Allow trawl sablefish catch history to be issued as a new category of sablefish harvest shares ("T" shares) by area. "T" shares would be fully leasable, exempt from vessel size and block restrictions, and retain sector designation upon sale.
Suboption. These shares may be used with either fixed gear or trawl gear.
- v. Permit transfer of ~~bycatch~~ **QS secondary species shares**
 - Option 1. Groundfish **primary** harvest shares and ~~bycatch~~ **secondary** shares are non-separable and must be transferred as a unit.
 - Option 2. Groundfish **primary** harvest shares and ~~bycatch~~ **secondary** shares are separable and may be transferred separately

(All options can be applied to alternative 2)

2.5 PSC Species

2.5.1 Accounting of Halibut Bycatch

Pot vessels continue their exemption from halibut PSC caps.

Hook and line and trawl entities

~~Option 1. Same as that under IFQ sablefish and halibut programs~~

~~Option 2. Cooperatives would be responsible for ensuring the collective halibut bycatch cap was not exceeded~~

~~Option 3. Individual share or catch history owners would be responsible to ensure that their halibut bycatch allotment was not exceeded~~

(These options are very unclear.

Option 1 appears to propose continuing the current management of PSC. If that is intended, it should be stated directly – "halibut shall continue to be managed under the current rules governing halibut PSC."

Options 2 and 3 are redundant with provisions elsewhere in this document and should be deleted.

If what is intended by 2 and 3 is that shares be allocated for halibut PSC, that should be stated explicitly – "halibut PSC will be managed through harvest share allocations".

To the extent that the options differ across gear types, the Council should consider separating the options by gear type. In addition, the Council could consider separating sablefish IFQ options, if any are intended.

Topic 18

2.5.2 Halibut PSC Allocation

Each recipient of fishing history would receive an allocation of halibut mortality (harvest shares) based on their allocation of the directed fishery harvest shares. ~~Bycatch-only~~ **Secondary** species would receive no halibut allocation.

Initial allocation based on average halibut bycatch by directed ~~target~~ **primary** species during the qualifying years. Allocations will be adjusted pro rata to equal the existing PSC cap.

By sector average bycatch rates by area by gear:

Option 1. Both sectors

Option 2. Catcher Processor/Catcher Vessel

(2.5.2 applies to alternative 2 if halibut PSC is to be managed by share allocations)

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

Halibut PSC harvest shares are separable from ~~target~~ **secondary** groundfish harvest shares and may be transferred independently within sectors. When transferred separately, the amount of Halibut PSC allocation would be reduced, for that year, by:

Option 1. 0%

- Option 2. 5%
- Option 3. 7%
- Option 4. 10%
- Option 5. Exclude any halibut PSC transferred for participation in the incentive fisheries

(2.5.3 applies to alternative 2 if halibut PSC is to be managed by share allocations)

The Council should clarify whether primary/PSC allocations can be separated within a cooperative and whether the separation of shares is penalized – typically cooperative use is aggregated across all vessels that harvest shares on behalf of the cooperative (suggesting no penalty would apply)

The Council should also clarify whether Option 5 is intended to apply to transfers of PSC shares inside or outside of a cooperative)

Topic 26

2.5.4 Permanent transfer of Halibut PSC harvest share mortality

- Option 1. Groundfish harvest shares and Halibut PSC harvest shares are non-separable and must be transferred as a unit
Suboption. exempt Pacific cod
- Option 2. Groundfish harvest shares and Halibut PSC harvest shares are separable and may be transferred separately

(2.5.4 applies to alternative 2 if halibut PSC is to be managed by share allocations)

The suboption exempting cod is assumed to exempt only transfers of PSC between cod share holders)

2.5.5 Retention of halibut bycatch by longline vessels

Halibut bycatch may be retained outside the halibut season from Jan 30 to start of commercial fishery, and from end of commercial fishery through December 15.

- Option 1. retention is limited to (range 10-20%) of target primary species clarify whether target

or primary is intended here

~~Option 2. permit holder must have sufficient harvest shares (or IFQ) to cover landing~~

(Option 2 should be clarified – Does the Council intend: “Any person retaining halibut must have adequate halibut IFQ. Halibut may not be retained with halibut PSC shares.” This likely should not be an option but a requirement.)

(2.5.5 could be applied to alternative 2)

Topic 18

2.6 Incentive species

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

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

Option. The portion of historic unharvested West Yakutat TAC will be made available as an incentive fishery, subject to provision of incentive fisheries

2.6.1 Eligibility to fish in the incentive fisheries

Option A. The unallocated QS portion of the TAC of for the incentive fisheries species are available for harvest, providing the vessel share holder has adequate PSC and bycatch secondary species and the vessel share holder is a member of a GOA fishing cooperative or holds low producing fixed gear catcher vessel shares.

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

~~B. Any quota holder qualified to be in a coop.~~

C.

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

(2.6.1 is applicable to alternative 2

The application of A and B is unclear – are they options? – B is unclear and might be better revised, if it is necessary at all. Provision A could be revised to accommodate “low producing” fixed gear catcher vessel share holders under this alternative.)

In addition, the Council should consider whether

- 1) *open access participants or*
- 2) *halibut and sablefish IFQ holders*

should be permitted to participate in incentive fisheries.

Topic 23

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

- Option 1. The individual coop member's apportionment of the allocated incentive species QS must be used prior to the individual gaining access to the incentive fishery unallocated portion. The coop will notify NMFS when a vessel enters the incentive fishery quota pool.
- Option 2. The coop's allocation of incentive species QS must be fished before gaining access to the unallocated portion of the incentive species quotas. The coop members through a contractual coop agreement will address catch accounting amongst the coop members.
- Option 3. ~~For low producing fixed gear catcher vessel share holders and halibut and sablefish IFQ holders not participating in a sector co-op, the unallocated incentive species are available for harvest once the non-coop sector's allocation of the incentive species has been used or individual IFQ holder's allocation of the incentive species has been used.~~
- Option 4. For open access participants, the harvest of incentive species quota allocated to open access participants must be fished prior to gaining access to the unallocated portion of the incentive species quota.

(2.6.2 applies to alternative 2

Option 3 appears directed in part at low producing fixed gear participants – the suggested revision addresses those participants

Option 3 could also accommodate halibut and sablefish IFQ participants that receive bycatch share allocations

No option provides for access to open access participants – the added option 4 could be used to accommodate open access participants)

Topic 24

2.7 Preserving entry level opportunities for P. cod

2.7.1 Each initial allocation of P. cod harvest shares ~~for H&L and per lowest producer to fixed gear catcher vessels below the block threshold size would remain “tied” to be a block of quota and could only be permanently sold or transferred as a block.~~

Option 1. allocations of 10,000 pounds or less constitute one block

Option 2. allocations of 20,000 pounds or less constitute one block

(proposed revisions are intended to clarify the intention of the provision

Staff assumes that an “initial allocation” is the allocation to a single person (individual or legal entity).

2.7.1 can apply to alternative 2

~~The Council should also clarify whether this applies only to "low producing" fixed gear catcher vessel allocations or whether a separate option is intended that would block all "low producing" fixed gear catcher vessel allocations - see 3.1.1.4.)~~

Topic 27

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

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

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

2.7.2 can apply to alternative 2

(Council should clarify whether holders of unblocked shares may also hold blocks

No option exists for the allocation of cod to halibut and sablefish IFQ participants - unless an option for allocations is made, the suboption should be deleted)

Topic 27

2.8 Skipper/Crew

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

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

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

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

(2.8 can be applied to alternative 2

Council should clarify whether this skipper program would apply to the allocation of bycatch to skippers of halibut and sablefish vessels)

2.9 Communities

(any options in 2.9 can be applied to alternative 2)

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

2.9.1 Regionalization

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

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

- Processing licenses that are regionally designated cannot be reassigned to another region.
- Catcher vessel harvest shares are regionalized based on where the catch was processed, not where it was caught.
- Catcher processor shares and incentive fisheries are not subject to regionalization.
- Qualifying years to determine the distribution of shares between regions will be consistent with the preferred alternative under "Section 2.2 Qualifying Periods".

(the system of processor linkages could complicate the designation of harvest shares,

- 1) unless linkages are regionalized – i.e., one linkage per region in which a harvester has shares or*
- 2) all harvest shares are designated for the region in which the harvester's linked processor is located)*

Under alternative 2 linkages could be applied to only trawl catcher vessel shares

Topic 8

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

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

2.9.2 Community Fisheries Quota (CFQ)

2.9.2.1 Administrative Entity

- Option 1. Gulf wide administrative entity
- Option 2. Regional administrative entities (Western Gulf, Central Gulf, Eastern Gulf)
- Option 3. Multi-community administrative entities
- Option 4. The administrative entity representing a community or communities must be a non-profit entity qualified by NMFS.

2.9.2.2 Eligible Communities

Option 1. Population (based on 2000 Census):

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

Option 2. Geography

- a. Coastal Communities without road connections to larger community highway network
- b. Coastal communities adjacent to salt water

- c. Communities within 10 nautical miles of the Gulf Coast
 - d. Communities on the south side of the Alaska Peninsula that are adjacent to Central and Western GOA management areas (including Yakutat) within 5 nautical miles from the water, but not to include Bering Sea communities included under the Western Alaska CDQ program.
- Option 3. Historic Participation in Groundfish Fisheries
- a. Communities with residents having commercial permit and fishing activity as documented by CFEC in the last ten years (1993 - 2002)
 - b. Communities determined by the State of Alaska to have met the customary and traditional use threshold for halibut
- Option 4. Government Structure
- a. Communities recognized by the State of Alaska as a first class, second class, or home rule municipality
 - b. All other eligible communities
- 2.9.2.3 Species
- Option 1. All rationalized groundfish species
 - Option 2. Limited to species that can be caught without (hard on) bottom trawling
- 2.9.2.4 Allocation
- Option 1. 5% of annual TAC
 - Option 2. 10% of annual TAC
 - Option 3. 15% of annual TAC
- 2.9.2.5 Harvesting of Shares
- Option 1. Limited to residents of eligible communities that own their vessels
 - Option 2. Limited to residents of eligible communities
 - Option 3. No limitations on who harvests shares
 - Option 4. No offshore leases to CPs.
- 2.9.2.6 Use of Revenue
- Option 1. Community development projects that tie directly to fisheries or fishery related projects and education.
 - Option 2. Community development projects that tie directly to fisheries and fisheries related projects, education and government functions.
 - Option 3. Education, social and capital projects within eligible communities as well as governmental functions.
- 2.9.2.7 Qualification of Administrative Entity
- The administrative entity must submit a detailed statement of eligibility to NMFS and the State prior to being qualified. The State may comment on the statement of eligibility but does not have a formal role. The required elements of the eligibility statement will be in regulation.
- 2.9.2.8 Administrative Oversight
- A report submitted to NMFS detailing the use of QS by the administrative entity. The required elements and timing of the report will be outlined in regulation.
- 2.9.3 Community Purchase Program
- 2.9.3.1 Administrative Entity
- Option. The administrative entity representing a community or communities must be a non-profit entity qualified by NMFS.

2.9.3.2 Eligible communities

Option 1. Population (based on 2000 Census):

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

Option 2. Geography

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

Option 3. Historic Participation in Groundfish Fisheries

- a. Communities with residents having commercial permit and fishing activity as documented by CFEC in the last ten years (1993 - 2002)
- b. Communities determined by the State of Alaska to have met the customary and traditional use threshold for halibut

Option 4. Government Structure

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

2.9.3.3 Qualification of Administrative Entity

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

2.9.3.4 Administrative Oversight

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

2.9.4 Community Incentive Fisheries Trust (CIFT)

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

2.9.4.1 Harvest Share Distribution

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

2.9.4.2 CIFT Designation

Option 1. One CV CIFT for entire GOA (exclude SEO)

Option 2. Regional CV CIFTs:

Suboption 1. Central GOA (Kodiak, Chignik)

Suboption 2. Western GOA

Suboption 3. North Gulf Coast (Homer to Yakutat)

Option 3. CP-based CIFT

Defer remaining issues to a trailing amendment

2.10 PSC for Crab and Salmon

The Council requests that staff prepare a discussion paper showing historical data for the bycatch of salmon and crab by species, area, and year for areas subject to the GOA rationalization program. The Council intends to review these data and develop bycatch measures for salmon and crab which will be implemented as part of this rationalization program. The Council intends to develop options for analysis that could be incorporated no later than the October 2003 meeting.

(2.10 could be applied to alternative 2)

2.11 Review and Evaluation

2.11.1 Data collection.

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

2.11.2 Review and Sunset

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

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

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

(2.11 could be applied to alternative 2)

2.12 Sideboards

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

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

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

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

The Council noted its intent to further develop sideboard measures for analysis.

(2.13 could be applied to alternative 2)

The Council should clarify whether any difference is intended between the 2nd and 4th sentences and delete one if not. Deletion of the 2nd sentence is more appropriate as sideboards are typically aggregate. In addition, the Council should consider whether the sideboards for SEO groundfish are necessary, if the allocations of bycatch proposed by section 2.1 are made.

Topic 19

3 Processing Sector Provisions
3.1 Provisions for a Closed Class of Processors
3.1.1 Harvester Delivery requirements
3.1.1.1 Closed class delivery requirements

~~Option 1: For trawl catcher vessel shares, 50-100% of CV harvest share allocation will be reserved for delivery to:~~

- ~~i. the linked qualified closed trawl or fixed class processor (or)~~
 - ~~ii. any qualified closed trawl or fixed or large or small class processor~~
- ~~The remaining (50-0%) CV harvest share allocation can be delivered to:~~
- ~~i. any processor excluding CPs~~
 - ~~ii. any processor including CPs~~

~~Option 1: For high producing fixed gear catcher shares, 50-100% of CV harvest share allocation will be reserved for delivery to:~~

- ~~i. the linked qualified closed trawl or fixed class processor~~
 - ~~ii. any qualified closed trawl or fixed or large or small class processor~~
- ~~The remaining (50-0%) CV harvest share allocation can be delivered to:~~
- ~~i. any processor excluding CPs~~
 - ~~ii. any processor including CPs~~

~~Option 2: Low producing fixed gear catcher vessels are exempt from closed class delivery requirements~~

~~(With changes, 3.1.1.1 would apply to alternative 2)
Catcher/processor should be defined, if a restriction on deliveries to C/Ps is adopted~~

Topic 22

3.1.1.2 Linkage: For trawl catcher vessels

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

- ~~Option 2: the last~~ ~~years of the harvester allocation base period.~~
- ~~i. 1~~
 - ~~ii. 2~~
 - ~~iii. 3~~

~~If the processor with whom the harvester is associated with is no longer operating, the harvester is eligible to deliver to any qualified processor. (The Council should clarify whether a linkage would be established by a harvester delivering to a qualified processor)~~

~~(3.1.1.2 applies only to trawl catcher vessels -- only if linkages are included in alternative 2)~~

Topic 12

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

3.1.1.3 For trawl catcher vessels:
Penalties for moving between linked processors

Option 1: No share reduction for moving between processor year to year

- Option 2.** Share reductions of 10-20% each time a harvester moves to a different linked processor for:
- i. 1 year
 - ii. 2 years
 - iii. 4 years

The share reduction shall be redistributed to:

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

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

Suboption: Penalty applies to both A and B shares.

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

Option 4. One year penalty in open access.

Option 5. No penalty. Movement allowed only upon agreement between Coop members and affiliated processor.

(3.1.1.3 would apply only to trawl catcher vessels – only if linkages are included in alternative 2)

Topic 13

3.1.1.4 Low producing vessel provisions

i. Low producing vessels are defined as:

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

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

ii. Provisions for low producing vessels

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

Option 2. Subject to block program

(3.1.1.4 applies in alternative 2, including option 1)

The relationship of Option 2 to the block program should be clarified and might clearest if incorporated into 2.7.1, which defines the block program options)

3.1.2. Closed Class Processor Qualifications

3.1.2.1 To purchase groundfish required to be delivered to a qualified processor must have purchased and processed a minimum amount of groundfish as described below in at least 4 of the following years:

Option 1. 1995-99

Option 2. 1995-01

Option 3. 1995-02

Option 1. a. Trawl eligible Processors

Suboption 1. 2000 mt

Suboption 2. 1000 mt

- Suboption 3: 500 mt
- b. Fixed gear eligible Processors
 - Suboption 1: 500 mt
 - Suboption 2: 200 mt
 - Suboption 3: 50 mt
- c. Trawl and Fixed gear eligible processors
 - Meet criteria for both the closed class trawl process catch and closed class fixed gear process catch as described above

- Option 2. a. Large closed class processor
 - Suboption 1: 2000 MT
 - Suboption 2: 1000 MT
 - Suboption 3: 500 MT

- b. Small closed class processor
 - Suboption 1: 500 MT
 - Suboption 2: 200 MT
 - Suboption 3: 50 MT

- c. Open class processor — no groundfish landing qualifications — can purchase any amount of open class B share QS

3.1.2.1 would apply to alternative 2

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

- Option 1: Operator — must hold a federal or state processor permit.
- Option 2: Facility owner

Suboption: Custom processing history would be credited to:

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

The Council could decide whether licenses are facility or company based. In making this decision the Council should also consider whether licenses and linkages are regionalized (see 2.9.1 and 3.1.2.2)

Topic 10

3.1.2.3 Transferability of eligible processor licenses

Processor licenses can be sold, leased, or transferred.

- Option 1: Within the same community
- Option 2: Within the same region

3.1.2.3 would apply to alternative 2

Topic 9

3.1.2.4 Processing Use caps by closed class processor type (trawl, fixed or trawl and fixed (low or large), by CGOA and WGOA regulatory areas:

- Option 1: Range 70% to 130% of TAC processed for all groundfish species for the largest closed class processor
- Option 2: Processing use caps for small closed class processors
 - i. 1000 to 2000 MT
 - ii. 2000 to 3000 MT

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

3.1.2.4 would apply to alternative 2

3.1.2.5 Processing Caps may apply at:

- Option 1 the facility level
- Option 2 the entity level

3.1.2.5 would apply to alternative 2

Topic 7

3.1.2.6 Closed class license ownership restrictions on processors

- Option 1 No restrictions
- Option 2 Trawl/fixed license holders cannot hold any additional fixed gear only licenses.
- Option 3 Large closed class processors cannot hold small closed class processors licenses.

The Council could add an option that limits the number of licenses a processor may hold.

3.1.2.6 would apply to alternative 2

The Council might consider options to limit the number of licenses a processor can hold to provide for competition and entry.

Topic 15

4 Cooperative Provisions

4.1 Cooperative type (voluntary or mandatory)

- Option 1 For low producing fixed gear catcher vessel shares, cooperative membership will be voluntary (i.e., harvest shares (IFQ) will be allocated to non-members)
- Option 2 For catcher/processor, trawl catcher vessel and high producing fixed gear catcher vessel shares, cooperative membership will be mandatory (i.e., harvest shares will be allocated only to cooperatives)

4.2 Cooperative formation

4.2.1 Co-ops can be formed between holders of harvest shares or history of:

- i any type
- ii the same area, gear, vessel type (CV or C/P), and/or vessel length class.
- iii the following classes of shares/history
 - C/P
 - CV trawl
 - high producing fixed gear catcher vessels
 - low producing fixed gear catcher vessels
 - CV longline
 - CV pot
 - C/P trawl
 - C/P longline
 - C/P pot
- iv All CV in the same area (WGOA and CGOA & WY combined)
 - CV trawl
 - CV fixed gear
 - CV longline
 - CV pot

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

Rules defining cooperatives are unclear

Sectors that appear to be defined by the motion are:

- Catcher/processors
- Trawl catcher vessels
- High producing fixed gear catcher vessels

~~Low producing fixed gear catcher vessels~~
~~The area concept of IV could be applied to catcher vessels and/or catcher processors~~
~~Topic 4~~

~~4.2.1.1 Coop/processor affiliations~~

~~Option 1. No association required between processors and coops~~

~~Option 2. CV cooperatives must be associated with~~

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

~~(The Council could decide whether linkages are on a facility or company basis – this should be consistent with 3.1.2.2)~~

~~Also in making the decision, the Council should consider whether linkages are regionalized (see 2.9.1)~~

~~Topic 7~~

~~The Council must decide if processor associations are required for 1) high producing fixed gear catcher vessel cooperatives and 2) low producing fixed gear catcher vessel cooperatives~~

~~For trawl catcher vessel share cooperatives, the associated processor must be a closed class processor to which the share holder's shares are linked.~~

~~If processor association is required:~~

~~For high producing fixed gear catcher vessel cooperatives the associated processor must be:~~

- ~~a) a licensed processor~~
- ~~b) a qualified processor (if closed processor class is selected)~~
- ~~c) a closed class processor to which the share holder's shares are linked~~
- ~~d) any processing share holder (if processor shares are selected) (note: should be deleted)~~

~~For low producing fixed gear catcher vessel cooperatives the associated processor must be:~~

- ~~a) a licensed processor~~
- ~~b) a qualified processor (if closed processor class is selected)~~
- ~~c) a closed class processor to which the share holder's shares are linked~~
- ~~d) any processing share holder (if processor shares are selected) (note: should be deleted)~~

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

~~(Option 3 can be deleted since it is the same as 3.1.1.2)~~

~~Suboption 1. Processors can associate with more than one co-op~~

~~Suboption 2. Processors are limited to 1 co-op per plant for each sector.~~

~~Council could decide whether multiple cooperatives are permitted. This should be coordinated with the cooperative formation rules of 4.2.2.2~~

~~Suboption 3. Processor affiliated vessels may join coops. (moved from header)~~

~~(For each sector, the Council needs to define the cooperative association under 4.2.1.1)~~

Processor affiliated vessels would be excluded from allocations if not permitted to be in cooperatives (except for low producing fixed gear catcher vessels that are in an voluntary cooperative program under this alternative)

Topic 11

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

4.2.2 Cooperatives are required to have at least:

Option 1. 4 distinct and separate harvesters (using the 10% threshold rule)

Option 2. 50-100 percent of the harvest shares (or catch history) of its sector (may choose different percentages for different sectors)

Option 3. 50-100% of shareholder entities belonging to its sector. Council may choose different percentages for different sector.

Option 4. 50-75 percent of the harvest shares (or catch history) of the eligible harvest share (or catch history) for each coop associated with its processor

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

(4.2.2 applies under alternative 2)

Topic 14

4.2.3 Duration of cooperative agreements:

Option 1. 1 year

Option 2. 3 years

Option 3. 5 years

(4.2.3 applies under alternative 2)

4.2.4 Allocation Prerequisites

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

Required Co-op agreement elements:

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

(The Council should decide which sectors this applies to --

trawl catcher vessel share cooperatives

high producing fixed gear catcher vessel share cooperatives

low producing fixed gear catcher vessel share cooperatives

4.3 Rules Governing Cooperatives

4.3.1 Annual Allocations

Option 1- Annual allocations of cooperative members would be issued to the cooperative.

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

Option 1 applies to all participants

- Co-op members may internally allocate and manage the co-op's allocation per the co-op membership agreement. Subject to any harvesting caps that may be adopted, member allocations may be transferred and consolidated within the co-op to the extent permitted under the membership agreement.

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

Topic 14

All bullets can be applied to all cooperatives – the last bullet may not be necessary for voluntary cooperatives (in the low producing fixed gear catch vessel sector)

4.4 Ownership and Use Caps and Underages

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

This provision can be applied to all cooperatives

Council should clarify whether this is intended to be applied on a sector basis

(if the cap is set at 75 percent, could a trawl catcher vessel share cooperative use 75 percent of the cod fishery or only 75 percent of the cod allocated to trawl catcher vessels)

4.4.2 Coop use caps for harvest shares on any given vessel shall be:

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

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

- Underage limits would be applied in the aggregate at the co-op level

(provisions of 4.2.2 can be applied to all cooperatives)

4.5 Movement between cooperatives

4.5.1 Harvesters may move between cooperatives at:

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

(provisions of 4.5.1 can be applied to all cooperatives)

4.5.2 License Transfers Among Processors (applies only if closed class of processors)

For trawl catcher vessel share cooperatives:

- Option 1. any cooperative association with that license will transfer to the processor receiving the license. All harvest share/history holders will be subject to any share reduction on departing the cooperative, as would have been made in the absence of the transfer.

Option 2: any cooperatives associated with the license will be free to associate with any qualified processor. Harvest share/history holders in the cooperative will be free to move among cooperatives without share/history reduction.

For fixed gear catcher vessel share cooperatives with processor associations

Option 2: any cooperatives associated with the license will be free to associate with any qualified processor. Harvest share/history holders in the cooperative will be free to move among cooperatives without share/history reduction.

Both options in 4.5.2 could apply to trawl catcher vessel shares – which are linked to a processor

Option 2 could be applied to fixed gear catcher vessel share cooperatives, which do not have processor linkages

4.6 Non-Members of Cooperatives (applies only if mandatory cooperatives)

4.6.1 Catcher processor, trawl catcher vessel and high producing fixed gear catcher vessel harvest share/history holders that do not choose to join a co-op

Option 1: May fish in open access provided NMFS determines that the non-cooperative allocation is sufficient to conduct an open access fishery. The open access fishery will be comprised of all shares of harvesters that are not cooperative members of the same sector (i.e. area, vessel type (CV or C/P) and/or gear). NMFS will have the discretion to determine the distribution of bycatch, secondary and PSC among target primary species open access fisheries from shares of harvesters holding bycatch secondary and PSC shares for multiple target primary fisheries.

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

An open access is provided for c/p, trawl cv, and high producing fixed gear catcher vessel share holders. Low producing fixed gear cv share holders are in a voluntary cooperative program, so the open access option is not relevant.

The Council should provide whether open access participants are subject to any processor/regional landing requirements

TRAILING AMENDMENTS

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

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

ATTACHMENT A3
TO ALTERNATIVE DESCRIPTIONS AND DISCUSSION PAPER
OCTOBER 2003

ALTERNATIVE 3

NORTH PACIFIC FISHERY MANAGEMENT COUNCIL
GULF OF ALASKA GROUND FISH RATIONALIZATION
ELEMENTS AND OPTIONS
June 16, 2003
(ANNOTATED BY STAFF)

Annotations describing the application of elements and options to the alternatives are bolded and italicized.

Staff proposed revisions are shown in bold and strikeout

Shading denotes differences between alternatives

1 Status Quo (No Action Alternative)

2 Harvest Sector Provisions

2.1 Management Areas:

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

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

- Shortraker and rougheye (SR/RE) and thornyhead rockfishes will be divided between Southeast Outside (SEO) and WY
- The allocation of rockfish bycatch to the halibut IFQ fishery will be on a NMFS management area basis
- Non-SR/RE and thornyhead rockfish trawl catch history in SEO during 95-98 will be used in the calculation of WYAK allocation *Topic 16*
- SEO is exempt except for SR/RE and thornyhead rockfishes as ~~bycatch~~ **secondary** species. Allocation will be based on ~~target catch~~ **landings of sablefish, halibut, Demersal Shelf Rockfish and P. cod fishery *Topic 29***

Gear: Applies to all gear except jig gear—

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

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

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

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

(All of 2.1 applies to alternative 3)

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

(The analysis will assess AFA vessels as a group)

Option 1. 95-01 drop 1

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

(All of 2.2 applies to alternative 3)

2.2.1 Qualifying landing criteria

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

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

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

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

(All of 2.2.1 applies to alternative 3)

2.2.2 Eligibility

LLP participation

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

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

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

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

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

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

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

(All of 2.2.2 applies to alternative 3)

The Council requests NMFS RAM review LLP transfers and report on the frequency with which the transfers also include provisions governing catch history.

2.2.3 State Waters - Parallel Fisheries and State Groundfish Management

~~Option 1. Status Quo Federal TAC taken in federal waters and in state waters, during a 'parallel' fishery, plus state water fisheries exist for up to 25% of the TAC for Pacific cod.~~
Retention of the status quo is not possible in a rationalized fishery.

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

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

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

Area or species restrictions:

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

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

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

Fixed allocation for:

Suboption 1. P. cod

Suboption 2. Pollock

Suboption 3. All other GOA groundfish species

(Options 2 and 3 apply to alternative 3)

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

2.3 ~~Target~~ Primary Species Rationalization Plan

~~Target~~ Primary Species by Gear

Topic 29

2.3.1 Initial Allocation of catch history

Option 1. Allocate catch history by sector and gear type

(Option 1 might apply to alternative 3 – Option 2 remains necessary for share allocations even if the Council decides to include option 1 in alternative 3)

Option 2. Allocate catch history on an individual basis

a. Trawl CV and CP:

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

b. Longline CV and CP:

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

c. Pot CV and CP:

Pacific Cod

(Option 2 applies to both alternative 3)

Topic 1

2.3.2 Harvest share (or QS/IFQ) Designations

~~2.3.2.1 Vessel Designation of low producers and high producers in the fixed gear class.~~

Low producing vessels are:

Option 1. less than average harvest shares initially allocated by gear, species and area

Option 2. less than the 75th percentile harvest shares initially allocated by gear, species and area

High producing vessels are the remainder.

(2.3.2.1 does not apply to alternative 3)

2.3.2.2 Harvest share sector designations:

~~Option 1. No designation of harvest shares (or QS/IFQ) as CV or CP~~

(This option does not apply and may be deleted)

~~Option 2. Designate harvest shares (or QS/IFQ) as CV or CP. Annual CV harvest share allocation (or IFQ) conveys a privilege to harvest a specified amount. Annual CP harvest share allocation (or IFQ) conveys the privilege to harvest and process a specified amount. Designation will be based on:~~

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

(Option 2 applies to alternative 3)

Topic 2

2.3.2.3 Harvest share gear designations

~~Option 1. No gear designation~~

~~Option 2. Designate harvest shares as Longline, Pot, or Trawl~~

~~Option 3. Longline and pot gear harvest shares (or IFQ) may not be harvested using trawl gear.~~

~~Option 4. Pot gear harvest shares (or IFQ) may not be harvested using longline gear~~

Alternative 3 suggests three gear designations are intended

The alternative is not clear concerning use of shares of one gear type using another gear

Topic 3

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

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

2.3.2.4 applies to all catcher vessel shares under this alternative

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

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

Option 1. US citizens who have had at least 150 days of sea time

Option 2. Entities that have a U. S. citizen with 20% or more ownership and at least 150 days of sea time

Option 3. Entities that have a US citizenship with 20% or more ownership

Option 4. Initial recipients of CV or C/P harvest share

Option 5. US Citizens eligible to document a vessel.

Option 6. Communities would be eligible to receive harvest shares by transfer (this provision would be applicable if certain provisions of 2.9 are adopted.)

Definition of sea time

Sea time in any of the U.S. commercial fisheries in a harvesting capacity. *(moved from 2.3.3.5)*

(All of 2.3.3.1 applies to alternative 3 – Council should consider reducing the options and possibly revising

Option 5 to provide for “any person eligible to document a vessel”)

Topic 5

2.3.3.2 Restrictions on transferability of CP harvest shares

- Option 1. CP harvest shares maintain their designation upon transfer.
- Option 2. CP harvest shares maintain their designation when transferred to persons who continue to catch and process CP harvest shares at sea, if CP harvest shares are processed onshore after transfer, CP harvest shares converts to CV harvest shares.
- Option 3. CP harvest shares maintain their designation after transfer for 5 years following implementation, after which time any transfer of CP shares convert to CV shares.

(All of 2.3.3.2 applies to alternative 3 – the Council should consider selecting a preferred option)

Topic 6

2.3.3.3 Redesignate CP shares as CV shares upon transfer to a person who is not an initial issuee of CP shares:

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

(All of 2.3.3.3 applies to alternative 3 – the Council should consider selecting a preferred option)

If the Council selects an option that results in the redesignation of C/P shares as CV shares, the Council will need to provide for the designation of the resulting CV shares (i.e., any regionalization, processor linkages, etc.)

Topic 6

2.3.3.4 Vertical integration

Harvest shares initial recipients with more than 10% limited threshold ownership by any processor are capped at:

- Option 1. initial allocation of harvest CV and CP shares.
- Option 2. 115-150% of initial allocation of harvest CV shares.
- Option 3. 115-150% of initial allocation of harvest CP shares.

(All of 2.3.3.4 applies to alternative 3)

~~2.3.3.5 Definition of sea time~~

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

~~Move to 2.3.3.2~~

~~2.3.3.6 Leasing of QS (“leasing of QS” is defined as the transfer of annual IFQ permit to a person who is not the holder of the underlying QS for use on any vessel and use of IFQ by an individual designated by the QS holder on a vessel which the QS holder owns less than 20% – same as “hired skipper” requirement in halibut/sablefish program)~~

- ~~Option 1. No leasing of CV QS (QS holder must be on board or own at least 20% of the vessel upon which a designated skipper fishes the IFQ).~~
- ~~Option 2. No leasing of CP QS (QS holder must be on board or own at least 20% of the vessel upon which a designated skipper fishes the IFQ).~~
- ~~Option 3. Allow leasing of CV QS, but only to individuals eligible to receive QS/IFQ by transfer.~~
- ~~Option 4. Allow leasing of CP QS, but only to individuals eligible to receive QS/IFQ by transfer.~~
- ~~Option 5. Sunset [CP – CV] QS leasing provisions [3 – 5 – 10] years after program implementation.~~

~~*It is not clear if any of 2.3.3.6 would apply since alternative 3 is a mandatory cooperative program – the Council should clarify whether this provision would apply*~~

~~*This provision could be applied to halibut and sablefish IFQ holders that receive an allocation*~~

~~**Topic 21**~~

2.3.3.7 Separate and distinct harvest share use caps

Individual caps apply to all harvesting categories by species with the following provisions:

1. Apply individually and collectively to all harvest share holders in each sector and fishery.
2. Percentage-caps by species are as follows (a different percentage cap may be chosen for each fishery):
 - i. Trawl CV and/or CP (can be different caps):

Use cap based at the following percentile of catch history for the following species:
(i.e., 75th percentile represents the amount of harvest shares that is greater than the amount of harvest shares for which 75% of the fleet will qualify.)

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

Suboption 1. 75 %
Suboption 2. 85%
Suboption 3. 95 %
 - ii. Longline and Pot CV and/or CP (can be different caps)

based on the following percentiles of catch history for the following species:
Pacific cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if Greenland turbot is targeted), northern rockfish

Suboption 1. 75 %
Suboption 2. 85%
Suboption 3. 95 %
3. Conversion of CP shares:
 - i. CP shares converted to CV shares

Option 1. will count toward CV caps
Option 2. will not count toward CV caps at the time of conversion.
 - ii. Caps will be applied to prohibit acquisition of shares in excess of the cap. Conversion of CP shares to CV shares alone will not require a CP shareholder to divest CP shares for exceeding the CP share cap.

Vessel use caps on harvest shares harvested on any given vessel shall be set at two times the individual use cap for each species. Initial issues that exceed the individual or vessel use caps are grandfathered at their current level as of a control date of April 3, 2003; including transfers by contract entered into as of that date.

*All of 2.3.3.7 would apply to alternative 3
Proposed changes are to clarify the provision
Topic 17*

2.3.3.8 Owner On Board Provisions

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

- i. All initial issues (individuals and corporations) would be grandfathered as not being required to be aboard the vessel to fish shares initially issued as "owner on board" shares. This exemption applies only to those initially issued harvest share units.
 - Suboption 1. No owner on board restrictions.
 - Suboption 2. A portion (range of 5-100%) of the quota shares initially issued to fishers/ harvesters would be designated as "owner on board."
 - Suboption 3. All initial issues (individual and corporate) would be grandfathered as not being required to be aboard the vessel to fish shares initially issued as "owner on board" shares for a period of 5 years after implementation.
 - Suboption 4. Shares transferred to initial issues in the first 5 years of the program would be considered the same as shares initially issued (range of 5 –100% of the quota shares). See above NOTE

- Suboption 5. "Owner on board" shares transferred by initial issuees, after the grace period, would require the recipient to be aboard the vessel to harvest the IFQ.
- Suboption 6. In cases of hardship (injury, medical incapacity, loss of vessel, etc.) a holder of "owner on board" quota shares may, upon documentation and approval, transfer/lease his or her shares a maximum period of (Range 1-3 years).

ii. Vessel categories for owner on board requirements

- Option 1. No Categories
- Option 2. Vessel Categories as follows
 - Vessels < 60'
 - Vessels >= 60' and < 125'
 - Vessels >= 125'

(The Council should clarify which vessel categories and sectors this provision would apply to)

Note – This is only provision that would create vessel length classes – how are these vessel classes intended to be applied – can shares of one vessel length class be used on a vessel that is not in the length class

(all of 2.3.3.8 could be applied to alternative 3)

Topic 20

2.3.3.9 Overage Provisions

i. Trawl CV and CP:

- Suboption 1. Overages up to 15% or 20% of the last trip will be allowed— greater than a 15% or 20% overage result in forfeiture and civil penalties. An overage of 15% or 20% or less, results in the reduction of the subsequent year's annual allocation or IFQ. Underages up to 10% of last trip harvest shares (or IFQ) will be allowed with an increase in the subsequent year's annual allocation (or IFQ).
- Suboption 2. Overage provisions would not be applicable in fisheries where there is an incentive fishery that has not been fully utilized for the year. (i.e., no overages would be charged if a harvest share (or IFQ) holder goes over his/her annual allocation (or IFQ) when incentive fisheries are still available).

ii. Longline and pot CV and CP:

- Overages up to 10% of the last trip will be allowed with rollover provisions for underages— greater than a 10% overage results in forfeiture and civil penalties. An overage of less than 10% results in the reduction of the subsequent year's annual allocation or IFQ. This provision is similar to that currently in place for the Halibut and Sablefish IFQ Program (CFR 679.40(d)).
- Suboption. Overages would not be applicable in fisheries where there is an incentive fishery that has not been fully utilized for the year. (i.e., no overages would be allowed if a harvest share (or IFQ) holder goes over his/her annual allocation (or IFQ) when incentive fisheries are still available).

(all of 2.3.3.9 could be applied to alternative 3)

2.3.3.10 Retention requirements for rockfish, sablefish and Atka mackerel:

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

(all of 2.3.3.10 could be applied to alternative 3)

- 2.3.3.11 Limited processing for CVs
Option 1. No limited processing
Option 2. Limited processing of rockfish species by owners of CV harvest shares is allowed up to 1 mt of round weight equivalent of rockfish per day on a vessel less than or equal to 60ft LOA.

(all of 2.3.3.11 could be applied to alternative 3)

The Council will need to clarify whether harvests processed on board would be

- 1) exempt from the processor linkage requirements*
- 2) would be from B shares – that can be delivered to any processor*

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

The Council should clarify how these provisions would apply to catcher/processors that are qualified closed class processors – whether the provisions apply to both A and B shares

(all of 2.3.3.12 could be applied to alternative 3)

Topic 22

- 2.4 Allocation of ~~Bycatch~~ Secondary Species
Thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, and trawl sablefish
Includes SEO shortraker, rougheye, and thornyhead rockfish.

i. Allocation of shares

- Option 1. Allocate shares to all fishermen (including sablefish & halibut QS fishermen) based on fleet ~~bycatch~~ secondary species catch rates by gear:

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

- Option 2. Allocation of shares will be adjusted pro rata to allocate 100% of the annual TAC for each ~~bycatch~~ secondary species.

- Suboption 1. Other slope rockfish in the Western Gulf will not be allocated, but will be managed by MRB and will go to PSC status when the TAC is reached.

- Suboption 2. Pro-rata ~~bycatch~~ reduction of secondary species allowances in open access fisheries reduced from ~~historical bycatch rates at allocation of participants by :~~

- i. 5%
- ii. 10%
- iii. 15%

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

(the purpose of Option 3 should be clarified – Option 1 includes halibut and sablefish IFQ holders in the allocation – is Option 3 intended to provide IFQ holders with some additional allocation – if not it can be deleted)

Topic 25

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

- iii. Retain these species on bycatch status for all gear types with current MRAs.
 - iv. Allow trawl sablefish catch history to be issued as a new category of sablefish harvest shares ("T" shares) by area. "T" shares would be fully leasable, exempt from vessel size and block restrictions, and retain sector designation upon sale.
Suboption. These shares may be used with either fixed gear or trawl gear.
 - v. Permit transfer of ~~bycatch~~ **QS secondary shares**
 - Option 1. Groundfish **primary** harvest shares and ~~bycatch~~ **secondary** shares are non-separable and must be transferred as a unit.
 - Option 2. Groundfish **primary** harvest shares and ~~bycatch~~ **secondary** shares are separable and may be transferred separately
- (All options can be applied to alternative 3)*

2.5 PSC Species

2.5.1 Accounting of Halibut Bycatch

Pot vessels continue their exemption from halibut PSC caps.
Hook and line and trawl entities

~~Option 1. Same as that under IFQ sablefish and halibut programs~~

~~Option 2. Cooperatives would be responsible for ensuring the collective halibut bycatch cap was not exceeded~~

~~Option 3. Individual share or catch history owners would be responsible to ensure that their halibut bycatch allotment was not exceeded~~

Option 1 appears to propose continuing the current management of PSC. If that is intended, it should be stated directly – "halibut shall continue to be managed under the current rules governing halibut PSC."

Options 2 and 3 are redundant with provisions elsewhere in this document and should be deleted.

If what is intended by 2 and 3 is that shares be allocated for halibut PSC, that should be stated explicitly – "halibut PSC will be managed through harvest share allocations"

To the extent that the options differ across gear types, the Council should consider separating the options by gear type. In addition, the Council could consider separating sablefish IFQ options, if any are intended.

Topic 18

2.5.2 Halibut PSC Allocation

Each recipient of fishing history would receive an allocation of halibut mortality (harvest shares) based on their allocation of the directed fishery harvest shares. ~~Bycatch-only~~ **Secondary** species would receive no halibut allocation.

Initial allocation based on average halibut bycatch by directed ~~target~~ **primary** species during the qualifying years. Allocations will be adjusted pro rata to equal the existing PSC cap.

By sector average bycatch rates by area by gear:

Option 1. Both sectors

Option 2. Catcher Processor/Catcher Vessel

(2.5.3 applies to alternative 3 if halibut PSC is to be managed by share allocations)

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

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

Option 1. 0%

Option 2. 5%

Option 3. 7%

Option 4. 10%

Option 5. Exclude any halibut PSC transferred for participation in the incentive fisheries
(2.5.3 applies to alternative 3 if halibut PSC is to be managed by share allocations)
The Council should clarify whether primary/PSC allocations can be separated within a cooperative and whether the share separation is penalized – typically cooperative use is aggregated across all vessels that harvest shares on behalf of the cooperative (suggesting no penalty would apply)
The Council should also clarify whether Option 5 is intended to apply to transfers of PSC shares inside or outside of a cooperative)
Topic 26

2.5.4 Permanent transfer of Halibut PSC harvest share mortality

Option 1. Groundfish harvest shares and Halibut PSC harvest shares are non-separable and must be transferred as a unit
Suboption. exempt Pacific cod

Option 2. Groundfish harvest shares and Halibut PSC harvest shares are separable and may be transferred separately

(2.5.4 applies to alternative 3 if halibut PSC is to be managed by share allocations)

The suboption exempting cod is assumed to exempt only transfers of PSC between cod share holders)

2.5.5 Retention of halibut bycatch by longline vessels

Halibut bycatch may be retained outside the halibut season from Jan 30 to start of commercial fishery, and from end of commercial fishery through December 15.

Option 1. retention is limited to (range 10-20%) of target primary species clarify whether target or primary is intended here

~~Option 2. permit holder must have sufficient harvest shares (or IFQ) to cover landing~~
(Option 2 should be clarified – Does the Council intend “Any person retaining halibut must have adequate halibut IFQ. Halibut may not be retained with halibut PSC shares.” This likely should not be an option but a requirement.)

(2.5.5 could be applied to alternative 3)

Topic 18

2.6 Incentive species

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

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

Option. The portion of historic unharvested West Yakutat TAC will be made available as an incentive fishery, subject to provision of incentive fisheries

2.6.1 Eligibility to fish in the incentive fisheries

A. The unallocated QS portion of the TAC of for the incentive fisheries species are available for harvest, providing the vessel share holder has adequate PSC and bycatch species and the vessel share holder is a member of a GOA fishing cooperative.

~~B. Any quota holder qualified to be in a coop.~~

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

Option C. Any holder of halibut or sablefish IFQ that has adequate PSC and bycatch species.

(2.6.1 is applicable to alternative 3

The application of A and B is unclear – are they options? – B is unclear and might be better revised, if it is necessary at all.

In addition, the Council should consider whether

- 1) open access participants or*
- 2) halibut and sablefish IFQ holders*

should be permitted to participate in incentive fisheries.

Topic 23

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

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

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

~~Option 3. For halibut and sablefish IFQ holders not participating in a sector coop, the unallocated incentive species are available for harvest once the non-coop sector's allocation of the incentive species has been used or individual IFQ holder's allocation of the incentive species has been used.~~

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

(2.6.2 applies to alternative 2

Option 3 could accommodate halibut and sablefish IFQ participants that hold bycatch shares – the suggested revision addresses those participants

No option provides for access to open access participants)

No option provides for access to open access participants – the added option 4 could be used to accommodate open access participants)

Topic 24

2.7 Preserving entry level opportunities for P. cod

2.7.1 Each initial allocation of P. cod harvest shares for H&L and pot lowest producer to fixed gear catcher vessels below the block threshold size would remain "tied" to be a block of quota and could only be permanently sold or transferred as a block.

Option 1. allocations of 10,000 pounds or less constitute one block

Option 2. allocations of 20,000 pounds or less constitute one block

2.7.1 can apply to alternative 3

(proposed revisions are intended to clarify the intention of the provision

Staff assumes that an "initial allocation" is the allocation to a single person (individual or legal entity))

Topic 27

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

Option 1. 1 block

Option 2. 2 blocks

Option 3. 4 blocks

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

2.7.2 can apply to alternative 3

(Council should clarify whether holders of unblocked shares may also hold blocks

No option exists for the allocation of cod to halibut and sablefish IFQ participants – unless an option for allocations is made, the suboption should be deleted)

Topic 27

2.8 Skipper/Crew

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

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

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

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

(2.8 can be applied to alternative 3

Council should clarify whether this skipper program would apply to the allocation of bycatch to skippers of halibut and sablefish vessels)

2.9 Communities

(any options in 2.9 can be applied to alternative 3)

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

2.9.1 Regionalization

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

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

- Processing licenses that are regionally designated cannot be reassigned to another region.
- Catcher vessel harvest shares are regionalized based on where the catch was processed, not where it was caught.

- Catcher processor shares and incentive fisheries are not subject to regionalization.
- Qualifying years to determine the distribution of shares between regions will be consistent with the preferred alternative under "Section 2.2 Qualifying Periods".

(the system of processor linkages could complicate the designation of harvest shares,

- 1) unless linkages are regionalized – i.e., one linkage per region in which a harvester has shares or*
- 2) all harvest shares are designated for the region in which the harvester's linked processor is located)*

Under alternative 3 all catcher vessel shares would be subject to processor linkages

Topic 8

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

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

2.9.2 Community Fisheries Quota (CFQ)

2.9.2.1 Administrative Entity

- Option 1. Gulf wide administrative entity
- Option 2. Regional administrative entities (Western Gulf, Central Gulf, Eastern Gulf)
- Option 3. Multi-community administrative entities
- Option 4. The administrative entity representing a community or communities must be a non-profit entity qualified by NMFS.

2.9.2.2 Eligible Communities

- Option 1. Population (based on 2000 Census):
 - a. Less than 1,500
 - b. Less than 2,500
 - c. Less than 5,000
 - d. Less than 7,500
- Option 2. Geography
 - a. Coastal Communities without road connections to larger community highway network
 - b. Coastal communities adjacent to salt water
 - c. Communities within 10 nautical miles of the Gulf Coast
 - d. Communities on the south side of the Alaska Peninsula that are adjacent to Central and Western GOA management areas (including Yakutat) within 5 nautical miles from the water, but not to include Bering Sea communities included under the Western Alaska CDQ program.
- Option 3. Historic Participation in Groundfish Fisheries
 - a. Communities with residents having commercial permit and fishing activity as documented by CFEC in the last ten years (1993 - 2002)
 - b. Communities determined by the State of Alaska to have met the customary and traditional use threshold for halibut
- Option 4. Government Structure
 - a. Communities recognized by the State of Alaska as a first class, second class, or home rule municipality
 - b. All other eligible communities

2.9.2.3 Species

- Option 1. All rationalized groundfish species
- Option 2. Limited to species that can be caught without (hard on) bottom trawling

2.9.2.4 Allocation

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

2.9.2.5 Harvesting of Shares

- Option 1. Limited to residents of eligible communities that own their vessels
- Option 2. Limited to residents of eligible communities
- Option 3. No limitations on who harvests shares
- Option 4. No offshore leases to CPs.

2.9.2.6 Use of Revenue

- Option 1. Community development projects that tie directly to fisheries or fishery related projects and education.
- Option 2. Community development projects that tie directly to fisheries and fisheries related projects, education and government functions.
- Option 3. Education, social and capital projects within eligible communities as well as governmental functions.

2.9.2.7 Qualification of Administrative Entity

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

2.9.2.8 Administrative Oversight

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

2.9.3 Community Purchase Program

2.9.3.1 Administrative Entity

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

2.9.3.2 Eligible communities

Option 1. Population (based on 2000 Census):

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

Option 2. Geography

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

Option 3. Historic Participation in Groundfish Fisheries

- a. Communities with residents having commercial permit and fishing activity as documented by CFEC in the last ten years (1993 - 2002)
- b. Communities determined by the State of Alaska to have met the customary and traditional use threshold for halibut

Option 4. Government Structure

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

2.9.3.3 Qualification of Administrative Entity

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

2.9.3.4 Administrative Oversight

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

2.9.4 Community Incentive Fisheries Trust (CIFT)

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

2.9.4.1 Harvest Share Distribution

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

2.9.4.2 CIFT Designation

Option 1. One CV CIFT for entire GOA (exclude SEO)

Option 2. Regional CV CIFTs:

Suboption 1. Central GOA (Kodiak, Chignik)

Suboption 2. Western GOA

Suboption 3. North Gulf Coast (Homer to Yakutat)

Option 3. CP-based CIFT

Defer remaining issues to a trailing amendment

2.10 PSC for Crab and Salmon

The Council requests that staff prepare a discussion paper showing historical data for the bycatch of salmon and crab by species, area, and year for areas subject to the GOA rationalization program. The Council intends to review these data and develop bycatch measures for salmon and crab which will be implemented as part of this rationalization program. The Council intends to develop options for analysis that could be incorporated no later than the October 2003 meeting.

(2.10 could be applied to alternative 3)

2.11 Review and Evaluation

2.11.1 Data collection.

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

2.11.2 Review and Sunset

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

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

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

(2.11 could be applied to alternative 3)

2.12 Sideboards

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

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

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

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

The Council noted its intent to further develop sideboard measures for analysis.

(2.12 could be applied to alternative 3)

The Council should clarify whether any difference is intended between the 2nd and 4th sentences and delete one if not. Deletion of the 2nd sentence is more appropriate as sideboards are typically aggregate.

In addition, the Council should consider whether the sideboards for SEO groundfish are necessary, if the allocations of bycatch proposed by section 2.1 are made.

Topic 19

3 Processing Sector Provisions

3.1 Provisions for a Closed Class of Processors

3.1.1 Harvester Delivery requirements

3.1.1.1 Closed class delivery requirements

3.1.1.1 Option 1. 50-100% of CV harvest share allocation will be reserved for delivery to:

i. the linked qualified closed trawl or fixed class processor.

ii. ~~any qualified closed trawl or fixed or large or small class processor~~

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

- i. any processor excluding C/Ps
- ii. any processor including C/Ps

Option 2: Low producing vessels are exempt from closed class delivery requirements
 (3.1.1.1 applies to all catcher vessels under alternative 3)
 Catcher/processor should be defined, if a restriction on deliveries to C/Ps is adopted
Topic 22

3.1.1.2 Linkage:

- Option 1:** A harvester's processor linked shares are associated with the qualified fixed or trawl closed class large or small processor to which the harvester delivered the most pounds of groundfish during
- Option 2:** the last _____ years of the harvester allocation base period.
- i. 1
 - ii. 2
 - iii. 3

If the processor with whom the harvester is associated with is no longer operating, the harvester is eligible to deliver to any qualified processor.

(The Council should clarify whether a linkage would be established by a harvester delivering to a qualified processor)

(3.1.1.1 applies to all catcher vessels under alternative 3)

Topic 12

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

3.1.1.3 Penalties for moving between linked processors

- Option 1:** No share reduction for moving between processor year to year
- Option 2:** Share reductions of 10-20% each time a harvester moves to a different linked processor for:
- i. 1 year
 - ii. 2 years
 - iii. 4 years
- The share reduction shall be redistributed to:
- i. The shareholders in association with that processor that the shareholder left (if it continues to exist).
 - ii. To all cooperatives in the sector on a pro rata basis. (applies if mandatory cooperatives)
- Option 3:** Penalty to move depends on the amount of open access B share fish Vessel leaves A share for one year.
- Suboption:** Penalty applies to both A and B shares.

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

- Option 4:** One year penalty in open access.
- Option 5:** No penalty. Movement allowed only upon agreement between Coop members and affiliated processor.

(3.1.1.3 would apply to all catcher vessels under alternative 3)

Topic 13

3.1.1.4 Low producing vessel provisions

i. Low producing vessels are defined as:

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

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

ii. Provisions for low producing vessels

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

Option 2. Subject to block program

(Alternative 3 does not distinguish high and low producing fixed gear cvs)

3.1.2. Closed Class Processor Qualifications

3.1.2.1 To purchase groundfish required to be delivered to a qualified processor must have purchased and processed a minimum amount of groundfish as described below in at least 4 of the following years:

Option 1. 1995-99

Option 2. 1995-01

Option 3. 1995-02

Option 1. a. Trawl eligible Processors

Suboption 1. 2000 mt

Suboption 2. 1000 mt

Suboption 3. 500 mt

b. Fixed gear eligible Processors

Suboption 1. 500 mt

Suboption 2. 200 mt

Suboption 3. 50 mt

c. Trawl and Fixed gear eligible processors

Meet criteria for both the closed class trawl process catch and closed class fixed gear process catch as described above

Option 2. a. Large closed class processor

Suboption 1. 2000 MT

Suboption 2. 1000 MT

Suboption 3. 500 MT

b. Small closed class processor

Suboption 1. 500 MT

Suboption 2. 200 MT

Suboption 3. 50 MT

c. Open class processor – no groundfish landing qualifications – can purchase any amount of open class B share QS.

3.1.2.1 would apply to alternative 3

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

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

Option 2. Facility owner

Suboption. Custom processing history would be credited to:

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

3.1.2.2 would apply to alternative 3

Topic 10

- 3.1.2.3 Transferability of eligible processor licenses**
 Processor licenses can be sold, leased, or transferred.
- Option 1. Within the same community
 - Option 2. Within the same region

3.1.2.3 would apply to alternative 3

Topic 9

- 3.1.2.4 Processing Use caps by closed class processor type (trawl, fixed or trawl and fixed (low or large), by CGOA and WGOA regulatory areas:**
- Option 1. Range 70% to 130% of TAC processed for all groundfish species for the largest closed class processor
 - Option 2. Processing use caps for small closed class processors
 - i. 1000 to 2000 MT
 - ii. 2000 to 3000 MT

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

3.1.2.4 would apply to alternative 3

- 3.1.2.5 Processing Caps may apply at:**
- Option 1. the facility level
 - Option 2. the entity level

3.1.2.5 would apply to alternative 3

Topic 7

- 3.1.2.6 Closed class license ownership restrictions on processors**
- Option 1. No restrictions
 - Option 2. Trawl/fixed license holders cannot hold any additional fixed gear only licenses.
 - Option 3. Large closed class processors cannot hold small closed class processors licenses.

The Council could add an option that limits the number of licenses a processor may hold.

3.1.2.6 would apply to alternative 3

The Council might consider options to limit the number of licenses a processor can hold to provide for competition and entry.

Topic 15

4 Cooperative Provisions

- 4.1 Cooperative type (voluntary or mandatory)**
- Option 1. Cooperative membership will be voluntary (i.e., harvest shares (IFQ) will be allocated to non-members)
 - Option 2. Cooperative membership will be mandatory (i.e., harvest shares will be allocated only to cooperatives)

(Option 2 would apply to alternative 3 since all sectors are subject to a mandatory cooperative)

4.2 Cooperative formation

- 4.2.1 Co-ops can be formed between holders of harvest shares or history of:**
- i. any type
 - ii. the same area, gear, vessel type (CV or C/P), and/or vessel length class.

iii. the following classes of shares/history

CV trawl

CV longline

CV pot

C/P trawl

C/P longline

C/P pot

iv. All CV in the same area (WGOA and CGOA & WY combined)

CV trawl

CV fixed gear

CV longline

CV pot

Each group of share/history holders of a defined class that may form cooperatives is defined as a "sector." (Either iii or iv could apply for catcher vessels - iii would apply to catcher/processors (the area concept of iv could be adapted to apply to catcher processors)

Topic 4

4.2.1.1 Coop/processor affiliations

Option 1. No association required between processors and coops

Option 2. CV cooperatives must be associated with

a) a processing facility

b) a processing company

(The Council could decide whether linkages are on a facility or company basis - should be consistent with 3.1.2.2) Also in making the decision, the Council should consider whether linkages are regionalized (see 2.9.1)

Topic 7

The associated processor must be:

a) a licensed processor

b) a qualified processor (if closed processor class is selected)

c) a closed class processor to which the share holder's shares are linked

d) any processing share holder (if processor shares are selected) (note: should be deleted)

(c applies to all catcher vessels)

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

(Option 3 can be deleted since it is the same as 3.1.1.2)

Suboption 1. Processors can associate with more than one co-op

Suboption 2. Processors are limited to 1 co-op per plant for each sector.

Council could decide whether multiple cooperatives are permitted. This should be coordinated with the cooperative formation rules of 4.2.2.2

Suboption 3. Processor affiliated vessels may join coops. (moved from header)

This should not be an option since this is a mandatory cooperative program - otherwise the Council might consider simply excluding processor affiliates from the allocation or specifying the redistribution of the allocation that would be made to these vessels (to other vessels or to some open access fishery)

Topic 11

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

4.2.2 Cooperatives are required to have at least:

Option 1. 4 distinct and separate harvesters (using the 10% threshold rule)

Option 2. 50-100 percent of the harvest shares (or catch history) of its sector (may choose different percentages for different sectors)

Option 3. 50-100% of shareholder entities belonging to its sector. Council may choose different percentages for different sector.

Option 4. 50-75 percent of the harvest shares (or catch history) of the eligible harvest share (or catch history) for each coop associated with its processor

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

Council could select options for the different sectors

Topic 14

4.2.3 Duration of cooperative agreements:

Option 1. 1 year

Option 2. 3 years

Option 3. 5 years

Council could select options for the different sectors

4.2.4 Allocation Prerequisites

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

Required Co-op agreement elements:

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

This can be applied to all catcher vessels

4.3 Rules Governing Cooperatives

4.3.1 Annual Allocations

— Option 1. For catcher vessel cooperatives:

Annual allocations of cooperative members would be issued to the cooperative.

For catcher/processor cooperatives:

Option 1. Annual allocations of cooperative members would be issued to the cooperative.

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

Option 2 can only apply to catcher/processors and will apply only if 1) no open access is provided 2) only one cooperative can exist for each c/p sector and 3) the shares of non-members of a cooperative are allocated to the cooperative for its sector (and not to all sectors)

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

- **A cooperative must accept membership of any eligible persons subject to the same terms and conditions as other members.**

Topic 14

The bulleted provisions can be applied to all cooperatives

4.4 Ownership and Use Caps and Underages

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

This provision can be applied to all cooperatives

Council should clarify whether this is intended to be applied on a sector basis

(if the cap is set a 75 percent, could a trawl catcher vessel share cooperative use 75 percent of the cod fishery or only 75 percent of the cod allocated to trawl catcher vessels)

4.4.2

- 4.4.2 Coop use caps for harvest shares on any given vessel shall be:**

Option 1. Set at the same level as the individual vessel level.

Option 2. 3 times individual vessel use cap.

Option 3. No use caps

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

- **Underage limits would be applied in the aggregate at the co-op level**

(provisions of 4.2.2 can be applied to all cooperatives)

4.5 Movement between cooperatives

- 4.5.1 Harvesters may move between cooperatives at:**

Option 1. the end of each year.

Option 2. the expiration of the cooperative agreement.

Option 3. No movement in the first two years

(provisions of 4.5.1 can be applied to all cooperatives)

- 4.5.2 License Transfers Among Processors (applies only if closed class of processors)**

For catcher vessel cooperatives

Option 1. any cooperative association with that license will transfer to the processor receiving the license. All harvest share/history holders will be subject to any share reduction on departing the cooperative as would have been made in the absence of the transfer.

Option 2. any cooperatives associated with the license will be free to associate with any qualified processor. Harvest share/history holders in the cooperative will be free to move among cooperatives without share/history reduction.

Either option of 4.5.2 could be applied to catcher vessel cooperatives

4.6 Non-Members of Cooperatives (applies only if mandatory cooperatives)

- 4.6.1 Harvest share/history holders that do not choose to join a co-op**

Option 1. May fish in open access, provided NMFS determines that the non-cooperative allocation is sufficient to conduct an open access fishery. The open access fishery will be

comprised of all shares of harvesters that are not cooperative members of the same sector (i.e. area, vessel type (C/V or C/P) and/or gear). NMFS will have the discretion to determine the distribution of bycatch, secondary and PSC among target primary species open access fisheries from shares of harvesters holding bycatch secondary and PSC shares for multiple target primary fisheries.

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

The options in 4.6.1 could be applied to all share holders

The Council should consider whether open access fisheries are subject to regional/processor landing requirements

TRAILING AMENDMENTS

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

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

Two views of LLP license transfers (includes transfers of LLP licenses endorsed for one or more Gulf of Alaska groundfish fisheries) that occurred between Jan 00 and Jul 03.

Table #1: Assumes that vessel history transferred if the Transfer Agreement did not state that vessel history was not included.

MLOA of LLP License	Total Transfers	Transfers that Include History	Percent that Include History
>= 125 feet	25	25	100.0%
60 - 124 feet	40	40	100.0%
< 60 feet	70	68	97.1%
Total	135	133	98.5%

Notes to Table:

- Identified "Transfers" include only those transfers in which the LLP license changed hands; it does not include transfers from one vessel to another, transfers resulting from administrative adjustments, or transfers resulting from legal action in which the fishing history is not specifically identified as part of the transaction;
- A sales contract that did not specifically include the transfer of fishing history with the license was nevertheless assumed to include it;
- Transfers resulting from settlement of Estates was assumed to include fishing history;
- A license transferred because of a change in the structure or name of the business entity holding it was assumed to include the history;
- A license transferred by divorce decree was assumed not to include the history, unless the decree stated otherwise.

Table #2: Assumes that history did not transfer unless the Transfer Agreement specifically stated that vessel history was included.

MLOA of LLP License	Total Transfers	Transfers that Include History	Percent that Include History
>= 125 feet	25	24	96.0%
60 - 124 feet	40	32	80.0%
< 60 feet	70	34	48.5%
Total	135	90	66.6%

Notes to Table:

- Identified "Transfers" include only those transfers in which the LLP license changed hands; it does not include transfers from one vessel to another, transfers resulting from administrative adjustments, or transfers resulting from legal action in which the fishing history is not specifically identified as part of the transaction;
- A sales contract that did not specifically include the transfer of fishing history with the license was assumed to exclude it;
- Transfers resulting from settlement of Estates was assumed to include fishing history;
- A license transferred because of a change in the structure or name of the business entity holding it was assumed to include the history;
- A license transferred by divorce decree was assumed not to include the history, unless the decree stated otherwise.

Open Access Fisheries Under GOA Rationalization
NMFS Alaska Region Staff
October 2003
North Pacific Fishery Management Council Meeting

Overview

The alternatives, elements, and options under considerations by the Council retain aspects of "open access" fisheries. This paper is intended to describe staff's understanding of those "open access" fisheries and some of the issues that could arise if an alternative containing an open access component were adopted by the Council. Clearly, the primary concern is that the smaller the allocation to an open access fishery and the greater the harvest rate, the more restrictive management will need to be in order to ensure that the open access fishery would not exceed its allocation and compromise the stock or the rationalized fishery. Catch accounting and bycatch management will be key components in determining how NMFS will manage an open access fishery and whether such a fishery can be opened. Within the elements and options established by the Council, there are three forms of open access fisheries. The first would be formed for participants in a mandatory cooperative program that choose not to join a cooperative. The second is the jig fishery. The third is composed of species that are not part of the rationalization program, and thus not allocated with harvest shares. In addition, aspects of the incentive fisheries are very similar to an open access fishery and are briefly discussed.

Open Access Under the Alternatives

All three of the alternatives under consideration retain some element of open access. Under the no action alternative, fishing would continue under the existing LLP regulations. The two action alternatives would require that vessels either enter into a mandatory fishery cooperative to receive their individual catch history within that cooperative -- or fish in the open access fishery. Under Alternative 2, low producing fixed gear vessels could choose not to join a cooperative. Staff assumes that they would not be permitted to fish in the open access fishery and would receive individual fishing quota (IFQ) instead.

The rationalization alternatives provide for a few different open access fisheries. First, the open access fishery accessible to participants that choose not to join cooperatives is described in Section 4.6 of the Council's motion. The open access fishery is presented as an option available to participants eligible to receive a harvest share allocation that choose not to join a cooperative. Second, under Section 2.1 of the Council motion, jig gear is exempted from the rationalization program. The jig fisheries would either be granted a separate allocation based on historic landings in each fishery to be fished under an open access regime, or the jig allocation would be taken "off the top" from the current year's TAC based on harvests during the previous year. The Council could also adopt provisions to cap the jig gear harvests at a level slightly above historic harvests. Third, under Section 2.3.1 of the Council's motion, another potential mechanism exists for the creation of an open access fishery because certain fisheries are not allocated as harvest shares -- specifically, "other rockfish" and "other species." It is assumed that species that are not explicitly allocated under a harvest share system would be available under an open access fishery. In any case, provision for their management should be considered by the Council.

Clarification: Staff assumes that under Alternative 2, participants in the Fixed Gear CV Low Producer Category would be not eligible to fish in the open access fishery. These participants would receive individual allocations based on their historic participation.

Clarification: Staff assumes that the jig allocation would be fished separately from those using other gear

types that chose open access over cooperatives. Combining both of these open access pools could create conflicts between gear types and infringe on jig participation in the groundfish fisheries.

Clarification: Staff assumes that the “other species” would be managed as a bycatch species, with the possible exception of skates which could be assigned a TAC. Approaches to “other species” management are currently under development by an *ad hoc* working group. Staff would also assume that “other rockfish” would be considered for allocation as a bycatch species under Section 2.4 of the Council’s motion unless additional guidance is provided.

Catch Accounting

A key decision for managers before opening an open access fishery is to determine how much of an allocation will be available for harvest and the amount of bycatch that may be required to effectively harvest the target species. Under Section 4.6, participants in open access would have access to the combined total of the catch history represented by those vessels belonging to a specific area, vessel type, or gear (i.e., sector). NMFS would determine the allocation of bycatch among those target fisheries. Under this scenario, there could be numerous open access pools within each area. For example, under Alternative 2, Trawl CVs, CPs, and fixed gear high producing CVs would all have separate open access allocations and fisheries. This construction means that under Alternative 3 there could potentially be a total of six open access pools in a given area based on the allocation criteria in Section 2.3.1 (i.e., Trawl CV, Trawl CP, Longline CV, Longline CP, Pot CV, and Pot CP). When combined with the management areas under consideration (WY, CG – which is further divided into Areas 620 and 630 for pollock, and WG) this represents a total of 18 possible open access pools with bycatch accounting required for each fishery. Additionally, if jig gear is managed as a separate open access allocation, then there would be three additional pools for the jig fishery for each of the management areas as well.

The size of each of these open access pools would vary from year to year based on the number of eligible participants within that area, vessel, and gear type that chose to participate in the open access fishery. Predicting the number of participants, the amount of bycatch allocation needed and available, and the percentage of the TAC that this might represent cannot be determined with any certainty. However, given the number of divisions possible and the potential that most eligible participants will choose to join a cooperative, the overall allocations to an open access fishery pool could be relatively small. The smaller the open access allocation and the greater the potential harvest rate of the vessel type in an area, the greater the risk for exceeding the allocation, and therefore, the more strictly NMFS will need to manage the fishery to ensure that the open access TACs are not exceeded.

Section 2.4, Option 2 of the Council’s motion would establish a pro-rata reduction for participants in the “open access” fisheries. It is not clear if this reduction would apply to all participants in an open access fishery, or if this potential restriction would apply only to participants in the incentive fishery using bycatch harvest-share. Additionally, the Matrix developed by the Council indicates that under both Alternative 2 and 3, vessels would be allowed to fish open access with “bycatch allowance reductions.” The specific mechanism for those reductions is not provided in the Main Motion. **The Council may want to clarify how “bycatch allowance reductions” would apply in the open access fisheries.** In any case, if the open access fisheries were conducted with bycatch limited more than historical harvest rates, this would increase the level of precaution in those fisheries that are bycatch limited, reducing the likelihood of opening those fisheries.

The Council might consider whether threshold harvest share holdings should be required for participation in an open access fishery. If a person has a very small allocation, remaining in an open access fishery for

the first two years of the program could be very appealing as other participants with larger allocations attempt to sort out cooperative membership and agreements. These relatively small participants could exploit the inability of larger participants to resolve contract disputes that are likely to arise in the transition from the current derby fishery to the cooperative structure. **The Council should consider defining eligibility to participate in the open access fisheries.**

Generally speaking, the fisheries that are likely to require the closest control are fisheries that are accessible to a wide range of vessel sizes, gear types, and are historically fully harvested. A good example of such a fishery would be Pacific cod, which is further divided among State and Federal management and may receive a smaller percentage of the overall TAC allocation if additional management measures are recommended under parallel fishery management (Section 2.2.3 – Please see “Issues Concerning the Management of the Parallel Fisheries in the Gulf of Alaska Groundfish Fisheries”). Pacific cod harvested with trawl and hook-and-line gear require additional allocations of PSC halibut, which could be a constraining factor. Pollock, trawl sablefish, and Pacific Ocean Perch are typically fully prosecuted in the trawl fisheries and have relatively high harvest rates which could require careful accounting. If cooperatives form, the open access fishery likely will be a small component of the TAC; depending on the number and type of vessels participating, the harvest rate could vary from current levels. If the allocation is small enough, the harvest rates high enough, and the amount of bycatch allocation insufficient to “cover” the fishery, then that open access fishery would not be opened for directed fishing. Whether fisheries would remain closed cannot be predicted. The specific point at which this decision is made would vary from year to year based on that fishery. Thus, the open access fishery may not be a reasonable alternative to cooperative membership in all fisheries.

The decision to open an open access fishery could be affected by the ability to effectively monitor and account for catch so that managers can close the fishery in a timely fashion. This could include additional observer coverage or shore-based reporting necessary to ensure managers have data in a sufficient time frame to close an open access fishery when the allocation is reached. The extent of this additional monitoring would vary by area and fishery, with the need greatest in fisheries with small TACs relative to the potential harvest rates. These measures could either be established on a voluntary basis among vessels in the open access fishery, or NMFS and the Council could require additional observer coverage or monitoring requirements for specific open access fisheries.

If the open access allocation were exceeded, presumably there would not be a reduction in the harvest share allocation in the rationalized fishery. Given that many of the groundfish species are set with the TAC equal to the allowable biological catch (ABC), fishery managers will take the measures necessary to ensure that the open access fishery does not result in chronic overages of either the TAC or the ABC, which would undermine conservation objectives.

Management of Other Non-Harvest Share Fisheries

Initial Allocation of Species

Section 2.1 of the Council’s motion establishes the management areas subject to rationalization and Section 2.3 establishes the species to be allocated among the various gear types. Section 2.4 describes the allocation of bycatch under consideration. Section 2.5 describes the allocation of PSC species, and Section 2.6 describes the allocation to the incentive fishery – a form of open access – with participation restricted to those vessels that are qualified to participate in the rationalized groundfish fisheries. **Table 1** provides an overview of the allocation of the various groundfish species by area and gear type.

Table 1: Allocation of Groundfish Species by Area and Gear Type

Area	Trawl	Hook and Line	Pot
Southeast Outside	<p>Target Allocation: Trawl Catch history in SEO prior to 1998 would be allocated to West Yakutat (2.1). Unallocated (Open Access): All groundfish species</p>	<p>Bycatch Allocation: Thornyhead and Shortraker/Rougheye Rockfish in the Halibut and Sablefish IFQ Fishery, DSR, and Pacific Cod fishery (2.1). Unallocated (Open Access): All other groundfish species.</p>	<p><i>Unclear</i> The language in 2.1 does not explicitly exclude a bycatch allocation to pot gear, but it is assumed to be excluded. Unallocated (Open Access): All groundfish species.</p>
West Yakutat	<p>Target Allocation: Pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, arrowtooth flounder, northern rockfish, Pacific Ocean Perch, Pelagic Shelf Rockfish (2.3.1). <i>Note: Pacific cod is currently allocated to an Eastern GOA TAC (SEO & WY).</i> Bycatch Allocation: Thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, trawl sablefish (2.4). <i>Option:</i> Trawl sablefish could be allocated as a new category of harvest shares usable by fixed gear. PSC Allocation: Halibut (2.5.2). Incentive Fishery: Arrowtooth flounder, deepwater flatfish, flathead sole, rex sole, shallow water flatfish. <i>Option:</i> make available the unharvested portion of the WYAK TAC as an incentive fishery (2.6). Unallocated (Open Access): Other rockfish, Other Species</p>	<p>Target Allocation: Pacific cod, deepwater flatfish (<i>if turbot is targeted</i>), arrowtooth flounder, northern rockfish, Pacific Ocean Perch, Pelagic Shelf Rockfish (2.3.1). <i>Note: Pacific cod is currently allocated to an Eastern GOA TAC (SEO & WY).</i> Bycatch Allocation: Thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, trawl sablefish (2.4). PSC Allocation: Halibut (2.5.2). Incentive Fishery: Arrowtooth flounder, deepwater flatfish, flathead sole, rex sole, shallow water flatfish. <i>Option:</i> make available the unharvested portion of the WYAK TAC as an incentive fishery (2.6). Unallocated (Open Access): Other Rockfish, Other Species, Pollock, rex sole, flathead sole, deepwater flatfish (<i>if turbot was not targeted</i>).</p>	<p>Target Allocation: Pacific cod (2.3.1). <i>Note: Pacific cod is currently allocated to an Eastern GOA TAC (SEO & WY).</i> Bycatch Allocation: Thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, trawl sablefish (2.4). PSC Allocation: Exempted from halibut PSC (2.5.2). Incentive Fishery: Arrowtooth flounder, deepwater flatfish, flathead sole, rex sole, shallow water flatfish. <i>Option:</i> make available the unharvested portion of the WYAK TAC as an incentive fishery (2.6). Unallocated (Open Access): All other groundfish species.</p>

<p>Central & Western GOA</p>	<p>Target Allocation: Pollock, Pacific cod, deepwater flatfish, rex sole, flathead sole, arrowtooth flounder, northern rockfish, Pacific Ocean Perch, Pelagic Shelf Rockfish (2.3.1). Bycatch Allocation: Thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, trawl sablefish (2.4) PSC Allocation: Halibut (2.5.2) Incentive Fishery: Arrowtooth flounder, deepwater flatfish, flathead sole, rex sole, shallow water flatfish (2.6) Unallocated (Open Access): Other Rockfish, Other Species</p>	<p>Target Allocation: Pacific cod, deepwater flatfish (<i>if turbot is targeted</i>), arrowtooth flounder, northern rockfish, Pacific Ocean Perch, Pelagic Shelf Rockfish (2.3.1). Bycatch Allocation: Thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, trawl sablefish (2.4). PSC Allocation: Halibut (2.5.2). Incentive Fishery: Arrowtooth flounder, deepwater flatfish, flathead sole, rex sole, shallow water flatfish (2.6). Unallocated (Open Access): Other Rockfish, Other Species, Pollock, rex sole, flathead sole, deepwater flatfish (<i>if turbot was not targeted</i>).</p>	<p>Target Allocation: Pacific cod (2.3.1). Bycatch Allocation: Thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, trawl sablefish (2.4). PSC Allocation: Exempted from halibut PSC (2.5.2). Incentive Fishery: Arrowtooth flounder, deepwater flatfish, flathead sole, rex sole, shallow water flatfish (2.6). Unallocated (Open Access): All other groundfish species.</p>
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Table 1 shows that with rationalization, there is the possibility of several different types of additional catch accounting requirements even within the rationalized fisheries. First, there is the possibility of a form of open access in the incentive fishery for that portion of the TAC for those species that have not historically been fully harvested. NMFS would calculate the size of the incentive fishery depending on the years chosen for initial allocation and determine the amount of TAC that is left after determining the amount of QS to be allocated and the amount of TAC that this catch history represents. These data are not provided here, but Table 2 provides the percentage of the TAC that has been traditionally harvested in the incentive fisheries from 1995 to 2002.

The provisions in Section 2.6.1 provide two possible methods for managing access to the incentive fisheries – one for participants within a cooperative and the second for any participant eligible to participate in a cooperative. Under both options, fish in the incentive fishery would not be available for harvest until either the cooperative’s or the individual’s allocation has been harvested. Option 3 under Section 2.6.2 provides for accounting of incentive species for non-members of cooperatives. Under this option, an individual would begin fishing off the unallocated TAC in the incentive fishery only after the individual’s allocation of incentive species is harvested. This provision could be applied to participants in the “low producing” fixed gear catcher vessel share holders under Alternative 2 and halibut and sablefish IFQ holders under either alternative.

Table 2: Percentage of Incentive Species Harvested by Area from 1995 - 2002

Year	Area	Arrowtooth Flounder	Deepwater Flatfish	Flathead Sole	Rex Sole	Shallow Water Flatfish
1995	WG	28	21	29	28	8
	CG	64	25	31	51	39
	EG *	20	7	1	9	1
1996	WG	40	4	40	69	10
	CG	79	26	43	74	69
	EG *	16	7	4	10	3
1997	WG	53	4	22	57	9
	CG	50	72	39	44	57
	EG *	23	32	3	7	4
1998	WG	60	5	28	37	6
	CG	38	59	23	40	25
	EG *	8	3	0	1	8
1999	WG	74	9	9	51	6
	CG	48	68	14	44	18
	WYAK	15	23	1	5	2
2000	WG	124	10	13	72	12
	CG	71	30	25	48	49
	WYAK	6	9	1	0	6
2001	WG	77	6	30	35	5
	CG	54	25	26	44	46
	WYAK	8	9	0	0	0
2002	WG	77	11	21	31	6
	CG	60	24	34	47	53
	WYAK	2	0	0	0	0
95 - 02 Ave.	WG	67 %	9 %	24 %	48 %	8 %
	CG	58 %	41 %	29 %	49 %	45 %
	EG/WYAK	12 %	11 %	1 %	4 %	3 %

Note: * Until 1999, there was not a separate West Yakutat allocation for these species.

As with the open access fishery, adequate bycatch would be required in order to effectively harvest the target species in the incentive fishery, and many of the same catch accounting and monitoring problems would need to be addressed in the incentive fishery. However, the eligibility criteria in Section 2.6.1 indicate that participants would still need to retain adequate harvest shares of bycatch and PSC in order to participate in the incentive fishery. For fisheries that are constrained by bycatch and PSC, this requirement provides additional management control.

Participants in the incentive fishery would not be competing for bycatch and PSC as well as incentive fish because they will have individual bycatch shares. NMFS would still need to monitor target species harvest rates in the incentive fishery relative to bycatch harvest rates to ensure that the overall incentive fishery harvests were not exceeded, but in cases where the bycatch harvest rates are not greater than the incentive fishery harvest rates, real-time reporting of bycatch harvest shares could be sufficient to monitor overall catch. Generally, participants will have the same issues of bycatch monitoring in the incentive fisheries as in the rationalized fisheries, because both will be subject to bycatch shares.

Monitoring Issues in the GOA Groundfish Rationalization Program

NPFMC
September 12, 2003

The Council is currently in the process of developing alternatives for its Gulf of Alaska (GOA) groundfish rationalization program. Successful implementation of a rationalization program in the GOA will depend on the development of a practical and cost-effective monitoring program to ensure that groundfish and prohibited species (PSC) catches are properly accounted. The purpose of this discussion paper is to identify the monitoring issues that are likely to be associated with the GOA rationalization program, and explore a variety of monitoring approaches.

NMFS currently manages the groundfish fisheries of the GOA by using a combination of reports from observers and processors. The current system was designed to provide the data necessary to manage aggregate groundfish and PSC quotas in open access fisheries. Under the current system, data reported to NMFS by catcher processors, shoreside processors and at-sea observers are combined to generate aggregate estimates of total removals for each groundfish species or species group. PSC rates from observed vessels are extrapolated to provide estimates of total PSC bycatch on a fishery-by-fishery basis. This system is appropriate for the current open access fisheries in the GOA where TACs and PSC limits are managed in the aggregate. However, the current system is inadequate for monitoring rationalized fisheries because it was not designed to provide estimates of catch and bycatch on an individual vessel basis.

Because the GOA rationalization alternatives are still under development, it is not possible to spell out in great detail the type of monitoring that will be necessary to implement the program. And this paper does not attempt to do so. However, given the direction of the alternatives as they have progressed to date, it is possible to identify some of the monitoring issues that are likely to arise, and suggest some alternative approaches for monitoring catch and bycatch that may merit further analysis.

The first section of this paper summarizes the types of monitoring requirements that are likely to arise under the alternatives currently under consideration. This section concludes that a system of individual vessel halibut PSC harvest shares¹ will be the most problematic and difficult element of the program to monitor. The other aspects of the GOA rationalization program, such as the allocation of groundfish harvest shares or individual fishing quotas (IFQs) to individual fishermen, do not raise such difficult monitoring issues, and likely could be implemented using a combination of the methods currently used to monitor other individual quota-based fisheries such as the halibut/sablefish IFQ program, the Community Development Quota (CDQ) program, and the American Fisheries Act (AFA) pollock management program.

The second section of this paper focuses options for implementing and managing individual vessel halibut PSC harvest shares, and discusses the level of monitoring that is likely to be required under various alternative approaches. This section of the paper concludes that halibut PSC harvest shares

¹Also known as vessel bycatch allowances (VBAs) or individual bycatch quotas (IBQs).

(issued to either vessels or cooperatives) are likely to be exceedingly costly to implement if the program relies on observer coverage to monitor the actual halibut bycatch of individual vessels. For some of the smaller vessel size classes, the costs of observer coverage could even exceed the net revenues from the fishery. However, maintaining the current system of aggregate PSC limits is also problematic because to do so would simply create a race for fish in the fisheries in which halibut PSC limits are a controlling factor.

For this reason, the Council may wish to explore additional approaches to monitoring and regulating halibut PSC so that the objectives of rationalization can be achieved in a cost-effective manner. To this end, a variety of alternative approaches to PSC management are suggested at the end of this discussion paper. Given the disparate nature of the different GOA groundfish fisheries, the Council may wish to explore a variety of approaches for PSC management that can be individually tailored to each individual fishery. The paper merely serves as a starting point in that discussion, as some of the suggestions contained within are only rough ideas that have in no way been thoroughly developed or analyzed. At a minimum, the Council should ensure that the environmental impact statement currently under preparation contains a thorough analysis of PSC monitoring alternatives so that problems and cost-effective solutions can be identified.

1.0 Elements of the GOA Groundfish Rationalization Program that require monitoring and oversight

While the GOA groundfish rationalization alternatives have not been finalized in great detail, many of the activities that will require monitoring are common to the alternatives. These may be grouped into four general categories for the purpose of this discussion paper:

- Individual vessel fishing activity. These are the elements of the management program that must be monitored at the individual vessel level such as groundfish IFQs and individual vessel halibut PSC harvest shares.
- Fishery-wide fishing activity. These are elements of the management program that can be monitored at the fishery level. Examples include the tracking of marine mammal and seabird interactions, which are monitored fishery-by-fishery but are not regulated at the individual vessel level.
- Cooperative formation and operation. Some of the alternatives contain a host of regulations that govern the formation and operation of fishery cooperatives. Considerable monitoring and oversight may be required to ensure that cooperatives form and operate in the manner intended by the Council.
- Processing activity. In the inshore sector, much of the monitoring of groundfish IFQs is likely to occur at the shoreside processor where catches are sorted and weighed. In addition, regulations that implement a closed class of processors or establish linkages between processors and cooperatives will require additional monitoring and oversight to ensure a level playing field and to ensure that processors are operating within the constraints imposed on them by the program

1.1 Individual vessel fishing activity

Regardless of the form that the GOA rationalization ultimately takes, increased monitoring of individual vessel fishing activity will be necessary because quotas and bycatch limits that were previously allocated at the fishery level will now be allocated to individual vessels or cooperatives. The types of activities that will need to be monitored at the individual vessel level include the following:

- Catch and discards of groundfish species for which IFQs have been assigned.
- Bycatch of PSC species for which individual vessel harvest shares have been assigned.
- Time and location of fishing activity.
- Other restrictions on the use of IFQ (owner-on-board requirements, leasing restrictions, gear restrictions, vessel size limits, processing restrictions, etc).

1.1.1 Groundfish catch and discards

NMFS has a decade's worth of experience with monitoring groundfish catch and bycatch at the individual vessel level in the halibut/sablefish IFQ and CDQ fisheries, and more recent experience monitoring individual vessel activity in the AFA pollock fishery. The experiences with these three programs is likely to guide the Council and agency in developing an individual vessel monitoring program for GOA rationalization. Experience with all three programs suggests that the processing location is the most efficient and cost-effective place to monitor the catch of IFQ species. For catcher vessels, landings are most efficiently monitored at the processor, where deliveries can be sorted and weighed on certified scales, and the weighing process can be monitored.

Catcher processors vary considerably in terms of size and type of operation. On larger catcher processors such as those that operate in the AFA pollock fishery, total catch can be effectively measured onboard the vessel using flow scales. On small catcher processors such as the freezer longliners that operate in halibut/sablefish fishery, at-sea scales may not be practical. On such vessels, landings may be most efficiently monitored by weighing products at the time of offload and back-calculating using product recovery rates (PRRs) to determine total catch as is currently done in the halibut/sablefish IFQ program.

Monitoring groundfish landings by catcher vessels

Experience with other quota-based programs suggests that the retained catch of catcher vessels is most effectively measured at the processor location. Most catcher vessels, especially those operating in the GOA, simply do not have the capacity to install at-sea scales that would provide the same level of accuracy as the certified scales installed at the processing plant. Likewise, at-sea observer estimates of groundfish catch that are based on extrapolated basket samples cannot approach the level of accuracy provided by certified scales installed at the processing plant. Furthermore, it is more cost-effective in terms of equipment and personnel to weigh the catch of multiple vessels at a single shoreside location rather than at-sea with separate scales installed on each individual vessel. Some quota-based programs in other countries use at-sea scales to monitor catcher vessel landings. But that approach is likely not practical in the GOA groundfish fishery given the number of small vessels and the diversity of vessels and gear types.

In the quota-based programs established in Alaska to date, NMFS has taken two different approaches to monitoring shoreside landings of quota species. For the halibut/sablefish IFQ program, NMFS developed a program that relies on NMFS enforcement officers to monitor landings and enforce compliance with

catch weighing and catch accounting regulations. In contrast, the CDQ and AFA shoreside monitoring programs in the Bering Sea rely primarily on observers to verify that catch is being sorted and weighted in an accurate manner.

While all three of these programs rely to a great extent on industry-reported data, the presence of enforcement officers and observers provides NMFS with the ability to verify compliance and ensure that quotas are accounted for in fair and accurate manner. IFQ programs in other countries have taken the government role a step farther by establishing government-operated weigh stations where all catch must be weighed and logged prior to processing. However, such a government-intensive system is likely not practical given the far-flung nature of the GOA groundfish fishery and the isolated location of many processors. Therefore, the GOA rationalization program will likely need to rely on a system of industry-reported landings with oversight by NMFS Enforcement and/or observers, or a new system such as government weighmasters.

Regardless of who is responsible for the oversight, a catch monitoring program for GOA groundfish landings is likely to contain the following types of requirements:

- Sorting requirements to ensure that multi-species groundfish landings are properly sorted by species prior to weighing.
- Handling requirements to ensure that the flow of fish from the offload point to the scale can be observed and fish cannot be diverted into the factory without being weighed.
- Weighing requirements to ensure that all groundfish IFQ species are properly weighed on approved scales, and that fish do not enter the factory without being weighed.
- Scale requirements to ensure that scales are properly calibrated and are of an approved type certified by NMFS or the State of Alaska.
- Reporting requirements to ensure that IFQ landings are properly reported to NMFS.
- Recordkeeping requirements to ensure that scale receipts and other associated records are maintained for possible future auditing or inspection.

Monitoring groundfish discards by catcher vessels or full retention requirements for all IFQ species

Groundfish discards are among the most difficult fishing activities to estimate with accuracy and precision. At present, while both catcher vessel operators and observers are required to report discards, neither is required to actually measure discards in any systematic way. Vessel operators must report their groundfish discards in their daily fishing logbooks. However, NMFS does not provide any guidance or measurement standards for generating such estimates. Therefore, in most instances, the number reported in the vessel's logbook is simply the skipper's "guestimate" and is not based on any actual weighing or measurement of fish prior to discarding.

Likewise, NMFS observers are also required to report discards or the "percent retained" for each groundfish species or species group. However, observers do not generally attempt to weigh or otherwise measure the exact quantities of groundfish that are discarded by vessels. This is because other tasks such

as species composition sampling and PSC bycatch estimation are given a higher priority. The 2003 Groundfish Observer manual instructs observers that

“Percent retained is only an estimation, and your effort and time spent obtaining it should be minimal! Percent retained, by species, is often difficult to estimate because discard can happen in a variety of places. Make your estimation based on what you see happening, on a haul by haul basis. Potential types of discard include fish falling off belts, dumping large portions of nets at sea and size sorting fish.”²

The West Coast Groundfish Observer Program has traditionally placed a higher emphasis on estimating groundfish discards, as discard estimation is a primary reason why observers are deployed in the west coast groundfish fishery. To this end, the West Coast Groundfish Observer Program has established additional standards and procedures for discard estimation by observers. If the discard volume is low enough, observers sort and weigh all bycatch prior to discarding. At higher levels of discards, observers and/or crew members transfer groundfish into baskets prior to discarding and use an average basket weight to estimate the total amount discarded. At the highest levels of discards, observers are forced to use the same types of visual estimation methods used by groundfish observers in the North Pacific.

While the methods used to estimate discards in the west coast groundfish fishery could be used to improve discard estimates in the GOA groundfish fishery, they may not be practical on higher-volume vessels without considerable additional effort and equipment, and the diversion of observers from existing duties such as PSC estimation. On larger vessels that handle higher volumes of groundfish, equipment such as conveyor belts and flow scales may be the only viable method to obtain precise and accurate estimates of discards.

Under the GOA rationalization alternatives, the Council is currently considering a variety of retention requirements for IFQ groundfish that range from no retention requirement to 100% retention for all IFQ groundfish species. The decision about whether to allow at-sea discards of groundfish IFQ species depends largely on whether at-sea discards of IFQ groundfish species can be reliably measured. Without reliable methods to measure at-sea discards of IFQ species, vessel operators will have no reliable way to determine when they have reached their IFQ for a particular species, and managers will have no way to determine when an IFQ has been reached or exceeded.

The only alternative to at-sea measurement of groundfish discards is to prohibit at-sea discards of IFQ groundfish so that the entire IFQ catch can be weighed at the processor. Existing improved retention/improved utilization (IR/IU) regulations already prohibit the discarding of pollock, Pacific cod, and shallow water flatfish in the GOA and could easily be extended to other IFQ groundfish species. Absent a reliable method of measuring at-sea discards on both observed and unobserved catcher vessels, the Council should consider requiring full retention of all IFQ groundfish species so that IFQ catches can be properly monitored and accounted.

However, it is not necessary to extend full retention requirements to species that are not managed under the IFQ or co-op program because such species could be managed using aggregate

²“2003 North Pacific Groundfish Observer Manual.”North Pacific Groundfish Observer Program. AFSC, 7600 Sand Point Way N.E., Seattle, Washington, 98155., page 4-23.

data as is currently done today. Non-IFQ species could include underutilized groundfish species such as arrowtooth flounder, and non-allocated species such as grenadier. Species composition sampling by observers could provide sufficient information to manage such species in the aggregate so there would be no need to retain these species for weighing at the processor.

A full retention requirement for IFQ groundfish species is not without its own monitoring and enforcement issues. It is far easier for an observer to monitor compliance with full retention requirements than to estimate groundfish discard amounts, because monitoring compliance with a full retention requirement simply means watching to see that no groundfish are being discarded. However, without an observer on board it may be simply impossible to monitor whether an operation is illegally discarding groundfish. Of course, this is already the case for the current retention requirements for pollock, Pacific cod, and shallow water flatfish. Extending retention requirements to other species such as rockfish would not raise new issues or problems that are not already present in the existing IR/TU program. In reality, if unobserved vessels chose to discard IFQ groundfish, there is probably little that can be done to detect such activity unless remote monitoring techniques such as video surveillance are used

Monitoring groundfish landings by catcher processors

Measuring the catch of IFQ species by catcher processors is substantially more difficult than for catcher vessels because of space constraints and the difficulty of taking accurate measurement on a moving vessel. In the quota-based programs established to date, NMFS has used a variety of approaches to measure individual quota harvests on catcher processors. In the halibut/sablefish IFQ fishery NMFS requires that all IFQ species be retained and all IFQ products be weighed and reported at the time of offload. The total catch of IFQ halibut and sablefish is then determined by extrapolating product weights to round weights using standardized PRRs. Both the CDQ and AFA programs in the Bering Sea require catcher processors to weigh all groundfish onboard the vessel using NMFS certified scales. However, the catcher processors operating in the CDQ and AFA fisheries tend to be large factory trawlers whereas the catcher processors operating in the halibut/sablefish IFQ fishery tend to be much smaller freezer longline vessels. In addition, catch measurement using at-sea flow scales is most effective in single species fisheries such as the pollock fishery where bycatch is minimal and easily deducted from the scale weights to generate species-by-species catch totals. Measuring the total catch of each species in a multi-species trawl fishery is much more difficult, even with onboard flow scales. Either the catch must be sorted by species prior to weighing, or the unsorted catch must be weighed and a basket sample taken to determine the species composition of the catch.

In developing a groundfish catch monitoring program for catcher processors, the Council and NMFS will need to consider the size and type of catcher processors that operate in the GOA to come up with a cost-effective and appropriate monitoring program. The Council may wish to consider a variety of monitoring approaches depending on the size, gear type, and target fishery of the catcher processor. In any event, NMFS has considerable experience with monitoring individual groundfish quotas on a variety of type of catcher processors. The rationalization program in the GOA is unlikely to raise issues that have not already been faced and addressed to some extent in the halibut/sablefish, CDQ, and AFA fisheries.

Monitoring groundfish discards by catcher processors.

The problems with measuring discards described in detail for catcher vessels also apply to catcher processors. In fact, estimating discards on board catcher processors is even more difficult than on catcher vessels because of the opportunity to discard fish at more locations on the vessel—both on deck

and inside the factory. On a catcher vessel, once the fish have been dumped into the vessel's holds they stay there until offloading. However, all catcher processors have one or more discard chutes below decks where bycatch and the heads and guts of processed fish are discarded. Therefore, the rationale for requiring full retention of all IFQ groundfish species on catcher vessels also would apply to the catcher processor fleet. On the other hand, if flow scales are used to weigh all groundfish prior processing, then discard estimation would become unnecessary because the scales would be used to measure the total catch of IFQ groundfish. Groundfish discards would, therefore, be less of an issue on catcher processors that use flow scales to monitor IFQ harvests, than on catcher processors that use back-calculated production reports to estimate discards.

1.1.2 Halibut PSC

Under the GOA rationalization alternatives, halibut is the only PSC species for which individual vessel harvest shares would be assigned. Under the current management regime in the GOA, aggregate PSC limits have not been established for salmon, crab, and herring, although retention of those species is, of course, prohibited.³ This discussion assumes that halibut would be the only PSC species in the GOA for which individual harvest shares would be allocated to either individual vessels or cooperatives. However, the issues associated with monitoring halibut bycatch also would apply to crab and salmon, should the program be extended to those other PSC species.

In the GOA groundfish fishery, halibut PSC is currently allocated among fisheries and gear types in the annual harvest specifications. Under the current management program, inseason halibut bycatch is estimated by using a formula that extrapolates the observed estimates from vessels that carry observers to the portion of the fleet that is unobserved. This system is based on the assumption that observed and unobserved vessels operate in a similar manner in open access fisheries. This system is designed to provide aggregate estimates of halibut bycatch on a fishery-by-fishery basis and is not intended to provide precise estimates of halibut bycatch on an individual vessel basis, either for the observed or unobserved vessels.

While extrapolation of data from observed to unobserved vessels may be appropriate for managing halibut PSC in open access fisheries, it is not likely to be a viable monitoring approach in rationalized fisheries regardless of whether or not halibut PSC is allocated to individual vessels. This is because the basic assumption in open-access fisheries— that observed vessels are operating in a similar manner as unobserved vessels—can no longer be made in a rationalized fishery where each vessel operator is free to choose when and where to conduct his fishing activity. This is especially true in cooperative fisheries where members are no longer competing against each other in a race for fish but have an incentive to work together to ensure that bycatch rates on observed vessels are as low as possible.

³The Council has indicated that it intends to develop additional bycatch measures for crab and salmon within the GOA rationalization program. However, at this time, individual vessel harvest shares have not been proposed for those PSC species. Management options for crab and salmon are scheduled to be discussed at the October 2003 Council meeting.

Statistical issues related to the design of an individual vessel halibut PSC harvest share program

The GOA rationalization alternatives include options under which halibut PSC harvest shares would be allocated to individual vessels or cooperatives. Under such a program, NMFS would monitor halibut bycatch rates for individual vessels or cooperatives to ensure that harvest shares are not exceeded. The level of monitoring required to operate the program depends on a variety of factors that include sampling bias and precision, enforcement requirements, and operational requirements for cooperatives.

Sampling bias. One of the biggest concerns in developing a PSC monitoring program is the elimination of sampling bias. Bias can occur at a variety of levels within a sampling program including: (1) the choice of which portion of the haul to sample (2) the choice of which hauls to observe on a vessel, and (3) the choice of which vessels are observed and unobserved. The Observer Program expends considerable effort to ensure that unbiased sampling occurs onboard each vessel. These include training and instructions to observers on how to collect samples randomly from various portions of each sampled haul, and the use of random sampling schedules to govern which hauls are sampled during a fishing day. Under a rationalization program, concerns about bias at the vessel level could increase because individual vessel operators would have a greater incentive to attempt to bias observer samples through activities such as pre-sorting PSC. While such activities are, of course, already illegal, increased vigilance would likely be necessary to ensure that attempts to bias sampling are not successful. Some vessels operating in the BSAI have already demonstrated a willingness to deliberately bias PSC sampling by pre-sorting halibut in an attempt to avoid VIP program violations or extend fishing seasons.

The greater concern regarding sampling bias is in the choice of which vessels to observe. In open access fisheries with less than 100% observer coverage, the assumption is that all vessels are competing equally in a race for fish and therefore, the fishing practices on observed vessels are likely to be fairly representative of unobserved vessels operating with the same gear type in the same time and area. In a rationalized fishery, this assumption can no longer be made for a variety of reasons. First, fishing effort in rationalized fisheries tend to be much more dispersed in both time and space which means that the activities of observed vessels are less likely to be representative of unobserved vessels. Second, in a cooperative fishery, vessels are by definition "cooperating" with each other and have both the incentive and ability to bias sampling by ensuring that observed vessels get lower bycatch rates than unobserved vessels. Finally, in a cooperative the level of aggregation is much lower than in an open access fishery where the observations from all the observed vessels in a fishery might be aggregated to determine fishery-wide bycatch rates. If the level of aggregation is to a cooperative with much fewer vessels, the possibility of bias increases.

Resolving concerns about sampling bias will likely require significant increases in observer coverage relative to the current levels. Because bias is difficult or impossible to measure, there may be no way to effectively address it other than to eliminate it entirely. The most obvious way to eliminate bias between observed and unobserved vessels is to require 100% observer coverage. The question is whether concerns about bias can be adequately addressed at coverage levels less than 100%. That question cannot be answered here but will require considerable additional analysis. Some sources of bias could be identified and eliminated through the use of GPS-integrated electronic fishing logs that provide NMFS with better information on when and where vessels are fishing. However in small cooperatives where vessels use different gear types and operate in different target fisheries in different areas during different times of the year, there may be no way to effectively address the problem of bias other than to require

100% observer coverage. Or alternatively, to require the observed and unobserved vessels in a cooperative to use identical gear and fish side-by-side in a group so that the observed and unobserved activities are comparable.

Sampling precision. Precision refers to the extent to which bycatch estimates are likely to vary in repeated sampling. The standard statistical measure of precision is the *coefficient of variation (CV)*, which is the ratio of the square root of the sample variance (i.e. the standard error) to the estimate of the sample mean. By using this measure, one is able to compare the variances of distributions that have large differences in their means or units of measurements. For example, a CV of 30% implies that the size of the standard error is 30% as large as the sample mean. Smaller CVs indicate greater precision. Alternatively CVs of 100% or greater have poor precision with the standard errors being equal to or larger than the estimated mean. The precision of bycatch estimates can be increased by increasing the size and frequency of the samples taken. Practical limitations on observer workloads limits the extent to which sampling precision can be increased on a boat with a single observer. Increasing the coverage levels in a fishery is one method of increasing sampling precision. Technological improvements in sampling methods that allow observers to handle larger volumes of fish would be another way to increase sampling precision.

Establishing minimum acceptable levels of sampling precision may be necessary to successfully implement individual vessel PSC harvest shares. The minimum acceptable level of sampling precision will depend on a variety of factors including (1) conservation requirements, (2) enforcement requirements, and (3) the operational requirements of vessels and cooperatives.

Conservation of the halibut resource requires that the total estimated PSC from the groundfish fishery does not vary from the overall PSC limit to an extent that would raise conservation concerns. A recent NMFS report on bycatch monitoring provides an extensive discussion on the use of precision estimates in bycatch management and suggests that a precision goal of CVs of 20-30% is appropriate for aggregate annual bycatch estimates that are used for traditional management purposes.⁴ If this precision goal of a CV of 20% is applied to the GOA groundfish fishery, we would be 84% certain that the actual annual halibut bycatch is within 20% of the estimate, and 98% certain that it is within 40% of the estimate. Translated to actual numbers, if the estimated annual bycatch is equal to the annual PSC allocation of 2,300 mt (i.e. if the entire halibut PSC allocation is taken), that would mean we would be 84% certain that the actual bycatch of halibut in the GOA is between 1,840 mt and 2,760 mt and 98% certain that it is between 1,300 mt and 3,220 mt.

Effective enforcement of individual vessel halibut PSC shares will require that bycatch estimates for individual vessels or cooperatives be precise enough to ensure that violations can be successfully prosecuted. This is an important question that must be thoroughly analyzed before a program of individual vessel halibut PSC harvest shares can be developed and implemented. When the vessel incentive program (VIP) program was under development, NMFS undertook considerable statistical analysis to determine the minimum levels of sampling that would be required to produce bycatch rates estimates that are acceptably precise for enforcement purposes. In a halibut PSC harvest share program, bycatch estimates must be precise enough so that when a case is taken to court, the government can adequately prove that the alleged violation actually occurred. If the sampling regime is so imprecise that

⁴"Evaluating Bycatch: A National Approach to Standardized Bycatch Monitoring Programs. NMFS." National Marine Fisheries Service, Silver Spring, MD, June 2003.

there is reasonable doubt about whether the vessel in question actually exceeded its PSC harvest share, then the government will be unable to prove that a violation occurred. The analytical work done in support of the VIP program may provide some information on the minimum acceptable levels of precision required to make a halibut PSC harvest share program enforceable. However, because the VIP program and the proposed PSC harvest share program are sufficiently different, considerable analysis will be necessary to determine what kind of minimum levels of sampling will be required to enforce the proposed halibut PSC harvest shares.

Finally, effective implementation of a system of halibut PSC harvest shares will require that bycatch estimates are precise enough to satisfy the operational needs of fishermen and cooperatives. In a fishery cooperative where quotas are traded and sold among co-op members, monitoring must be precise enough to ensure that the fishermen are actually able to catch the quotas that they have obtained. The levels of precision required to successfully operate a cooperative may far exceed the level that might be required for conservation purposes alone. The AFA catcher processor pollock fishery in the BSAI provides an excellent example of this situation. If the objective in the AFA pollock fishery was simply to manage the pollock TAC for conservation purposes, then a CV of 20% or greater might be perfectly acceptable for pollock TAC management given that the ABC and OFL are more than 20% greater than the TAC. Managing the pollock TAC to a CV of 20% would ensure that the stock is not overfished.

However, the AFA catcher processor fleet is also managing a cooperative in which pollock quota is bought and sold by the metric ton. Pollock fishermen want to be certain that their actual harvests are equal to the quotas that they hold and desire a level of monitoring precision that far exceeds that which would be required for conservation purposes alone. To this end, the AFA mandates that all pollock harvested by AFA catcher processors be weighed on NMFS-certified scales. These scales must be tested daily and be calibrated to be accurate to within 0.5% or the vessel cannot operate. Under this system, a vessel operator can be reasonably certain that his actual catch of pollock is within 0.5% of his reported scale weight. Concerns about bias were also a reason for the scale requirements and increased coverage in the AFA and CDQ fisheries.

The level of precision attained in the AFA and CDQ pollock fishery far exceeds anything that would be required for conservation purposes, but ensures that when a company invests in AFA or CDQ pollock quota it will be able to harvest all of it. The AFA cooperatives could not function if the catch estimation method used in the pollock fishery was simply designed to produce an aggregate annual CV of 20% because the individual catch estimates on individual vessels could be highly imprecise and vary substantially from vessel to vessel. No fisherman (unless he was a gambler!) would want to purchase 100 mt of pollock quota to fish if the monitoring program is so imprecise that his actual catch could range between 20 and 180 mt before he was shut down, and he has no idea in advance as to which end of the range his actual catch will fall.

With respect to a cooperative-based halibut PSC harvest share program of the sort envisioned under GOA rationalization, the acceptable level of precision may well depend on the structure of the cooperatives and whether they are voluntary or mandatory. In a system of voluntary cooperatives in which all of the members of a cooperative have freely chosen to associate with each other and "uncooperative" members can be excluded, a less precise sampling program may be acceptable. This is because the individual members of the cooperative may have faith that they will all individually act in the best interests of the cooperative and follow the best fishing practices to reduce bycatch. However, in a system of mandatory cooperatives in which fishermen do not have the flexibility to choose their own membership, and are forced to accept "uncooperative" members that they would otherwise not wish to

associate with, a more precise sampling program may be necessary. In such an instance, the member vessels may be unwilling to have their bycatch rates pooled because one bad actor could drag down the cooperative. Instead, the members may want a sampling regime that is precise enough to allow the cooperative to regulate vessels individually and isolate out those with higher rate.

How good must the halibut bycatch monitoring program be?

The issues of sampling bias and precision are therefore central to the design of a bycatch monitoring program for GOA rationalization. The purpose of this discussion paper is not to identify what type of sampling or what level of observer coverage is necessary to successfully implement the proposed halibut PSC harvest share program and eliminate concerns about bias and precision. Rather, the purpose of this discussion is to emphasize that sampling bias and precision must be major factors in the analysis and design of a halibut PSC monitoring program that relies on observer sampling to meet its objectives.

Given the problems associated with sampling bias and precision, a halibut PSC harvest share system that is based on observer coverage is likely to be the most difficult aspect of the GOA rationalization program to design and implement. This is especially so if the program relies on at-sea observers to produce vessel-by-vessel bycatch estimates. It may be the case that a program that relies on observer data may be too costly to be economically viable in some GOA groundfish fisheries. This is especially true for those sectors of the groundfish fishery in which smaller vessels predominate.

At the same time, maintaining the current system of aggregate PSC quotas is not a viable option either, because maintaining the current fishery-based PSC quotas would simply result in a race for halibut PSC in those fisheries that are PSC-limited. Many of the benefits of rationalization would be defeated. In light of this dilemma, section 2.0 explores some alternative approaches to halibut bycatch management that may merit consideration, if the proposed system of halibut PSC harvest shares proves to be unworkable for some or all of the sectors of the GOA groundfish fishery.

Individual vessel vs cooperative PSC harvest shares

Some fishermen have suggested that a halibut PSC harvest shares issued to cooperatives would require less monitoring than harvest shares issued to individual vessels. However, the extent to which this is true depends largely on the type of cooperatives authorized under the program, and their objectives for internal vessel management. It also depends on whether the issues associated with sampling bias can be adequately addressed with less than 100 % observer coverage.

The type of cooperatives formed under GOA rationalization will significantly influence the type of monitoring program required. At one extreme would be a cooperative program with no restrictions on membership, in which fishermen would be free to organize with any other like-minded individuals that they chose to associate with, and would also be free to exclude any individuals that they chose not to associate with. At the other end of the extreme would be a mandatory cooperative program in which each fisherman is only eligible to join a single cooperative linked to a single processor, and in which fishermen would be unable to exclude individuals that they do not wish to associate with.

Under a system of voluntary cooperatives that allows complete freedom of association, it is likely that some cooperatives could form in which the members trust each other to follow all of the agreed-upon fishing practices. In such a cooperative, the members may be willing to accept a single bycatch rate that does not differentiate between vessels, knowing that they would have no way to reward or penalize

individual vessels with higher or lower bycatch rates, or that do not follow agreed-upon practices. Such a cooperative would likely need to operate with some sort of profit-sharing agreement in which all the members share the risks and profit from fishing jointly, because individual vessel statistics could not be discerned, and exchanges of quota between co-op members would be impossible.

However, under a system of mandatory cooperatives in which fishermen are not free to choose their associates, and would have no ability to exclude bad actors, industry is much more likely to desire a monitoring regime in which individual vessel bycatch rates can be determined. This is true even if the PSC harvest share is issued to the cooperative in the aggregate. Under such a system, cooperatives are much more likely to want to subdivide their aggregate halibut PSC harvest share so that each individual vessel receives its own allocation, and so that each individual vessel's halibut bycatch can be tracked.

To date, all of the cooperatives formed under the AFA have been of the latter variety in that they track their individual harvests of pollock and sideboard species so that quota shares can be exchanged between members and individual members can be penalized for exceeding their own allocations. In effect, each cooperative operates its own private IFQ system under which the cooperative allocates quota to each individual vessel and monitors each vessel's fishing activity.

1.1.3 Monitoring the time and location of fishing activity

Numerous regulations in the GOA govern the time and area of fishing activity. These include closed areas such as Steller sea lion protection zones, no-trawl areas, seasonal restrictions on fishing activity, and a host of other regulations that govern when and where fishermen may fish. During open access fisheries when numerous vessels are operating in the same general area for a limited fishing season, these types of regulations are possible to monitor using traditional methods such as Coast Guard overflights. However, in a rationalized fishery where fishermen may be fishing in widespread locations throughout the year, enforcement of time and area closures with traditional methods becomes more difficult. As a result, technological monitoring methods such as VMS may become more necessary under GOA rationalization than they might otherwise be in traditional open access fisheries.

A system of GPS-integrated electronic logbooks in which fishermen report their fishing activity electronically may also assist in tracking of fishing activity. Such a system also could help managers deploy observers in the most effective manner so that the areas where vessels are fishing receive adequate coverage. If managers have better information about where unobserved vessels are fishing they can make better decisions about when and where to deploy observers to obtain comprehensive coverage.

1.2 Monitoring fleet-wide fishing activity

While IFQ groundfish and halibut PSC would need to be monitored at the individual vessel level under most of the rationalization alternatives under consideration, much of the other data necessary for the management of the program could still be aggregated to the fleet or fishery level. The types of data that could be aggregated to the fishery level include:

- Marine mammal takes and observations
- Incidental bycatch of seabirds
- Catch and bycatch of non-IFQ groundfish and non-quota PSC species
- Other scientific data collection programs normally conducted by observers.

1.2.1 Marine mammal and seabird monitoring

A variety of federal laws and regulations require that NMFS monitor takes and interactions with marine mammals and other protected species such as seabirds. In the GOA groundfish fishery, this is currently accomplished through the same observer coverage that is used to monitor groundfish catch and PSC bycatch. A new monitoring program for GOA rationalization will need to continue to collect data on marine mammals and seabirds to the extent required by existing laws and management programs.

The issue is whether marine mammal and seabird monitoring needs to be done at the individual vessel level as with IFQs and halibut PSC harvest shares, or whether marine mammal and seabird data can continue to be collected and aggregated at the fishery level. Given that the GOA rationalization program will not sub-allocate marine mammal and seabird allowable takes down to the individual vessel level, there is probably no reason to increase marine mammal and seabird monitoring beyond the level that is currently considered to be adequate for the existing open access fisheries.

This means that some observer coverage will continue to be required under GOA rationalization in order to meet marine mammal and seabird monitoring obligations. However, GOA rationalization is unlikely to require increased marine mammal and seabird monitoring, unless rationalization leads to changes in fishing behavior that lead to increased concerns about marine mammal and seabird interactions. The effects of rationalization on marine mammal and seabird interactions will be a subject for analysis in the EIS.

1.2.2 Monitoring catch and bycatch of non-IFQ and non-quota PSC species

Under GOA rationalization, individual harvest shares would not necessarily be issued for each groundfish and PSC species. For underutilized groundfish species such as arrowtooth flounder,⁵ or non-allocated species such as grenadier, it may be appropriate to continue monitoring removals in the aggregate on a fishery-by-fishery basis rather than attempting to estimate removals on an individual vessel-by-vessel basis. The same holds true for PSC species such as crab, salmon and herring for which individual vessel harvest shares are not assigned.

If managers are only concerned with estimating the total removals of these species at the fishery level, and not concerned with monitoring individual vessel quotas, then the monitoring system for such species could rely on aggregated data. For example, rather than attempting to determine the exact tonnage of arrowtooth flounder that each groundfish vessel has harvested, managers might simply use extrapolated data from observed vessels to estimate total arrowtooth removals from the GOA.

Because individual vessel data are unnecessary to monitor species for which individual vessel quotas have not been assigned, there is no compelling monitoring reason to extend IR/TU requirements to such species. In the case of non-IFQ groundfish, fishery-wide estimates of total removals could be generated using existing methods without the requirement that each vessel retain all of its non-IFQ groundfish to be sorted and weighed at the processor along with its IFQ species. Therefore, the level of monitoring required to estimate removals of non-IFQ species is considerably lower than that required to monitor groundfish IFQs and halibut PSC harvest shares.

⁵Under some of the options under consideration, arrowtooth flounder could also be an IFQ species. In this case, the total catch of arrowtooth flounder would need to be monitored on a vessel-by-vessel basis and an effective method of measuring arrowtooth discards would need to be developed if full retention of arrowtooth flounder was not required.

1.2.3 Other data collection programs

Observers also collect a variety of other types of data to support ongoing management needs. These include collection of length frequencies and otoliths to support age and growth studies, collection of stomach samples, and collection of tagged fish. These types of data collections will continue to be necessary under GOA rationalization to support the overall management of the fisheries, however there is nothing inherent about GOA rationalization that would require these types of data collection programs to increase.

1.3 Monitoring cooperative formation and operation

The experience with designing and implementing the AFA cooperative program in the BSAI suggests that considerable efforts will need to be undertaken under GOA rationalization to monitor the formation and operation of cooperatives. The extent to which this is necessary depends largely on how the program is designed. For example, in the AFA pollock fishery, NMFS continues to monitor and regulate the catcher processor and mothership sectors of the BSAI pollock fishery as if it were an open access fishery. Other than the requirement to submit annual reports, mothership and catcher processor cooperatives are largely unregulated in the sense that NMFS does not review or approve their membership, and does not issue them individual allocations.

In contrast, the AFA inshore catcher vessel cooperatives are highly regulated because the AFA spells out specific membership requirements for these cooperatives and a specific formula for allocation of quota to each inshore cooperative. Therefore, NMFS must spend considerable time overseeing the formation of inshore cooperatives to insure that each inshore cooperative contains only the members authorized by law and that the allocation to each inshore cooperative is based on the formula spelled out in regulation. NMFS must also review each inshore catcher vessel cooperative's contract to ensure that it contains all of the elements required by the AFA and implementing regulations. Finally, NMFS must also monitor the aggregate landings for each inshore cooperative to ensure that each cooperative stays within its annual allocation.

The extent to which cooperative formation and operation will need to be monitored in the GOA rationalization program depends largely on the extent to which the program restricts cooperative membership and activity. If cooperatives have no membership or delivery restrictions then less oversight will be necessary. On the other hand, if the program is restrictive with respect to cooperative membership, linkages to processors, delivery restrictions, transfers between cooperatives, and requires that eligible vessels be entitled to join specific cooperatives, then a great deal more oversight and monitoring will be necessary to ensure that cooperatives form and operate in the manner intended.

However, regardless of the level of oversight required, these types of tasks are largely administrative in nature and would likely be accomplished by staff at the NMFS regional office. In the AFA cooperative program, observers and enforcement officers in the field are not generally involved in the task of monitoring the internal structure and operation of cooperatives. Under GOA rationalization, this type of administrative workload will most definitely increase, and could require additional staff to implement. The extent to which this is necessary depends largely on how highly regulated and restricted cooperatives would be under the Council's preferred alternative.

1.4 Monitoring processing activity

Under any type of harvest share or IFQ system, increased monitoring of processors is necessary. This is especially true for the weighing and reporting of IFQ landings as discussed above. Some level of additional oversight will be required to ensure that all landings are properly weighed on scales that are properly calibrated, and that IFQ accounts are properly debited. Alternatives that impose additional restrictions on processing, such as a closed class of groundfish processors, or a direct or indirect system of processing quotas, will require additional monitoring of processing activity to insure that processors do not exceed the limits placed on them by regulation. However, the existing halibut/sablefish IFQ program, and the AFA and CDQ programs provide several monitoring approaches that could be applied to GOA rationalization. It is unlikely that GOA rationalization would raise unique and different monitoring issues for processors that have not already been addressed in these three existing quota-based programs.

2.0 Alternative approaches to halibut bycatch management

As discussed above under 1.1.2, implementing an individual vessel halibut PSC harvest share program is likely to be the most difficult and costly aspect of the GOA rationalization program. Because an individual vessel harvest share program for halibut in the GOA has not been extensively developed or analyzed, it is not possible to determine what type and level of monitoring will be required for such a program to operate effectively. However, it seems likely that an observer-based program that attempts to estimate halibut bycatch at the individual vessel level would require 100% or greater observer coverage to achieve the necessary level of precision at the individual vessel level. This type of program would be exceedingly costly given the number and type of vessels currently operating in the GOA groundfish fishery because it could require a ten-fold or greater increase in the number of observers deployed in the GOA groundfish fishery. This level of observer coverage would most certainly not be sustainable through a pay-as-you-go or fee-based program because the costs of such observer coverage could exceed the total net revenues in the fishery. Unless of course the GOA groundfish fleet is dramatically restructured to resemble the large-vessel fleets that operate in the BSAI.

At the same time, maintaining the existing system under which halibut bycatch limits are allocated to different fisheries also is not viable under GOA rationalization. Maintaining the current system of halibut bycatch allocations that are managed through directed fishing closures would defeat the purpose of GOA rationalization, at least for those fisheries in which halibut bycatch is a factor. To do so would simply continue the race for fish because fishermen would be required to race to insure that they catch their IFQ species before the fishery is closed due to halibut bycatch.

Therefore, some alternative approach to halibut bycatch management will be required in order to successfully implement GOA rationalization. If an individual vessel halibut PSC harvest share program monitored by intensive observer coverage is not economically viable, then alternative approaches must be considered. The following discussion introduces a variety of alternative halibut bycatch management and monitoring approaches that may merit additional consideration.

2.1 Alternative monitoring technologies: Digital observers and video monitoring

The use of video cameras to monitor at-sea fishing activity is a relatively new technique, and has only been tried in limited fisheries to date. The approach involves mounting tamper-proof video cameras in various locations on the fishing deck and recording all or a portion of the vessel's fishing activity. A

recently completed pilot program in the Alaska halibut fishery has found video cameras to be extremely useful in monitoring seabird bycatch and compliance with seabird avoidance measures. However, video monitoring alone is unlikely to provide an adequate method to monitor halibut bycatch.

Digital observer technology takes the use of video monitoring one step farther. This technology uses a digital scanner to record multiple images of individual fish for electronic species identification and for length frequency estimates as each fish passes through the scanner on a conveyer belt. The primary developer of this technology is Digital Observer LLC of Kodiak, Alaska. Although this technology is still in the testing phase, it may be an alternative to human observers for some types of vessels and fisheries in the GOA.

The use of alternative monitoring technologies will be a major topic for analysis in the environmental assessment/regulatory impact review currently under preparation for restructuring of the observer program in the GOA. To the extent that such technological approaches show promise for monitoring the GOA groundfish rationalization program, they should be explored further in the EIS currently under preparation for GOA rationalization.

2.2 Industry self-reporting of bycatch

Mandatory logbook reporting requirements are frequently used in fisheries throughout the world. In fact, in the GOA groundfish fishery, the operators of groundfish vessels over 60' LOA are currently required to report estimates of PSC bycatch in their daily fishing logs. The question is whether such self-reporting produces data that is unbiased and precise enough for use in a halibut PSC harvest share program.

NMFS has undertaken several studies that compare self-reported logbook data with data collected by observers in various fisheries throughout the US. All of these studies concluded that self-reported logbook data may not be a reliable method for estimating bycatch. There are a variety of reasons why this is the case. First of all, unlike observers, fishermen are not required to follow any type of random sampling methodology to estimate their level of bycatch. The vessel's estimate, therefore, is simply a visual estimate that is not subject to any methodology. Second, fishermen tend to be focused on the species of economic value in their catch and pay less attention to species that are of less economic value or are discarded. Finally, fishermen would have an obvious incentive to under-report halibut bycatch if they were subject to a harvest share system that was governed by their own bycatch estimates. For these reasons, self-reporting of halibut bycatch is not considered a viable approach to managing halibut bycatch under GOA rationalization.

2.3 Integration with the halibut IFQ program

One approach to managing halibut bycatch is to incorporate it into the existing halibut IFQ program so that vessels would be issued halibut IFQs rather than shares of halibut PSC mortality, and their halibut catch could then be retained for measure and sale at the processor. Given existing and historic halibut fishing regulations, this approach would likely only be viable for fixed gear vessels that could otherwise legally fish for halibut. It would be especially problematic for trawl vessels given that much of the halibut PSC caught by trawl vessels is sub-legal. However, even if limited to fixed gear, this approach would dramatically change the nature of both the existing halibut and groundfish fisheries and would require wholesale changes to both programs. In addition, the harvest shares of halibut PSC mortality allocated to groundfish fishermen would convert to substantially lower amounts of halibut IFQ because

of the difference in mortality rates between halibut PSC caught by longline vessels and halibut caught in the halibut IFQ fishery.

In addition, there are a variety of economic and socio-economic reasons why the Council may not wish to fully incorporate the halibut and groundfish IFQ programs. Nevertheless, it is a potential option for addressing halibut bycatch that could be explored in the analysis, if desired.

2.4 Factoring halibut bycatch into groundfish TAC specifications

The most simple approach to halibut bycatch management would be to incorporate projected halibut bycatch estimates into the TAC setting process. For target fisheries that are limited by halibut bycatch, the TACs could be reduced in advance to the level that the fleet is projected to harvest under a given halibut PSC allocation. This would be a very crude approach to halibut bycatch management, but could be a viable approach in certain small-vessel fisheries where more direct bycatch monitoring with observers is not economically viable.

Under such a system, NMFS could continue to monitor bycatch through some level of observer coverage to determine the actual level of halibut bycatch in the fishery and provide bycatch data that could be incorporated into the following year's TAC specification process. Fisheries that exceed their projected level of halibut bycatch in a given year would see their TACs reduced the following year and fisheries that catch less halibut than projected could see their TACs increased the following year. Such a system would allow groundfish fishermen to fish when and where they wanted in a fully rationalized manner without fear of inseason closure due to halibut PSC. But such a system could provide less incentive to individual vessel operators to reduce bycatch than would a system of individual vessel halibut PSC harvest shares, unless cooperatives organized to keep bycatch rates low.

2.5 Halibut PSC harvest share program based on standardized bycatch rates.

A more sophisticated approach than that identified in 2.4 would be to issue halibut PSC harvest shares to individual fishermen and use model-generated standardized halibut bycatch rates to attribute bycatch mortality to different fishing practices. Under such a system, NMFS would develop a halibut bycatch model that would assign bycatch rates to individual vessels based on such factors as time and area of fishing, gear type, target species, and any additional factors that might also be correlated to halibut bycatch. Such a model could be as sophisticated or simple as the data warrant, and could include data from non-fishery sources such as surveys and abundance estimates.

Under such a model, the entire GOA could be divided up into small subareas for the purpose of halibut bycatch estimation and factors such as gear type, depth, time of year, time of day, and target species could be incorporated as appropriate to determine the estimated bycatch rate for each area, gear type, target fishery, week etc. Conservative (precautionary) baseline rates could be assigned to time/area cells for which bycatch data are lacking, which would mean that industry would have an incentive to ensure that the areas they wish to fish in have adequate observer coverage. A vessel that uses trawl gear to fish for Pacific cod in one area would automatically be assigned a halibut bycatch rate that would be applied against the landed catch of Pacific cod. When the vessel makes its landing, the system would automatically debit the vessel's PSC harvest share account based on the standard rate for that area, time, gear type, etc. A vessel using pot gear to fish for Pacific cod in the same time and area would be assigned a much lower halibut bycatch rate and would have its halibut PSC account debited much less when landing the same quantity of Pacific cod.

Such a system would depend on the ability of NMFS to collect sufficient halibut bycatch data so that the model can reasonably predict bycatch rates by area, gear type, and time of year. Therefore, some level of ongoing observer coverage would be required to track actual bycatch rates so that the model could be updated as necessary. But the level of observer coverage required to develop standardized bycatch rates may be far lower than the level of coverage required to run an halibut PSC harvest share program based on the actual bycatch of each vessel. In fact, such a system is really just a more sophisticated variation on the current halibut PSC management program which extrapolates bycatch rates from observed vessels to unobserved vessels that are fishing in the same time and area.

The advantage to such a system is that it could be far more cost-effective than a system in which NMFS attempts to track actual bycatch rates using observers on each individual vessel. It would also provide more predictability for fishermen who would know in advance that if they fish in a certain manner they can expect to use up a predictable amount of their halibut PSC harvest share. An additional advantage to such a system is that it provides the Council and NMFS a method to encourage the use of fishing methods that are known to reduce halibut bycatch. For example, if a certain type of trawl gear or excluder device is developed that is known to reduce halibut bycatch, that information could be incorporated into the model and fishermen that switch to that gear would be immediately rewarded with a lower bycatch rate. Fishermen would have a powerful incentive to avoid fishing during times and in areas that are known to have high bycatch rates.

Such a system would also encourage additional feedback between fishermen and managers to refine the model. Fishermen who believe that actual bycatch rates for a certain gear type or area are lower than those indicated by the model would have an incentive to come to NMFS and request additional observer coverage in that area to verify their claims. NMFS managers could also watch fishing patterns to determine where observers should be deployed in order to fill holes in the model. NMFS could also conduct research by contracting with fishermen to fish in specific areas with specific gear types in order to supplement data and test new gear types as needed.

While such a system could provide less incentive for individual fishermen to reduce their bycatch in ways that are not reflected in the model, it could be a powerful way to encourage clean fishing practices, to the extent that such high-bycatch fishing practices could be identified and incorporated into the model. Such a program would also be far easier to enforce than one based on actual observed bycatch rates because the regulations would be written to require vessels to live within the model's results, regardless of whether their actual bycatch is higher and lower than the model predicts. Ultimately the success of such a program depends on the extent to which bycatch rates could be predicted based on the time, area, and type of gear used.

2.6 Hybrid program using multiple approaches

Ultimately, the diversity of vessels, gear types, and target fisheries in the GOA may require the Council to consider a hybrid approach that uses different methods halibut bycatch management for different sectors of the diverse GOA groundfish fishery. Any or all of the approaches listed above could be combined in a hybrid program in which the halibut bycatch management method is tailored to each individual fishery as appropriate.

It may well be the case that the diversity of groundfish fisheries in the GOA precludes a one-size-fits-all approach to halibut bycatch management and a hybrid approach is necessary. The suggestions contained in this discussion paper are by no means a comprehensive list. They are only intended to provide a starting point should the Council wish to explore additional alternatives to managing PSC bycatch in the GOA rationalization program.

Discussion Paper
on
GOA Groundfish Rationalization Community Protection Options

NPFMC
September 18, 2003

In June, the Council reviewed a discussion paper provided by staff and made several recommendations to further clarify and refine the options applicable to community protection programs for the Gulf of Alaska. **The modified options are presented under Section 2.9 of the Council's motion on Gulf of Alaska Groundfish Rationalization Elements and Options (dated June 16, 2003).** Recall that the current suite of elements and options includes four proposed community protection options: (1) regionalization; (2) Community Fisheries Quota (CFQ) Program; (3) Community Purchase Program; and (4) Community Incentive Fisheries Trust (CIFT) Program.¹ There will be additional opportunities for the Council to further refine the proposed community protection programs as the analysis for Gulf Rationalization progresses during the next several meetings. **However, because of the complicated nature of the analysis, it will be important to identify as early as possible how the community programs will integrate with the general rationalization options. Without further clarification of the current alternatives and options, staff will be unable to provide much of the analysis necessary for a Council decision.**

This paper is organized into three brief sections: I) Integration of the community programs with the general rationalization alternatives, II) Specific questions on the community protection options, and III) Summary.

I. Integration of community programs with general rationalization alternatives

In the preliminary stage of the analysis, staff could follow an approach similar to that used in previous community programs.² This applies primarily to the CFQ Program and the Community Purchase Program, thus, the remainder of the discussion will focus on these two programs.³ **The Community Fisheries Quota (CFQ) Program, which is most similar to the intent and structure of the existing Western Alaska Community Development Quota (CDQ) Program, could likewise be treated as a somewhat independent program from the overall Gulf Rationalization Program structure.** While the program would take quota off the top of the annual TAC for each rationalized Gulf groundfish species, most program requirements would be separate and distinct from the Gulf rationalization preferred alternative to which all other fishery participants would be subject.

¹In June, the Council also clarified that it wants to retain the option for the community protection options to be additive (i.e., the Council could select one or more of the community programs as part of the preferred alternative).

²See Attachment I for a comparison of community program elements within proposed and existing Council actions.

³The 'regionalization' option is not a community program per se, but is a regional (North-South) designation that would apply to all QS regardless of the holder. The details of the CIFT program will be addressed in a trailing amendment.

The **Community Purchase Program**, by contrast, is most similar to the halibut and sablefish community quota share purchase program (Gulf Amendment 66)⁴ that allows eligible community entities to purchase quota share on the open market. If staff generally followed the approach used in Amendment 66, preliminary analysis of the Community Purchase Program could assume that the restrictions included in the Gulf rationalization preferred alternative, to which individual harvesters are subject, would also apply to eligible communities purchasing harvest shares. As the analysis develops and more information is provided at subsequent meetings, the Council could decide to modify the rules and restrictions that apply to eligible communities receiving or purchasing quota share as appropriate.

While using the above approaches as a starting point seems appropriate in concept, staff is uncertain whether the details of these assumptions are consistent with the Council's desire for these programs. It is unclear in the current Council motion whether the CFQ Program is truly a stand-alone program, participants of which are not subject to any of the overall rationalization provisions proposed for individual harvesters. At the same time, it is unclear whether and how to apply all of the general rationalization options to the Community Purchase Program. Identifying how the community programs will integrate with the general rationalization options will help to place the proposed community programs in context for the public as well as streamline the existing alternatives for EIS analysis. Decisions on several general elements and options, and whether they will apply to the community protection programs, could also considerably reduce the time necessary to complete the analysis.

Several questions remain relative to the interaction between the elements and options for the individual holders of Gulf groundfish QS and those for the community programs. Without further clarification, it is not possible for staff to provide the Council with a comprehensive and meaningful analysis. For example:

Community Fisheries Quota (CFQ) Program

- Will community entities in the CFQ Program be allocated **bycatch species and PSC species**? The current motion only addresses target species (5% - 15% of annual TAC), and does not make explicit whether bycatch and PSC species (halibut) are included in the initial allocation to community entities (2.9.2.2).
- If **bycatch and PSC allocations** are awarded to community entities, on what basis would the shares be calculated? If not, how will bycatch be accounted for?
- Can a community entity **transfer** (sell) its CFQ shares? If so, what terms or harvest designations will apply to the shares once sold to an entity that does not represent a community?
- Will **harvest share designations** apply to harvest shares when they are held by community entities in the CFQ Program (2.3.2)?
- Will shares held by community entities be subject to **processor linkages** (3.1.1)? If so, how would the linkages initially be determined (i.e., there is no harvester history from which to establish the link).
- If **mandatory cooperatives** are established under the general program (4.1), would harvesters leasing shares from community entities also be required to be in a cooperative?

⁴GOA Amendment 66 was approved by the Council in June 2002 and is currently undergoing Secretarial review.

- Would community-held harvest shares be subject to **regionalization** (2.9.1)? If so, how would CFQ be regionally designated (i.e., there is no historical harvest by a community entity to establish the region in which processing occurred).

Community Purchase Program

- Can a community entity **transfer** (sell) its CFQ shares without restriction?
- Will **harvest share designations** apply to shares when held by community entities (2.3.2)? Upon transfer from a community to an individual holder, do original harvest designations apply?
- If harvest shares are purchased by a community entity, would the **processor linkage** transfer with the shares (3.1.1)?
- If **mandatory cooperatives** are established under the general program (4.1), would harvesters leasing shares from community entities also be required to be in a cooperative.
- Would community entities eligible to purchase harvest shares be subject to the same **use caps** as individual holders (2.3.3.7)?
- Would community-held harvest shares be subject to **regionalization** (2.9.1)?

II. Specific questions on community protection options

The general questions above address how the community programs fit in the context of the overall Gulf rationalization alternatives. **In addition, staff has identified three specific issues related to the proposed community protection options themselves, resolution of which would help facilitate preliminary analysis of the community protection programs. Council direction on the following issues and options is requested at this meeting.**

The first issue pertains to the eligibility criteria under the CFQ Program and the Community Purchase Program, the second concerns the need for including options which specify how to distribute CFQ among eligible communities, and the third relates to the options for leasing quota share under the CFQ Program.

Eligibility Criteria under the CFQ Program and Community Purchase Program

At the June meeting, the Council modified the eligibility criteria for both the CFQ Program and the Community Purchase Program (Section 2.9.2.2 and 2.9.3.2, respectively). Option 3 was added as one of several potential criteria to use to determine eligible communities:

- Option 3. Historic Participation in Groundfish Fisheries*
- a. Communities with residents having commercial permit and fishing activity as documented by CFEC in the last ten years (1993 - 2002)*
 - b. Communities determined by the State of Alaska to have met the customary and traditional use threshold for halibut*

While the title of Option 3 denotes historical participation in groundfish fisheries, the options (a) and (b) do not specifically pertain to groundfish fisheries. Staff is uncertain as to whether (a) should be interpreted to mean analyzing the number of communities with only groundfish commercial permit and fishing activity (as suggested by the title of Option 3), or whether all commercial permit and fishing activity should count toward community eligibility (as suggested by the specific wording of (a)).

A preliminary review of the 29 communities (see Attachment 2) that appear to meet the least restrictive population criterion⁵ and geographic criteria indicates that several of the potentially eligible Gulf communities do not have commercial groundfish permit and fishing activity in the past ten years, but do have documented permit activity in other commercial fisheries.⁶ The more restrictive interpretation of (a), in which only commercial groundfish fishing activity is considered, would potentially exclude ten communities if the Council selected (a) as the only measure of historical participation. However, if the Council chose a combination of (a) and (b) at final action, in which communities had to have groundfish landings or a C&T finding to qualify, then only 5 communities would potentially be excluded.

The potential impacts of selecting the various interpretations of (a) are provided to assist the Council in clarifying the intent of this option for staff prior to the analysis. Without clarification, the inconsistency between the title of the options and the criteria may cause confusion in the interpretation of the Council's intent for both the public and in the rulemaking process. **In sum, staff requests clarification as to whether (a) should be interpreted to include communities with only documented groundfish commercial permit and fishing activity, or all commercial permit and fishing activity.**

In addition, while (b) is understood to pertain only to those communities that have been determined to meet the customary and traditional (C&T) use criteria identified by the Council and applied by the State of Alaska, the Council noticed in its subsistence halibut action that additional communities seeking eligibility should pursue a C&T finding from either the Alaska Board of Fisheries or the Federal Subsistence Board. During the Joint Protocol Committee meeting this July, it was decided that the Alaska Board of Fisheries, Council, and U.S. Fish & Wildlife Service staffs will confer to identify a plan for the respective agencies to review such petitions and report to the Council at this (October 2003) meeting. Upon resolution of this issue, the Council may want to modify the language under Option 3(b) to account for potential appeals processes relative to halibut C&T findings. Depending on the outcome, the Council may want to insert the following italicized language under (b): "*Communities determined by the State of Alaska or other appropriate Federal body to have met the customary and traditional use threshold criteria for halibut.*" Staff suggests changing the word "threshold" to "criteria" in order to make the option consistent with the subsistence halibut motion.

⁵The least restrictive population eligibility criterion is less than 7,500 (based on the 2000 U.S. census). The review of eligible communities also assumed that the communities must be without road connections to a larger community highway network and within 10 nm of the Gulf coast.

⁶Ten of the 29 communities have no documented commercial groundfish landings during 1993 - 2002: Akhiok, Aleneva, Cold Bay, Karluk, Kodiak Station, Nanwalek, Port Graham, Susitna, Tyonek, and Womens Bay. Of these 10 communities, 6 have documented fishing activity in other fisheries such as salmon, herring, crab, or halibut: Akhiok, Cold Bay, Karluk, Nanwalek, Port Graham, and Tyonek. Of these six communities, only one (Tyonek) does not also meet the customary and traditional (C&T) use threshold for halibut under (b).

Distribution of Quota under the CFQ Program

The second issue pertains to the need to include options under the CFQ Program (Section 2.9.2) to specify how CFQ will be distributed to the administrative entities representing eligible communities. The current suite of options under the CFQ Program identify the following: (1) criteria for eligible communities; (2) the type of administrative entity that can hold quota share on behalf of those eligible communities; (3) the scope of the overall allocation to the program (5% - 15%); and (4) program rules and restrictions relative to who may harvest CFQ, how revenues may be used, and reporting requirements. **There are currently no options which delineate a method by which to distribute CFQ among administrative entities.** In essence, should the CFQ Program be included in the Council's preferred alternative, it will need to recommend how to divide the percentage of the quota allocated to the program overall (5% - 15%) among participating community entities.

There are several ways that an allocation process could be established; the challenge is to develop one that is well suited to the goals of this particular program, the communities involved, and the scale of the fisheries at issue. In June, the Advisory Panel (AP) recommended including three specific options that were not ultimately recommended by the Council due to lack of time for sufficient discussion:

Allocation Basis

- Option 1. Competitive (as per BSAI CDQ Program)*
- Option 2. Equal distribution amongst qualifying communities*
- Option 3. Pro rata by population*

These provisions or substitute provisions must be developed by the Council for analysis of the CFQ program to proceed.

Note that under any proposed option to allocate quota in the CFQ Program, the quota would be allocated to the administrative entity or entities representing eligible communities. In order to receive benefits from the program, the community must not only be on the final Council list of eligible communities, it must also organize and qualify an administrative entity with NMFS to hold and manage shares consistent with the Council's preferred alternative. The number of communities the entity represents could directly affect the portion of the program quota allocated to each entity.

This section briefly discusses the above AP recommendations, from the perspective of the analytical approach that would be taken by staff. Staff does not have any recommendations regarding which options should be included in the analysis. **The purpose in addressing this issue is to have general options for allocating CFQ included in a preliminary analysis, with the understanding that the details of a distribution process must also be developed for analysis in the EIS.** The AP options were provided above as a starting point for discussion. Options specifying how to distribute quota are necessary, not only to establish a consistent method for distributing quota, but also to consider a mechanism by which a community entity's CFQ could be reduced or eliminated should the entity not comply with specific program requirements.

Option 1 proposes a competitive process similar to the Western Alaska CDQ Program in the BSAI. A fundamental component of the CDQ Program is the competitive allocation process, not only to establish a method for distributing CDQ, but also as the mechanism by which the CDQ groups' investments are kept within the bounds of the program's intent. The State of Alaska (CDQ Team) makes complicated, multi-criterion decisions in allocating quota to CDQ groups, in consultation with the Council and with final

approval by NMFS. As the CDQ groups are restricted in their investment activities, the allocation process provides an administrative structure by which to evaluate an entity's activities and monitor compliance with program requirements. Thus, in the CDQ Program, the allocation process acts as a means to reduce a CDQ group's allocation if its activities are not found to be consistent with the program's intent and associated regulations.

The current CDQ allocation process implemented by the State and NMFS is a fairly lengthy and intense administrative process, which may further increase in length due to pending inclusion of a formal appeals process necessary under the Administrative Procedure Act. Under the current CDQ regulations at 50 CFR 679.30, the State must:

1. Announce a CDQ application period as required by §679.30(a).
2. Hold a public hearing as required by §679.30(b) to obtain comments on the proposed Community Development Plans (CDPs) from all interested persons. The State must provide reasonable public notification of the hearing date and location. At the time of public notification of the hearing, the State must make available for public review all State materials pertinent to the hearing.
3. Consult with the Council before the State submits its recommendations about the proposed CDPs to NMFS, as required by §679.30(c). The State must make available, upon request by the Council, any proposed CDPs that are not part of the State's recommendations.
4. Transmit the proposed CDPs and its recommendations for approval of each of the proposed CDPs to NMFS, along with the findings and rationale for the recommendations, by October 15 of the year prior to the first year of the proposed CDP, as required by §679.30(d). In these findings, the State is required to determine that each proposed CDP meets all applicable requirements of 50 CFR 679.

Once NMFS receives the State's recommendations, NMFS must make determinations as to whether: (1) the proposed CDPs are consistent with the purpose and scope of the CDQ Program; (2) the communities represented by the CDPs meet the eligibility criteria; (3) the CDPs contain all of the information required; (4) the State has followed the application procedures, public hearing requirement, and the Council consultation requirement; and (5) the State provided NMFS with the findings and sufficient rationale for its CDP and allocation recommendations.⁷

The above information is provided to show the extent of the procedures associated with the CDQ Program's competitive allocation process, in order to better assess whether such an option should be included for analysis in the Gulf CFQ Program. The schedule of events that has occurred in past CDQ allocation cycles has generally taken nine months to complete, and inclusion of a formal appeals process may extend that timeframe by an estimated three months. As discussed previously in June, there may be largely varying levels of scope and anticipated revenues that exist between the CDQ Program and the proposed Gulf CFQ Program that may warrant a much higher level of government oversight and accountability in the CDQ Program than is necessary in the Gulf program.⁸ Thus, a competitive allocation process in the Gulf

⁷These requirements are described in Federal regulations as follows: (1) 50 CFR 679.1(e); (2) 50 CFR 679.2; (3) 50 CFR 679.30(a) and 50 CFR 679.2; (4) 50 CFR 679.30(a)-(c); and (5) 50 CFR 679.30(d).

⁸The 2002 total revenues and royalties from the six CDQ groups combined is almost \$70 million and \$46 million, respectively (from the 4th Quarter 2002 reports, unaudited). By comparison, the value generated by all Gulf groundfish fisheries (excluding sablefish) in 2002 was less than \$80 million in ex-vessel revenues (SAFE report: Economic Status of the Groundfish Fisheries Off Alaska, 2002). Thus, the total ex-vessel revenues generated from 5% - 15% of the groundfish TACs (which is proposed to be allocated to the CFQ Program) could be roughly valued at \$4 - \$12 million. Note that communities would receive less than the ex-vessel values, however, as they would only receive the lease price from the quota.

groundfish fisheries may prove overly costly and burdensome relative to the level of benefits generated from the allocations. Should this option be included in the suite of elements and options, these issues would be further explored in the analysis. Both the details of the allocation process and the criteria by which to evaluate competing community entities would need to be developed.

Option 2 and Option 3 propose simplified methods by which to distribute CFQ among eligible communities. Option 2 proposes equal distribution amongst qualifying communities, meaning that an administrative entity would receive an equal portion of the overall quota reserved for the program for each community it represents. Option 3 proposes to allocate CFQ based on the population of the communities each administrative entity represents. It is assumed that the approach under either option would be that CFQ would be divided only amongst eligible communities that met the requirements of the program in a given year. In effect, while the Council may approve a list of eligible communities at final action, it is possible that not all of those communities will organize and qualify an administrative entity with NMFS.

Options 2 and 3 propose a formula by which to allocate CFQ which is entirely objective. No competitive process or evaluation criteria would be required, and thus a much less burdensome administrative process would be necessary. Notwithstanding the inherent uncertainty regarding the number of eligible communities that would participate, as well as annual variation in the TACs, participating entities would have a fairly good understanding of the amount of quota that they would receive annually prior to the fishing year. The lack of subjectivity also means that each community would receive 'equal' treatment, despite various differences in size (under Option 2) or the way each community uses the allocations. The potential advantages and disadvantages of a non-competitive process, as well as issues concerning a mechanism by which a community entity's CFQ could be reduced or eliminated should the entity not comply with specific program requirements, would be discussed in the analysis.

As previously stated, staff does not have any recommendations regarding which options should be included in the analysis. The purpose in providing a general description of this issue is to initiate some discussion as to whether the Council is prepared to recommend options for allocating CFQ at this time. Should the Council proceed with a CFQ Program, options for allocating CFQ among eligible communities will need to be analyzed prior to final action.

Regardless of the type of distribution method identified for analysis, additional details will also need to be developed (e.g., the number of years the allocations will be in place before they are re-evaluated or re-calculated; timing/process for consultation with the Council; evaluation criteria under a competitive process, etc.).

Leasing Quota Share under the CFQ Program

The current options for leasing quota under the CFQ Program are contained in Section 2.9.2.5:

2.9.2.5 Harvesting of Shares

- Option 1. Limited to residents of eligible communities that own their vessels*
- Option 2. Limited to residents of eligible communities*
- Option 3. No limitations on who harvests shares*
- Option 4. No offshore leases to CPs*

This section refers to who is eligible to lease quota from community entities for harvest. On its face, this set of options seems appropriate for analysis. However, if the purpose is to refine and develop comprehensive EIS alternatives for analysis, it is possible that some options may be eliminated if they are not deemed practicable. At this point in the preliminary stages of analysis, staff notes that Option 1 and Option 2 may not be feasible options to consider for this program.

As proposed, the CFQ Program would allocate a specific percentage (5% - 15%) of each Gulf groundfish TAC to eligible Gulf of Alaska communities. The intent and structure of the CFQ Program is most similar to the existing CDQ Program, which receives 7.5% of most BSAI groundfish species and 10% of BSAI pollock. However, due to the smaller, area-specific TACs in the Gulf of Alaska, the CFQ Program would likely be a much smaller program in terms of the relative value of the allocations and the revenues generated from those allocations than the CDQ program (see footnote 8).

Depending on the criteria selected for determining community eligibility, up to 29 Gulf communities may be eligible for the CFQ Program (Attachment 2).⁹ The options for forming an administrative entity to hold and lease QS on behalf of eligible communities currently would allow an administrative entity to represent a minimum of two communities. While an administrative entity must represent more than one community, many of the resulting allocations could still be fairly small. For example, Western Gulf Pacific cod, one of the larger TACs in the Gulf, has a 2003 TAC of 15,450 mt. If 10% (1,545 mt) were allocated to the CFQ Program overall, each eligible community would average 53 mt.¹⁰ If two communities were represented by a single administrative entity and each community received an equal portion of the overall allocation, the cod allocation to that entity would be 106 mt. Some of the smaller TACs may equate to only a few metric tons of an individual species per eligible community. If shares are not distributed equally, some communities could receive substantially smaller allocations. Thus, while multiple communities may potentially organize under a single administrative entity, the allocations and resulting benefits associated with each represented community remain relatively small.

Due to the smaller nature of the TACs in the Gulf and the relatively small populations in many of the potentially eligible communities, it does not appear feasible to require that community entities only lease quota to community residents. If the intent is for communities to derive revenues from the allocations to support community development projects, it may be necessary to allow communities sufficient flexibility to lease quota to individuals that have their own harvest shares to use. Consolidation of community quota share on vessels that are already participating under the rationalization program may be one of the most effective means available to generate revenues for eligible communities. This would allow participants to disperse the fixed costs associated with harvesting the quota among those individuals that are already fishing. While some eligible communities may have residents that will receive individual harvest shares under the program, many of the smallest communities may not. In addition, communities with very low populations may have difficulty finding a local resident with the equipment or knowledge necessary to participate in these particular fisheries in a given year, thus, they may need the flexibility to lease quota to residents of other communities as warranted.

⁹This estimate is based on the following criteria for WG, CG, and WY communities: 1) population of fewer than 7,500; 2) no road connections to larger community highway network; 3) within 10 miles of the Gulf coast. No historic participation or government structure criteria was applied.

¹⁰By comparison, the CDQ Program receives 7.5% of the BSAI Pacific cod TAC, which equates to 15,563 mt in 2003 among the six CDQ groups.

In light of the relatively small allocations and resulting revenues that may be generated from the program, the administrative costs of participating may also be fairly significant. It will clearly benefit some communities to collaborate and organize under a single administrative entity, diluting an individual community's administrative costs of setting up and maintaining a non-profit entity. Even so, the administrative costs may rival the revenues some communities receive from the quota, providing rationale for allowing communities the flexibility to lease their quota to the highest royalty rate offered. In addition, communities with very low populations may have difficulty finding a local resident with the equipment or knowledge necessary to participate in these particular fisheries in a given year, thus, they may need the flexibility to lease quota to residents of other communities as warranted.

Eliminating Option 1 and Option 2 would by no means preclude a community entity from leasing quota share to the residents of the communities it represents – but it would allow the opportunity for communities to lease quota to whomever they choose. Note that the CDQ Program does not impose restrictions on who may lease quota from the CDQ groups,¹¹ but the groups are required to provide information about their business relationships to the State and Federal government. Should the Council feel comfortable with refining the options to this extent, staff recommends eliminating Option 1 and Option 2 under Section 2.9.2.5 for the purpose of creating more practicable EIS alternatives for analysis.

III. Summary

In sum, staff has identified several general questions with regard to the interaction between the overall rationalization alternatives and the proposed community protection programs. Without further clarification, staff will be unable to provide much of the analysis necessary for a Council decision. In addition, the following three specific issues are discussed:

- (1) clarify whether the historic participation criteria (Option 3 (a) in 2.9.2.2) proposed for the CFQ and Community Purchase Program should be interpreted to include communities with documented groundfish commercial permit and fishing activity only, or all commercial permit and fishing activity;
- (2) identify options to specify how CFQ is to be distributed among qualified administrative entities representing eligible communities; and
- (3) consider eliminating Option 1 and Option 2 under 2.9.2.5 which requires that community entities can only lease quota (CFQ) to community residents.

Attachment 1: Common elements of existing or proposed regulations governing community programs
Attachment 2: Draft list of eligible communities under the CFQ and Community Purchase criteria

¹¹Federal regulations at 50 CFR 679.30(a) state that any vessel or processor harvesting or processing CDQ or PSQ under a Community Development Plan must comply with all other requirements of the CDQ Program regulations. However, residency in a CDQ community is not a requirement for harvesting or processing CDQ.

Attachment 1: Common elements of existing or proposed regulations governing community programs

Program	Western Alaska CDQ Program	Gulf community QS purchase program	Crab Rationalization: Community purchase provision	GOA Rationalization: Community Fisheries Quota (CFQ)	GOA Rationalization: Community Purchase Program	GOA Rationalization: CIFTs
Status and Purpose	Existing program (implemented in 1994) is being revised per BSAI Am. 71. The CDQ Program is allocated a percentage of the BSAI TACs (CDQ reserves). Applies to all species except squid.	Approved by Council in April 2002 (GOA Am. 66); PR being drafted. Allows eligible GOA communities to purchase halibut and sablefish QS.	Approved by Council in April 2003. Would allow communities which have at least 3% of the initial PQS allocation of any BSAI crab fishery to purchase harvest shares.	Council is developing options for analysis. Would allocate a percentage of TAC to administrative entities representing eligible communities. Applies to species in preferred alt for Gulf Rationalization.	Council is developing options for analysis. Would allow eligible communities to purchase QS. Applies to species in preferred alt for Gulf Rationalization.	Council is developing options for analysis. Would allocate a percentage of the total QS issued to persons to a CIFT. The CIFT would redistribute to harvesters that meet contractual terms. Applies to species in preferred alt for Gulf Rationalization.
Allocation vs. right to purchase quota share	Allocation	Right to purchase	Right to purchase	Allocation	Right to purchase	Allocation
Program Elements						
1. Eligible communities. Specific eligibility criteria would be in regulation and could also be in the FMP or MSA.	Eligibility criteria in regulation and MSA. Regulations include the eligibility criteria and a list of eligible communities.	Eligibility criteria will be in regulation and FMP. Regulations will include list of specific communities that meet the eligibility criteria.	Eligibility criteria proposed (see above).	Eligibility criteria proposed.	Eligibility criteria proposed.	Individual community eligibility is not applicable.
2. Administrative entity. Communities must have a legal entity that represents them in a fishery allocation program. Most regulations apply to this entity.	"Qualified applicant" for CDQ allocations must be: a local fishermen's organization or economic development organization incorporated under State or Federal law. The BOD must be at least 75% resident fishermen and each community must have at least one representative board member. A CDQ group is a qualified applicant with an approved CDP.	Requires formation of a new non-profit entity to represent communities.	In CDQ communities, the CDQ groups are eligible to purchase shares. For non-CDQ communities, each community must identify an entity permitted to purchase shares on its behalf.	Includes proposed options for an administrative entity: Gulf-wide, regional, or on a multi-community basis. There is also an option which would require the administrative entity to be a non-profit.	An option has been proposed to require that the administrative entity is a non-profit entity qualified by NMFS.	Includes options for CIFT designation (as the administrative entity): Gulf-wide, regional, or CP-based.
3. Qualification of administrative entity. NMFS must qualify or certify an administrative entity prior to it receiving or purchasing QS.	A qualified applicant may apply for CDQ allocations by submitting a proposed CDP to the State during the CDQ application period. NMFS reviews the CDPs and approves those that it determines meet all applicable requirements. The applicant must also provide a letter of support from its member communities.	Requires submission of a detailed statement of eligibility to NMFS and the State prior to being considered eligible to purchase QS on behalf of a community. The State may comment on the statement of eligibility but does not have a formal role. The required elements of the eligibility statement will be in regulation.	No new qualification process is necessary for CDQ communities. For non-CDQ communities, regulations will require submission of information to NMFS similar to the Gulf community QS purchase program.	Includes options to require submission of a detailed statement of eligibility to NMFS and the State prior to being considered eligible to receive QS on behalf of a community. The State may comment on the statement of eligibility but does not have a formal role. The required elements of the eligibility statement would be in regulation.	Includes options to require submission of a detailed statement of eligibility to NMFS and the State prior to being considered eligible to purchase QS on behalf of a community. The State may comment on the statement of eligibility but does not have a formal role. The required elements of the eligibility statement would be in regulation.	This element would likely be included in the issues deferred to a trailing amendment.
4. Administrative Oversight. Entities representing communities must submit information to NMFS.	The CDQ group must submit a community development plan, amendments to the plan, annual audited financial statements, annual budget report, and annual budget reconciliation report to NMFS and the State. The main role for NMFS is to determine whether the report is submitted, contains the required information, and is consistent with the goals of the program. The State has the primary role in daily administrative oversight.	Requires an annual report to be submitted to NMFS, detailing the use of QS and IFQ by the community QS holder and community residents. The required elements of the report will be outlined in regulation.	For CDQ communities, the existing CDQ regulations and oversight would apply. For non-CDQ communities, the administrative entity would be required to submit an annual report and meet performance standards similar to the Gulf community QS purchase program.	Includes an option to require an annual report be submitted to NMFS, detailing the use of QS by the administrative entity. The required elements of the report would be outlined in regulation.	Includes an option to require an annual report be submitted to NMFS, detailing the use of QS by the administrative entity. The required elements of the report would be outlined in regulation.	This element would likely be included in the issues deferred to a trailing amendment.

Program	CDQ Program	Gulf community QS purchase program	Crab Rationalization: Community purchase provision	GOA Rationalization: Community Fisheries Quota (CFQ)	GOA Rationalization: Community Purchase Program	GOA Rationalization: CIFTs
5. Ownership and transfer restrictions. Regulations may govern the ownership and transfer of quota between communities and other QS holders in a program.	Federal regulations exist to govern the transfer of quota among CDQ groups. No quota transfer is allowed outside the CDQ Program.	Includes restrictions on the type and number of 'blocked' shares and the category of QS communities may purchase. Some provisions are similar to those that apply to individual QS holders. New features include the requirement to lease IFQs only to residents of the owner community and restrictions on the allowable reasons for a community to sell its QS.	No ownership or transfer restrictions apply specific to community held harvest shares.	Includes options to limit the leasing of IFQs to residents of eligible communities or residents of eligible communities that own their own vessels. Also includes option to prohibit offshore leases to catcher processors.	No options for ownership or transfer restrictions have been proposed.	This element would likely be included in the issues deferred to a trailing amendment.
6. Use of revenues. Regulations may govern permissible activities or expenditures by a community entity.	CDQ groups must invest primarily in fisheries-related projects, but a smaller portion of their revenues may be spent on financial instruments, education, charities, training, and administrative expenses. The CDQ allocation process has been the primary mechanism to enforce this provision. The regulations are currently being revised to allow for some level of non-fisheries related investments.	No restrictions on the use of revenues generated from leasing the IFQs, but there are requirements that limit the reasons why a community entity may sell QS (see above).	No restrictions on the use of revenues generated from leasing the IFQs or the sale of harvest shares apply. The CDQ Program rules would continue to apply to CDQ groups.	Includes options to limit the use of revenues to fisheries related activities, education, government functions, and/or social and capital projects.	No options have been proposed to limit the use of revenues or restrict the sale of QS held by communities.	This element would likely be included in the issues deferred to a trailing amendment.
7. Use caps or allocation limits. Regulations may limit the amount of QS allocated to a community program or purchased by a community entity.	The CDQ Program is allocated 10% of pollock, 7.5% of crab and all other groundfish species, 20% of sablefish, and 20 - 100% of the halibut TACs in the BSAI. Portions of the CDQ and PSQ reserves for each subarea are allocated to CDQ groups in accordance with approved CDPs. NMFS can allocate no more than 33% of the total CDQ for all subareas and districts combined to any one CDQ group.	Individual communities are limited to the same use caps as individual QS holders in the IFQ Program. In addition, all participating communities are cumulatively limited to 3% of the halibut QS and 3% of the sablefish QS in each Gulf area, in each of the first 7 years of the program (21% total by area).	Individual communities will be held to the same use caps as individual harvest share holders in the crab rationalization program.	Includes options to limit harvester QS allocated to communities to 5 - 15% of the annual quota share pool.	No options have been proposed to limit the shares purchased by communities. If no options were proposed, it is assumed that individual communities would be subject to the same use cap as individual QS holders, if applicable.	Includes options to reserve 10 - 30% of the total harvest shares for CIFT associations.

Note: Right of first refusal provisions are not included in the above comparison of community programs. The crab rationalization program allows CDQ groups or community groups representing qualified communities a first right of refusal to purchase processing shares (based on history from the community) which are being proposed to be sold for processing outside the boundaries of the community of original processing history. The Gulf rationalization program has proposed a similar option for Gulf communities, based on the provisions of the crab rationalization program.

Note: The table also identifies elements for which no options have been proposed, in order to highlight such elements for the Council in the event it would like to include options. This does not mean to imply that options for those elements must be included in that program.

Draft list of WG, CG, and WY communities (Census Designated Places) that meet the following criteria: 1) population¹ of fewer than 7,500; 2) no road connections to larger community highway network; and 3) within 10 nm of the Gulf coast

NAME	CLASS	POP	AREA
1 Akhiok	Second Class City	80	CG
2 Aleneva	Unincorporated	68	CG
3 Chenega Bay	Unincorporated	86	CG
4 Chignik	Second Class City	79	CG
5 Chignik Lagoon	Unincorporated	103	CG
6 Chignik Lake	Unincorporated	145	CG
7 Chiniak	Unincorporated	50	CG
8 Cold Bay	Second Class City	88	WG
9 Cordova ²	Home Rule City	2,454	WY
10 Halibut Cove	Unincorporated	35	CG
11 Ivanof Bay	Unincorporated	22	WG
12 Kariuk	Unincorporated	27	CG
13 King Cove	First Class City	792	WG
14 Kodiak	Home Rule City	6,334	CG
15 Kodiak Station	Unincorporated	1,840	CG
16 Larsen Bay	Second Class City	115	CG
17 Nanwalek	Unincorporated	177	CG
18 Old Harbor	Second Class City	237	CG
19 Ouzinkie	Second Class City	225	CG
20 Perryville	Unincorporated	107	WG
21 Port Graham	Unincorporated	171	CG
22 Port Lions	Second Class City	256	CG
23 Sand Point	First Class City	952	WG
24 Seldovia	First Class City	286	CG
25 Susitna	Unincorporated	37	CG
26 Tatitlek ²	Unincorporated	107	WY
27 Tyonek	Unincorporated	193	CG
28 Womens Bay	Unincorporated	690	CG
29 Yakutat ³	First Class City	680	WY/SEO

Note: Staff is aware that some communities listed may be contiguous to a larger eligible community (e.g., communities on Kodiak Island). The analysis will consider whether these communities should not be considered eligible communities to receive an allocation of CFQ but whose residents may be considered eligible to lease IFQs from the larger eligible community.

¹Population is based on the 2000 U.S. Census.

²Cordova and Tatitlek are considered located in the West Yakutat area. Though located within PWS (Area 649), these communities are inside the longitudinal line used to designate the WY (Area 640) and CG (Area 630) boundary.

³Yakutat is located on the boundary of WY and SEO, but is technically located within SEO (Gulf Area 650). Staff has included Yakutat in this list based on the Council's expressed preference to include Yakutat in community options for the Gulf rationalization program.

Draft Discussion Paper
Salmon and Crab Bycatch Measures for GOA Groundfish Fisheries
prepared by D. Witherell, C. Coon and D. Stram

Abstract - Data on the bycatch of salmon and crab taken incidentally in Gulf of Alaska groundfish trawl fisheries was analyzed to provide some possible alternative management measures to control this bycatch. An average of 34 red king crab and 721 crabs of other king crab species (blue, golden, scarlet) were taken in 2000-2002 trawl fisheries. Tanner crab bycatch averaged about 165,000 crabs per year in the 2000-2002 groundfish fisheries, with about equal amounts taken by trawl (53%) and pot gear (47%). Trawl fisheries took an average of 88,010 Tanner in the 2000-2002 fisheries, primarily in flatfish fisheries (71%, all flatfish targets combined), and to a lesser extent Pacific cod fisheries (24%). Chinook salmon (average of 18,191 salmon per year, 2000-2002) are taken primarily in the walleye pollock fisheries (60%, on average), but also occur in substantial numbers in the Pacific cod (18%) and flatfish fisheries (17%). Most chinook salmon are taken in the beginning and end of the fishing season. Chum salmon bycatch has been very low in recent years (6,736 salmon per year average, 2000-2002) compared to number taken in the early 1990's (53,123 salmon per year average, 1993-1995). More chum salmon are taken in the walleye pollock fisheries (46%), with the a substantial portion (35%) also taken in the flatfish trawl fisheries.

We recommend that alternatives to control bycatch in trawl fisheries focus only on chinook salmon and Tanner crab. Other species (including red king crab, 'other' king crab, and 'other' salmon) are currently taken in relatively small quantities in GOA groundfish fisheries, and therefore not likely to raise conservation concerns. Additionally, the costs of monitoring and managing bycatch of these other species may exceed benefits provided by any additional bycatch control measures. We recommend that alternative measures being considered for controlling chinook salmon bycatch include area closures triggered by limits established for the walleye pollock fishery, and seasonal closure of areas with high bycatch rates. For controlling Tanner crab bycatch, we recommend that alternatives include area closures triggered by limits established for the flatfish fishery, and year-round closures to trawling in areas with historically high bycatch rates of Tanner crabs.

INTRODUCTION

The North Pacific Fishery Management Council (Council) has adopted measures over the years to control the bycatch of some species taken incidentally in groundfish fisheries (Witherell and Pautzke, 1997). Bycatch control measures have been established in the Bering Sea and Aleutian Islands trawl fisheries for chinook salmon (*Oncorhynchus tshawytscha*), 'other salmon' (consisting primarily of chum salmon, *O. keta*), Pacific herring (*Clupea pallasii*), Pacific halibut (*Hippoglosses stenolepis*), red king crab (*Paralithodes camtschaticus*), Tanner crab (*Chionoecetes bairdi*), and snow crab (*C. opilio*). Halibut bycatch limits and bottom trawl closure areas to protect red king crab have also been established for Gulf of Alaska (GOA) groundfish trawl fisheries (NMFS 2003). To date, no bycatch control measures have been implemented for salmon or other crab species taken incidentally in GOA groundfish fisheries.

In April, the Council tasked staff to prepare a discussion paper, for review in October, on options for salmon and crab bycatch measures to be considered for possible inclusion in the GOA rationalization analysis. In this paper, we provide a general overview of the available information on salmon and crab bycatch, and based on this information, offer some possible alternatives to control bycatch.

METHODS

Catch and bycatch data were provided by the NMFS regional office and the groundfish fishery observer program, and examined to gain insight into the amount, species composition, timing, and location of salmon and crab caught incidentally in GOA groundfish fisheries. NMFS catch statistics for years 1990-2002 for salmon and crab bycatch were summarized annually by each groundfish trawl fishery. Additionally, the amount of bycatch was reported by both a weekly and quarterly period to determine any temporal aspect to the bycatch rates for the fisheries with the highest bycatch. Average amounts of bycatch for multiple years and for percent contribution by individual fisheries were calculated with equal weighting given to each year utilized. No attempt was made to weight individual years higher than others. The observer data represented all trawl catch for a given year, and was queried to produce bycatch of observed hauls by target fishery. Specific locations of salmon and crab bycatch were input into a GIS to produce charts of catch locations.

The North Pacific Groundfish Observer Program collects catch and bycatch data used for management and inseason monitoring of groundfish fisheries. Since 1990, all vessels larger than 60 ft (length overall) participating in the groundfish fisheries have been required to have observers onboard at least part of the time. The amount of observer coverage is based on vessel length, with 30% coverage required on vessels 60 ft to 125 ft, 100% coverage on vessels larger than 125 ft, and 100% coverage at shore-based processing facilities. There are no observer coverage requirements for vessels less than 60 ft. Observer data provide for accurate and relatively precise estimation of groundfish catch, particularly on fleets with high levels of observer coverage, such as the Bering Sea walleye pollock fishery (Volstad et al. 1997). However, the precision of salmon bycatch estimates depends upon the number of vessels observed and the fraction of hauls sampled within vessels (Karp and McElderry 1999). For Bering Sea fisheries such as walleye pollock, a high percentage of hauls are sampled so fleet wide estimates of salmon bycatch are considered to be reasonably accurate for management purposes (NPFMC 1995a, 1995b, 1999). For Gulf of Alaska fisheries, observer coverage may be lower in some target fisheries due to the prevalence of smaller vessels in the GOA fishing fleet than the Bering Sea. Over the past ten years, there has generally been an increasing level of participation by smaller vessels in the GOA groundfish fisheries, particularly trawl and fixed gear catcher vessels less than 60 ft (NPFMC 2003). Therefore, it should be noted that estimates of salmon and crab bycatch in GOA fisheries may be less precise than estimates of bycatch in Bering Sea fisheries.

RESULTS

Salmon Bycatch

The following section provides updated bycatch information for salmon in the GOA. A more detailed report on salmon bycatch in Alaska groundfish fisheries is provided by Witherell et. al (2002).

Amount of Bycatch

Pacific salmon, including chinook, chum, coho (*O. kisutch*), sockeye (*O. nerka*), and pink (*O. gorbuscha*) are taken incidentally in the groundfish fisheries within the Gulf of Alaska. Salmon bycatch is currently grouped as chinook salmon or 'other' salmon, which consists of the other 4 species combined. Over 95% of the 'other salmon' bycatch consists of chum salmon (Table 1). Bycatch of chinook salmon in recent years (average of 18,191 salmon, 2000-2002) is slightly lower than the time series average (average of 20,181 salmon, 1990-2002). The bycatch of chum salmon is much lower in the past few years, declining from a high

of about 52,123 salmon (1993-1995 average) to about 6,736 salmon taken in recent years (2000-2002) (Table 1).

Salmon are taken incidentally in most GOA trawl fisheries. In the 2000-2002 fisheries, an average of about 11,000 chinook salmon per year were taken by the walleye pollock fishery, 3,200 chinook salmon in the Pacific cod fishery, 3,000 chinook salmon in the flatfish fishery (all targets combined), and 900 chinook salmon in other target fisheries (Table 2). In an average year, the walleye pollock fishery accounted for 60% of the chinook salmon bycatch, with the trawl fisheries targeting Pacific cod taking 18%, and flatfish fisheries taking 17%. About 3,700 'other' salmon were taken in the walleye pollock fishery, on average, during the 2000-2002 fisheries, although the annual bycatch numbers show a drastic reduction to only 795 'other' salmon in 2002. Nevertheless, in an average year, more of the 'other' salmon bycatch was been taken in the walleye pollock trawl fishery (46%) than other target fisheries, with the flatfish fishery also taking a substantial portion (35%). It is likely that relative amounts of bycatch taken in the walleye pollock fisheries have been lower in recent years due to reduced catch limits for walleye pollock catches.

Location and Timing of Bycatch

The timing of salmon bycatch in GOA fisheries followed a predictable pattern in 2002. Chinook salmon were taken regularly in the first 15 weeks, and also in high quantities during weeks 20 and 30, which presumably coincides with openings of the walleye pollock fishery (Figure 1). Chum salmon were not taken in any great numbers until week 20, after which they were taken regularly through the end of the season (Figure 1). The timing of salmon bycatch in 2002 appears similar to what occurred in 2001. However, the 2000 fishery exhibited a different temporal pattern of bycatch, perhaps due to the U.S. District Court order that forced the walleye pollock fleet to fish outside of Steller sea lion critical habitat (Witherell et al. 2002).

Salmon bycatch occurs in the western and central GOA management areas, corresponding to locations of the trawl fisheries. Since 1998, the eastern GOA (east of 140°W longitude) has been closed to all trawling, with the implementation of amendment 58 to the GOA groundfish FMP. During the 2000-2002 period, chinook salmon were taken in relatively higher numbers in some trawl hauls to the east of Kodiak Island (up to 380 salmon per haul), although they can be taken in relatively high numbers per haul in other areas (Figure 2). A closer examination of where chinook salmon bycatch occurs in the walleye pollock fishery around Kodiak Island is provided in Figure 3. 'Other' salmon bycatch (up to 162 salmon per haul) occurs in the central GOA to the south and east of Kodiak Island, as well as in the western GOA south of the Alaska Peninsula (Figure 4). In the pollock fishery, the bycatch occurs east of Marmot Island and in the Barnabus Gully (Figure 5).

Crab Bycatch

Amount of Bycatch

Several species of crabs may be taken incidentally in GOA groundfish fisheries. NMFS categorizes the bycatch amounts into 4 groups: red king crab, 'other' king crab, *C. bairdi* crab, and 'other' Tanner crabs. The 'other' king crab category may include blue king crab (*P. platypus*), golden king crab (*Lithodes aequispina*), and scarlet king crab (*L. couesi*). Although observer records have not been reviewed to ascertain the relative contribution of these species to the 'other' king crab category, it is likely that the vast majority, if not all, of these crab are golden king crab. Golden king crab are associated with deeper waters than blue king crabs and are found generally in slope areas (NMFS 2003). Thus the likelihood of the "other" king crab bycatch being comprised predominantly of golden king crab is high. The 'other' Tanner crab

category may include two deepwater species: triangle Tanner crab (*C. angulatus*) and grooved Tanner crab (*C. tanneri*).

The number of crabs taken as bycatch in GOA groundfish trawl fisheries are shown in Table 3. Bycatch of red king crabs, other king crabs, and other Tanner crabs is relatively low. An average of 34 red king crabs and 721 individuals of other king crab species were taken in 2000-2002 trawl fisheries. The bycatch of Tanner crabs in GOA trawl fisheries has fluctuated through the time series, reaching a high of 134,782 crabs in 1997 to a low of 29,947 crabs in 1999. Bycatch of Tanner crabs in recent years (88,010 crabs per year average, 2000-2002) is slightly higher than the average for the time series from 1993-2002 (79,238 crabs).

Trawl fisheries account for about 53% Tanner crabs taken as bycatch in GOA groundfish fisheries, with the fisheries using pot gear accounting for about 47% of the Tanner crab bycatch, based on the 2000-2002 average (Table 4). Longline gear catches very few crabs of any species. The bycatch of Tanner crabs in trawl fisheries occurs primarily in flatfish trawl fisheries (71%, all target flatfish combined), and to a lesser extent Pacific cod trawl fisheries (24%) (Table 4). Although the data are not presented here, flatfish fisheries also account for most of the bycatch of red king crab, other king crab and Tanner crab species (NMFS Alaska Region website, www.fakr.noaa.gov).

Location and Timing of Bycatch

Given the low bycatch amounts for red king crab, other king crab, and other Tanner crab, our analysis of temporal distribution of crab bycatch focused only on Tanner crab. Additionally, we focused on bycatch in trawl fisheries. Bycatch amounts of Tanner crab taken in trawl fisheries appear to fluctuate temporally in direct response to groundfish catches, particularly catches of Pacific cod and flatfish, which are managed on a quarterly basis, with the trawl fishery beginning on January 20th each year. Bycatch of Tanner crabs in 2002 was highest (in numbers of crab) during weeks 12-17, 22-24, and 30-31, corresponding to seasonal release of the halibut PSC apportionment for use in the flatfish fishery (Figure 6).

The spatial distribution of bycatch was examined for all four crab categories, including red king crab, other king crab, *C. bairdi* Tanner crab, and other Tanner crab. Only 5 observations were made of red king crab bycatch, including one off Southeast Alaska that was presumably taken by longline gear (Figure 7). Other king crabs were taken along the slope in the central and western GOA, and a few outside of Ugak Bay off Kodiak (Figure 8). As previously stated, given this distribution, the other king crab taken on the slope were probably all golden king crab. Bycatch of *C. bairdi* Tanner crab was aggregated in the vicinity of Kodiak Island, but some bycatch also occurred south of the Alaska Peninsula (Figure 9). Other species of Tanner crab were taken in low numbers along the slope, and at higher numbers in a few nearshore locations (Figure 10).

A closer examination was made of the locations where Tanner crab were taken as bycatch in the 2000-2002 trawl fisheries targeting Pacific cod and flatfish. In the Pacific cod trawl fishery, Tanner crabs were taken along the northeast edge of the Chiniak Gully and also along the eastern edge of Barnabus gully (Figure 11). The flatfish trawl fisheries caught Tanner crab over a larger area around Kodiak Island.

Discussion

In February 2002, the Council initiated the analysis of alternatives to control salmon bycatch in the GOA groundfish trawl fisheries, and proposed alternatives, which included bycatch limits based on 1990-2001 average bycatch amounts (21,000 chinook salmon and 20,500 'other' salmon). Attainment of these limits

by trawl fisheries would result in closure of specified areas for the remainder of the fishing year. The Council further clarified that specified areas would be designated based on analysis of areas that have had historically high bycatch rates. Our analysis suggests that these bycatch limit amounts may not reflect the current manner in which the groundfish trawl fisheries operate and the reduced bycatch of salmon in more recent years. Additionally, our analysis shows that salmon bycatch in GOA trawl fisheries occurs at certain times and in certain fisheries, so more focused measures may be applied.

This paper provides information that will be useful in developing management measures to control salmon and crab bycatch in GOA groundfish trawl fisheries. Based on these results, we suggest that bycatch controls should only be considered for Tanner crab and chinook salmon. We offer the following alternatives for consideration and further development and analysis:

Chinook Salmon

- Alternative 1: Status Quo (no bycatch controls).
- Alternative 2: Trigger bycatch limits for salmon. Specific areas with high bycatch (or high bycatch rates) are closed for the remainder of the year if or when a trigger limit is reached by the pollock fishery.
- Alternative 3: Seasonal closure to all trawl fishing in areas with high bycatch or high bycatch rates.

Tanner Crab

- Alternative 1: Status Quo (no bycatch controls).
- Alternative 2: Trigger bycatch limits for Tanner crab. Specific areas with high bycatch (or high bycatch rates) are closed to flatfish trawling for the remainder of the year if or when a trigger limit is reached by the flatfish fishery.
- Alternative 3: Year-round bottom trawl closure in areas with high bycatch or high bycatch rates of Tanner crab.

Trigger limits as proposed under alternative 2 would close designated areas (as yet to be defined) to trawling in specified fisheries once a bycatch limit has been reached. For instance, for Chinook salmon, once a bycatch limit has been reached, the designated area closure would be closed to pollock fishing for the remainder of the year. Likewise for Tanner crab, once the bycatch limit has been reached, the area closure for the flatfish fishery would go into effect for the remainder of the year.

The proposed alternatives using trigger closures would work similar to other existing PSC management measures. Currently in the GOA, PSC limits exist in the flatfish fishery for halibut only, whereby if a given apportionment is reached within a specified season, the flatfish fishery is then closed for the remainder of that season. Trigger bycatch limits as proposed here would be similar, but would not close the area-wide flatfish fishery. Instead, designated high bycatch or hotspot areas would be closed to the fishery if the given trigger bycatch limit was reached while the fishery was being prosecuted. Similar trigger closures have been implemented in the Bering Sea to control the bycatch of Tanner crab, snow crab (*C. Opilio*) and red king crab (Witherell and Pautzke 1997).

Year-round and seasonal trawl closures, such as those as proposed under alternative 3, have also been used in both the GOA and BSAI fisheries to control the bycatch of prohibited species. Currently in the GOA, trawl closure areas have been implemented around Kodiak Island to protect red king crab. Specific areas are designated as Type I, Type II and Type III areas depending upon the importance of the area to concentrations of red king crab at various life stages. Type I closures are closed year-round to all non-pelagic trawling.

Type II areas are closed during the molting period for red king crab (February 15-June 15), while Type II areas are closed only during specified 'recruitment events' and are otherwise opened year-round.

Alternative 3 for Tanner crab proposes year-round bottom trawl closures as opposed to seasonal closures given the relationship between the timing of the flatfish fishery and the bycatch of Tanner crabs (Figure 6). For salmon, however, the highest bycatch is seasonal and is tied to the timing of the walleye pollock fishery. Here seasonal closures of hot spot locations could be examined rather than year-round closures. Seasonal salmon closures have been utilized to control salmon bycatch in the BSAI groundfish fisheries. The Chum Salmon Savings Area in the eastern Bering Sea is closed to trawl fishing for all of August, and can be extended though October 14 if specified chum salmon bycatch limits are reached in the trawl fishery. For chinook salmon, the Chinook Salmon Savings Areas are closed when annual chinook salmon bycatch limits are reached by the trawl fishery (similar to a seasonal closure under the trigger bycatch limits as described for alternative 2).

It should be noted that other, non-regulatory mechanisms can also be utilized to achieve bycatch control and bycatch reduction (Hartley 2003). Measures have been embraced by the trawl and longline fleet to control and reduce bycatch of Pacific halibut, crab, and salmon. In particular, the sharing of bycatch rates among vessels in the fleet has allowed bycatch hotspots to be mapped and identified on a real-time basis, so that individual vessels can avoid these areas (Smoker 1996, Haflinger 2003).

Rationalization programs, such as IFQ's or cooperatives, may also provide additional benefits for controlling bycatch. Rationalization programs eliminate the race for fish, thereby allowing fishermen to modify fishing practices (e.g., time and areas fished, gear modifications, etc.) to reduce bycatch, whether in response to regulatory requirements or on a voluntary basis. In a rationalized fishery, members are more likely to actively exchange information to avoid areas of high bycatch rates. In an absolute sense, rationalization programs would be expected to reduce effort, thereby reducing the amount of time gear is in the water and the probability of intercepting bycatch species.

The alternatives we have proposed serve as a starting point for discussion as to how bycatch measures might be conceived of and analyzed for the GOA. At this point, no specific areas or bycatch limits have been suggested. If the Council initiates analysis of the proposed alternative bycatch control measures, we would examine the costs to the fishing industry, as well as the potential conservation benefits, if any, resulting from controlling bycatch of chinook salmon and Tanner crabs. At this time, we have not estimated the effects of bycatch on population size to see if a conservation issue exists. Assessment of the impacts of bycatch on population size will require additional data inputs such as population size estimates, the size (and age) of crabs and salmon taken as bycatch, and estimates of discard mortality and unobserved mortality.

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Table 1. Bycatch of Pacific salmon in Gulf of Alaska groundfish trawl fisheries, by species, 1990-2002.

Year	Numbers of Fish				
	Chinook	Chum	Coho	Sockeye	Pink
1990	16,913	2,541	1,482	85	64
1991	38,894	13,713	1,129	51	57
1992	20,462	17,727	86	33	0
1993	24,465	55,268	306	15	799
1994	13,973	40,033	46	103	331
1995	14,647	64,067	668	41	16
1996	15,761	3,969	194	2	11
1997	15,119	3,349	41	7	23
1998	16,941	13,539 ^a			
1999	30,600	7,529 ^a			
2000	26,705	10,996 ^a			
2001	14,946	5,995 ^a			
2002	12,921	3,218 ^a			
Average	20,181	18,941 ^b			

^a Coho, sockeye, and pink salmon are combined with chum salmon.

^b Average chum salmon bycatch includes chum, coho, sockeye, and pink salmon.

Table 2. Bycatch of Pacific salmon in Gulf of Alaska groundfish trawl fisheries, by target fishery, 2000, 2001, and 2002.

Fishery	Numbers of Chinook Salmon			Number of Other Salmon		
	2000	2001	2002	2000	2001	2002
Walleye pollock	18,413	9,421	5,162	7,450	2,741	795
Pacific cod	2,747	2,796	4,066	0	677	29
Flatfish	4,386	2,295	2,443	2,979	1,857	1,500
Other targets ^a	1,160	434	1,250	567	720	894
Total GOA	26,706	14,946	12,921	10,996	5,995	3,218

^a Other targets include rockfish and sablefish.

Table 3. Bycatch of crabs in Gulf of Alaska groundfish trawl fisheries, by species, 1990-2002.

Year	Numbers of Crabs			
	Red king	Other king	<i>C. bairdi</i> Tanner	Other Tanner
1993	1,012	na	55,304	na
1994	45	na	34,056	na
1995	223	na	47,645	na
1996	192	na	120,796	na
1997	18	na	134,782	na
1998	275	na	105,817	na
1999	232	na	29,947	na
2000	35	698	48,716	na
2001	46	551	125,882	na
2002	20	914	89,433	na
Ave. 2000-2002	34	721	88,010	na

Table 4. Bycatch of Tanner crabs in Gulf of Alaska groundfish fisheries, by gear type and target fishery, 2000 - 2002.

Gear and Fishery	Numbers of <i>C. bairdi</i> Crab		
	2000	2001	2002
<u>Longline</u>			
Pacific cod	167	14	17
Other species ^a	1	17	5
<u>Pot</u>			
Pacific cod	65,786	69,091	95,766
<u>Trawl</u>			
Walleye pollock	1,821	11,362	774
Pacific cod	11,177	46,822	4,905
Flatfish			
Deepwater flatfish	45	2,533	185
Shallow water flatfish	18,924	13,164	33,914
Flathead sole	3,015	45,269	26,924
Arrowtooth flounder	10,610	2,194	14,626
Rex sole	2,897	2,145	7,198
Other targets ^b	<u>235</u>	<u>2,394</u>	<u>905</u>
<i>Total Trawl</i>	<i>48,814</i>	<i>125,883</i>	<i>89,431</i>
Total GOA	114,768	195,005	185,219

^a Other species include skates, octopus, squid, and sculpins.

^b Other targets include rockfish and sablefish.

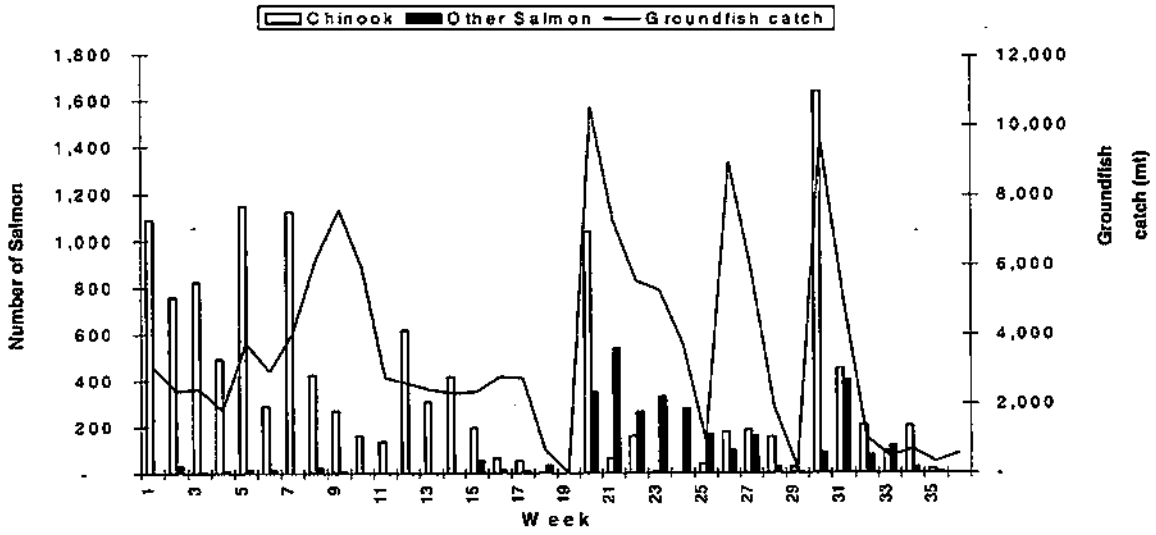


Figure 1. Bycatch of Chinook salmon and 'other salmon', and groundfish catch (mt), by week, in the Gulf of Alaska 2002.

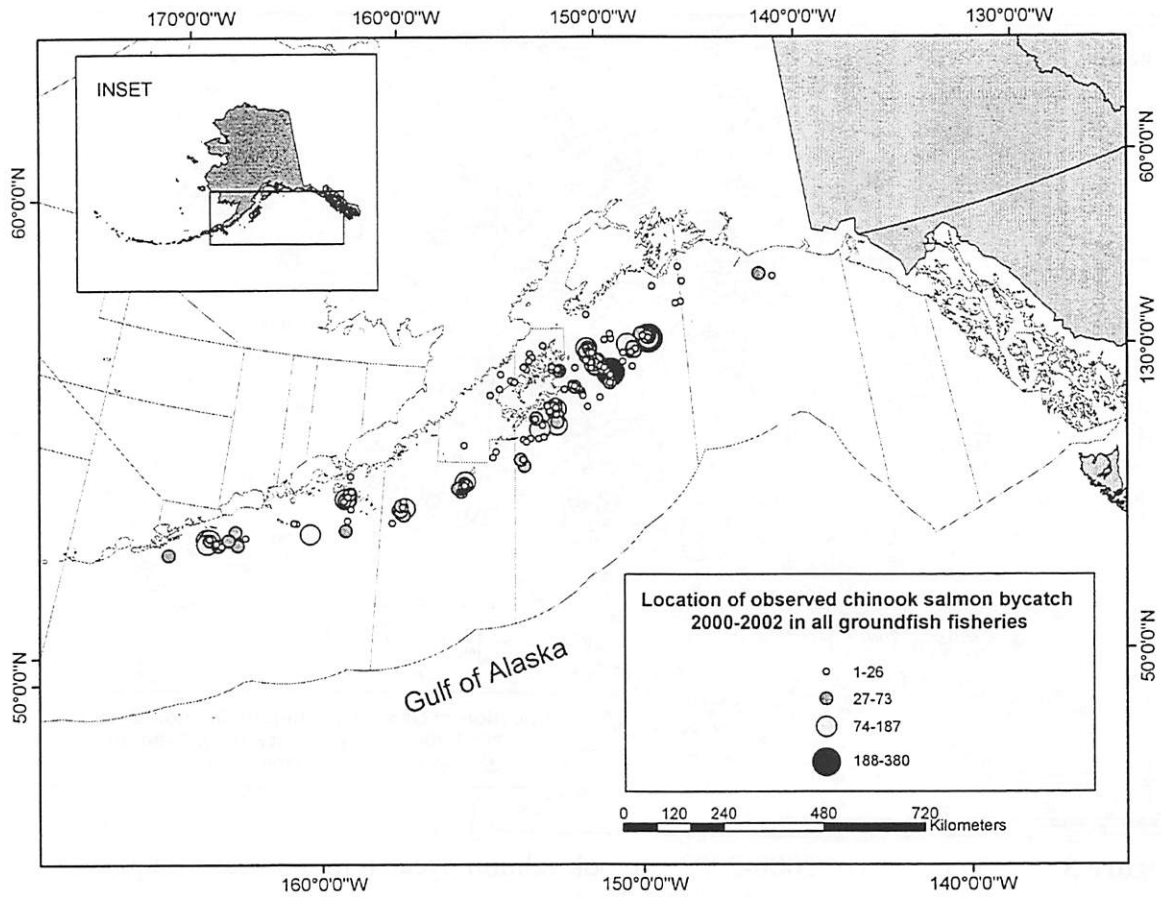


Figure 2. Locations of observed chinook salmon bycatch (extrapolated numbers) in all groundfish fisheries 2000-2002

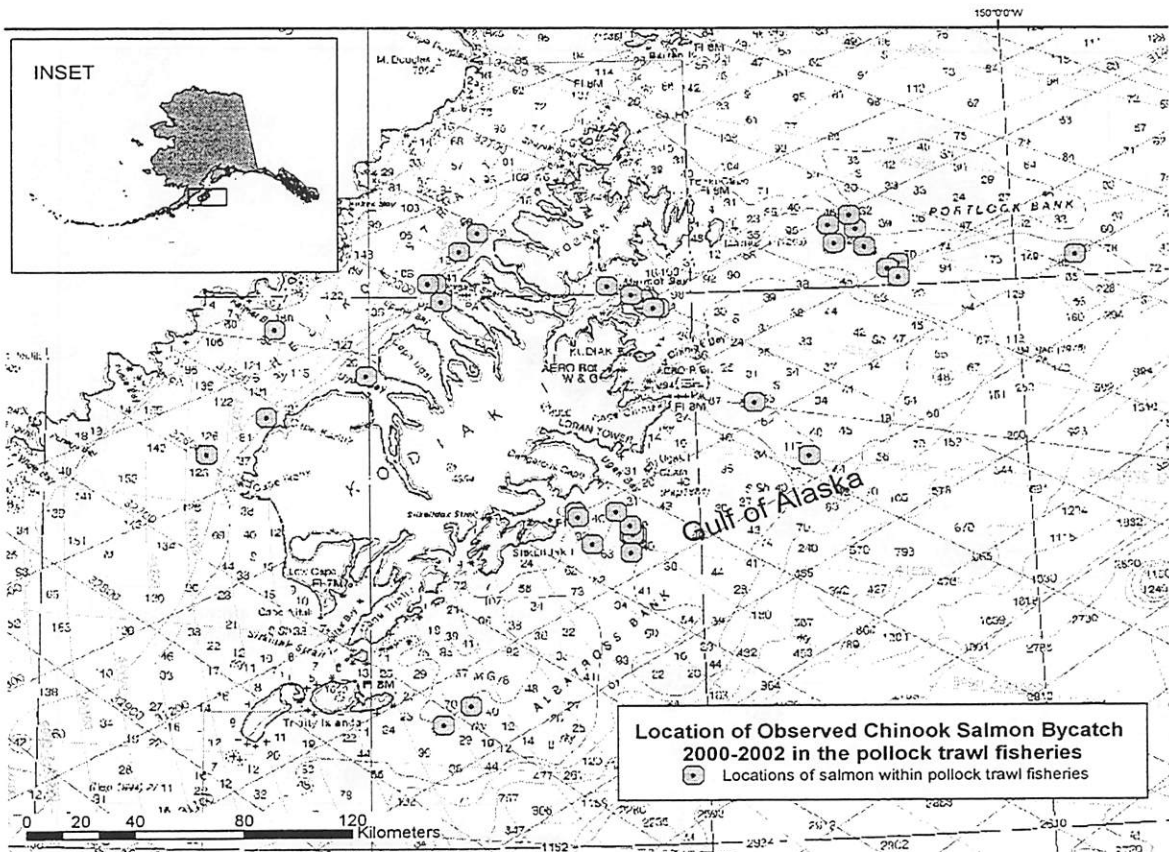


Figure 3. Locations of 2000-2002 chinook salmon bycatch in the observed pollock trawl fishery near Kodiak Island.

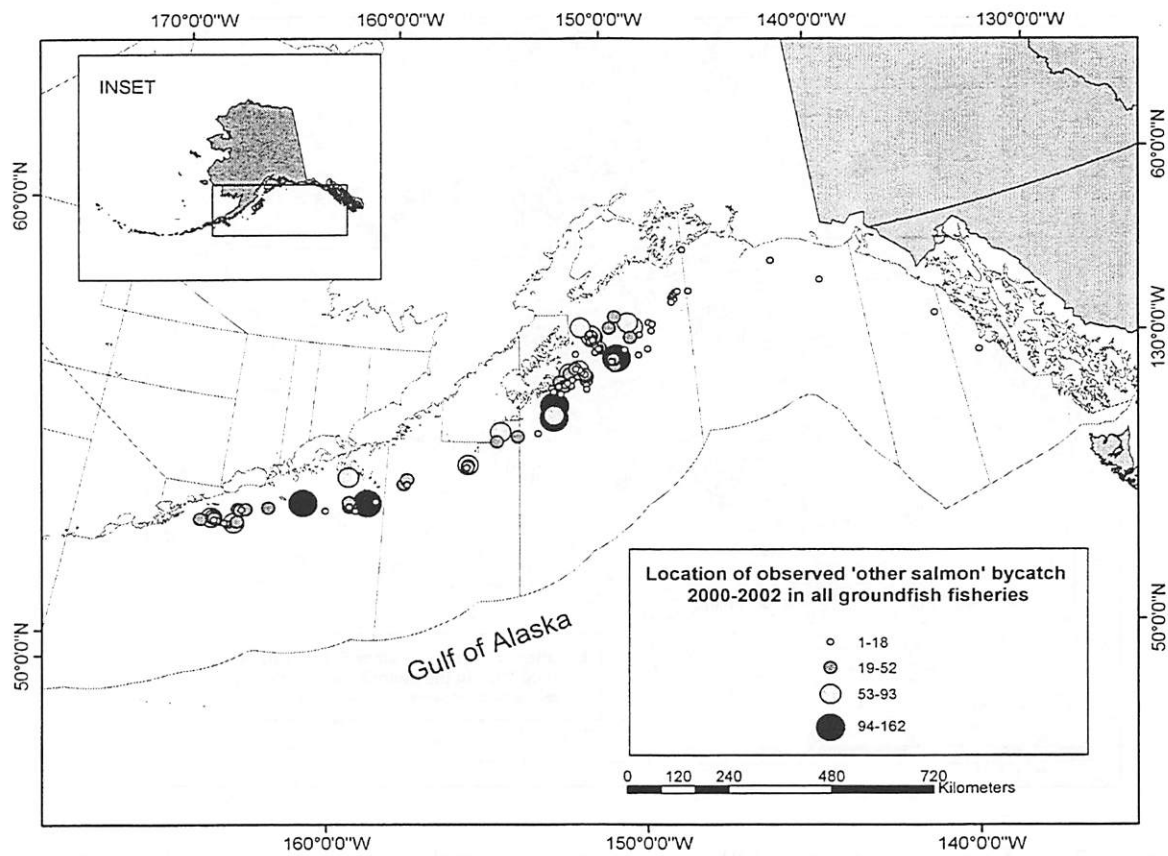


Figure 4. Locations of observed 'other salmon' bycatch (extrapolated numbers) in all groundfish fisheries 2000-2002

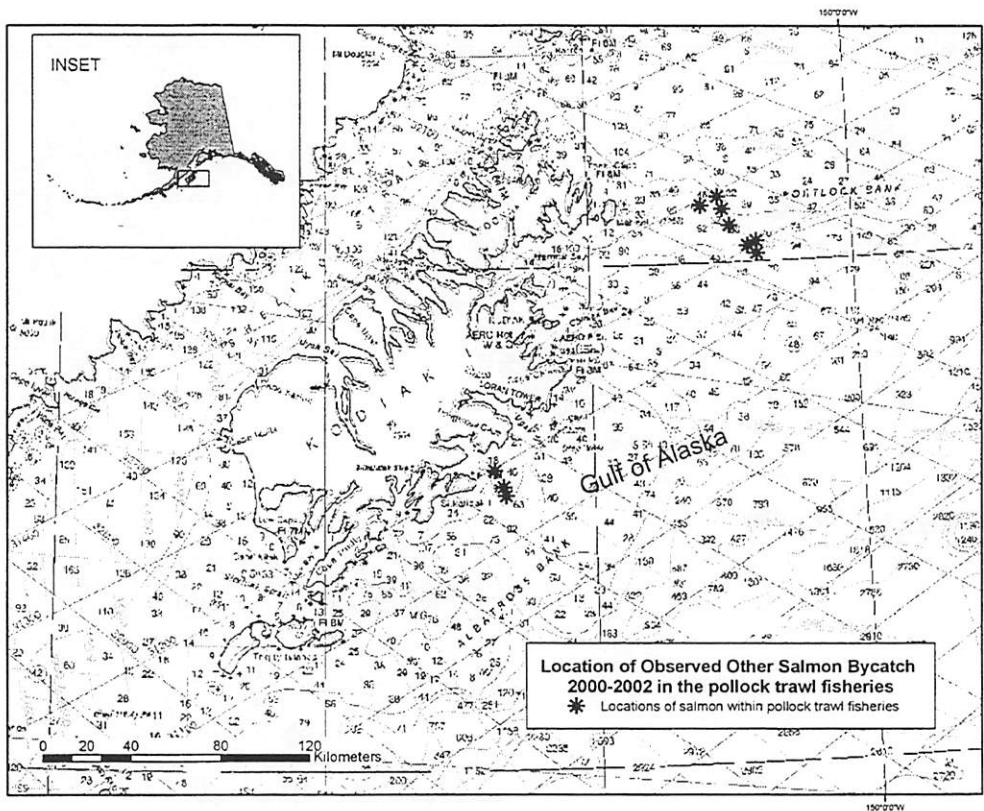


Figure 5. Locations of 2000-2002 other salmon bycatch in the pollock trawl fishery near Kodiak Island.

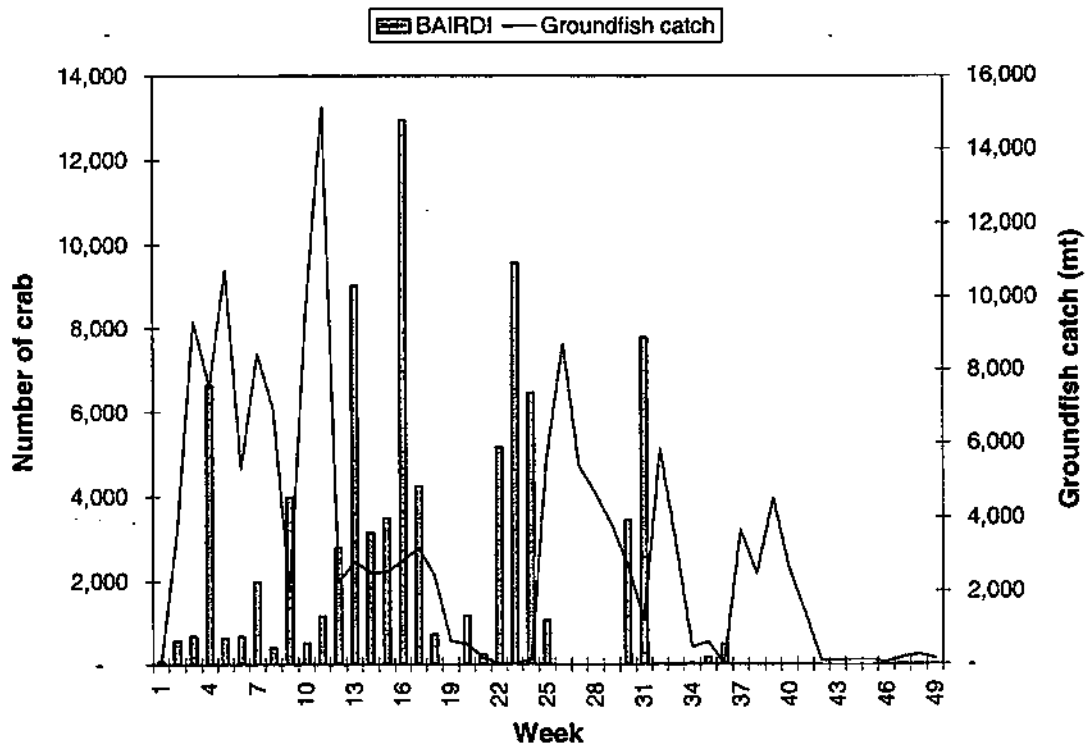


Figure 6 Bycatch of Bairdi crab and groundfish catch (MT) by week, in the GOA 2002.

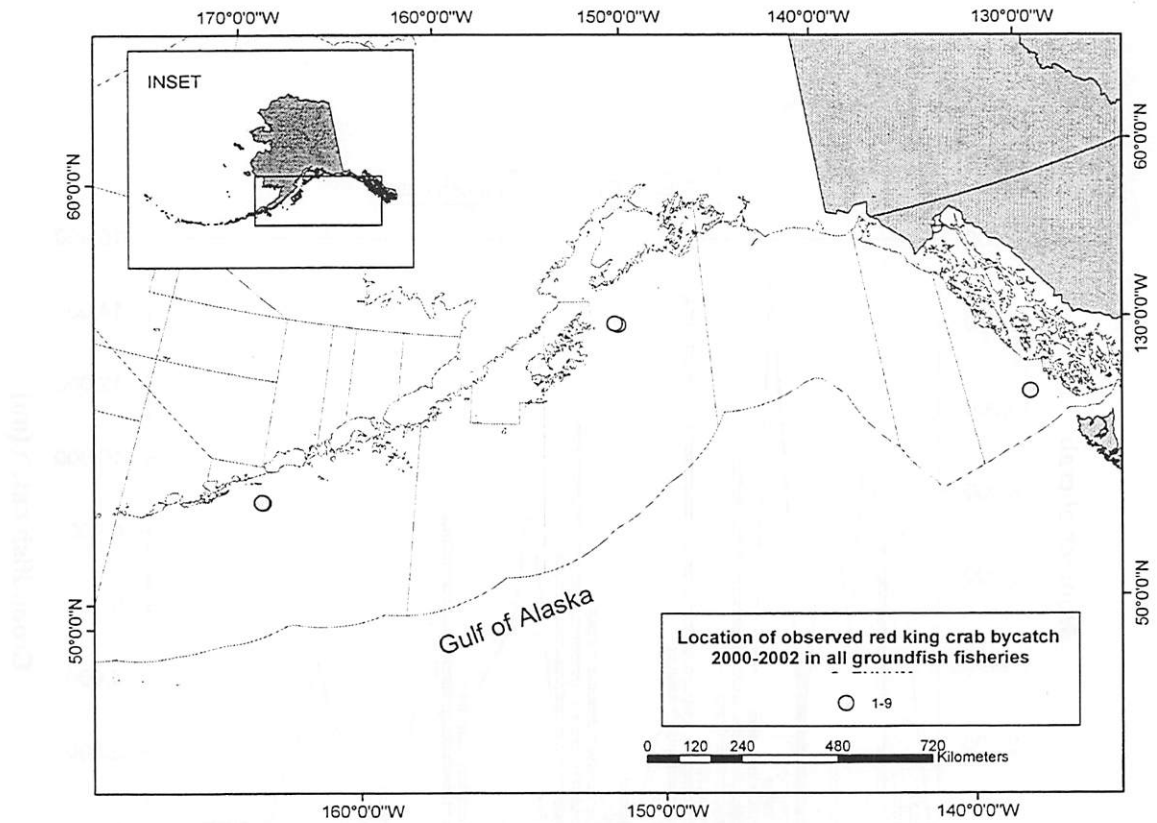


Figure 7. Location of observed red king crab bycatch in all groundfish fisheries between 2000-2002

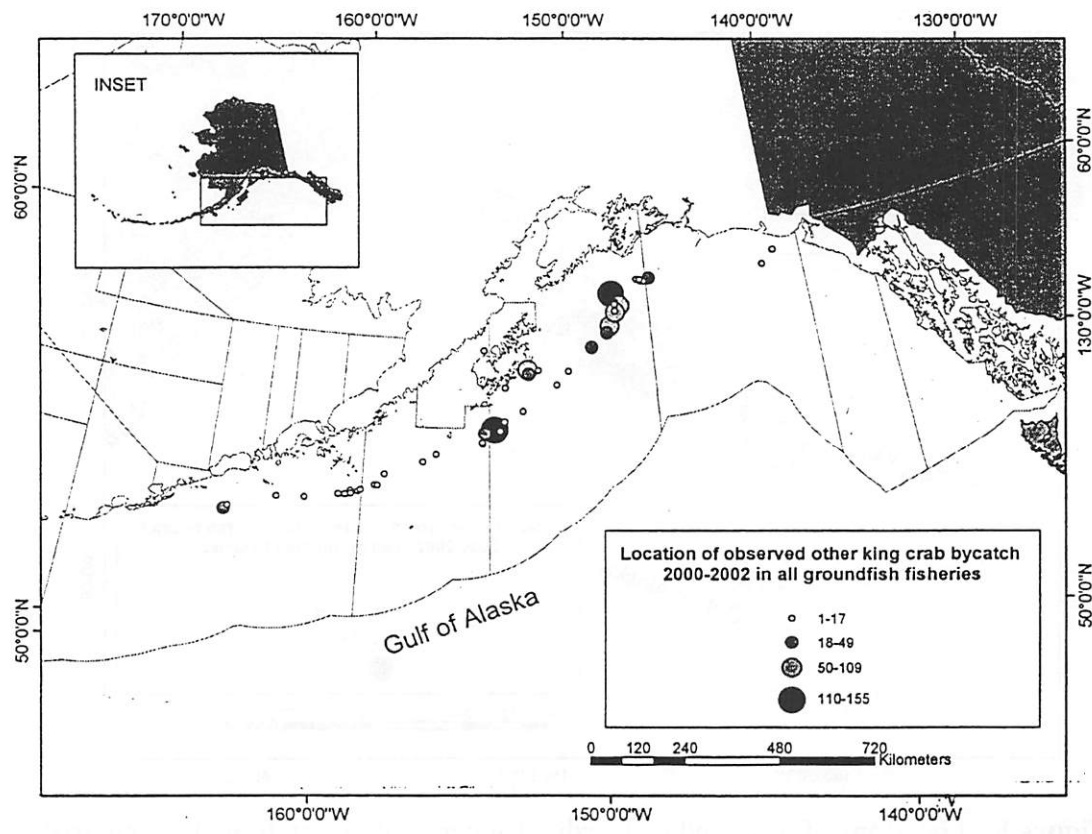


Figure 8. Location of observed other king crab bycatch in all groundfish fisheries, 2000-2002

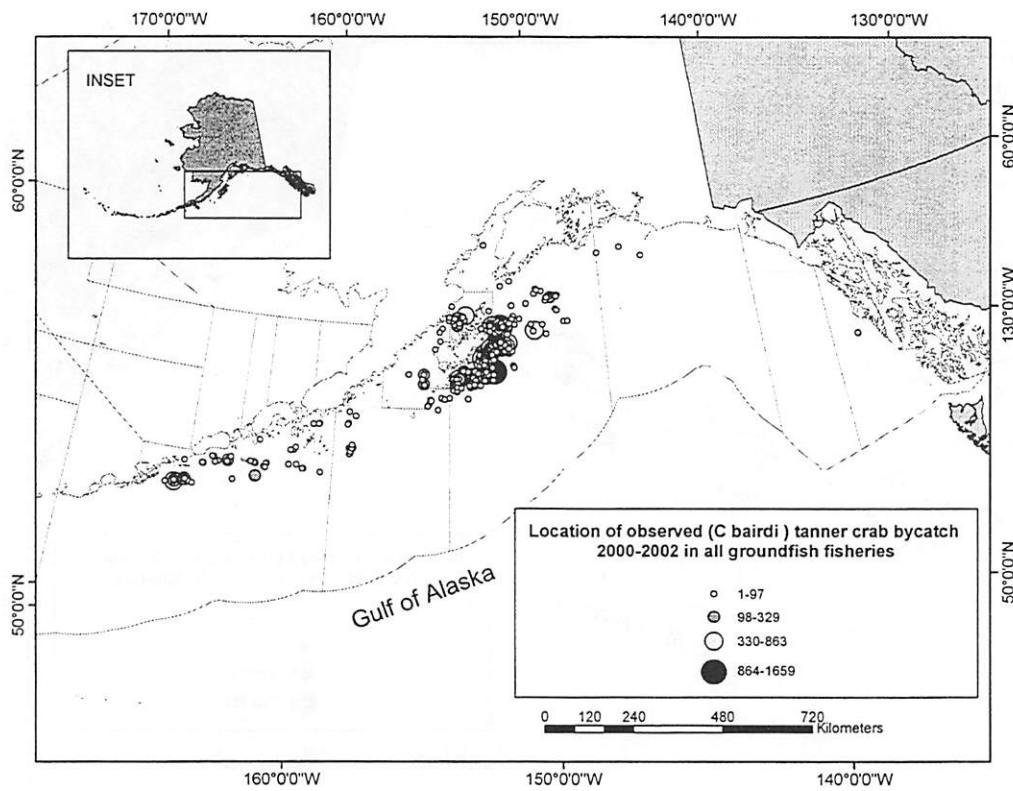


Figure 9 Locations of observed *C. bairdi* Tanner crab bycatch in all groundfish fisheries 2000-2002.

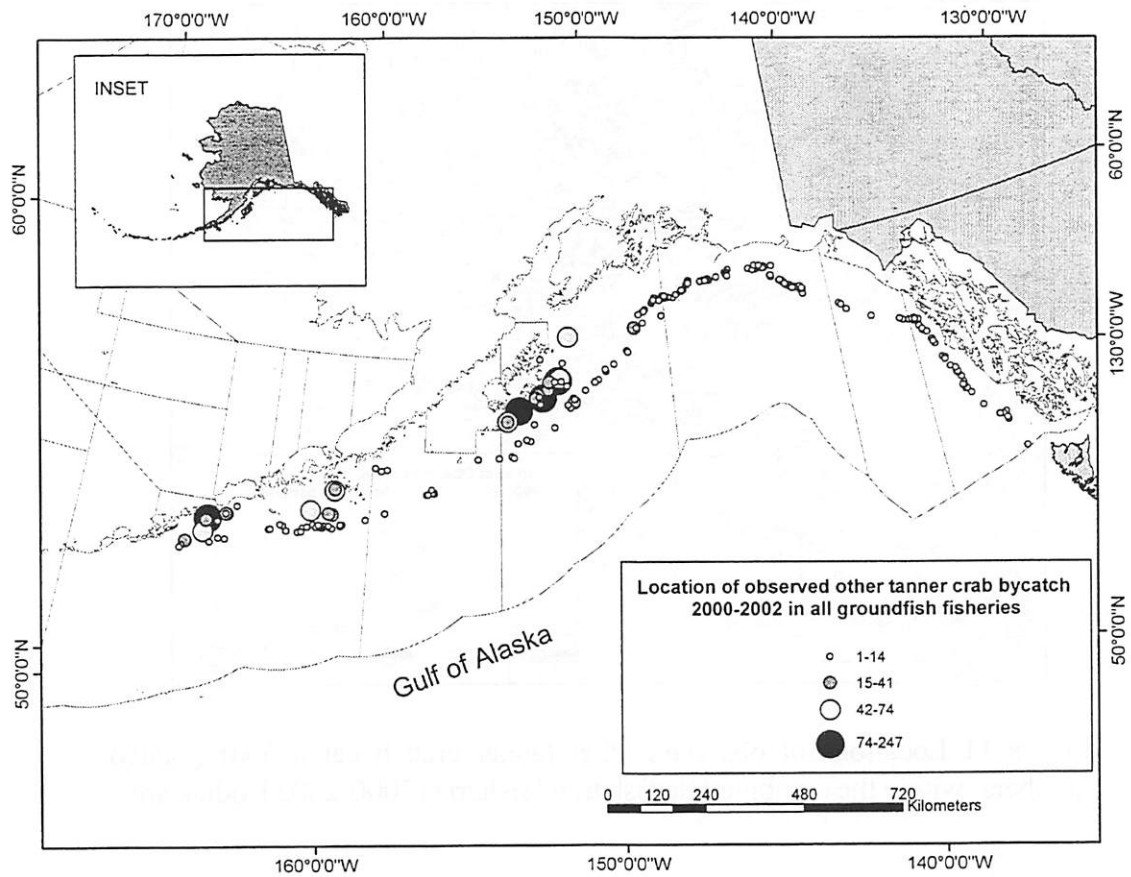


Figure 10 Locations of observed other tanner crab bycatch in all groundfish fisheries 2000-2002

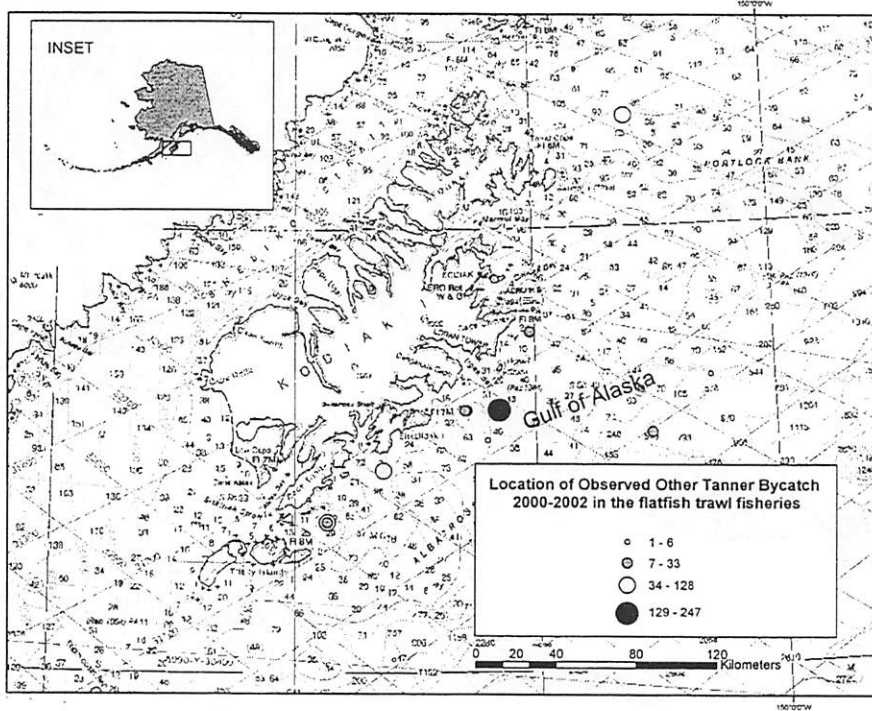


Figure 11 Locations of observed other tanner crab bycatch (extrapolated numbers) within the combined flatfish trawl fisheries 2000-2002 Kodiak area.



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
Office of General Counsel
P.O. Box 21109
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C-1
AGENDA
OCTOBER 2003
Supplemental

DATE: October 3, 2003

FOR: Chris Oliver, Executive Director
North Pacific Fishery Management Council

THROUGH: Lisa Lindeman, Regional Attorney
NOAA General Counsel, Alaska Region *Lisa Lindeman*

FROM: Robert Babson, Attorney *RB*
NOAA General Counsel, Alaska Region

SUBJECT: Delegation of Authority and the Community Incentive Fisheries Trust Proposal.

As part of the Gulf of Alaska rationalization program, the North Pacific Fishery Management Council (NPFMC) is considering the Community Incentive Fisheries Trust (CIFT) proposal. The CIFT proposal involves an initial allocation of quota share (QS) to organizations representing communities located on the Gulf of Alaska. Under the proposal, these community organizations will then re-allocate the individual fishing quota (IFQ) derived from that QS on an annual basis to members of the community. Because the proposal is in its early stages, many of the details crucial to its implementation have not been developed. This memorandum discusses some of legal limitations the Council should consider in the development of those details.

Summary

While the Council could authorize allocations of QS to organizations representing communities and authorize such organizations to re-allocate IFQ annually, the authority thus delegated cannot be unlimited. Such sub-allocations of IFQ must be made subject to final approval by the Secretary. Any party aggrieved by such annual adjudications also would have a constitutional right to an agency appeal through the Office of Administrative Appeals before the agency can take final action on the recommendation.

Discussion

Under the Magnuson-Stevens Fishery Conservation and Management Act (FCMA), the Secretary's responsibilities and authorities can be classified under two broad categories: rulemaking and administrative implementation. The Secretary's rulemaking responsibilities are provided in section



304. For regulations implementing fishery management plan (FMP) amendments proposed by the various Regional Fishery Management Councils:

...the Secretary shall - (A) immediately commence a review of the plan or amendment to determine whether it is consistent with the national standards, and other provisions of the Act, and any other applicable law....

16 U.S.C. 1854(a). *See also*, 16 U.S.C. 1854(b). Once regulations establishing an FMP amendment are promulgated, the Secretary's responsibilities for the implementation of such amendments is provided in section 305(d) of the Act, to wit:

The Secretary shall have general responsibility to carry out any fishery management plan or amendment approved or prepared by him, in accordance with the provisions of this Act...

16 U.S.C. 1855(d).

Because of the novel aspects of the CIFT proposal, both its approval under section 304 of the Act, and its implementation under section 305(d), present unique legal concerns.

Rulemaking

Pursuant to sections 304(a) and (b) of the Act, in order for the Secretary to approve regulations establishing the CIFT proposal, he will have to determine that it meets the requirements of the national standards contained in the Act. 16 U.S.C. 1851. In addition, since the CIFT proposal is part of a limited access system, he also will have to determine that the proposal complies with the requirements of section 303(b)(6). 16 U.S.C. 1853(b)(6). The approval of the initial allocation of QS to the community organizations participating in the CIFT program should be fairly straight forward; it is the approval of that part of the proposal that calls for the annual re-allocation of IFQ that could be problematic. The latter will involve the approval of actions which, by definition, will not take place until some time in the future. It seems clear that in order for the Secretary to be able to review the regulations establishing the program pursuant to section 304 (a) and (b) of the Act, they will need to include a clear set of standards applicable to the annual re-allocation of IFQ to the individuals who will actually participate in the fishery. The Secretary can then review these standards for compliance with the Act.

Adjudication

Limited access systems involve "rulemaking" to establish the general standards to be used in

determining eligibility for initial issuance of QS. Once the standards for initial allocation are established by such rulemaking, it is then the Secretary's responsibility to apply those general regulatory standards to individual applicants. This is generally referred to as the process of "adjudication."¹ The adjudication of eligibility of applicants under limited access systems is an example of the responsibilities imposed on the Secretary by section 305(d) of the Act to "carry out" FMP's. As discussed above, the CIFT proposal differs from previous limited access systems implemented by the Secretary in that it proposes to delegate the annual re-allocation of IFQ from the Secretary to participating community organizations. The ability to delegate the Secretary's authority and responsibility under section 305(d) of the Act, however, is strictly limited.

The rules applicable to the delegation of administrative authority has been summarized as follows:

Administrative officers and bodies cannot alienate, surrender, or abridge their powers and duties, or delegate authority and functions which under the law may be exercised only by them; and although they may delegate merely ministerial functions, in the absence of statute or organic act permitting it, they cannot delegate powers and functions which are **discretionary or quasi-judicial in character**, or which require the exercise of judgment. [Emphasis added.]

¹ The Ninth Circuit Court of Appeals has differentiated between rulemaking and adjudication in the following manner:

A rule is:

[T]he whole or part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency.... 5 U.S.C. [section] 551(4). An adjudication (which results in an order) is virtually any agency action that is not rulemaking. 5 U.S.C. [section] 551(6)-(7). Two principal characteristics distinguish rulemaking from adjudication. First, adjudications resolve disputes among specific individuals in specific cases, whereas rulemaking affects the rights of broad classes of unspecified individuals. [Citations omitted.] Second, because adjudications involve concrete disputes, they have and immediate effect on specific individuals (those involved in the dispute). Rulemaking, in contrast, is prospective, and has a definite effect on individuals only after the rule subsequently is applied. [Citations omitted.]

Yesler Terrace Community v. Cisneros, 37 F.3d 442, 448 (9th Cir. 1994). In short, rulemaking involves the creation of new law/regulation, whereas adjudication involves the application of existing law/regulation to individual situations.

73 C.J.S., *Public Administrative Law and Procedure* [section] 56 a. (1983). Thus, the general rule is

... that when Congress has specifically vested an agency with the authority to administer a statute, it may not shift that responsibility to a private actor....

Perot v. Federal Election Com'n, 97 F.3d 533, 559 (D.C. Cir. 1996), cert. den. *Hagelin v. Federal Election Com'n*, 520 U.S. 1210. See also *Population Institute v. McPherson*, 797 F.2d 1062, 1072 (D.C. Cir. 1986); *Sierra Club v. Sigler*, 695 F.2d 957, 962-63 n.3 (5th Cir. 1983); *Pistachio Group of Ass'n of Food Ind. v. U.S.*, 671 F.Supp. 31, 35 (CIT 1987). Although these concerns are lessened when the delegation is of ministerial duties (*McCarthy v. Wood*, 245 F.2d 848, 853 (5th Cir. 1957)), they are of particular concern when the delegation involves either quasi-judicial (*Id.*) or discretionary functions. Various Courts have held that the adjudication of license applications² is both a "quasi-judicial" (*Johnson v. Independent Life & Accident Ins. Co.*, 94 F.Supp. 959, 961 (E.D. S. Car. 1951)) and "discretionary" function (*Office of Communication of United Church of Christ v. F.C.C.*, 359 F.2d 994 (D.C. Cir. 1966), appeal after remand 425 F.2d 543).

One of the major concerns with the delegation of quasi-judicial functions to private parties concerns the Constitutional right of procedural due process. Normally, when the agency performs license adjudications, applicants have a constitutional right to an agency appeal.³ The agency's final action

² The Administrative Procedure Act defines "license" as including

...the whole or a part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption, or other form of permission...

5 U.S.C. 551 (8). The APA also defines "licensing" as including

...agency process respecting the grant, renewal, denial, revocation, suspension, annulment, withdrawal, limitation, amendment, modification, or conditioning of a license...

5 U.S.C. 551 (9). It is clear that an annual re-allocation of IFQ meets the definitions of licence and licensing, above.

³ It is clear that procedural due process, as provided under the Due Process Clause of the 5th Amendment of the U.S. Constitution, applies to agency adjudications, as defined under the APA, 5 U.S.C. 551 *et seq.* *Nuclear Data, Inc. V. Atomic Energy Commission*, 364 F.Supp.

on such appeals is then subject to judicial review under the APA. *Foss v. NMFS*, 161 F.3d 584, 588 (9th Cir. 1998). If the function of making adjudications were delegated to a private party, then parties aggrieved by such adjudications would have no such agency appeal right, and such adjudications would not be subject to review by the Courts under the APA. This sort of delegation of quasi-judicial authority to a private party has been uniformly rejected by the Courts. See generally *Pistachio Group of Ass'n of Food Ind. v. U.S.*, 671 F.Supp. 31 (CIT 1987).

The Courts' concern about delegations (sometimes referred to as "subdelegations") of quasi-judicial functions to private parties (such as the community organizations who would be allocated QS under the CIFT proposal) are lessened when agency and judicial review and control over those functions are retained. Compare *Texas Office of Public Utility Counsel v. F.C.C.*, 265 F.3d 313, 328 (5th Cir. 2001) with *Save Our Wetlands, Inc. v. Sands*, 711 F.2d 634, 641 (5th Cir. 1983); *Sierra Club v. Lynn*, 502 F.2d 43, 59 (5th Cir. 1974), cert. den. 421 U.S. 994. The United States Court of International Trade has stated:

The courts have consistently required subdelegations of significant functions to be checked by some form of review, either within the agency itself, or ultimately by the courts. Lower level procedural decisions generally require less oversight than decisions which affect the substantive rights of regulated parties, or which embody the agency's most potent use of its discretionary authority. In all cases cited by the parties, however, courts were willing to approve subdelegations only if they ultimately were subject to some form of scrutiny.

* * * *

Such a decision cannot be abandoned to an independent agency with private sector components, and isolated from all types of review, administrative or judicial, merely for reasons of convenience.

Pistachio Group of Ass'n of Food Ind. v. U.S., supra at 37. The Court went on to state

...the availability of administrative and judicial review may cause a court to conclude that no delegation has occurred. [Citation omitted.]

* * * *

By finding that "no delegation has occurred" rather than finding that a given delegation is proper, courts may avoid answering difficult separation of powers and related questions or objections to the degree of power transferred.

423, 425 (D.C.D.C. 1973). It is also clear that agency permit decision making is an adjudication under the APA. *National Wildlife Federation v. Marsh*, 568 F.Supp. 985, 992 n. 12 (D.C.D.C. 1983).

Id. at 39. Absent a statutory provision for direct judicial review of annual IFQ adjudications made by community organization participating in the CIST program, the only judicial review possible would be for "final agency action" under the APA. In order to have such "final agency action," the annual IFQ adjudications must be made subject to agency review and Secretarial approval.

cc: Jane Chalmers
James Balsiger



1 October 2003

Dennis Austin
North Pacific Fishery Management Council
605 West 4th, Suite 306
Anchorage, AK 99501

RECEIVED
OCT - 1 2003
N.P.F.M.C

Dear Mr. Austin,

In reviewing the GOA Groundfish Rationalization Alternatives, I would strongly urge you and the Council to consider the implications to small processors and coastal communities. At this critical juncture, it is particularly important to craft alternatives that create a balance between small and large processors. Small processors are locally owned and fully invested in their respective communities. Now and for the future, small processors represent a real source of economic growth and development for coastal communities. In some Gulf of Alaska communities such as Homer, Kenai, Soldotna, small processors are the primary seafood processors. Kodiak currently has two small processors that fill a valuable and necessary niche in the industry.

To ensure inclusion of small processors, I would recommend the widest spread of qualification years, 1995 – 2002. This would provide small processors with a broader qualification base. The 50 mt entry threshold is acceptable, but the growth cap is not. It is unlikely and unrealistic that most small processors will attain large processor size. However, growth limits will have an adverse impact on those businesses and correspondingly the communities where they are located. Artificially placed growth restrictions are unnecessary. Growth is going to be dictated by access to capital, markets and resources.

I believe the concept of "linkage" to processors based on historical deliveries is detrimental to the industry. There are economic benefits to both communities and the industry from a fully competitive environment. From the community perspective, higher ex-vessel values translate to higher fish tax revenue generation. In a competitive environment, processors will need to produce new and valuable products with the compensation of greater margins; restraints or lack of competition, reduce the incentive to innovate and limit profit potential.

As small processors we primarily serve the small boat fleet. This fleet can be characterized as a fleet of local owned, small family businesses. Preserving small processors and giving them the opportunity to grow and compete will help preserve the small boat fleet and the communities they represent. I speak from experience when I say that as a small processor, I work hard to be innovative and creative and to continually find ways to improve and diversify my business.

I appreciate your consideration of small processor concerns, both in Kodiak and throughout coastal Alaska.

Sincerely,



John Whiddon
President/General Manager
Island Seafoods

CC: Senator Ted Stevens
522 Hart Senate Office Building
Washington, DC 20510

Senator Lisa Murkowski
322 Hart Senate Office Building
Washington, DC 20510

Representative Don Young
2111 Rayburn House Office Building
Washington, DC 20515

Governor Frank Murkowski
PO Box 110001
Juneau, AK 99811

Mr. James Balsinger, Director
National Marine Fisheries Service
Alaska Region
PO Box 21668
Juneau, AK 99802

September 30, 2003

Dear Council Members,

My name is Casey Eads. I am a commercial fisherman; fishing in Alaska is all I have ever done and is all I have ever known. I am 29 years old and have been fishing full time since I was 15; that is a lot of fish, time, hard work, blood and broken bones. At the time when the halibut and black cod fisheries went to the IFQ programs, I felt myself and family were cheated by the program. For example, my father has been a hired skipper for the last 30 years. He spent much of his time away from family and worked very hard to catch all of the halibut and black cod during those qualifying years. The quota was then given entirely to the owners of the boats, who were off in the states buying condos or houses, playing golf and going on vacations. Please don't take me the wrong way; I think the owners of the boats deserve their portion of the quota because they as well have put in time and hard work. But what about the skippers and crewmembers, are we invisible? Are the threats, if you don't fish this season or that season then you can't fish the IFQs or since we own the quota, you get 30-50% less money for your hard work, fair? Is that what we deserve for being lower on the totem pole as well as doing all the work? Do you call that rationalization? It doesn't sound rational to me. I am hoping this is not what I have to look forward to for the rest of my fisheries; like cod and crab. What do I tell my 2 young sons when they say, "I want to be a fisherman like my Daddy." Sorry boys, I was too busy fishing, trying to make ends meet, to educate myself on the correct way to fight for our rights to fairly catch fish and make a good living. Or should I tell them I did not have the money to take a season off to fly to Anchorage to speak at a meeting where the future of our fishing livelihood is dictated. Ironically, these meetings are conveniently held at the beginning of our only king crab season or the start of a salmon season when all the skippers and crew are out fishing. Or finally, I guess I could tell them I just could not afford to pay the \$8.00-\$10.00 per pound it costs to be a shareholder. I hope this letter helps you to understand what you, as council members, are doing to our fisheries and our livelihoods. You should realize those boat owners did not catch all of those fish single handedly; without hired skippers and their crews there would be no fishery at all. I would like to thank you for your time.

Sincerely,

Casey Eads
Kodiak, Alaska

RECEIVED
SEP 29 2003
N.P.F.M.C

P.O. Box 2284
Kodiak, Alaska 99615
September 30, 2003

North Pacific Fishery Management Council
605 West 4th Suite 306
Anchorage, Alaska 99501-2252

Dear NPFMC:



Re: Parallel Fisheries and GOA Rationalization

We are 30+ year Kodiak residents, vessel owners and participants in the Parallel Fishery (pot cod) every year since 1992. 100% of our livelihood is derived from fishing.

In regards to the Parallel Fisheries, we would like the State to defer authority to Federal management for harvesting groundfish during the Federal season where quota is taken off of the Federal TAC.

This is the least problematic solution to the situation. Having Federal and State programs running simultaneously is unwieldy and cumbersome, creating inevitable complications and inequities. Federal management of the Parallel Fisheries is the only way to reflect what has historically taken place in this fishery.

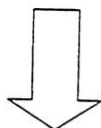
Sincerely,



Phil and Lisa Robbins

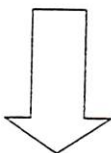
*Earl
Koppick*

Under a rationalized program can the State of Alaska open a groundfish fishery for non-federally permitted vessels in state waters that is managed to a specific TAC while also allowing federally permitted vessels to fish in the same water, but their harvest coming from the federal TAC. State permitted vessels, operating under state management, would be fishing toward their allocation of the TAC. When the state allocation is reached, state waters would close to BOTH state and federally permitted vessels.

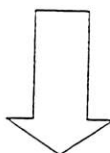
Yes



BOF and NPFMC agrees on TAC apportionments between state and federal waters.

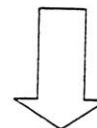


NPFMC proceeds with analysis of IFQ program

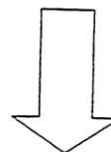


BOF to develop management plans for state fisheries; multiple issues for BOF:
Coops
IFQ
Other
Observers
etc...

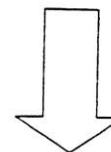
No



No federally permitted vessels can fish their QS in 0-3, go ~~back~~ to separate management in state and federal waters with no parallel fishery



NPFMC proceeds with analysis for a separate program that does not include state waters



BOF to develop management plans for state fisheries; multiple issues for BOF: LE, Coops or other rationalization program

**Options for Management of State Groundfish Fisheries
in Response to Federal "Rationalization" of Fisheries
in the Gulf of Alaska**

1. Statement of the Problem.

The North Pacific Fishery Management Council (NPFMC) is proposing to reorganize groundfish fisheries in the Gulf of Alaska (GOA) with a rights-based program that would result in a more "rational" fishery with longer seasons, less capital investment, and fewer safety problems. The State of Alaska must decide how it will respond to the proposed federal rationalization program. Maintaining the current status quo state management regime is not a viable option if the Council is to rationalize the GOA groundfish fisheries for three main reasons: First, if the state managed groundfish fisheries remain open access while the federal groundfish fishery becomes rights-based, effort will likely increase in state waters to an extent that will cause significant state and federal management problems. This will happen because fishermen will have an incentive to fish state waters until the state season is closed, knowing their right to harvest a specified amount of fish in federal waters is protected (though this issue could be addressed by NMFS similar to how they require sablefish IFQ holders to declare when they harvest sablefish against their IFQ while in state waters). Because all harvest in the federal waters and in the state parallel season are accounted for under a single total allowable catch (TAC), harvests in state waters by fishermen not participating in the federal program will erode the amount of TAC available to individual quota fisherman managed under the rationalized federal program. Second, under a rationalization program, the federal season is expected to lengthen, leaving little or no time to prosecute the current "state waters" season. Third, the potential benefits of a rationalization program that would accrue to Alaskans who participate in the federal fishery would not be realized if continued open access in the state fishery frustrated implementation of the rationalization program.

2. Description of state water management of groundfish in the Gulf of Alaska:

Groundfish is managed either wholly within state waters (25% of the Pacific cod TAC) during the "state waters" season or during a "parallel fishery" within state waters (0-3 nm) prosecuted coincidentally with the federal fishery (3-200 nm) that accounts for 75% of the Pacific cod harvests and 100% of most other groundfish. These latter harvests are accounted for under parallel season management.

Under the status quo fishery, state waters are open concurrent with the federal groundfish fishing periods, providing a "parallel fishery" opening. This allows both federally permitted and non-federally permitted vessels fishing inside state waters to access fish accounted for under the overall TAC with few of the vessel and gear restrictions that accompany the "state waters" season. Opening the parallel fishery allows the effective harvesting of the fishery resource because many of the stocks targeted by harvesters straddle state and federal jurisdictions. In some cases, a significant portion of the overall TAC is harvested within state waters. Closing the parallel fishery during the federal fishing periods would severely limit fishing opportunities for both state and federal permitted vessels. Additionally, it could result in differential harvest on various

components of the stock and economic impacts on industry and dependent coastal communities.

The "state waters" season for 25% of the Pacific cod TAC follows the closure of the federal fishery, after a short period to clear fishing gear and vessels, so that harvests are not mixed between the two seasons. This fishery has a set of restrictive measures adopted by the Board to provide opportunity tailored to the various coastal communities adjacent to their fishing grounds. These include vessel size restrictions, exclusive registration areas, and limits on the type and quantity of gear that may be fished.

3. Main Decision Point.

The main decision point that must be made by the Board of Fisheries is whether it can (1) integrate state management of its GOA groundfish fisheries with the proposed federal rationalization program, or (2) create a separate state management regime that is distinct from the federal fishery but does not confound the federal rationalization program. This paper is intended to inform that decision.

The NPFMC's procedures for adopting the rationalization program are partially dependent upon the State of Alaska. The NPFMC is waiting for the State to provide alternatives, or a potential new management regime for state groundfish fisheries in the GOA. With the state management alternatives in hand, the NPFMC will be better able to proceed with its required NEPA analysis, which must be complete before the Council can make a final decision to select a particular method of rationalization. The alternatives the Council has identified at this point include an IFQ program, and an AFA-type cooperative program. Both alternatives include some form of privatization of the groundfish resource in the form of a direct allocation of the TAC to individuals or cooperative groups.

4. Advantages and Disadvantages of Integration

If the Board desires to integrate the state fishery with the federal rationalization program, it must be done in a manner that does not confound the federal program. The first step would require that there is the ability to hold a state fishery with its own GH/L/TAC and allow federal IFQ/Coop participants to also fish state waters as long as the state waters are open to state fishermen. Further coordination might result through the adoption of a rights-based allocation program for state waters; either a landings-based IFQ program or a landings-based cooperative program (currently equal share programs are allowed). The federal and state rationalization programs could then be operated to provide a coordinated fishery for groundfish in the Gulf of Alaska.

One of the main advantages to this approach would be the maintenance of a comprehensive management regime for the whole stock, without an artificial segregation of stock management and harvest at the three-mile jurisdictional boundary separating state from federal waters for most of the current participants. This would allow fishermen who historically fished both state and federal waters to harvest fish without regard to the three-mile line, and continue the historical practice of opening state waters for the seasons and gears that are "parallel" to the federal fishery. Such rationalization would provide benefits for current participants including a slower-paced fishery over a longer season and less need for capital investment for a derby-style fishery.

Except in a few specific instances, to date, the state has not formulated a divergent type of fishery management in the 0-3 nm waters for groundfish. Rather, the state has been an active participant in working with industry, communities and the public within the Council GOA rationalization process. State participation has included Board of Fisheries participation through the Board chairman's monitoring of Council progress, Joint Board/Council protocol meetings, state and federal fishery management staff presentations at Board and council meetings, and meetings with the Department of Law (DOL). As noted, the goal to maintain consistency is largely based upon the fact that most groundfish stocks straddle state and federal waters.

The department believes it would be best to complement, and not confound, the development of a rationalized groundfish fishery in the Gulf of Alaska. The Council has set out to develop a rationalization program that addresses the harvesting sector, processing sector and community interests in the GOA groundfish fisheries. Rationalization programs provide safety at sea, reduce management costs, increase utilization and produce long-term economic benefits for all participants. An open access state water groundfish fishery may confound the Council's ability to achieve such management, conservation and development goals.

Disadvantages to this approach accrue mainly to those with little or no history of landings in the fishery who would be precluded from increasing their participation without buying an allocation right.

5. Obstacles to Integration, and Options

While it is believed that the two fisheries may occur concurrently, with closures dictated by state water management of the state fishery. The most significant obstacle to a truly integrated approach is that additional statutory authority would be required by the legislature authorizing the Board of Fisheries and the CFEC to implement a quota system based on individual historical landings or multiple cooperatives.

The options available for an integrated rights-based system would largely depend on the authority granted by the legislature. To the extent the NPFMC wanted to achieve an integrated fishery, it would have to craft the federal fishery in a manner that meets any restrictions that the legislature might impose on a rights-based fishery in state waters or that the Board of Fisheries may require (i.e. non-pelagic trawl restrictions).

6. Advantages and Disadvantages of Separation of the State Fishery from the Federal Fishery

The state could decide to eliminate the current parallel fishery and modify the "state waters" fishery season so that management of state water groundfish fisheries are independent of federal management. The main advantage to this approach is that it would require no additional statutory authority and it would reduce the need to create and amend a state fishery that parallels the federal fishery.

Under this option, there is no "parallel fishery" designation. State water harvests accrue to the state allocated GHL/TAC and harvests occurring in federal waters only accrue to the federal portion of the TAC. State and federal waters would be managed separately to the level of their associated TAC. Regulations governing state waters would be set by the Board, and those regulations governing federal waters would be developed by the Council.

The main disadvantage of this approach is: (1) most of the current participants would be disadvantaged by no longer being able to fish in historic state water areas and may lose historic harvest as well as being pushed further off shore where safety at sea concerns arise; and (2) that the state would be taking on additional responsibility for management of stocks that do not recognize the jurisdictional boundary dividing state and federal waters. Although this is currently done in the "state waters" season for Pacific cod that currently involves 25 percent of the overall Pacific cod TAC, much more than that is taken in state waters under the parallel fishery. If new directed species fisheries are included, the Board may need to develop new directed fishery regulations for pollock and flatfish. This would require increased effort and time for the Board of Fisheries regulatory process. New ADF&G management and fisheries enforcement budgets would also need to be procured at a time when such funds are constrained and possibly declining. Determining how much fish should be harvested in state waters from year to year may be a significant management burden on ADF&G.

7. Conclusion

The main issue currently facing the state is whether to integrate rationalized fisheries and further seek statutory authority to develop a rights-based allocation program based on historical landings of groundfish in the Gulf of Alaska or to manage state waters separate from the federal rationalization program. ADF&G acknowledges the potential conservation and development benefits of fishery rationalization. However, ADF&G is still in the process of considering the advantage and disadvantages of the potential approaches, and seeks to engage in discussion with the Board of Fisheries, the CFEC, affected fishermen, and other interested persons in order to move forward with a state program as part of the gulf rationalization process.

Attachment 1 is a copy of the proposed state water alternatives adopted by the NPFMC in June 2003.

Attachment 2 is a list of further options that the Board and its Gulf Rationalization Committee may want to consider between October 2003 and February 2004.

Attachment 1: Proposed State Waters – Parallel Fisheries and State Managed Options

The State had laid out three alternatives with Suboptions to manage state water fisheries under the Gulf of Alaska groundfish rationalization program at the June 2003 Council meeting. These alternatives only included options to either set aside the state waters with its own TAC as a state managed fishery with no parallel season, or continuing a parallel season in state waters but with a fixed cap so that both federal quota share (QS) holders and non-Qs holders could fish in state waters. These proposed June 2003 Council alternatives for state waters were as follows:

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

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

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

Council allocates _____ % of the TAC, by species, to 0-3 nm state water fisheries representing a range of harvests that occurred in state waters during the status quo parallel fishery (plus the state waters P. cod fisheries). State waters fisheries to be managed by ADF&G through authority of, and restrictions imposed by, the Board of Fisheries.

Sub options: Area or species restrictions:

1. Limited to Pollock, P. cod, flatfish, and/or pelagic shelf rockfish (dusky).
2. Limited to Western, Central and/or Eastern Gulf of Alaska

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

Fixed allocation for:

- I. P. cod
- II. Pollock
- III. Other species

(As is the case for Adak P. cod and rockfish, etc.)

Staff will bring back an analysis of catch data showing harvest inside 3 nm by gear, species, vessel size and area.

Attachment 2. Additional Options to Separate or include the State Fishery with the NPFMC's Gulf of Alaska Rationalization Program:

Without Board of Fisheries and public input, participation in state water fisheries will likely increase as a result of the federal rationalization program. Should the state consider additional management measures for purposes of stock conservation or allocation. Steps might include limitation of entry by the CFEC, reduced seasons, gear restrictions, exclusive registration areas, equal-share quota systems, or any of the currently authorized management measures of the Board and permitting measures of the CFEC.

Below are some staff suggested alternates to state water management that either build on, or branch out from, the earlier state proposed alternatives (Options: 2 & 3) to the Council listed above (attachment 1). These are submitted to help provide focus to the Board's groundfish rationalization committee. These include:

Under Option 2: - Elimination of the Parallel Season -

- a) As noted, the easiest approach is to close the parallel season. The Board and the Council would agree upon some percent of the overall TAC that represents landings from state waters, and then have a state waters managed fishery for some or all groundfish species under a CFEC Moratorium/Limited Entry (LE). Options to close "open access activity" under LE might include items b) & c) below. To meet the goals cited above, the State would not likely want a state water LE program to grow to include speculative interim permits. This could be accomplished if permits were issued based on a restricted landing history, one that looks at economic dependence and past participation (i.e., those qualifying to participate in the State moratorium/limited entry program would need to have landed so many lbs over some recent qualifying year window). This could require statutory changes to the CFEC's authority. Under this approach, the NMFS/Council would manage the 3-200 mile zone for the remaining TAC/quota.
- b) In addition to limiting entry in state waters, coastal communities, industry participants and fishery managers may be better able to meet these goals if there were some form of individual fishing quota (IFQ) that the state could implement. It is clear that the state can implement a LE program and then do an equal distribution by permit holders (i.e., S.E. or PWS sablefish). But staff is fairly confident that the state cannot implement an IFQ program similar to the federal halibut and sablefish program. However, some melding of the two approaches might be possible. This would require a legislative change and delegation of authority to either the CFEC or the Board. In addition, there are state vs federal allocation approaches that differ, such as "skippers" vs "owners", that must be considered.
- c) A further refinement to a state water LE program might include additional tiering (maybe vessel size and gear) to better meet the purposes and goals stated above. Such additional restrictions could be with or without linking the program to the federal catch history allocation described in "Option 3". Tiered licenses could be

based upon vessels sizes (e.g., 0-39, 40-59, 60-89, 90-119, ≥ 120 ft.). The tiers might also include gear to further reduce efficiency/effort. For example, if state waters were limited, harvest allocations could be equally split for each permit based up an average catch tiered to vessel size and gear type. [e.g., pot vessels between 60-89 LOA (number = N) have a historic 5 year catch of x, so each vessel in this size class receives x/N allocation.]

Under Option 3, retaining aspects of the Parallel Season.

The fishery would be managed similar to the state managed Aleutian Islands sablefish fishery, but modified somewhat. State waters would be opened for some level of TAC that reflects historic annual harvests or biological availability in state waters. The state manages state permitted vessels under Board regulations and closes when the state water TAC is reached. While the state water fishery is open, federally permitted vessels are allowed to fish in state waters under federal TAC. Federal regulation would require that any federal IFQ holders or vessels used in the federal IFQ fishery to, as a condition of their federal IFQ allocation, only fish groundfish in state waters when they subtract their catch from their IFQ, and stop fishing groundfish in state waters after their IFQ or the state waters cap is reached.

It is assumed that the existing state water 25% P. cod fishery would be part of the "new" state water fishery. Some of the existing participants may not be able to receive federal IFQ for that harvest, and some participants who only fish state waters and want to continue fishing there may also not be able to participate in the federal IFQ program. Trying to further rationalize opportunity for state water participants through legislation or regulation may help integrate rationalization of GOA groundfish. Options to address these problems may include:

- a) Include all of the catch history (current participants with or without a federal LLP) from federal and state waters (Parallel and State Water P. cod Managed periods) and issue these participants federal IFQs while simultaneously implementing a state moratorium/LE for State waters participants who fished during the GOA rationalization qualifying period. If this were possible, it should capture all of the participants with a federal LLP and those recent state waters participants that do not hold a federal LLP. All catch would be subtracted from each fisherman's federal IFQ. This approach results in two additional concerns: (1) There will likely be some participants who are concerned with issuing IFQs for "skippers" vs "owners" in state waters. (2) There may also be a problem associated with melding state and federal licenses/IFQs. If one tries to link state moratorium/LE licenses and federal licenses/IFQs, is it possible to prohibit a participant from selling one permit/license and not the other (can they truly be linked)?
- b) The Board might authorize cooperatives. Have the legislature, or the CFEC or the Board with proper authorization, implement a state waters limited entry program for the GOA. Then use a model similar to the Chignik salmon coop for GOA groundfish: For example, fishermen sign up for a coop (only one is recognized). If 50% of the permitted fishermen signed up, the Board could set aside 50% of the

TAC for their coop (the coop receiving equal shares for each participant). In like manner, if 70 percent of the permit holders applied for coop participation, then 70% of the TAC would be allocated to the coop on an equal share basis.

- c) An alternative would be to recognize more than one cooperative for GOA groundfish, but each coop would receive the percentage of TAC representing the number of permitted fishermen participating in their coop based on the above coop formula for sorting shares between coops and open access.

Additional concerns that should be addressed under either option 2 or 3:

* What type of record keeping, reporting and enforcement would be implemented in state waters to assure that "total mortality" of groundfish did not surpass the directed fishery TAC allocation? Would an observer program be required in state waters, on smaller vessels? (Council requested that we provide a description of the current statutes and regulations concerning observer coverage, and a description of how well the State believes this observer coverage accounts for total mortality.) Would new levels of enforcement be required?

* Eligibility options are the link the Council needs to complete its analysis. Would those who receive federal quota shares (QS) be allowed to continue historic fishing practices or start fishing state waters even if they had no previous history in a wholly managed state fishery under Option 2? Some federal QS recipients may have never fished in state water fisheries. Can they receive their QS – fish it in federal waters – and then enter the state water fishery? Isn't such double dipping counter to the goal of rationalization? Many current participants fish both the parallel and the SW 25% cod fishery. Others may receive federal QS based upon their historic participation in state waters during the qualifying years; can they receive their QS and still fish it in state waters?

* Will the Board, CFEC or legislature resolve this issue? If it is the Board and/or CFEC – do they take it to the communities and have them refine these alternatives? Constituent help will be critical for proper legislative preparation.

* Lastly, if managers seriously intend to move toward ecosystem management, then the Board and the Council need to require that, in the long run, anyone fishing for halibut/sablefish has the required groundfish QS to account for their groundfish bycatch. There is the question of whether to "gift" the longline halibut/sablefish fleet bycatch at some historic bycatch level or only allocate them bycatch based upon recorded fishticket landings. In like manner, all groundfish fishermen should be required to have, or purchase, enough halibut and sablefish QS to account for the bycatch of those species occurring in their groundfish fisheries. The Canadians are doing this with rockfish. Canadian regulations require that groundfish fishermen retain what they catch. If they have landed rockfish in excess of their allowance, they must find another fisher with sufficient unused rockfish QS within 24 hrs of landing or pay a fine and forfeit it to the government.

~~DRAFT for board approval~~
Alaska Board of Fisheries
Charge to Steering Committee:
Gulf of Alaska Groundfish Rationalization
2003 - xxx - FB

The North Pacific Fishery Management Council is working towards a plan to "rationalize" the groundfish fisheries in the Gulf of Alaska. Through the Board of Fisheries and NPFMC's Joint Protocol Committee, the council has requested the board provide input regarding state water fisheries under the options identified through the council's motion at its June 2003 meeting including observer coverage.

While the council is developing its plan, it is important that the state identify options for the groundfish fisheries in state waters, in order to coordinate full implementation of a rationalized fishery regime in the Gulf. The board shall appoint a committee develop alternative actions for board action concerning structure for state waters rationalized groundfish fisheries in the Gulf of Alaska, and make recommendations on new regulations. These recommendations will be submitted to the board process for opportunity for full public comment.

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The calendar of events is as follows:

OCTOBER 2003

Board GOA Groundfish Rationalization Steering Committee is formed

DECEMBER 2003

Joint BOF/NPFMC Protocol Committee meets and receives updated report from steering committee

early FEBRUARY 2004

Full Joint BOF/NPFMC meets and receives updated report from steering committee and board

FEBRUARY 2004

GOA Groundfish Rationalization Steering Committee brings recommendation(s) to full board
Board reviews recommendations, and identifies timeframe for promulgating state regulations.

Adopted: _____
Anchorage, Alaska

Board of Fisheries Chairman

Vote:

RC 30

**Alaska Board of Fisheries
Public Panel Members for the
GOA Groundfish Rationalization Steering Committee
October 2003**

The following stakeholder representatives are appointed to the Board of Fisheries' GOA Groundfish Rationalization Steering Committee:

Timothy Blott

Julie Bonney

Glenn Carroll

Joe Childers

Sam Cotten

Duncan Fields

Melvin Larsen

Chuck McCallum

Gerry Merrigan

David Polushkin

Jeff Stephan

Joe Sullivan

Board members who will work directly with this steering committee include:

Ed Dersham

Mel Morris

Art Nelson

tentative meeting date = October 29

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 485-3887 or 485-2450
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RC 22

MEMORANDUM

September 26, 2003

SUBJECT: Power of the Board of Fisheries to allocate fishery resources to individuals (Work Order No. 23-LS1284)

TO: Senator Ben Stevens
Attn: Cheryl Sutton

FROM: George Utermohle *GU*
Legislative Counsel

You have asked whether the Board of Fisheries has the authority to allocate fishery resources within a fishery¹ to individuals based on their individual catch histories.

SUMMARY. There is no clear authority, under statute or judicial decision, for the Board of Fisheries to allocate fishery resources within a fishery among fishermen on the basis of the fishermen's individual catch histories in the fishery. There is a possibility that the general authority of the board under AS 16.05.251(a)(12) to manage commercial fisheries as needed for the conservation, development, and utilization of fisheries could be construed broadly by the Alaska Supreme Court to allow individualized allocations among fishermen within a fishery. The lack of clear statutory authority for the board to make such allocations can be resolved if the legislature enacts a law expressly authorizing the board to do so.

The direct allocation of a fishery resource among fishermen on the basis of the fishermen's individual catch histories may involve privatization of a common property resource and thus implicate the common use and "no exclusive right of fishery" sections of the Alaska Constitution. The available decisions of the Alaska Supreme Court on renewable resource allocation and use of common property resources issues do not provide meaningful guidance as to how the court would address and ultimately resolve these issues in the context of a direct allocation scheme developed by the Board of Fisheries. The issues would have to be presented to the court before we could know with certainty whether direct individual allocations of fishery resources to fishermen are permitted under the Alaska Constitution.

DISCUSSION. The authority of the Board of Fisheries to allocate fishery resources among fishermen within a fishery is unclear. Current statutes do not expressly provide

¹ In this memorandum, "fishery" has the meaning given in AS 16.05.940(14): a specific administrative area in which a specific fishery resource is taken with a specific type of gear.

Senator Ben Stevens
September 26, 2003
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for allocations within a fishery. The statutory authority of the board in regard to allocation speaks of allocation among fisheries. Alaska Statutes 16.05.251(e) states, in relevant part (emphasis added): "The Board of Fisheries may allocate fishery resources among personal use, sport, guided sport, and commercial fisheries. . . ." The remainder of that subsection goes on to set out seven factors that the board may use in allocating among fisheries.

In the absence of an express authorization for the board to make allocations within a fishery, the board may have implicit authority to allocate resources within a fishery under the general grant of authority to the board to regulate "commercial, sport, guided sport, subsistence, and personal use fishing as needed for the conservation, development, and utilization of fisheries". AS 16.05.251(a)(12). The Alaska Supreme Court broadly construes the authority of the board under AS 16 in recognition of the important purpose of the board to provide for the sustained yield management and conservation of the fishery resources of the state. Kenai Peninsula Fisherman's Cooperative Association v. State, 628 P.2d 897, 903 (Alaska 1981). See also, State v. Hebert, 743 P.2d 392 (Alaska Ct. App. 1987); aff'd, 803 P.2d 863 (Alaska 1990); O'Callaghan v. Rne, 996 P.2d 88 (Alaska 2000); Interior Alaska Airboat Association v. State Board of Game, 18 P.3d 686 (Alaska 2001). The court may construe AS 16.05.251(a)(12) broadly to allow the board to allocate fishery resources among fishermen within a fishery.

In the current litigation challenging the Board of Fisheries' management plan for the Chignik sockeye salmon cooperative fishery, the Department of Law argued to the trial court that AS 16.05.251(a)(12) authorized the board to allocate within a fishery. The trial court accepted the argument of the Department of Law when it upheld the management plan for the Chignik cooperative fishery. Anderson v. State Board of Fisheries, Superior Court, First Judicial District, Juneau, 1JU-02-00349 CI, Findings of Fact and Conclusions of Law Regarding Plaintiffs Motion for Summary Judgment and Defendant's and Intervenor's Cross-Motions for Summary Judgment, September 30, 2002. The Anderson case is now on appeal to the Alaska Supreme Court. It is possible that the Supreme Court will find that the power to regulate commercial fishing under AS 16.05.251(a)(12) includes the power to allocate fishery resources among individual fishermen within a fishery. But, there is no certainty that the Supreme Court will see the issues the same way as the trial court. It could be another year before the Alaska Supreme Court issues a decision in the Anderson case.

The Department of Law has traditionally taken a cautious view toward interpretation of the authority of the Board of Fisheries and recommended that the statutes governing the board be amended before the board undertakes novel or nontraditional fishery management measures.² Amendment of the board's authority to specifically allow, limit,

² See, Memorandum to Ed Dersham, Chair, Board of Fisheries, and Doug Mecum, Director of the Division of Commercial Fisheries, from Lance B. Nelson, Assistant Attorney General, Natural Resources Section, Department of Law, Anchorage, dated January 3, 2002; 1992 Inf. Alaska Att'y Gen. Op. (file no. 663-92-0077) March 7, p.6; 1990 Inf. Alaska Att'y Gen. Op. (file no. 663-90-0327) August 1, p.7.

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or prohibit allocation of fishery resources within a fishery would resolve the current ambiguity regarding the board's authority on this topic.

* * *

The allocation of fishery resources among fishermen within a fishery involves more than the statutory authority conferred on the board by the legislature. The allocation of fishery resources among fishermen in a fishery and, even more so, individualized allocations of fishery resources among fishermen in a fishery based on individual catch histories, raises special privileges of fishery and privatization issues under the common use³ and no exclusive right of fishery⁴ sections of the Alaska Constitution.

Under the "no exclusive right of fishery" section, the state is expressly prohibited from granting an exclusive right or special privilege of fishery except as necessary to limit entry into a fishery for purposes of resource conservation, prevention of economic distress among fishermen and those dependent upon them for a livelihood, and promotion of aquaculture in the state. An entry permit is a grant of an exclusive right of fishery, but that exclusive right was specifically authorized when the "no exclusive right of fishery" section was amended in 1971 to establish a limited entry system to control entry into the state's commercial fisheries.

The Alaska Supreme Court recognizes that limited entry into commercial fisheries is inconsistent with the common use section of the Alaska Constitution. State v. Ostrosky, 667 P.2d 1184, 1189 (Alaska 1983). The court also recognizes that the inconsistency between limited entry and the common use section, equal protection clause, or other provision of the Alaska Constitution was cured by the 1971 limited entry amendment. Id. at 1189 - 90. However, the court also found that the 1971 limited entry amendment did not justify every possible limited entry scheme that fostered resource conservation and promoted economic security for fishermen: "whatever system of limited entry is imposed must be one which, consistent with a feasible limited entry system, entails the least possible impingement on the common use reservation and on the no exclusive right of fishery clause." Id. at 1191 (emphasis added); see Johns v. Commercial Fisheries Entry

³ Article VIII, sec. 3, Constitution of the State of Alaska states:

Common Use. Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use.

⁴ Article VIII, Sec. 15, Constitution of the State of Alaska states:

No Exclusive Right of Fishery. No exclusive right or special privilege of fishery shall be created or authorized in the natural waters of the State. This section does not restrict the power of the State to limit entry into any fishery for purposes of resource conservation, to prevent economic distress among fishermen and those dependent upon them for a livelihood and to promote the efficient development of aquaculture in the State.

Senator Ben Stevens
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Commission, 758 P.2d 1256, 1266 (Alaska 1988). Thus the 1971 limited entry amendment which authorized limited entry must be construed narrowly so as to not unreasonably impinge on common use any more than is necessary to regulate entry into fisheries. Johns, 758 P.2d at 1266. For that reason, the state's current limited entry system only allocates the right to participate in a commercial fishing user group. Those persons who obtain an entry permit have the right to use the available fishery resource in common with all other permit holders. Each permit holder is free to catch as much of the available resource as possible given the permit holder's expertise, equipment, and dedication to fishing. No permit holder has a private right, interest, or expectancy to any portion of a fishery resource.

The direct allocation of fishery resources among fishermen based on the fishermen's individual catch histories in the fishery impinges on the common use section and "no exclusive right of fishery" section. Under the common use doctrine, fishery resources are "owned" or held by the state in trust for all citizens of the state until the resource is lawfully reduced to physical possession of the fisherman. Isakson v. Rickey, 550 P.2d 359, 367 (Alaska 1976). Until the fish is in the physical possession of the fisherman, the fisherman has no claim to the fish. If the Board of Fisheries was to allocate fishery resources to an individual fisherman and then exercise its fishery management authority to insure that the fisherman harvested that allocation of fish, the board has given an interest in a specific portion of the harvest of those fish to the fisherman and conferred a special privilege of fishery on the fisherman.³ The creation of private interests in a fishery resource before the resource is caught by a fisherman seems to be the kind of special privilege that the common use and "no exclusive right of fishery" sections were intended to prohibit.⁴ The 1971 limited entry amendment of the "no exclusive right of fishery" section did nothing to make this kind of special privilege of fishery

³ The possible details of a scheme to allocate fishery resources among fishermen based on the fishermen's individualized catch histories in the fishery are wholly unknown at this time but those details will be critical to the constitutionality of the allocation scheme. Of particular importance will be, the determination of how the allocation to new entrants into the fishery would be determined and whether the allocation for new entrants would be based on the prior history of the previous permit holder?

⁴ The Natural Resources Committee of the Alaska Constitutional Convention explained the purpose of the common use clause in part, as follows:

Game fish, wildlife, fisheries, and water are recognized as belonging to the state so long as in a natural state. These resources are subject to a private right only when they have been acquired or utilized as provided by law. For example, a private person has no right to buy and sell wild animals in their natural state, but once an animal is taken in compliance with law, it becomes the property of the taker, subject to use or disposition within the law

⁶ Proceedings of the Alaska Constitutional Convention, Appendix 5, Proposal 8 at 75; Proposal 8A at 98. (Emphasis added.)

Senator Ben Stevens
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constitutional.⁷ The 1971 limited entry amendment only allows the state to limit entry into the commercial fishing user groups only as necessary to achieve certain conservation and socio-economic goals. The amendment did not authorize the state to grant other kinds of exclusive rights or special privileges of fishery that were not directly related to limiting access to a commercial fishing user group.

The direct allocation of fishery resources among individual fishermen based on their catch histories in the fishery is analogous to the allocation of game resources among big game guides that was considered by the Alaska Supreme Court in the Owsichek case. Owsichek v. State, Guide Licensing and Control Board, 763 P.2d 488 (Alaska 1988). The Owsichek case involved grants of exclusive access to game in an area to certain big game guides for the purpose of providing guide services to sport hunters. Under former provisions of AS 08.54, the Guide Licensing and Control Board granted exclusive guide areas and joint use areas to licensed big game guides. Within an exclusive guide area or joint use area, one or more big game guides were given the authority to provide guiding services to sport hunters. All guides who were not authorized to operate within a guide area were prohibited from providing guide services in that area. Guide areas were assigned in large part based on a guide's previous use, occupancy, and investment in an area. Such criteria favored established guides at the expense of new entrants into the guiding profession. Id. at 496. The Alaska Supreme Court found that a grant of a special privilege to operate in a guide area that was based primarily on seniority ran counter to the notion of common use. "[T]he common use clause . . . , reveals an anti-monopoly intent to prohibit 'exclusive grants' and 'special privilege[s]' wholly apart from the limits imposed by other constitutional provisions." Id. Thus the court found that the guide areas were inconsistent with the common use provision of the Alaska Constitution and therefore unconstitutional. Id. at 498. The Owsichek case involved only the common use section of the Alaska Constitution. However, in the context of direct allocations within a fishery, the "no exclusive right of fishery" section is also implicated. If the "no exclusive right of fishery" section is to have any independent effect, distinct from that already provided under the common use clause, the "no exclusive right of fishery" section will have to be applied even more rigorously to prevent exclusive rights and special privileges of fishery. To assume that the "no exclusive right of fishery" section confers no more protection against privatization of fishery resources than is provided under the common use section is to nullify the express and specific prohibition against exclusive rights and special privileges of fishery. The court has consistently declined to nullify provisions of the Alaska Constitution.⁸

The Alaska Supreme Court has acknowledged that the allocation of fishery resources among competing groups of commercial fishermen is both necessary and authorized

⁷ The common use section "mandates that limited entry be achieved through the least possible 'privatization' of the common resource." Ostrosky, dissent, 667 P.2d at 1196.

⁸ Owsichek, 763 P.2d at 496; Park v. State, 528 P.2d 785, 786-87 (Alaska 1974).

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under the sustained yield section of the Alaska Constitution.⁹ State v. Hebert, 803 P.2d 863, 866 (Alaska 1990). The court also stated that the authority to make allocation decisions did not imply a power to limit admission to a user group because such authority may conflict with the common use, no exclusive right of fishery, and uniform application sections of the Alaska Constitution. Id. Thus the court has accorded much latitude to the Board of Fisheries to allocate fish among and within fishery user groups. In the Hebert case, the court has upheld the concept of "super-exclusive fishing areas" which allowed a fisherman to fish for herring in a specific subarea of the fishery, but if the fisherman chose to fish in that subarea he/she could not fish in any other portion of the area outside of that subarea during that fishing season. Rather than viewing this approach as restricting entry in the user group for the fishery, the court found this approach to be a valid exercise of the board's power to allocate fishery resources within a fishery. Each fisherman was given the opportunity to choose where he/she would fish for herring in the area. If the fisherman chose to fish in a certain subarea then that was the only subarea where he/she could fish for herring in that season. A fisherman that did not fish in that subarea could fish in the remaining portions of the area.

The Hebert case supports the authority of the board to allocate fisheries within a fishery. However, the allocation scheme approved by the court in the Hebert case involved the allocation of fishing areas among subgroups of fishermen and not the allocation of the fishery resource. The fishermen that participated in the Hebert fisheries were only entitled to the fish that they were able to physically capture. The board did not make any direct allocation of the resource among fishermen in the fishery. Thus the Hebert case does not provide meaningful guidance as to whether the court would sustain a board regulations that directly allocated the resource to fishermen within a fishery.

The Alaska Supreme Court has said in the Tongass Sport Fishing Association case and the Interior Alaska Airboat Association case that "the 'common use' clause of article VIII, the 'no exclusive right of fishery' clause of section 15, and the 'uniform application' clause of section 17 are not implicated unless limits are placed on the admission to resource user groups." Tongass Sport Fishing Association v. State, 866 P.2d 1314, 1318 (Alaska 1994); Interior Alaska Airboat Association v. State, Board of Game, 18 P.3d 686, 695 (Alaska 2001).¹⁰ The direct allocation of fishery resources within a fishery does not

⁹ Article VIII, sec. 4 (sustained yield section), Constitution of the State of Alaska states:
Sustained Yield. Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses.

¹⁰ The trial court that considered the challenge to the Chignik sockeye salmon cooperative fishery found that the regulations establishing the cooperative fishery did not violate the common use and uniform application section of the constitution because no limits were placed on admission to the Chignik salmon fishery user group. Anderson, pages 21 - 24. The decision of the trial court in the Anderson case suggests that none of the parties challenging the Chignik cooperative fishery raised the issue of the "no

Senator Ben Stevens
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involve limitations on entry into a resource user group, so if the court's statement in these cases were taken literally there would be no constitutional objection to direct allocations within a fishery. However, it is not plausible that the court meant to exclude the possibility of constitutional challenges to fishing regulations that did not involve access to resource user groups. Fair and equal access to resource user groups is only one of the rights protected by the equal access provisions of the Alaska Constitution. The right to fair allocation of the harvest of fishery resources among fishermen is expressly protected under the "no exclusive right of fishery" section of the Alaska Constitution. If the statement of the court is applied literally, the court has effectively written the prohibition against exclusive rights and special privileges of fishery in the first sentence of the "no exclusive right of fishery" section out of the constitution. The court has consistently declined to construe any provision of the constitution to be a nullity and of no effect.¹¹

In conclusion, the direct allocation of a fishery resource among fishermen on the basis of the fishermen's individual catch history may involve special privileges of fishery and privatization of a common property resource and thus would implicate the common use and "no exclusive right of fishery" sections of the Alaska Constitution. The Alaska Supreme Court has not addressed the issue of special privileges of fishery in the context of fishery resource allocation, so it is not known how the court would address and resolve that issue. If the court does find that individualized allocations of resources among fishermen creates a special privilege of fishery, there is a substantial risk that the allocation scheme is not constitutional.

* * *

If I may be of further assistance, please advise.

GU:med
03-674.med

exclusive right of fishery" section. It is the granting of rights to a specific portion of the harvest of salmon in the Chignik salmon fishery to the cooperative fishery that raises the issue of special privileges of fishery. Individual allocations of fishery resources give fishermen a private interest in wild fish that have not been captured. That private interest may constitute a special privilege of fishery that is subject to rigorous scrutiny under the Alaska Constitution.

¹¹ See, footnote 8.

~~DRAFT for board approval~~
Alaska Board of Fisheries
Charge to Steering Committee:
Gulf of Alaska Groundfish Rationalization
2003 - xxx - FB

The North Pacific Fishery Management Council is working towards a plan to "rationalize" the groundfish fisheries in the Gulf of Alaska. Through the Board of Fisheries and NPFMC's Joint Protocol Committee, the council has requested the board provide input regarding state waters fisheries under the options identified through the council's motion at its June 2003 meeting, including observer coverage.

While the council is developing its plan, it is important that the state identify options for the groundfish fisheries in state waters, in order to coordinate full implementation of a rationalized fishery regime in the Gulf. The board shall appoint a committee develop alternative actions for board action concerning structure for state waters rationalized groundfish fisheries in the Gulf of Alaska, and make recommendations on new regulations. These recommendations will be submitted to the board process for opportunity for full public comment.

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Adopted: _____
Anchorage, Alaska

Board of Fisheries Chairman

Vote:

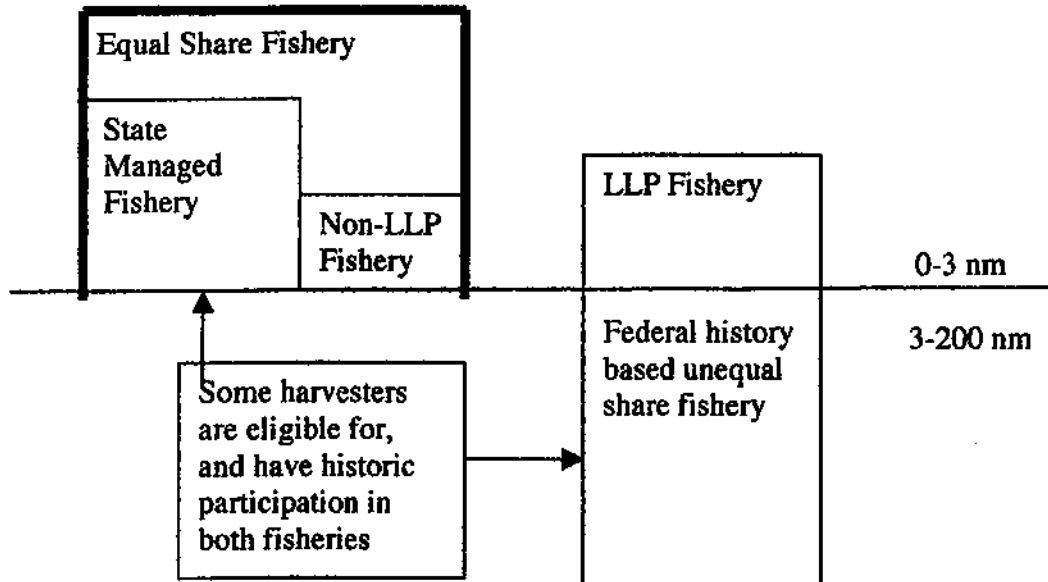
PUBLIC TESTIMONY SIGN-UP SHEET FOR

AGENDA ITEM ~~D1 (H) FWO Rationalization~~ C-1 GOA Rationalization

PLEASE SIGN ON THE NEXT BLANK LINE.
LINES LEFT BLANK WILL BE DELETED.

	NAME	AFFILIATION
1.	Paul Blum	NAA
2.	Chris Cochran	MT C
3.	Jim Blott	Ocean Beauty Seafoods
4.	Alverson Robert D.	FWA - Seattle
5.	Dan Hull	CDFW
6.	Buck LAUKINS	NPFA
7.	Ilia Kurmin	Fisherman K-Bay Fisheries
8.	Yakov Reutov	K-Bay Fisheries Assoc.
9.	DAN FARLEY	Self
10.	John Stewart	AEB
11.	Steve Fraser	Muir M. Lach
12.	Bob Kuegel	Fisherman
13.	Julie Fenney	AGDB
14.	JOE CHILDERS	WGOAF
15.	Charlie Parsons	WBOAS F/V Night Watch
16.	Chuck McCallum	Lake & Pen Borough
17.	Tedra Kordans	Kodiak Fish Co
18.	FRED Christensen	KAWA
19.	LOUI SIMANSON	IFF
20.	Dorothy Childers	AMCC
21.	Joe Sullivan	Mudr Mac / Kodiak
22.	Duncan Fields	Gulf of Alaska Coastal Communities Coalition
23.	Tim Henckel	Deep Sea F. Union for
24.		Kodiak Crewman's Assn.
25.		

P-cod Parallel Fishery Diagram



LLP Harvesters eligible to receive history based QS- yielding unequal QS

- Fishable inside or outside of state water, but only fishable inside state water when a state water TAC is available to be fished.

Non-LL Harvesters eligible to receive an allocation of equal share QS

- Only fishable inside state water

State managed cod harvesters eligible to receive an allocation of equal share QS

- Only fishable inside state water

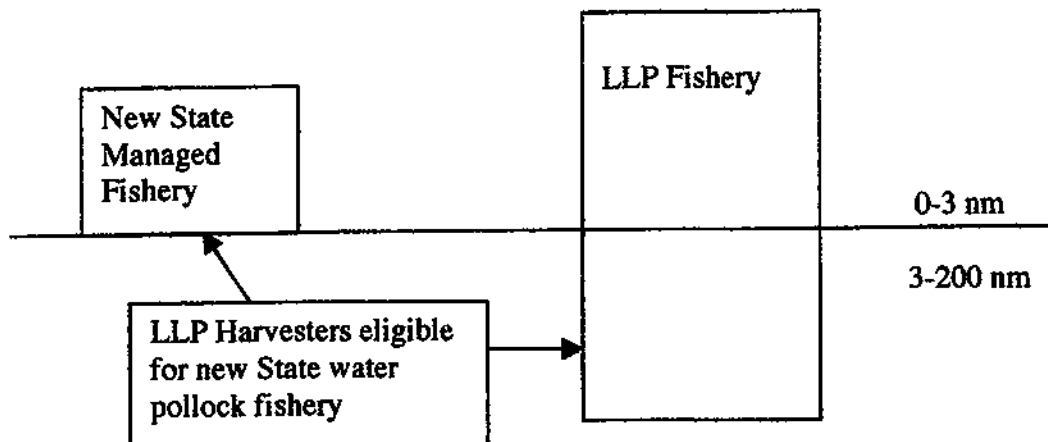
Management of the fishery

- State opens State waters concurrent with federal season for all eligible p-cod harvesters.
- Parallel fishery is conducted as an equal share Co-op fishery
 1. Similar to the Dutch Harbor bait herring fishery in which all eligible participants register for the fishery by a certain date and agree to a co-op equal share management system.
 2. Some LLL Harvesters are eligible and join the Parallel equal share fishery
- The State and Federal fisheries begin
- When all of the State equal share fishery TAC is harvested fishing closes inside state water.
 1. As long as some equal share parallel TAC is unharvested LLP harvesters have access to State water

Future management decisions

- The State and CFEC may decide to move toward a limited entry program for the parallel fishery

Pollock Parallel Fishery Diagram



LLP Harvesters eligible to receive history based QS- yielding unequal QS

- Fishable inside or outside of state water, but only fishable inside state water when a state water TAC is available to be fished.

State managed pollock fishery to be established.

- Only fishable inside state water
- State pollock fishery TAC needs to be small (5-10% of federal TAC) so that it does not encourage a flood of new entrants into a new race for fish inside critical habitat.

Management of the fishery

- State opens State waters concurrent with federal season for all eligible harvesters.
- Parallel fishery is conducted as an equal share Co-op fishery
 1. Similar to the Dutch Harbor bait herring fishery in which all eligible participants register for the fishery by a certain date and agree to a co-op equal share management system.
 2. Some LLP Harvesters are eligible and join the Parallel equal share fishery
- The State and Federal fisheries begin
- When all of the State equal share fishery TAC is harvested fishing closes inside state water.
 1. As long as some equal share parallel TAC is unharvested LLP harvesters have access to State water

Future management decisions

- The State and CFEC may decide to move toward a limited entry program for the parallel fishery

Testimony by Duncan Fields Gulf of Alaska Coastal Communities Coalition

October 7, 2003

Madam Chairman, members of the Council, my name is Duncan Fields and I represent the Gulf of Alaska Coastal Communities Coalition. The coalition is interested in several elements and options of Gulf Rationalization but we will limit our comments today to the Community Protection measures contained in sections 2.9.2, Community Fisheries Quota,(CFQ), and 2.9.3, Community Purchase Program, in the draft alternatives.

As you have heard, the AP voted to strip the Community Fisheries Quota, section 2.9.2 out of the analysis. We would encourage the Council to affirm that the Community Fisheries Quota option is an important component of Gulf Rationalization and to look at the larger public policy issues created when in excess of 20 Alaskan coastal communities with more than 4,000 residents are disenfranchised through the Gulf Rationalization process. In addition the Council must consider the mandates of Maganusen\Stevens regarding community protection and the need to balance equities between GOA stakeholders.

Nevertheless, the Coalition is aware of the burdensome tasks facing council staff regarding the Gulf Rationalization analysis. In an attempt to reduce staff time we would offer the following:

1. Have the Council adopt the following purpose statement.

The purpose of Community Fishing Quota and Community Quota Purchase is to mitigate economic impacts from rationalization on smaller, isolated, Gulf of Alaska fisheries dependant communities. Community fishing quota

will provide for the sustained participation of the qualifying communities in the rationalized fisheries and acknowledges the importance of fisheries resources to these communities.

2. Combine the Community Fisheries Quota and the Community Quota Purchase Program.
3. Reduce Council discussion, as part of the rationalization process, to essential program components. We would view these as:
 - a. Administrative Entity
 - b. Eligible Communities
 - c. Allocation

The remaining programmatic issues could be addressed outside the Council's Gulf Rationalization discussion and developed as trailing amendments. (See the attached draft combination and abridgement of the two community protection programs.)

In the alternative, should the Council wish to retain the current format for Community Fisheries Quota and Community Quota Purchase in the document, we would encourage you to consider the changes that were approved by the AP by a 19-0 vote. You will see, in the AP minutes, a number of votes and inserts in the portion of 2.9.2 that is stricken. In summary, these changes would address staff's concerns and improve the program for analysis. They address eligibility, allocation, harvesting of shares and administrative oversight.

Finally, Madam Chair, the Gulf of Alaska Coastal Communities Coalition wishes to thank Council staff for their review of issues and questions related to the Community protection provisions of the current Gulf Rationalization elements and options paper.

Thank You

Combination and Abridgement of
Community Fisheries Quota (2.9.2) & Community Purchase Program (2.9.3)

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

2.9.2 Community Fisheries Quota Trust Initiative: (Community Fisheries Quota and Community Quota Purchase)

2.9.2.1 Administrative Entity

- Option 1. Gulf wide administrative Entity
- Option 2. Regional administrative entities (Western Gulf, Central Gulf, Eastern Gulf)
- Option 3. Multi-community administrative entities
- Option 4. The administrative entity representing a community or communities must be a non-profit entity qualified by NMFS.

2.9.2.2 Eligible Communities

- Option 1. Population (based on 2000 Census)
 - d. Less than 1,500
 - e. Less than 2,500
- Option 2. Geography
 - a. Coastal Communities without road connections to larger community highway system
 - b. Coastal Communities adjacent to salt water
 - c. Communities within 10 nautical miles of the Gulf Coast
 - d. Communities on the south side of the Alaska Peninsula that re adjacent to Central and Western GOA management areas (including Yakatat) within 5 nautical miles from the water, but not to include Bering Sea communities included under the Western Alaska CDQ program.
- Option 3. Historic Participation in Groundfish Fisheries
 - 4. Communities with residents having any commercial permit and fishing activity as documented by CFEC in the last ten years (1993-2002)
- Option 4. Government Structure
 - a. Communities recognized by the State of Alaska as a first class, second class or home rule municipality

2.9.2.3 Allocation

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

2.9.2.4 Species

- Option 1. All rationalized groundfish species inclusive of secondary species and prohibited species.

2.9.2.5 Qualification of Administrative Entity

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

C-1
Dave
Fraser

GROUND FISH DEVELOPMENT AUTHORITY
OPERATIONS PLAN
2003 - 04

March 1, 2003

Please Note: An electronic version of this document and all GDA Forms and instructions for completion are available upon request. Please contact Bob Humphreys at 604-467-7970 or E-mail at: b&bhumphreys@telus.net.

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Introduction

Under the Groundfish Trawl Long-Term Management Plan introduced in 1997, 80 % of the groundfish (quota species) trawl, Gulf Hake and Offshore Hake (Onshore Delivery) Total Allowable Catches (TAC's) have been allocated as Individual Vessel Quotas (IVQ's) and 20 % have been set aside for allocation by the Minister of Fisheries, subject to advice given to him by the Groundfish Development Authority (GDA).

The GDA was established as a result of an agreement reached between the Department of Fisheries and Oceans (DFO), the B.C. Ministry of Agriculture, Fisheries and Food (MAFF), the Coastal Community Network (CCN) and fishing industry participants (i.e; processors and vessel owners). Its' purpose is to ensure fair crew treatment, to aid in regional development, to promote the attainment of stable market and employment conditions and to encourage sustainable fishing practices.

Since plan implementation, the Groundfish Trawl Special Industry Committee (GSIC) has periodically reviewed key elements of the plan. While the plan has remained substantially intact, selected recommendations by GSIC, accepted by the Minister, have altered quota reallocation rules and "fine tuned" the mechanics of the GDA.

With five fishing seasons having passed since IVQ/GDA plan implementation, it was deemed timely to conduct a review specific to the GDA portion of the program. This review by GSIC was completed in February 2003 and the findings are incorporated into this season's GDA Operations Plan.

The GDA consists of seven members (Board of Directors) and a Standing Committee of nine advisors (formerly called non-voting members of GDA), whose role it is to provide background information and expertise to the Board of Directors. The structure of the GDA is as follows:

Seven Member Board of Directors

- * 3 Community Directors - (North Coast, South Coast and Vancouver Island representatives); selected by the Coastal Community Network,
- * 2 UFAWU Directors - (Shoreworkers and Vessel Crew representatives); selected by the UFAWU,
- * 1 UFCWU Director - (Shoreworkers representative); selected by the UFCWU, and
- * 1 Independent Fishermen's Director - (with no vessel ownership or vessel licence holdings); selected by the GSIC Sub-Committee.

Standing Committee

- * 3 Processing Company Representatives - selected by the GSIC Sub-Committee,
- * 3 "T" Licence Holder Representatives - (selected by GTAC),
- * 1 First Nations Representative,
- * 1 DFO Representative, and
- * 1 B.C. MAFF Representative.

The GDA contracts a support person (Executive Director) to act as the secretariat for the Authority. The secretariat, among other duties, prepares background information, collects, summarizes and analyzes GDQ proposals, receives and investigates

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complaints from industry, crews and communities, organizes GDA meetings, takes minutes, facilitates communications, maintains databases and liaises with DFO on GDA advice to the Minister.

The 20 percent of the TAC influenced by the GDA is divided into two parts: a 10 percent Code of Conduct Quota (CCQ) to protect the interests of crews under the IVQ management plan, and a 10 percent Groundfish Development Quota (GDQ) to aid in regional development in coastal communities, attain market and employment objectives, and encourage sustainable fishing practices.

Code of Conduct Quota

General Principles

The Code of Conduct Quota is designed to ensure fair treatment of crew and safe vessel operation.

It will alleviate changes to crew shares that occur solely as a result of the introduction of an IVQ system.

It is not intended to enforce minimum standards or minimum crew shares on trawl licensees.

Guidelines

The GDA recognizes that crewmembers may or may not wish to share in some additional costs associated with the introduction of the IVQ system, in order to ensure the continued viability of their vessel within the fleet.

"Fair treatment of crew" means that crew sharing arrangements will not be adversely affected by the introduction of an IVQ system. This includes, but is not limited to, the following:

1. crewmembers will not be asked to contribute to the cost of the vessel/T licence's original IVQ allocation,
2. crewmembers will not be asked to contribute to the cost of replacing original allocated quota that is moved off the vessel/T licence by the original owner (that is, the owner of the vessel/ T licence at April 1, 1997),
3. crewmembers will not be coerced into contributing to the leasing of additional IVQ, or any other non-traditional costs associated with the operation of the vessel.

"Safe vessel operation" means that changes in crew size or vessel maintenance practices that could affect the safety of the crew or the vessel will not occur as a result of the introduction of an IVQ system.

Allocation Procedure

At the beginning of each quota year, the Code of Conduct Quota (10%) will be assigned by DFO to each "T" licenced vessel according to the vessels' IVQ holdings as of midnight on March 31st of that year, unless a complaint has been received, found to be valid and a recommendation made to the Minister to withhold quota.

CCQ Complaints Procedure

Vessel owners and crewmembers are assured that the GDA Executive Director will hold all crew share documents or affidavits filed with the GDA Secretariat in complete confidence. The contents of these documents will not be disclosed or discussed with anyone, including the GDA Board of Directors or the GDA Advisory members, other than the DFO representative(s).

When a complaint is filed with the GDA, even in cases where the crewman is being represented by a third party, the crewman's name must be made known to the GDA Executive Director. However, at no time during the complaints process will the crewman's name be disclosed without the crewman's written consent.

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Any crewmember, his legal representative or any other third party who believes that a crewmember has been unfairly treated or that his safety has been in any way compromised according to the guidelines stated above, may file a complaint with the Groundfish Development Authority. A GDA Complaint Form (see Appendix 4) may be obtained by contacting the GDA Executive Director at the telephone number given below.

Complaints should be accompanied by evidence of unfair treatment such as a number of crew share settlements made prior to September 1, 1996 and one or more current crew share settlements.

Code of Conduct quota will be allocated by the DFO as of midnight, March 31st each year. Therefore, in order for a complaint to be considered in time to have sanctions apply in the following year, complaints must be received by the GDA Executive Director by March 1st of each year. However, it should be noted that this is an on-going process and complaints can be brought forward in subsequent years. Complaints are to be made in writing, marked "CONFIDENTIAL", and mailed to:

Groundfish Development Authority

21540 - 121 Avenue

Maple Ridge, B.C. V2X 3S4

Attn: R.D. Humphreys, Executive Director

or Faxed to Mr. Humphreys at : 604- 467-7956

If you wish to discuss a potential complaint: Phone: 604-467-7970

All complaints will be received and investigated in strict confidence by the GDA Executive Director as follows:

CCQ Complaints Process

1. When a complaint is received, the GDA Executive Director will determine whether or not there is sufficient documentation on file to proceed with an investigation.
2. If there is sufficient documentation available, the GDA Executive Director will:
 - 2.1. Examine the evidence against a set of criteria established by GSIC to assist the GDA Executive Director in determining whether or not the complaint is valid. The GDA Executive Director will then advise the complainant as to whether or not, in the Executive Director's opinion, he has a valid complaint.
 - 2.2. Request the complainant's permission to proceed with the complaint process, which would include the GDA Executive Director contacting the vessel owner.
 - 2.3. If the complainant wishes to proceed:
 - 2.3.1. The GDA Executive Director will contact the vessel owner named in the complaint and will consider any further information provided by the complainant or the vessel owner in relation to the complaint.
 - 2.3.2. If, with reasonable doubt considered, in the opinion of the GDA Executive Director, the complaint is not valid or reasonable, 3.2.2.1 and 3.2.2.2 will prevail.
 - 2.3.3. If, with reasonable doubt considered, in the opinion of the GDA Executive Director, the complaint is considered valid, the GDA Executive Director will then prepare and present an investigative report to the GDA Board of Directors.
 - 2.3.4. Where the GDA Board of Directors has determined that a breach of the CCQ principles has occurred, the Board will instruct the Executive Director to seek means of resolving the conflict between the licence holder and complainant.

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- 2.3.5. If conflict resolution through mediation is not successful, the GDA may issue a letter of warning to the licence holder and/or recommend to the Minister of Fisheries that all or part of the vessel's CCQ be withheld for the following season.
3. If there is insufficient documentation available from either or both parties, the GDA Executive Director will:
- 3.1. Notify the complainant and ask for additional information to support the complaint.
- 3.2. The complainant will also be asked if the GDA Executive Director should contact the vessel owner for additional information. If the complainant requests that the investigation proceed, the GDA Executive Director will contact the vessel owner named in the complaint and will consider any further information provided by the complainant or the vessel owner in relation to the complaint.
- 3.2.1. If sufficient information is obtained, refer to step 2.3.2
- 3.2.2. In cases where there is insufficient information presented by either the vessel owner or the complainant to the GDA Executive Director and the complainant does not wish to pursue the collection of additional information:
- 3.2.2.1. No further investigation or action will be considered at this time.
- 3.2.2.2. The GDA Executive Director will prepare a report on the number of complaints that could not be investigated as a result of insufficient information for the purpose of determining whether or not the CCQ process is effective or if it needs to be modified.

Sanctions

If it is found that Code of Conduct principles have been breached and resolution of the conflict cannot be achieved by any other means, the GDA Board of Directors may issue a letter of warning to the licence holder and/or recommend to the Minister of Fisheries that all or part of the vessel's Code of Conduct Quota be withheld for the following season (see Steps 2.3.3 and 2.3.4 above).

Groundfish Development Quota

Each year, 10 percent of each groundfish trawl TAC will be allocated as Groundfish Development Quota (GDQ). There will be a Gulf Hake GDQ (10% of the TAC), an Offshore Hake GDQ (10% of the Shoreside Delivery portion of the TAC) and a Groundfish GDQ (10% of each quota species area group TAC).

The GDA will receive Groundfish and Hake GDQ proposals for the 2003-04 season (April 1, 2003 to March 31, 2004), prepared jointly by one or more processor(s) and "T" licenced vessel owner(s).

All proposals must include a licenced processing company and one or more "T" licenced vessel(s).

Each application will detail aspects of the operation of processors and vessels committing quota to the processors, pertinent to the objectives that the GDA is mandated to pursue (see Appendix 1 for Application Requirements).

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GDA Objectives

The GDA will consider the benefits of each application and rank each proposal according to how well they are deemed to contribute to the following objectives:

1. Market Stabilization

Intent: One of the major goals of the IVQ plan was to encourage market stability by eliminating the race for fish and allowing a more stable pace of landings throughout the year.

GDA Assessment Criteria:

- a. How does your business plan contribute to the stabilization of the distributor level market price for groundfish? Indicate how you intend to respond on a day-to-day basis to changing market demands.
- b. Indicate how fleet scheduling elements within your plan control the rate of fresh product to market.
- c. What changes in the company's groundfish or hake processing operations have been made in recent years that affect the stability of the market?
- d. Have any new markets been created during the review period and, if so, with what effect on existing markets?

2. Maintain Existing Processing Capability

Intent: To recognize the importance of maintaining existing processing for reasons of jobs, tax investments, community infrastructure, etc. by mitigating against sudden wholesale change in location of processing while allowing for the evolution of a healthy processing sector

GDA Assessment Criteria:

- a. Has there been a net increase or decrease in groundfish or hake processing capacity anywhere within your operation during the past season?
- b. If so, how has this affected throughput?
- c. Relative to last year, will the groundfish and/or hake processing capacity of your operation (all sites included) increase, decrease or remain the same in the up-coming season?
- d. Has the volume of production from each site remained stable or has there been a shift in production from one location to another?

3. Employment Stabilization in the Groundfish Industry

Intent: The primary intent of this objective is to ensure that the proponent's plans reflect the concept that an IQ fishery should generate more shoreworker stability by spreading landings out more uniformly over the entire year and by providing more certainty of plant operations.

With respect to vessel crew employment, it was recognized that DFO licencing is the main engine that determines job security within the groundfish trawl industry, and that part of the rationale for an IQ fishery was to rationalize the fleet at a lower level. However, once that new level has been achieved, this objective looks at the stabilization of vessel crew employment. It should be noted that fair treatment of crew is dealt with under the Code of Conduct.

GDA Assessment Criterion:

- a. How does the applicant's business plan with respect to throughput at specific plants, production schedule and final product form stabilize employment in the groundfish industry in terms of number and duration of jobs?

4. Economic Development and Benefits in Coastal Communities

Intent: The GSIC Sub-Committee defined coastal communities as all locations that rely, at least in part, on the fishing industry for their economic viability. To ensure that economic benefits generated by the groundfish and hake industries contribute to the economic viability and growth of all stakeholders including processing companies, vessel owners, shoreworkers, vessel crews and secondary service industries in coastal communities.

GDA Assessment Criteria

- a. How does the applicant's business plan promote economic development in coastal communities?
- b. In what respects do your plans include greater utilization of services in coastal communities? Describe any changes made during the review period or in preparation for the season under review that increase the economic benefits to the plants, workers and community (capital investment, new jobs, more production, etc.) We are looking for indications of incremental benefits to industry, not transfers from one location to another.

5. Increasing the Value of Groundfish Production

Intent: To ensure that the proponent is taking full advantage of the opportunities presented by an IVQ system to achieve the best possible rate of return for product through wise use of the resource.

GDA Assessment Criteria:

- a. How does the applicant's business plan ensure plans for the production of the best value products from species currently utilized, utilization of discarded or underutilized species, introduction of better handling and processing practices yielding higher value?
- b. Describe any new markets, products, techniques, partnerships, etc. in the current proposal.

6. Industry Training Opportunities

Intent: To ensure that workforces in the groundfish industry are properly trained to work safely and efficiently in order to fulfill the other objectives with respect to increased production value, market stability, and economic benefits.

GDA Assessment Criterion:

- a. What specific training programs, on vessels, and ashore, are planned for the coming year?
- b. What kinds of training program were conducted during the review period? For instance, safety training to meet current WCB requirements?

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7. Sustainable Fishing Practices

Intent: To encourage operators to get the highest percentage of their holdings out of the water in a manner that makes best use of all fish caught while adhering to recognized sustainable management practices designed to ensure long-term sustainability of the stocks.

GDA Assessment Criteria:

- a. Does the applicant have a history of utilizing catch effectively, so that wastage is kept to a minimum? How is this accomplished?
- b. Describe the fleet deployment plan within the applicant's business plan which enables the plant(s) to operate at peak efficiency and produce the best possible quality product.

2003 - 04 Season and GDA Process

GDA Schedule for the 2003-04 Season

- March 31, 2003 - end of 2002-03 fishing season.
- April 1, 2003 - new IVQ/CCQ placed on T licences by DFO
- May 23, 2003 - GDA Deadline for quota transfers; GDQ to be calculated on quota transfer requests received by DFO as of 4:00 p.m. May 23, 2003.
- May 30, 2003 - GDA Deadline for Joint Proposals for GDQ

Please Note: A concern was expressed at the GSIC Review that a May 30 GDA deadline may unfairly influence the timing and nature of delivery arrangements between hake fishermen and processors. GSIC members examined and discussed this concern at length and concluded that the GDA process should be neutral to the negotiation process between hake fishermen and processors and that the GDA Board should recognize that, in the annual hake fishery:

1. The GDA deadline may occur before fish price negotiations between fishermen and processors are concluded;
2. Processors may have an advantage, in that vessels must commit to a proposal before price arrangements are determined;
3. Fishermen may have an advantage, in that processors may be caused to make upfront commitments prior to having full catch and market information;
4. Because hake fishermen and processors may be compelled to make business arrangements prematurely, it may follow that production arrangements may change in-season, as resource, market, and competitive events unfold.

Given the above, GSIC advised that the GDA Board could retain the current deadline date of May 30th for GDA Proposals but, in doing so, the Board must also recognize and carefully consider the dynamics of each hake proposal prior to deeming either processors or vessels to be non-compliant with their pre-season commitments.

- June 6, 2003 - Summary of GDQ Proposals distributed to GDA Board and GDQ Applicants
- June 12 and 13, 2003 - GDA Proposal Presentation Meeting
- June 23, 2003 - GDA recommendations to Minister

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GDA Proposal Evaluation and Rating Process

The GDA deadline for accepting GDQ applications for the 2003-04 season is midnight, May 30, 2003.

A summary of each proposal will be prepared by the GDA Executive Director and forwarded to each of the applicants as well as to the GDA Board of Directors and Advisors prior to the Proposal Presentation meeting date. Applicants and advisors are invited to submit their written comments on any of the proposals to the GDA Executive Director on or before the date of the Proposal Presentation meeting. To expedite this process, all comments should be forwarded to the Executive Director by e-mail or by fax. The Board of Directors as part of the proposal evaluation process will consider these comments.

Joint Processor/Vessel Owner Proposals (applications) for GDQ will be presented to the full GDA (members and advisors) by the proponent or by the GDA Executive Director. Proponents will be invited to be present for all presentations and should be prepared to clarify any points in their submissions that may need clarification and/or to answer questions.

Instead of a business plan for 2003-04, proponents are required to submit their responses to specific questions asked with respect to each of the seven GDA Objectives. The complete set of GDA Application Requirements for 2003-04 are described in Appendix 1, page 18. As in the past, proponents are required to show evidence of adherence to their last year's production plan in terms of quantities of fish processed and location of processing. If major discrepancies exist between your proposed production goals and/or locations and your actual production, you will be required to include an explanation of the discrepancy for the consideration of the Board.

The GDA Board of Directors will evaluate the proposals based on the objectives described above and on the level of adherence to each proponent's previous year's production plan in terms of quantities of fish processed and location of processing. The GDA Executive Director will then apply the new revised SAG-specific GDA formula to the data provided in the proposals, using the Board of Director's rating of each proposal to generate a GDQ allocation recommendation.

The full GDA (Directors and Advisors) will be given an opportunity to review the results of the application of the GDA formula to the proposals prior to the Board's recommendations going to the Minister by June 23, 2003. It is anticipated that the Minister's decision will be made within 2 to 3 weeks of receipt of the GDA recommendations and DFO will be in a position to amend licences by mid-July.

GDQ Allocation Formulas

The formula for calculating groundfish GDQ developed by GSIC and currently being applied by the GDA to the proposals was found to distort the GDQ allocation results at the SAG level, in some cases. Consequently, the formula has now been corrected, but requires more detailed production data from the processors.

The GDA will evaluate each proposal, assigning it a GDA rating from 0 to 1. In deciding this rating, the GDA will take into consideration the objectives identified above. The GDA will then use this rating along with detailed production histories and IVQ/CCQ commitments in each proposal to determine how much quota each proposal should receive and make its recommendations to the Minister of Fisheries by June 23, 2003.

The amount of GDQ a specific vessel receives will be contingent upon the relative amount of IVQ/CCQ that vessel brings to the proposal, i.e., the vessel will be allocated species and area specific quota in proportion to the species and area specific IVQ/CCQ that the vessel commits to the application.

Since GDQ is non-transferable, all transfers of quota to be used in GDQ calculations must have been received by DFO by 4:00 p.m., May 23, 2003. It is the responsibility of the licence holder to ensure that the DFO has the correct SAG quotas for your vessel by the deadline.

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The GDA will accept joint processing company / fish buyer / vessel owner applications for Gulf Hake GDQ, Offshore Hake GDQ and Groundfish GDQ separately.

The amount of quota an application receives depends on three factors, namely:

- (1) SAG-specific production histories of processing company (ies)/buyer(s) in the application for the past three fishing seasons,
- (2) the total amount of IVQ all vessels in the application commit, and
- (3) a rating as determined by the GDA based on the GDA objectives, on the performance of the proponent in meeting his previous year's production goals and, in the case of new entrants or innovative new ideas, perceived merit of proposed production plans. Accordingly, the GDQ Application has been divided into three sections as follows:

Section 1. Processing Company Production Histories

The GDA will consider only the production histories of trawl-caught, quota-species groundfish, Gulf hake and Offshore hake.

Production histories for Gulf hake are to be considered separate from production histories for Offshore hake or groundfish.

Production histories for hake and SAG-specific groundfish production histories are to be compiled on the basis of the previous three fishing seasons: April 1, 2000 to March 31, 2001; April 1, 2001 to March 31, 2002 and, April 1, 2002 to March 31, 2003.

Groundfish and hake production histories must be verifiable by fish ticket (or other official documentation) and only fish bought and processed by an applicant or co-applicant will be considered as part of the production history.

Trawl-caught groundfish or hake bought by one co-applicant but processed by a company that is not part of the application for GDQ cannot be included in the production history of the joint application.

Fish purchased by a processing company or fish buyer and custom processed by another company can be included in the application for GDQ as long as verification can be shown that both the buyer and processor of the fish are co-applicants.

A processing company may contract another company to process surplus or overflow groundfish. This production history can be included in the application if both companies are named as co-applicants.

Using data from the dockside monitoring program, fish tickets, provincial government processing company data and other information, the GDA Executive Director may verify the production histories of applications.

Section 2. IVQ/CCQ Commitments

Each joint processing company / vessel owner application must be accompanied by a completed Vessel Quota Commitment & Performance Form for the 2002-03 season (GDA Form 6) and a 2003-04 Vessel Quota Commitment Form (GDA Form 9) for each vessel listed in the proposal. Information contained in GDA Form 6 will be used as an indication of whether or not quota delivery commitments were met. Where there are major discrepancies between commitments and deliveries, an explanation of the cause of the discrepancy must be included in the submission.

Vessel owners may choose to commit part or all of their total IVQ/CCQ allocation to any one proposal, or they may decide to split their allocations between several companies, e.g., hake IVQ/CCQ may be committed to one company and groundfish IVQ/CCQ to another, or portions of either hake or groundfish IVQ/CCQ may be committed to any proposal.

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Section 3. GDA Rating

Using the GDA Objectives and performance criteria outlined in this Operation Plan, the GDA will rate each proposal from 0 to 1. The information obtained in the joint GDQ Application, the IVQ/CCQ Vessel Commitment & Performance Forms and other information given to the GDA and collected by the Executive Director will assist the GDA in determining a rating for each proposal.

GDQ Fees

A flat submission fee of \$250 will be charged by the GDA for receipt of each GDQ proposal in 2003-04.

At the time the GDQ is allocated, there will be an additional fee per unit of GDQ allocated, based on the need to cover the costs of operation of the GDA. The "per unit" fee in 2003-04 is assessed at \$ 0.0055 per Groundfish Equivalent (GFE).

Please Note: Applicants for GDQ for the 2003-04 season will be given until December 31, 2003 to submit all GDA fees to the Executive Director or his designated representative. Failure to submit fees by the December 31st deadline will result in the forfeiture of that vessel's GDQ for the 2003-04 season. The forfeited quota will be added to the quota available to all other quota holders.

Although GDQ is tied to a joint processor/vessel owner proposal, the quota allocation is necessarily vessel specific due to the fact that quota is applied to each T licence. Therefore, if the vessel owner's name, mailing address and/or Fax number is provided on the GDQ Commitment Form (GDA Form 9), the GDA Executive Director will ensure that each vessel owner receives notification of fees to be paid before quota will be placed on his vessel's licence.

Quota Delivery Compliance Guidelines

Preamble and Guiding Principles

In order for the Groundfish Development Authority to meet its employment and economic stability objectives, both processors and vessel owners are accountable for the commitments that they make in their joint proposals for GDQ. The GDA has a mandate to recommend to the Minister of Fisheries that he withhold all or a portion of the GDQ when proponents are found to be in non-compliance with respect to their proposal commitments. A recommendation to withhold GDQ would only be made after thorough investigation and finding of non-compliance.

The GDA has met with the Groundfish Special Industry Committee and developed the guidelines described below, by which compliance or non-compliance will be evaluated. Vessel owners and processors are assured that these guidelines have been developed with the understanding that there needs to be flexibility within the system in order for the industry to function effectively. At the same time, however, it is recognized that this flexibility cannot be unlimited without jeopardizing the objectives to which the GDA is committed. These guidelines are intended to ensure that the GDA applies fair and consistent principles in determining whether or not vessel owners and processors have, to the best of their ability, remained in compliance with the commitments they have made with respect to catch delivery and processing.

It is important for applicants to note that if they wish to retain the unrestricted option of choosing in-season where they will deliver some or all of their fish, only that portion of their quotas that they agree to deliver to a specified buyer/processor or buyer/processor co-applicant should be committed for GDQ purposes. Alternatively, an applicant may choose to operate as a buyer/processor and commit all or part of his vessel(s) IVQ/CCQ to himself.

Vessel owners considering applying for GDQ in a buyer/processor co-applicant proposal may do so and should contact the GDA Executive Director for assistance.

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Guidelines for Determining Catch Delivery Compliance or Non-Compliance

A. Fish Harvesting Factors

1. Quota Trades Within the GDA Proposal

Any quota trades between vessels wherein the fish are delivered to the plant or plants specified in the original proposal will be considered to be in compliance with delivery commitments.

2. Quota Trades or Transfers Outside the GDA Proposal

a) Pound-for-Pound Trades

Trading quotas between vessels on a lb-for-lb basis, i.e., quota swapping, is a legitimate means of conducting business within the IVQ system.

The intent of this guideline is that all fish traded will be harvested.

b) Unequal Poundage Trades and One-Way Transfers

Trades or transfers that result in fish being delivered to a processing facility outside the original proposal are technically in violation of the GDA commitment. It is recognized that absolute compliance with this rule may not be possible if quotas are to be fished effectively. Such transactions may be subject to GDA investigation and a discretionary ruling on compliance. Examples of kinds of trades or transfers that may result in unequal amounts of fish moving between proposals are:

1. End-of-Season Trades or Transfers
2. Trades or Transfers of Non-target for Target Species
3. Trades or Transfers to Cover Previous Overages
4. Transfer of Remaining Quota When Landings are Close to IVQ Holding for a Species Area Group (SAG).

Some factors to be considered in reaching a decision on whether or not the movement of these fish out of the original proposal was warranted are:

1. Was there a real attempt to keep the fish within the original proposal?
2. Was the vessel fishing within commitment throughout the year, with the exception of the situation under investigation?
3. What was the amount of fish involved relative to the total commitment?
4. Were the trades in question part of a logical fishing plan?
5. Other mitigating circumstances such as time of year, breakdowns, by-catch issues, individual vessel's normal fishing pattern, etc.

These and other factors will be taken into consideration by the GDA and may require further investigation before deciding whether or not GDQ penalties are recommended.

3. Fish Carried Forward

It is understood that all of the fish committed to a proposal should be delivered to that proposal. However, it is recognized that this may not be practical in all cases. Therefore, it will be deemed to be acceptable to carry committed fish forward where that fish is delivered to the original proposal or the new proposal. The principle involved is that carryover quota from one year to the next cannot be used to avoid delivery of fish to a proposal.

B. Business Arrangement Factors

It is acknowledged that there are business circumstances that arise during the course of a fishing season that may make it impossible for the proponents to stay within the terms of their original commitment. The following guidelines will assist the GDA in evaluating the circumstances involved in each case where a complaint is being investigated.

4. Risk of Non-Payment

It may be found acceptable for a vessel owner to move his fish outside the original GDA proposal if there is a reasonable expectation that he will not receive payment for his fish.

5. Changes in Business Relationships

Changes in business relationships that may be deemed to justify the severing of a vessel owner's commitment to a processor are as follows:

- a) significant change in the level of agreed-upon service,
- b) serious deterioration in the main elements of the business arrangement between the vessel owner and the processor that cannot be attributed to an industry-wide shift

6. Processor Unwilling or Unable to Take Fish

If a vessel owner delivers fish according to an agreed-upon fishing plan and the processor to whom he is committed fails to handle his fish according to the pre-season agreement, the vessel owner has a valid reason to deliver his fish elsewhere. (In this case, sanctions may be considered against the processor in terms of GDA Rating).

A one-time occurrence of failure to handle the fish according to the plan may or may not constitute a valid reason to permanently depart from the original GDA proposal. Continuing problems may be considered in the context of 5 b) above.

If a vessel owner does not fish according to an agreed-upon fishing plan and, as a result, the processor is unable to handle his deliveries, the vessel owner may be considered to be in breach of his commitment if he delivers that fish outside the proposal.

If a processor is unable to take a vessel owner's fish due to unforeseen shut down, strike, or lack of capacity, during the period that the processing facility is disabled, the vessel owner is free to deliver his fish elsewhere.

7. Price Differential

If the price offered for fish is not within what is understood to be the terms of an agreement between a processor and a vessel owner, i.e., either implicit (relative to past experience) or explicit, the vessel owner may be deemed to have the right to deliver his fish elsewhere.

GDQ Commitment Compliance Review Process

Processing companies and vessel owners are reminded that their joint applications for GDQ constitute the basis upon which the GDA makes recommendations to the Minister of Fisheries and Oceans regarding the allocation of GDQ for the

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current fishing season. Consequently, vessel owners have a commitment to deliver their catches to the processor(s) to which they have committed their IVQ/CCQ. Likewise, processing companies have a commitment to process those fish according to the plan submitted to the GDA.

Accordingly, the GDA Executive Director will initiate a proposal compliance investigation, if:

1. a non-compliance complaint is lodged against a processor or vessel owner, or
2. Commitment/delivery reports indicate significant, unexplained deviations from the original proposal.

Commitment Compliance Review Process

- A. A complaint may be lodged with the GDA Executive Director at any time by a vessel owner, processor or any individual, union, company or community representative who alleges that the commitment that was made concerning the delivery and processing of fish was breached during the course of the fishing season.
- B. The complainant must not be a member of the GDA Board of Directors or one of its advisors.
- C. At the outset of a compliance investigation, the GDA Executive Director will notify both the processor(s) and vessel owner and request an explanation of discrepancies between commitments and actual deliveries. In the case of a complaint having been received, the GDA Executive Director will also contact the complainant and the subject of the complaint (if different from the above) to receive information regarding the alleged breach of commitment.
- D. If the GDA Executive Director is satisfied with the explanations for the observed discrepancies, no further action will be taken.
- E. All information obtained will be summarized by the GDA Executive Director and examined by the GDA Board of Directors and their industry advisors with respect to the Delivery Compliance Guidelines developed for the purpose by GSIC.
- F. The GDA and its advisors will respect and strive to protect the confidentiality of all parties involved.
- G. If the GDA Board of Directors finds that participants in a proposal failed to meet the commitments entered into and that there was insufficient justification for such a failure, the GDA may, in consultation with its advisors, recommend that the Minister of Fisheries withhold all or a portion of the GDQ for the next fishing season from the non-compliant participant(s).
- H. If the GDA Board of Directors finds that sanctions should be recommended, the non-compliant participant will be provided with rationale for the Board's findings and given a period of **21 days from date of notification of suspected non-compliance** to provide evidence of compliance with the Catch Delivery Compliance Guidelines. The GDA Executive Director will make every effort to make both personal and written contact with the individual during that period.
- I. In order to avoid delays in GDQ allocations caused by the GDA not receiving timely responses from those vessel owners / processors asked by the GDA for additional information /explanation regarding the variance between deliveries and commitments in the previous year's joint proposal, in cases where Ministerial decisions are held up because the prior delivery performance of a minority of vessels is being investigated, GDQ will be allocated to all other vessels, on the basis that vessels under investigation would receive their allotment of GDQ as indicated by the normal GDA process.
- J. Subsequently, if vessels under investigation are found to be in non-compliance and, consequently have GDQ withheld, the total amount withheld would be re-allocated amongst the rest of the fleet on a pro rata basis at a later date.

APPENDICES

Appendix 1. 2003-04 GDQ Application Requirements Checklist

Each application for GDQ in 2003-04 must contain the following components:

GDA Form 1(Start-up) This is a new form designed specifically to provide the GDA with SAG-specific production records for seasons 2000-01, 2001-02 and 2002-03. These values will be inputted into the revised GDA formula in order to fine-tune the GDQ allocations at the SAG level.

2 Sets of Forms 2, 3, 4, 5:

1st Set Processor's Production Performance Summary, April 1, 2002 - March 31, 2003.
2nd Set Proposed Production by Product Form & Location, April 1, 2003 - March 31, 2004.

GDA Form 6 2002-03 Vessel Quota Commitment & Performance

GDA Form 8 Processor's Production Verification Record. **Note: This form has been completely revised to capture the detailed production data required for the revised formula.**

GDA Form 9 2003-04 Vessel Quota Commitment. Vessel owners are requested to express their IVQ commitments as a percentage of the IVQ on the licence, i.e., 100%, 50%, etc. of each SAG. The GDA will convert these percentages to pounds based on DFO records of the amount of IVQ on the licence at the GDA deadline.

[Note: GDA Form 7: 2003-04 IVQ/CCQ Commitment Summary will be compiled by the GDA Executive Director after approval by the Minister & distributed to processors].

In addition to the forms, each application must include:

A **\$250 Cheque (Canadian funds)** for the 2003-04 GDQ Application Fee.

Completion of the **GDA Objectives Questionnaire¹**, which clearly identifies how the company proposes to meet the seven GDA Objectives.

A **Processor's Production Verification Record (GDA Form 8)** for the 2002-03 season as reported on GDA Form 1 (the Joint Processor/Vessel Owner Application). This form must contain only records of Quota groundfish species and hake deliveries verifiable by Fish Ticket.

A **Company Profile** is optional, but recommended for new entrants. If you have already filed a Company Profile with the GDA you need not file another unless your company has changed significantly.

Deadline for 2003-04 GDQ Applications

The GDA Executive Director must receive completed GDQ applications for the 2003-04 fishing season no later than midnight, May 30, 2003. Unless paper forms are requested, the GDA will e-mail GDA Forms 1, 2,3,4,5,6 and 8 to processor applicants. GDA Form 9 requires the signature of the vessel owner so it will be sent by mail to each of the vessel owners. Completed forms and the GDA Objectives Questionnaire should, if possible, be returned by e-mail to the GDA Executive Director at b&bhumphreys@telus.net.

¹ See Appendix 2, page 18.

Appendix 2. GDA Objectives Questionnaire

Applicants for GDQ are requested to respond as completely as possible to each of the following questions. This will assist the GDA Board of Directors in rating your proposal.

1) Market Stabilization

- a. How does your business plan contribute to the stabilization of the distributor level market price for groundfish? Indicate how you intend to respond on a day-to-day basis to changing market demands.
- b. Indicate how fleet scheduling elements within your plan control the rate of fresh product to market.
- c. What changes in the company's groundfish or hake processing operations have been made in recent years that affect the stability of the market? Have any new markets been created during the review period and, if so, with what effect on existing markets?

2. Maintain Existing Processing Capability

- a. Has there been a net increase or decrease in groundfish or hake processing capacity anywhere within your operation during the past season?
- b. If so, how has this affected through-put?
- c. Relative to last year, will the groundfish and/or hake processing capacity of your operation (all sites included) increase, decrease or remain the same in the up-coming season?
- d. Has the volume of production from each site remained stable or has there been a shift in production from one location to another?

3. Employment Stabilization in the Groundfish Industry

- a. How does the applicant's business plan with respect to throughput at specific plants, production schedule and final product form stabilize employment in the groundfish industry in terms of number and duration of jobs?

4. Economic Development and Benefits in Coastal Communities

- a. How does the applicant's business plan promote economic development in coastal communities?
- b. In what respects do your plans include greater utilization of services in coastal communities? Describe any changes made during the review period or in preparation for the season under review that increase the economic benefits to the plants, workers and community (capital investment, new jobs, more production, etc.) We are looking for indications of incremental benefits to industry, not transfers from one location to another.

5. *Increasing the Value of Groundfish Production*

- a. How does the applicant's business plan ensure plans for the production of the best value products from species currently utilized, utilization of discarded or underutilized species, introduction of better handling and processing practices yielding higher value?
- b. Describe any new markets, products, techniques, partnerships, etc. in the current proposal.

6. *Industry Training Opportunities*

- a. What specific training programs, on vessels, and ashore, are planned for the coming year?
- b. What kinds of training program were conducted during the review period? For instance, safety training to meet current WCB requirements?

7. *Sustainable Fishing Practices*

- a. Does the applicant have a history of utilizing catch effectively, so that wastage is kept to a minimum? How is this accomplished?
- b. Describe the fleet deployment plan within the applicant's business plan which enables the plant(s) to operate at peak efficiency and produce the best possible quality product.

LATE COMMENT RECEIVED

OCT - 6 2003

N.P.F.M.C

Tim Henckel C-1

Crewmen's Association
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4alaskafishers.com

North Pacific Fisheries Council

It is the belief of all members of the Crewmen's Association that all fishermen involved in any fishery subject to privatization be included in the division of fishing rights. Each eligible crewman should be awarded what amounts to their percentage of the catches made by the boats that they crewed on. An acceptable alternative would be to take the mean average deck percentage allotted for skippers and crew (near 27%) and award that portion of the quota to the people who actually harvested the resource. 100% ownership presence should be required in all limited entry and privatized fisheries to protect the actual participants from the unfair accounting practices and unsafe operational requirements brought on by absent ownership.

Processor Quota should not be implemented in any fishery, our free market would suffer. Any co-op that eliminates crew positions should be avoided unless there is compensation for said individuals.

Documentation of crewmen is already possible through affidavits from owners, skippers and crew. A plastic card, similar to fisheries permit cards, issued in place of a paper crewmen's license could be swiped onto the fish ticket, undeniably establishing participation in a fishery. We ask that the council require that such cards be issued, and all crew on board be recorded on the fish ticket at each delivery.

In the privatization of our public fisheries resources, exclusive rights are awarded to individuals based on participation over a period of time. The same rights should be extended to Crew positions. All crewmen traditionally involved in a fishery that is privatized should be given exclusive rights to the deck positions. Deck permits should be transferable to allow new participants to buy in. In the case of fleet reduction, and therefore crew position reduction, a single "Deck share" value would be reduced to less than a whole deck position's worth, requiring the lease or purchase of an additional deck share from crewmen who choose not to participate.

Standard percentages should be established for each directed fishery based on traditional fleet wide averages. A minimum standard should be required as a safeguard to prevent the widespread crew share reduction that took place in the IFQ fishery.

Crewmen do not want to see a repeat of the widespread job loss and crew share reduction that accompanied the privatization of public resource in the logline fishery. My understanding of the Magnusen Act is that "all fishermen" be considered. The crewmen are undeniably fishermen. We make up the major percentage of the "owner, skipper, crew" equation. To ignore our participation while awarding fishing rights to people, and corporations, some of which are not even physically present on the grounds, is a travesty, bringing to mind the Grapes Of Wrath...

There exists a feeling of being sold down the river by the council in the multitudes of crewmen almost completely left out of "rationalization".

Modified AP GOA Groundfish Rationalization Alternatives

Because of the number, diversity, and complexity of the fisheries in the GOA, no single alternative below will be appropriate for all fisheries. Mixing and matching should be expected by sector upon further analysis.

Alternative 1	Alternative 2								Alternative 3	
No Action	Harvester IFQ, Closed class, linkage, coop								Sector Allocations with closed class of processors and processor linkage	
	Shares allocated to Individuals								Harvest shares allocated to individuals within sectors	
	Catcher Processors	Trawl CV			Fixed Gear CV		Low Producing Vessels	Sectors: CV Trawl, CV Longline, CV Pot, CP Trawl, CP Longline, CP Pot		
	Voluntary Coop								Mandatory Coop	
		No Processor Delivery Restrictions	Closed Class X%	Linkage X%	No Processor Delivery Restrictions	Closed Class X%	Linkage X%	Open Delivery (fished as IFQs)	CP Provisions	CV Provisions
	or		or	or		or	or	or	No Processor Provisions	Closed class of processors, annual harvest allocations (IFQ), linked to processor, penalty to move between processors
	Fished as Individual Fishing Quotas	Fished as Individual Fishing Quotas			Fished as Individual Fishing Quotas			or, those that do not join coops		
								Fish open access with PSC reductions	Fish open access with PSC reductions	

RE: C I GULF RATIONALIZATION
NPFMC: DID NOT TESTIFY

What is the obligation of a public servant? To serve the majority? To politically sell himself to the highest bidder? To enrich his constituency at the expense of all others?

Is it fatally naïve to think that a public servant should just do his job, and do what's right?

The negotiations on how best to seize and divide this country's fish have been conducted along the carpeted hallways of the Hiltons, swirling with the comforting smell of tweed and the rustle of leather checkbooks. When the meetings are through, the principals will smooth their suits, shine their wingtips, and hop a flight home.

The results of their efforts, though, will be felt by people wearing rainboots.

Eighty percent of Alaska's fishermen are independent contractors, skippers and crew who do not own boats. These are the drivers and the dreamers. The ones who actually pull the fish from the ocean. Water people. They are people with families who live in Alaska's coastal towns and villages. Voters.

Section 301 of the Magnusson Stevens Act directs that "If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be fair and equitable to all such fishermen..."

The NPFMC must recognize that an independent contractor who spends most of his time at sea catching fish should be defined a fisherman.

The mantra that deckhands are impossible to document is a chicken and egg puzzle in which no one cares enough to walk out to the chicken coop and look. Deckhands can't be seen by leaning out the office window, but neither can New York City. A quick check shows that both exist in this dimension.

In this post 9/11 environment, all crew should be documented. A plastic permit card should be issued to every crewman, and this card presented at each delivery.

Further, a profit sharing fund should be created for the purpose of providing insurance for independent contractors working in the industry. This fund should come from a tax on landings. The fund could be two tiered, with year-by-year awards for present day skippers and crewmen who fish all season, and permanent dividends paid to skippers and crew who fished during the IFQ qualifying years.

The skippers and crew of Alaska's fishing industry should not be the peasants of the Russian Steppes, starved by Stalin for the enrichment of those who remain. Their investment in this industry has been in dollars and sweat and blood. It should be acknowledged. However unlikely that may be.

Processor shares (IPQs), a chain around the free market that Marley's ghost wouldn't deserve, was still being forged by the Council even after both the Justice Department and the GAO had come out against it. Only after the White House said "This cow pie stinks" did they quit flinging it around. Proof enough that money drives the process, not right or reason.

There is one other possible factor, though. The light of day. This will probably wind up a sad story, but it is compelling one, and it must be told. Nothing spurs the voting public like outrage.

A short list of outrageous claims:

1. Witches are made of wood.
2. Slaves are subhuman.
3. A fisherman is not a fisherman.

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