


MEMORANDUM

TO: Council, SSC and AP Members

FROM: Chris Oliver 
Executive Director

DATE: March 24, 2004

SUBJECT: Central Gulf of Alaska Rockfish Demonstration Program

ESTIMATED TIME 4 HOURS

ACTION REQUIRED

Develop alternatives and elements for analysis.

BACKGROUND

In February 2004, the Council first considered the Section 802 of Title VIII of the Consolidated Appropriations Act of 2004, which directed the Secretary of Commerce to develop a rockfish demonstration program for the Central Gulf of Alaska rockfish fisheries in consultation with the Council. At that time, NOAA Fisheries staff presented a discussion paper concerning considerations for implementation of such a program (Item C-5(a)), including the entire text of the legislation. In response to the directive of the legislation, the discussion paper, and public testimony, the Council deferred action on this issue and requested industry stakeholders to propose alternatives and elements that would establish the demonstration program for consideration at this meeting. Since February 2004, industry stakeholders have submitted a proposed alternative with options to establish the demonstration program (Items C-5(b)). If the Council wishes to proceed with the development of this program, alternatives and elements should be defined for the appropriate regulatory analyses.

Section 802
Gulf of Alaska Rockfish Demonstration Program
Considerations for Implementation

Prepared by:
NMFS, Alaska Region Staff
January 2004

Section 802 of Title VIII of the Consolidated Appropriations Act, 2004 would establish a new pilot program recognizing the historic participation of fishing vessels and the historic participation of fish processors for a group of rockfish species harvested in the Central Gulf of Alaska (CGOA). Specifically, this program would recognize the catch histories of Pacific ocean perch, northern rockfish, and pelagic shelf rockfish. The years recognized are: the best 5 out of 7 years from 1996 to 2002 for fishing vessels, and the best 4 of 5 years from 1996 to 2000 for processors. This program also would establish catch limits based on fishing history for other non-rockfish species that are currently harvested with the rockfish species.

Text of Section 802

SEC. 802. GULF OF ALASKA ROCKFISH DEMONSTRATION PROGRAM. The Secretary of Commerce, in consultation with the North Pacific Fishery Management Council, shall establish a pilot program that recognizes the historic participation of fishing vessels (1996 to 2002, best 5 of 7 years) and historic participation of fish processors (1996 to 2000, best 4 of 5 years) for pacific ocean perch, northern rockfish, and pelagic shelf rockfish harvested in Central Gulf of Alaska. Such a pilot program shall (1) provide for a set-aside of up to 5 percent for the total allowable catch of such fisheries for catcher vessels not eligible to participate in the pilot program, which shall be delivered to shore-based fish processors not eligible to participate in the pilot program; (2) establish catch limits for non-rockfish species and non-target rockfish species currently harvested with pacific ocean perch, northern rockfish, and pelagic shelf rockfish, which shall be based on historical harvesting of such bycatch species. The pilot program will sunset when a Gulf of Alaska Groundfish comprehensive rationalization plan is authorized by the Council and implemented by the Secretary, or 2 years from date of implementation, whichever is earlier.

Analysis of Section 802 and Policy Questions

The Council has requested NMFS to provide an overview of how this pilot program could be implemented. Although the legislative language provides a clear time line for implementing the program, it does not provide much guidance on what criteria or mechanisms to use in recognizing fishing or processing history. Furthermore, the legislation directs the Secretary to consult with the North Pacific Fishery Management Council in establishing a pilot program.

Based on the lack of clear direction within the legislative language and the requirement to consult with the Council, a reasonable approach to implementing this section is to seek Council recommendations on specific elements of this program.

Key Policy Questions

Several key questions would need to be resolved through consultation with the Council, including:

1. Would "recognition" mean the establishment of transferable quota shares?
2. Would "catch history" include retained harvests only or would it also account for discards?
3. In order to qualify as a "historic participant," would a harvester need to meet a minimum landing amount? Similarly, would processors need to meet a minimum threshold to qualify?
4. Would "recognition" require the establishment of cooperatives, and if so, how would the cooperatives be set up in terms of specifics such as number of participants, leasing arrangements, etc.?
5. How would processing history be "recognized," given that section 804 of Title VIII prohibits the consideration or establishment of any program to allocate individual processor quotas or processor shares in any fishery other than the Bering Sea Aleutian Islands crab fishery?

Guidance from NOAA General Counsel would also be important in dealing with questions that remain unanswered by the legislative language. For example, the legislation expressly recognizes processing history from 1996 to 2000, but does not indicate whether other years can be considered. Also, the legislation does not expressly authorize explicitly linking a processor and a specific class or group of harvesters. A linkage would be required between harvesters and processors participating in the 5 percentage set aside fishery because harvesters would be required to deliver their harvests to processors not eligible to participate in the pilot program. Any program that is developed that would require an explicit processor-harvester cooperative linkage other than the 5 percent set aside fishery, would require additional legislative authority before it could be implemented.

Section 802 requires setting aside up to 5 percent of the total allowable catch (TAC) in the Pacific ocean perch, northern rockfish, and pelagic shelf rockfish fisheries to catcher vessels that are not eligible to participate in the pilot program. That 5 percent set aside would have to be delivered to shore-based fish processors also ineligible to participate in the pilot program. If catcher vessels that are eligible to participate chose not to participate in the pilot program they would not be authorized to fish in the 5 percent set aside rockfish fisheries. The legislation is unclear, however as to whether the 5 percent set aside for rockfish is intended to accommodate both target and incidental catch needs by non-qualified vessels. We probably can infer from the language that if catcher vessels eligible to participate in the pilot program choose not to do so, they would not be authorized to fish in the 5 percent set aside rockfish fisheries, but this is another point requiring clarification.

The legislation also is ambiguous as to whether rockfish taken by a qualified vessel as incidental catch in another fishery (e.g., cod or flatfish) could be delivered to a non-qualified CGOA rockfish processor along with the vessel's target catch. Similarly, could a non-qualified vessel

deliver incidental catch of rockfish to a qualified processor? The legislation also does not indicate whether rockfish catch taken incidentally while targeting on other species would count towards a vessel's qualifying catch.

This section also establishes catch limits for non-rockfish species, and non-target rockfish species that are harvested with the specified rockfish fisheries, which "shall be based on the historic harvesting of such bycatch species." The legislation is not clear if the catch limit would be based on the years 1996 to 2002 for fishing vessels and the years 1996 to 2000 for processors. It is also not clear if these catch limits would be based on retained harvests only, or if discards would be considered in the computation. Equally unclear is whether this catch limit would be established for all participants, whether it would be "allocated" as a form of individual catch allowance, or if there would be some potential for cooperative management of this catch limit among the eligible participants. It is also unclear whether halibut PSC would be accounted for in this program. The pilot rockfish fishery would require its own allocation of halibut to fully realize benefits of rationalizing this fishery.

The pilot program will sunset when a GOA comprehensive rationalization plan is implemented by the Secretary or 2 years from the date of implementation of the pilot program, whichever is earlier.

One step NMFS could undertake immediately would be to establish a registry of catch history and processing history in the CGOA rockfish fisheries. This registry would identify the amount of species harvested by vessel and area for the years in question. This registry could include both retained harvests and retained harvested and discarded based on ADF&G fish ticket and observer blend data estimates. A similar registry could be established for processing history in the CGOA rockfish fisheries. This registry would be the basis for any subsequent allocations or for use in the formation of cooperatives once the Council recommends specific implementation details.

Mar 24 04 05:18p

Groundfish Forum

206 213-5272

AGENDA C-5(b)
APRIL 2004

March 24, 2004

Ms. Stephanie Madsen, Chairman
North Pacific Fishery Management Council
605 West 4th Ave.
Anchorage, AK 99501
FAX: 907-271-2817

RECORDED
MAR 24 2004

RE: CGOA rockfish pilot program

N.P.F.M.C.

Dear Ms. Madsen,

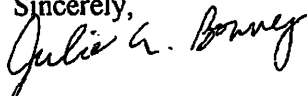
In response to the Council's request that the stakeholders and proposers give further input on the proposed Central Gulf of Alaska rockfish pilot program the historical participants have drafted the attached document. In developing this outline, we have worked on the assumption that history is not permanently transferable since this is a temporary program. We have also tried to limit the elements and options to those which are appropriate for a temporary, trial program.

Our proposal uses the legislative language (Section 802) as well as Senator Stevens' floor language to define the program. The proposal addresses the entry level fishery, defines historical fish processors as an AFA cooperative model, and establishes catch limits for non-rockfish and non-target rockfish species based on historical usage for the pilot program.

We hope that the program can be kept relatively simple so that it can be implemented quickly. The program is intended to help stabilize Kodiak's fishery economy, extend the work year for processing jobs in Kodiak, and recognize the historical participation of the catcher-processor sector. It is also hoped that the pilot program will allow better conservation and management of the Central Gulf of Alaska rockfish fishery.

Thank you for consideration of our proposal. Please find attached our specific recommendations.

Sincerely,



Julie Bonney
Director, AGDB



Ed Luttrell
Director, GFF

CGOA Rockfish Pilot Program
Elements and Options
March 24, 2004

SEC. 802. GULF OF ALASKA ROCKFISH DEMONSTRATION PROGRAM. The Secretary of Commerce, in consultation with the North Pacific Fishery Management Council, shall establish a pilot program that recognizes the historic participation of fishing vessels (1996 to 2002, best 5 of 7 years) and historic participation of fish processors (1996 to 2000, best 4 of 5 years) for pacific ocean perch, northern rockfish, and pelagic shelf rockfish harvested in Central Gulf of Alaska. Such a pilot program shall (1) provide for a set-aside of up to 5 percent for the total allowable catch of such fisheries for catcher vessels not eligible to participate in the pilot program, which shall be delivered to shore-based fish processors not eligible to participate in the pilot program; (2) establish catch limits for non-rockfish species and non-target rockfish species currently harvested with pacific ocean perch, northern rockfish, and pelagic shelf rockfish, which shall be based on historical harvesting of such bycatch species. The pilot program will sunset when a Gulf of Alaska Groundfish comprehensive rationalization plan is authorized by the Council and implemented by the Secretary, or 2 years from date of implementation, whichever is earlier.

Set-asides:

Prior to allocation of catch history to the sectors, NMFS shall set aside:

- **ICA:** An Incidental Catch Allocation (ICA) of POP, Northern rockfish and pelagic shelf rockfish to meet the incidental catch needs of fisheries not included in the pilot program
- **Entry Level Fishery:** A percentage of POP, Northern rockfish and pelagic shelf rockfish for catcher vessels not eligible to participate in the program, as mandated in the Congressional language. For the first year of this program, this set-aside will be 3 percent of each of these target rockfish species. If this amount is taken in the first year, the set-aside will be increased to 5% in the second year.

Entry-Level Fishery:

Catcher Vessel Participation:

Vessels that can participate in the Entry Level fishery are those vessels that did not qualify for the CGOA rockfish pilot program.

Processor Participation:

Processors who purchase and process the entry level rockfish quota must be non-qualified processors.

Fishery participation:

Before the beginning of each fishing year an application must be filed with NMFS by the interested vessel that includes a contract with a non-qualified processor for a market.

NMFS will determine:

- Whether limits need to be imposed on vessel participation
- If limits need to be imposed, determine the appropriate number of vessel that would be allowed to fish in the entry level fishery

- If more vessels apply than the fishery can support, a lottery will occur to determine the participants.
- Entry permits are non-transferable and must be fished by the named vessel

Sector Definitions:

- Trawl catcher vessel
- Trawl catcher processor
 - A trawl catcher-processor is a trawl vessel that has a CP LLP license and that processes its catch on board.

Rationalized Areas

- History is allocated for the CGOA only (NMFS statistical areas 620 and 630)

Sector Allocations:

- Catch history is determined by the sector qualified catch in pounds as a proportion of the total qualified catch in pounds.
- Sector allocation is based on individual qualified vessel histories with the drop-2 provision at the vessel level.

Each sector is allocated catch history based on:

1. The sum of all catch history of vessels in that sector for the years 1996-2002, drop two, whether the vessels earned a CGOA LLP endorsement or not.
2. The sum of all catch history of vessels in that sector for which earned a valid, permanent, fully transferable CGOA LLP endorsement, for the years 1996-2002 drop two.
 - Suboption: include history of vessels which hold a valid interim endorsement on implementation of the program

Target species:

- Qualified target species history is allocated based on retained catch, excluding meal.
- History will be allocated to each sector for POP, Northern rockfish and pelagic shelf rockfish caught in the CGOA while targeting any one of these species during the qualifying period, including incidental catch of these species caught while targeting another of these target rockfish species.
- Different years may be used for determining the history of each of the three rockfish species.

Secondary species:

- Secondary species history is allocated based on total catch while targeting the primary rockfish species listed above.
- History will be allocated to each sector for sablefish, shorttraker/rougheye rockfish and thornyheads
- Pacific cod history will be allocated to vessels that fish on the inshore Pacific cod quota.
- All non-allocated secondary species will be managed by MRA, as in the current regime. This includes Arrowtooth flounder, deep water flatfish, shallow water flatfish, flathead sole, rex sole, pollock, other species, atka mackerel and other rockfish. For the CPs that fish on the offshore-Pacific cod quota, Pacific cod will be managed by MRA.
- Secondary species allocations will be based on:
 1. Total catch by sector of the secondary species caught while targeting rockfish divided by the total catch of secondary species by all sectors over the qualifying period. The calculated percentage is multiplied by the secondary species quota for that fishery year and allocated to each sector in the pilot program.

2. Percentage of catch by sector of the secondary species within the rockfish target fisheries divided by the total number of years in the qualifying period. The calculated percentage is multiplied by the secondary species quota for that fishery year and allocated to each sector in the pilot program.

Prohibited species (halibut mortality):

- Allocation to the pilot program will be based on historic average usage, calculated by dividing the total number of metric tons of halibut mortality in the CGOA rockfish target fisheries during the years '96-'02 by the number of years (7). This allocation will be divided between sectors based on:
 1. The actual usage of each sector
 2. The relative amount of target rockfish species allocated to each sector.

Allocation from Sector to Vessel

- Within each sector, history will be assigned to LLP holders that qualify for a sector under the 'sector allocations' above. The allocations will be to the current owner of the LLP of the vessel which earned the history.

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.)

Target species:

Each LLP holder will receive an allocation of history equivalent to their proportion of the total of the sector qualifying history.

Secondary species:

1. Each LLP holder will receive an allocation of each allocated secondary species equivalent to their proportion of the total sector qualifying history of that secondary species
2. Each LLP holder will receive an allocation of sector history proportional to their allocation of target rockfish history

Different options may be chosen for each sector

PSC (halibut mortality)

Each LLP holder will receive an allocation of halibut mortality equivalent to their proportion of the sector rockfish history

Allocations of secondary species:

- 1) Must be fished in conjunction with the primary species allocations.
(Compliance monitored at offload)
- 2) May be fished independently of the primary species allocations.

Coop provisions

Duration of cooperative agreements is 2 years, with the pilot rockfish program expiring at the end of two years or when Comprehensive GOA rationalization is implemented.

For all sectors

- The coop membership agreement and the Contract will be filed with the RAM Division. The Contract must contain a fishing plan for the harvest of all coop fish.
- Coop members shall internally allocate and manage the coop's allocation per the Contract.
- Subject to any harvesting caps that may be adopted, allocated history may be transferred and consolidated within the coop to the extent permitted under the Contract.
- The Contract must have a monitoring program. Monitoring and enforcement requirements would be at the coop level. Coop members are jointly and severally responsible for coop vessels harvesting in the aggregate no more than their coop's allocation of rockfish species, secondary species and PSC mortality, as may be adjusted by inter-coop transfers.
- Coops may adopt and enforce fishing practice codes of conduct as part of their membership agreement.
- Coop membership agreements shall allow for the entry of other eligible harvesters into the coop under the same terms and conditions as agreed to by the original agreement.
- Coops will report annually to the Council as per AFA.

CP sector:

History is allocated to the current owner of the LLP of the vessel that earned the history.

- Owners may fish their allocation independently if the vessel has a CGOA endorsement, or may enter into a cooperative arrangement with other owners.
- More than one coop may form within the sector
- Any number of eligible LLP owners may form a coop
- Allocations may be transferred between coops of at least three LLP owners each.

CV sector:

- Voluntary co-ops may form between eligible harvesters in association with processors.
- Catcher vessel coops must be associated with an eligible processor.
- An eligible processor is a processing facility that has purchased 250 MT of aggregate Pacific Ocean Perch, Northern Rockfish, and Pelagic Shelf rockfish harvest per year, for 3 years, from 1996 to 2001.
- A harvester is eligible to join a cooperative in association with the processing facility to which the harvester delivered the most pounds of the three rockfish species combined during the year's 1996–2001 drop 1 year (processor chooses the year to drop, same year for all vessels)
- Harvesters may elect not to join a co-op, and continue to fish in an LLP/Open Access fishery during the two-year pilot program. Those vessels that opt out of the program will be penalized 10 to 20% of their historical share. The penalty share will be left with the vessel's associated cooperative. The vessel's remaining share will be fished in an open access fishery environment and must be delivered to one of the qualified processors.
- If a processing facility has closed down and another processing facility has acquired that processing history through purchase, the history belongs to the facility that purchased that history. That history must remain in the community that it was generated in.
- The harvesters that enter into a coop membership agreement shall be the members of the coop. The processor will be an associate of the cooperative but will not be a cooperative member.
- A pre-season Contract between eligible, willing harvesters in association with a processor is a pre-requisite to a cooperative receiving an allocation of Historical Shares.
- Coop membership agreements will specify that processor affiliated vessels cannot participate in price setting negotiations except as permitted by general antitrust law.

- Processors are limited to 1 co-op per plant.
- Catcher vessel cooperatives are required to have at least:
 - a) 50-75 percent of the eligible Harvest Share for each co-op associated with its processor
 - b) Any number of eligible harvesters (allows single person co-op)

General provisions concerning leasing of historical shares:

Shorebased Transfer provisions

Coops may engage in inter-Cooperative transfers (leases) of historical shares during the 2-year coop period to other Cooperatives with agreement of the associated qualified processor.

CP Transfer provisions

CP historical shares may be transferred (leased) within coops and between coops with at least three LLP owners each.

Sector Transfer provisions

CP historical shares may be leased to CV cooperatives. CV historical shares may not be leased to CP cooperatives.

All transfers would be temporary and history would revert to the original LLP at the beginning of the next year.

Coop harvest use caps

CV coops:

Control of harvest share by a CV co-op shall be capped at:

- Option 1: 30% of aggregate POP, Northern Rockfish and PSR for the CV sector
- Option 2: 40% of aggregate POP, Northern Rockfish and PSR for the CV sector
- Option 3: 50% of aggregate POP, Northern Rockfish and PSR for the CV sector
- Option 4: No cap

CP coops:

Control of harvest share by a CP co-op shall be capped at:

- Option 1: 50% of aggregate POP, Northern Rockfish and PSR for the CP sector
- Option 2: 60% of aggregate POP, Northern Rockfish and PSR for the CP sector
- Option 3: 75% of aggregate POP, Northern Rockfish and PSR for the CP sector
- Option 4: No cap

Eligible CPs will be grandfathered at the current level

Shoreside processor use caps

Shoreside processors shall be capped at the entity level.

No processor shall process more than:

- Option 1: 30% of aggregate POP, Northern Rockfish and PSR for the CV sector
- Option 2: 40% of aggregate POP, Northern Rockfish and PSR for the CV sector
- Option 3: 50% of aggregate POP, Northern Rockfish and PSR for the CV sector
- Option 4: No cap

Eligible Processors will be grandfathered.

Program Review

Program review the first and second year after implementation to objectively measure the success of the program, including benefits and impacts to harvesters, processors and communities. Conservation benefits of the program would also be accessed.

Sideboards

Sideboard alternatives

After analysis of these alternatives, the CP and CV sectors will determine the most effective option(s).

Opt out provision: Qualifying LLP owners may choose to opt out of the program on an annual basis. The history of these owners will stay with the sector. Owners which opt out of the program will not be sideboarded in other fisheries.

Qualifying LLP owners which participate in the CGOA rockfish pilot program are limited, in July, in the following fisheries:

CGOA flatfish (all), AI POP, BSAI other flatfish, BSAI yellowfin sole, BSAI pacific cod, WGOA rockfish, WYAK rockfish

1. To fisheries in which the LLP participated in July from 1996 to 2002 for:
 1. Any one year
 2. Any two years
2. To a maximum percentage of total catch by target, and PSC by target (BSAI) or deep or shallow water complex (GOA) during the month of July in any one year from 1996-2002
 - Suboption: Apply to all vessels (not just CGOA participants)

As a separate option, the CP sector could choose to fish its sector allocation under the current management regime, with the rockfish fishery starting on July 1st.

**Public Testimony Sign-Up Sheet
and
Other Handouts Received**

PUBLIC TESTIMONY SIGN-UP SHEET FOR
AGENDA ITEM C-5 GOA Rockfish pilot Program

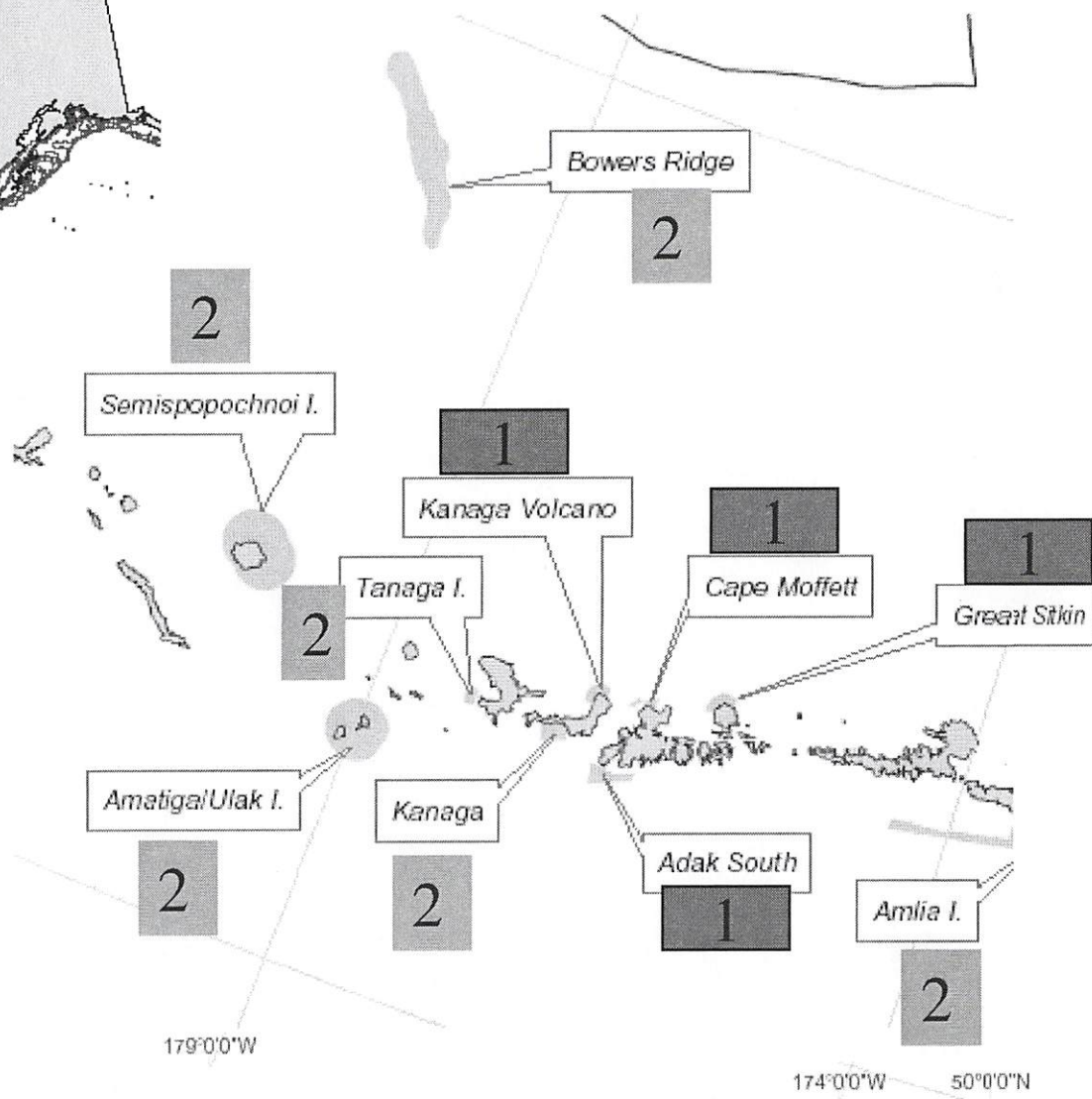
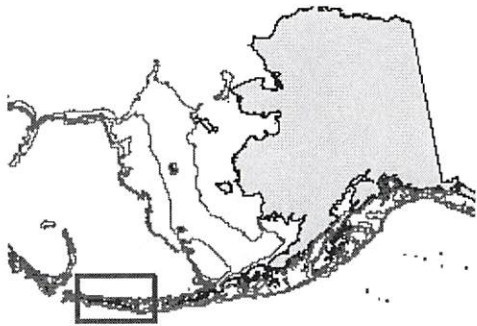
	NAME (PLEASE PRINT)	AFFILIATION	
1	X Lori Swanson/ED Luttrell	GFF	6
2	X Mike Szymanski	FCA	3
3	X Susan Robinson	Fishermen's Harvest	3
4	X Julie Boney	AGDB	6
5	X Margaret Hall	FIN's Progress + Vanguard	3
6	X Tim Blott	Ocean Beauty Seafood's	3
7	X Jay Stinson/Al Burch	Alaska Dragger Assn.	6
8	X Pat Carlson	Kodiak Island Borough	6
9	X Jeff Stephen	UFMA	6
10	X Jane Wood	US Seafoods	3
11	X Heather McLarty	Island Seafoods	3
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NOTE to persons providing oral or written testimony to the Council: Section 307(1)(I) of the Magnuson-Stevens Fishery Conservation and Management Act prohibits any person "to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United State fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act.

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4-3-04 John Gauvin
Rus. Test Mandat
C-5

4-3-04

John Sawin
Publ. Test C-5
handout

MCA HAPC proposals added to list of proposals that are moved forward for analysis

Analyze for potential HAPC designation and management the Aleutian Islands sites proposed by the Marine Conservation Alliance (contained within proposals #s: 15,16,17,18)

For purposes of proposed management measures for the MCA sites, subdivide the 10 discrete proposed HAPC sites in MCA's proposals into the two categories:

CATEGORY 1 sites are those that have already been mapped by NMFS' submersible dives and CATEGORY 2 sites as those that have been identified by trawl skippers as high-relief deep water coral stands with high rockfish abundance that have not been trawled extensively. We believe that different management measure options are warranted for these two categories as described below.

Specific sites within MCA proposals for CATEGORY 1 (mapped sites) are: Kanaga volcano; Cape Moffett; Adak South (Adak Canyon); Great Sitkin

Specific sites within MCA proposals that are within CATEGORY 2 (not yet mapped by submersible dives) are: Amlia/Atka; Amatignak/Ulak; Kanaga (south side of island); Tanaga (west side of island; Bower's Ridge; Semispopochnoi Island.

All these sites are delineated in MCA's HAPC proposals

Proposed HAPC Management measures:

Proposed management measures for MCA HAPC sites are different by category. In addition, the following language both clarifies as well as slightly modifies language in MCA HAPC proposals that has resulted in some confusion among gear groups and for reviewers.

For the sites within these categories, consider the following management measures:

Category 1

Proposed management measures for CATEGORY 1 sites: Bottom trawl closures for MCA Category 1 sites as geographically delineated in MCA proposals.

Category 2

Proposed management options for Category 2 sites:

Option 1: Designate sites as HAPC and once specific high-relief hard coral areas (deemed to meet 2004 RFP priority) within overall HAPC coral sites are delineated, those high-relief coral areas would be closed to bottom trawling.

Option 2: Designate sites as HAPC and close to bottom trawling for 5 years. During the five- year bottom trawl closure period, sites are prioritized for submersible mapping and specific areas containing high relief coral (deemed to meet 2004 RFP priority) are delineated. After the 5 year period, specific sites where high relief coral areas have been identified remain closed to bottom trawling and areas within HAPC site that are not identified as such re-open to bottom trawling.

Handout from 1/2
Julie Bonney
during her testimony
on C-5

CGOA ROCKFISH DEMONSTRATION PROGRAM PROBLEM STATEMENT

The present management structure of the CGOA rockfish fishery continues to exacerbate the race for fish with:

- Increased catching and processing capacity entering the fishery,
- Reduced economic viability of the historical harvesters (both catcher vessels and catcher processors) and processors,
- Decreased safety,
- Economic instability of the residential processor labor force,
- Reduced product value and utilization,
- Jeopardy to historical groundfish community stability,
- Limited ability to adapt to Magnuson-Stevens Act (MSA) requirements to minimize bycatch and protect habitat.

While the Council is formulating GOA comprehensive rationalization to address similar problems in other fisheries, a short-term solution is needed to stabilize the community of Kodiak. Kodiak has experienced multiple processing plant closures, its residential work force is at risk due to shorter and shorter processing seasons and the community fish tax revenues continue to decrease as fish prices and port landings decrease. Congress recognized these problems and directed the Secretary in consultation with the Council, to implement a pilot rockfish program. The fishing fleets have had little experience with cooperative fishery management and needs to begin the educational process. For the fishery to be rationalized all aspects of the economic portfolio of the fishery needs to be recognized. To stabilize the fishery economy all the historical players – harvesters (both catcher vessels and catcher processors) and processors need to be recognized in a meaningful way. The demonstration program is designed as a short-term two-year program for immediate economic relief until comprehensive GOA rationalization can be implemented.

Handout from 2/2
Julie Bonney
Testimony on C-5

PASSAGE OF THE FY2004 CONSOLIDATED APPROPRIATIONS CONFERENCE REPORT
REGARDING PROVISIONS RELATED TO ALASKAN FISHERIES

Section 802 of Title VIII-Alaskan Fisheries directs the Secretary in consultation with the North Pacific Fishery Management Council to establish a pilot fisheries management program that recognizes the historic participation of fishing vessels and fish processors in the central Gulf of Alaska rockfish fishery. The provision delineates the years and types of rockfish that should be considered for a pilot rationalization program to allow for increased use and value in the fishery. The pilot rockfish program will expire when the North Pacific Council authorizes a comprehensive rationalization program for Gulf of Alaska Groundfish and implemented by the Secretary, or two years from the date of implementation, whichever is earlier. The pilot program contemplates new entrants into this fishery and provides a set-aside of up to five percent of the total allowable catch of such fishery for catcher vessels not eligible to participate in the program. In addition, the five percent that is available for new entrants must come into Kodiak, Alaska for processing and can be processed by processors that have not historically participated in the fishery. The North Pacific Council will establish catch limits for nonrockfish species and non-target rockfish species currently harvested along with pacific ocean perch, northern rockfish, and pelagic shelf rockfish, which should be based on historical harvesting of such bycatch species. The Gulf of Alaska rockfish pilot program should also recognize the historic fishing and processing participation of catcher-processors that have historically participated in this fishery, and should utilize the same years and species of fish considered under the provision.

The intent of the pilot program is to consider the historic participation of all of those that have been involved in the fishery. The Gulf of Alaska rockfish pilot program does not authorize individual processing quota share for processors in this fishery. The "historic participation of fish processors" under this pilot program should be considered pursuant to the cooperative model under the American Fisheries Act, or any other manner the North Pacific Council determines is appropriate. This provision in no way authorizes individual processor quota share for the comprehensive Gulf of Alaska groundfish rationalization program that the North Pacific Council is currently developing. This pilot program is intended to allow for better conservation and management of the central Gulf of Alaska rockfish and extend the work year for processing jobs in Kodiak.

CGOA Rockfish Pilot Program Motion

The Council recommends the following elements and options for the CGOA Rockfish Pilot program be included for analysis:

Set-asides:

Prior to allocation of catch history to the sectors, NMFS shall set aside:

- ICA: An Incidental Catch Allocation (ICA) of POP, Northern rockfish and pelagic shelf rockfish to meet the incidental catch needs of fisheries not included in the pilot program
- Entry Level Fishery: A percentage of POP, Northern rockfish and pelagic shelf rockfish for catcher vessels not eligible to participate in the program, as mandated in the Congressional language. For the first year of this program, this set-aside will be: **a) 3%** **b) 4%** **c) 5%** percent of each of these target rockfish species. If this amount is taken in the first year, the set-aside will be increased to 5% in the second year.

Entry-Level Fishery:

Catcher Vessel Participation:

Vessels that can participate in the Entry Level fishery are those vessels that did not qualify for the CGOA rockfish pilot program.

Processor Participation:

Processors who purchase and process the entry level rockfish quota must be non-qualified processors.

Fishery participation:

Before the beginning of each fishing year an application must be filed with NMFS by the interested trawl vessel that includes a contract with a non-qualified processor for a market.

NMFS will determine:

- Whether limits need to be imposed on vessel participation
- If limits need to be imposed, determine the appropriate number of vessels that would be allowed to fish in the entry level fishery
- If more vessels apply then the fishery can support, a lottery will occur to determine the participants.

Suboption: Equal shares distributions to the vessel applicants

- Entry permits are non-transferable and must be fished by the named vessel

Sector Definitions:

Option 1. Trawl catcher vessel

Option 2. Trawl catcher processor

A trawl catcher-processor is a trawl vessel that has a CP LLP license and that processes its catch on board.

Rationalized Areas

- History is allocated for the CGOA only (NMFS statistical areas 620 and 630)

Sector Allocations:

- Catch history is determined by the sector qualified catch in pounds as a proportion of the total qualified catch in pounds.
- Sector allocation is based on individual qualified vessel histories with the drop-2 provision at the vessel level.

Each sector is allocated catch history based on:

~~Option 1. The sum of all catch history of vessels in that sector for the years 1996-2002, drop two, whether the vessels earned a CGOA LLP endorsement or not.~~

Option 2. The sum of all catch history of vessels in that sector for which it earned a valid, permanent, fully transferable CGOA LLP endorsement, for the years 1996-2002 drop two.

Suboption: include history of vessels which hold a valid interim endorsement on implementation of the program

Target species:

- Qualified target species history is allocated based on retained catch:
Option 1: excluding meal
Option 2: including meal
- History will be allocated to each sector for POP, Northern rockfish and pelagic shelf rockfish caught in the CGOA while targeting any one of these species during the qualifying period, including incidental catch of these species caught while targeting another of these target rockfish species.
- Different years may be used for determining the history of each of the three rockfish species.
- **Full retention of the target rockfish species required**

Secondary species:

- Secondary species history is allocated based on **a) total catch b) retained catch** while targeting the primary rockfish species listed above.
- History will be allocated to each sector for sablefish, shortraker/rougheye rockfish, thornyheads **and Pacific cod.**
Option 1. Participants must retain all allocated secondary species and stop fishing when cap is reached.
Option 2. Pacific cod history will be **allocated to** managed by MRA for vessels that fish on the **inshore** offshore pcod quota
- All non-allocated secondary species will be managed by MRA, as in the current regime. This includes Arrowtooth flounder, deep water flatfish, shallow water flatfish, flathead sole, rex sole, pollock, other species, atka mackerel and other rockfish. **For the CPs that fish on the offshore Pacific cod quota, Pacific cod will be managed by MRA.**
- Secondary species allocations will be based on:
 - 1) Total catch by sector of the secondary species caught while targeting rockfish divided by the total catch of secondary species by all sectors over the qualifying period. The calculated percentage is multiplied by the secondary species quota for that fishery year and allocated to each sector in the pilot program.
 - 2) Percentage of catch by sector of the secondary species within the rockfish target fisheries divided by the total number of years in the qualifying period. The calculated percentage is multiplied by the secondary species quota for that fishery year and allocated to each sector in the pilot program.

Prohibited species (halibut mortality):

- Allocation to the pilot program will be based on historic average usage, calculated by dividing the total number of metric tons of halibut mortality in the CGOA rockfish target fisheries during the years '96-'02 by the number of years (7). This allocation will be divided between sectors based on:
 - 1) The actual usage of each sector
 - 2). The relative amount of target rockfish species allocated to each sector.

Allocation from Sector to Vessel

- Within each sector, history will be assigned to LLP holders that qualify for a sector under the 'sector allocations' above. The allocations will be to the current owner of the LLP of the vessel which earned the history.

with CGOA endorsement

Persons who have purchased an LLP, with a CGOA endorsement to remain in the fishery may obtain a distribution of harvest share on the history of either the vessel on which the LLP is based or on which the LLP is used, not both. License transfers for purposes of combining LLPs must have occurred by April 2, 2004.

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.)

Target species:

Each LLP holder will receive an allocation of history equivalent to their proportion of the total of the sector qualifying history.

Secondary species:

~~1). Each LLP holder will receive an allocation of each allocated secondary species equivalent to their proportion of the total sector qualifying history of that secondary species~~

~~2). Each LLP holder will receive an allocation of sector history proportional to their allocation of target rockfish history~~

~~Different options may be chosen for each sector~~

PSC (halibut mortality)

- Each LLP holder will receive an allocation of halibut mortality equivalent to their proportion of the sector rockfish history

Allocations of secondary species:

- 1) Must be fished in conjunction with the primary species allocations.
(Compliance monitored at offload)
- 2) May be fished independently of the primary species allocations.

Coop provisions

Duration of cooperative agreements is 2 years, with the pilot rockfish program expiring at the end of two years or when Comprehensive GOA rationalization is implemented.

For all sectors

- The coop membership agreement and the Contract will be filed with the RAM Division. The Contract must contain a fishing plan for the harvest of all coop fish.
- Coop members shall internally allocate and manage the coop's allocation per the Contract.
- Subject to any harvesting caps that may be adopted, allocated history may be transferred and consolidated within the coop to the extent permitted under the Contract.
- The Contract must have a monitoring program. Monitoring and enforcement requirements would be at the coop level. Coop members are jointly and severally responsible for coop vessels harvesting in the aggregate no more than their coop's allocation of rockfish species, secondary species and PSC mortality, as may be adjusted by inter-coop transfers.
- Coops may adopt and enforce fishing practice codes of conduct as part of their membership agreement.
- Coop membership agreements shall allow for the entry of other eligible harvesters into the coop under the same terms and conditions as agreed to by the original agreement.
- Coops will report annually to the Council as per AFA.

CP sector:

History is allocated to the current owner of the LLP of the vessel that earned the history.

- Owners may fish their allocation independently if the vessel has a CGOA endorsement, or may enter into a cooperative arrangement with other owners.
- More than one coop may form within the sector
- Any number of eligible LLPs owners may form a coop
- Allocations may be transferred between coops of at least:

Option 1: two LLPs

Option 2: three LLPs

CV sector:

- Voluntary co-ops may form between eligible harvesters in association with processors.
- Catcher vessel coops must be associated with an eligible processor.
- An eligible processor is a processing facility that has purchased 250 MT of aggregate Pacific Ocean Perch, Northern Rockfish, and Pelagic Shelf rockfish harvest per year, for 3 years, from 1996 to 2001.
- A harvester is eligible to join a cooperative in association with the processing facility to which the harvester delivered the most pounds of the three rockfish species combined during the year's 1996–2001 drop 1 year (processor chooses the year to drop, same year for all vessels)
- Harvesters may elect not to join a co-op, and continue to fish in an LLP/Open Access fishery during the two-year pilot program. Those vessels that opt out of the cooping portion of the pilot program will be penalized 10 to 20% of their historical share. The penalty share will be left with the vessel's associated cooperative. The vessel's remaining share will be fished in an open access fishery environment and must be delivered to one of the qualified processors.
- If a processing facility has closed down and another processing facility has acquired that processing history through purchase, the history belongs to the facility that purchased that history. That history must remain in the community that it was generated in.
- The harvesters that enter into a coop membership agreement shall be the members of the coop. The processor will be an associate of the cooperative but will not be a cooperative member.
- A pre-season Contract between eligible, willing harvesters in association with a processor is a pre-requisite to a cooperative receiving an allocation of Historical Shares.
- Coop membership agreements will specify that processor affiliated vessels cannot participate in price setting negotiations except as permitted by general antitrust law.
- Processors are limited to 1 co-op per plant.
- Catcher vessel cooperatives are required to have at least:
 - a) 50-75 percent of the eligible Harvest Share for each co-op associated with its processor
 - b) Any number of eligible harvesters (allows single person co-op)

General provisions concerning leasing of historical shares:

Shorebased Transfer provisions

Coops may engage in inter-Cooperative transfers (leases) of historical shares during the 2-year coop period to other Cooperatives with agreement of the associated qualified processor.

CP Transfer provisions

CP historical shares may be transferred (leased) within coops and between coops with at least:

Option 1: two LLPs each

Option 2: three LLPs each

(both with GOA endorsement)

Sector Transfer provisions

CP historical shares may be leased to CV cooperatives. CV historical shares may not be leased to CP cooperatives.

All transfers would be temporary and history would revert to the original LLP at the beginning of the next year.

Coop harvest use caps

CV coops:

Control of harvest share by a CV co-op shall be capped at:

- Option 1. 30% of aggregate POP, Northern Rockfish and PSR for the CV sector
- Option 2. 40% of aggregate POP, Northern Rockfish and PSR for the CV sector
- Option 3. 50% of aggregate POP, Northern Rockfish and PSR for the CV sector
- Option 4. No cap

CPs *Coops*:

Control of harvest share by a CP *coops* shall be capped at:

- Option 1: 50% of aggregate POP, Northern Rockfish and PSR for the CP sector
- Option 2: 60% of aggregate POP, Northern Rockfish and PSR for the CP sector
- Option 3: 75% of aggregate POP, Northern Rockfish and PSR for the CP sector
- Option 4: No cap

Eligible CPs will be grandfathered at the current level

Shoreside processor use caps

Shoreside processors shall be capped at the entity level.

No processor shall process more than:

- Option 1. 30% of aggregate POP, Northern Rockfish and PSR for the CV sector
- Option 2. 40% of aggregate POP, Northern Rockfish and PSR for the CV sector
- Option 3. 50% of aggregate POP, Northern Rockfish and PSR for the CV sector
- Option 4. No cap

Eligible Processors will be grandfathered.

Program Review.

Program review the first and second year after implementation to objectively measure the success of the program, including benefits and impacts to harvesters, processors and communities. Conservation benefits of the program would also be accessed.

Sideboards

After analysis of these alternatives, the CP and CV sectors will determine the most effective option(s).

Sideboard alternatives

Opt out provision: Qualifying LLPs owners may choose to opt out of the program on an annual basis. The history of these LLPs owners will stay with the sector. LLPs owners which opt out of the program

will not be sideboarded in other fisheries if their allocation is less than a) xx b)xx c)xx d)xx (a series of appropriate numbers provided by staff based on catch distribution.

Exemptions from sideboards:

Vessels with rockfish allocations less than the following percentages are exempt from sideboards:
a) xx b)xx c)xx d)xx (a series of appropriate numbers provided by staff based on catch distribution.

- o Allocations may not be leased

Qualifying LLPs which participate in the CGOA rockfish pilot program are limited, in July, in the following fisheries:

CGOA flatfish (all), AI POP, BSAI other flatfish, BSAI yellowfin sole, BSAI pacific cod, WGOA rockfish, WYAK rockfish

1) To fisheries in which the LLP participated in July from 1996 to 2002 for:

- a) Any one year
- b) Any two years
- c) Any four years
- d) Any six years

2) To a ^(a) maximum percentage ^{(b) average percentage} of total catch by target, and PSC by target (BSAI) or deep or shallow water complex (GOA) during the month of July in any one year from 1996-2002

Suboption: Apply to all vessels (not just CGOA participants)

As a separate option, the CP sector could choose to fish its sector allocation under the current management regime, with the rockfish fishery starting on July 1st.

Additionally, the Council requests the following:

- Vessels (by name) that made landings in the CGOA target rockfish fishery from 1996-2002 with and without current endorsement status
- Estimates of TH and RE/SR incidental catch requirements in the sablefish, halibut and pcod LL fisheries. The Council recommends using observer and IPHC data
- Natural divisions in the level of history awarded within each sector (i.e. between vessels with minimal, moderate and high participation)
- For the following fisheries: GOA flatfish (all), AI POP, BSAI other flatfish, BSAI yellowfin sole, BSAI pacific cod, WGOA rockfish, WYAK rockfish:

Participation patterns in these fisheries during the month of July by LLP holders who will receive allocations

Percentage of total catch, by species complex, in the month of July for each year 96-02 by sector

GOA: Deep complex=rex sole, deep water flatfish, arrowtooth flounder

Shallow complex=shallow water flatfish, flathead sole

BSAI: Other flatfish=rocksole, flathead sole, arrowtooth flounder, Alaska plaice, other flatfish

- Before this program can be renewed beyond the 2 year pilot period - the issue of use/ownership caps must be brought back to the council to consider company and vessel caps.