

ADVISORY PANEL
Motions and Rationale
June 3-4, 7-9, 2021 - Anchorage, AK

C4 BSAI Pcod trawl CV

The AP recommends the Council release the ~~draft~~ analysis for public review [to support final action after making] ~~with~~ the following revisions to the elements and identifying the following Preliminary Preferred Alternatives (PPA's) which are highlighted below. Revisions are shown in underline and deletions are shown in ~~striketrough~~. Note: If there are no revisions or an identified PPA for an element, it is stated following the title of the element.

Amendment 1 (to remove bracketed text and add bold text) failed 9-9

Purpose and Need (no change)

Over the last several years, total allowable catch for Pacific cod in the Bering Sea-Aleutian Island has steadily decreased. The pace of the fishery has contributed to an increasingly compressed season, resulting in decreased ability to maximize the value of the fishery, and negatively impacting all fishery participants (catcher vessels, motherships, shoreside processors, and communities). This race for fish also discourages fishing practices that can minimize bycatch and threatens the sustained viability of the fishery. The Council is considering the development of a cooperative-based program to improve the prosecution of the fishery, with the intent of promoting safety and stability in the harvesting and processing sectors, increasing the value of the fishery, minimizing bycatch to the extent practicable, providing for the sustained participation of fishery dependent communities, and ensuring the sustainability and viability of the resource.

Element 1. Cooperative Style System (PPA identified)

Voluntary harvester cooperatives with no minimum number of licenses required.

Holders of qualified LLP licenses must join a cooperative annually in association with an eligible licensed processor (FFP or FPP) to harvest allocations of Pacific cod. Harvesters may change cooperatives and cooperative associations may change annually without penalty.

No limitation on the number of LLP licenses holders or eligible catch history needed to form a cooperative (PPA)

No limitation on the number of cooperatives that may form.

Inter-cooperative formation is allowed.

Sub Option 1.2.1: A minimum of three unique LLP license holders are needed to form a cooperative, using the 10% ownership rule.

Element 2: Allocation to LLP Licenses (Two PPA's and one revision)

Catch history to determine allocations under this management action will not be considered beyond December 31, 2019.

2.1. Eligibility – Any LLP license assigned to a vessel that authorized that vessel's legal landings of targeted trawl catcher vessel BSAI cod during the qualifying years (or an LLP license as of December 31, 2019, assigned to an AFA trawl CV that had BSAI Pacific cod catch in 1997) is eligible to receive harvest shares.

Option: Establish a minimum threshold percentage range of 0.25%-1% by LLP holder for eligibility to receive harvest shares. Does not apply to those 8 licenses with a transferable AI endorsement.

2.2. Harvester Allocations – Eligible LLP licenses must be assigned to a cooperative to receive annual Pacific cod quota. The sector's harvest shares will be allocated to eligible LLP licenses or transferable AI endorsements, with each LLP license's or transferable AI endorsement's allocation based on the Pacific cod catch history (legal landings) of targeted BSAI cod authorized by that LLP license or a transferable AI endorsement during the following qualifying years:

Option 2.2.1: 2014 - 2019

Option 2.2.2: 2009 -2019 ²(PPA)

Option 2.2.3: 2004 -2019

Option 2.2.4: Allocations based on a blend of catch history and AFA sideboard history

Suboptions to credit catch history/sideboard at:

Suboption 2.2.1: 50%/50%

Suboption 2.2.2: 80%/20%

Suboption 2.2.3: 20%/80%

Suboptions (applicable to Options 2.2.1 – 2.2.4):

Suboption 2.2.1. Drop 1 Year

Suboption 2.2.2. Drop 2 Years

Amendment 2 (To remove PPA from option 2.2.2) failed 4-14

2.3. Catch history is attached to the LLP license at the time of harvest. If multiple licenses authorized catch by a vessel, in the absence of agreement of the license holders at the time of application, history will be:

Option 2.3.1: divided equally between those licenses.

Option 2.3.2: assigned to an LLP license by the owner of the vessel that made the catch in all cases. (PPA)

2.4. Annual quota will be issued to each license based on its share of the total qualifying BSAI trawl catcher vessel catch history. Allocations will not be designated for harvest in a management area (i.e., BS or AI) but may be harvested from either area.

2.5. Option to allocate A and B season BSAI trawl CV Pacific cod only:

A and B season TACs (after deduction of the ICAs) will be allocated to cooperatives as annual cooperative quota (and to seasonal limited access fisheries, if applicable). Annual cooperative allocations (and seasonal limited access allocations, if applicable) attributable to each LLP license will be that LLP license's proportional share of the total qualifying Pacific cod history.

The C season allocation will remain 15 percent and remain a limited access fishery to any vessel with an eligible groundfish LLP license with an applicable area endorsement. The C season limited access fishery will be managed as currently by NMFS, including management of incidental catches of Pacific cod in other directed fisheries. C season TAC (and A and B season ICAs and cooperative quota) that NMFS projects to go unused are subject to reallocation to other sectors under current reallocation rules.

2.6. All species not allocated to cooperatives will be managed by maximum retainable amounts (MRAs), as under current management.

Element 3: Prohibited Species Catch Limits (no changes & no PPA)

The annual crab and halibut PSC available to the BSAI trawl catcher vessel Pacific cod sector will be as follows:

Establish trawl CV Pacific cod crab and halibut PSC apportionment based on historic use (using qualifying years selected under Element 2) between the trawl CV sector and the AFA C/P sector.

Option 3.1: Crab PSC will be maintained at the BSAI trawl limited access sector level.

Option 3.2: Establish separate PSC limits for the BSAI trawl CV Pacific cod sector.

Suboption 1: Reduce halibut and crab PSC

Suboption 2: Reduce halibut PSC apportionment to BSAI trawl CV Pacific cod sector by 10% to 35%.

~~Suboption 3: No PSC reductions until the first program review.~~

Amendment 10 failed 5-12

Each cooperative will receive annual cooperative quota allocations of Pacific cod and apportionments of PSC based on members' qualifying catch histories (and processing histories, if applicable) to be harvested in accordance with the harvest cooperative agreement. The sector's PSC will be apportioned to cooperatives in proportion to their members' Pacific cod qualifying catch histories (and processing histories, if applicable).

Element 4: GOA Sideboards (revisions & no PPA)

Option 4.1: All AFA non-GOA exempt CVs and AFA LLP licenses will be side boarded as to all GOA groundfish fishing, except for the CGOA Rockfish Program, based on their Gulf catch history during the BSAI Pacific cod qualifying period.

Prohibit directed fishing in regulations for the GOA non-exempt AFA CVs and LLPs for SEO pollock, Western shallow-water flatfish, and both Central and Eastern deep-water flatfish, and Eastern POP.

Option 4.2: AFA GOA-Exempt and non-AFA CVs' ~~and assigned~~ to LLP licenses with BSAI Pacific cod QS will not be permitted to lease their BSAI Pacific cod cooperative quota as a condition of benefiting from ~~an AFA GOA~~ sideboard exemption, except for the CGOA Rockfish Program. If the vessel with the qualified GOA exempt LLP license doesn't fish the GOA during the calendar year, the vessel can lease their BSAI cod that calendar year. Cooperatives will be required to monitor GOA ~~exempt~~ AFA and non-AFA ~~exempt~~ vessels to ensure they do not lease their BSAI Pacific cod CQ and implement a penalty structure for violations. Cooperatives will be required to report leasing activities and penalties issued in the annual BSAI Pacific cod cooperative report.

Suboption 4.2.1: AFA GOA Exempt and non-AFA CVs with LLP licenses of less than 200 mt, 400 mt, or 600 mt of average annual qualifying BSAI cod history may lease their BSAI cod history and benefit from the AFA GOA sideboard exemption.

Element 5: Processor and Community Provisions (one PPA & one revision)

Element 5.1 No closed class of processors; all processors with an eligible FPP or FFP are eligible to process BSAI Pacific cod under this program (subject to eligibility requirements under the April 2019 Council action to limit catcher processors acting as motherships).

Element 5.2 Limit (sideboard) on directed BSAI Pacific cod that can be delivered by trawl CVs to eligible C/Ps acting as motherships. The sideboard would be based on BSAI Pacific cod processing history by eligible C/Ps during qualifying years under Element 2.

Option 5.2.1 Each eligible CP acting as a mothership may process up to the higher of 1) the processor's history (percentage based on qualifying years selected in Element 2.2); or 2) the history (percentage based on qualifying years selected under Element 2.2) from LLP licenses that are owned (in excess of 75%) directly or indirectly by the owner of a catcher processor LLP eligible for the offshore sector of the target non-CDQ BSAI Pacific cod trawl CV fishery (as of December 31, 2019). (PPA)

Element 5.3 Limit number of trawl CVs in the directed BSAI Pacific cod fishery that can deliver to eligible CPs acting as motherships. Trawl CVs can qualify for the offshore sector in one of two ways:

Option 5.3.1 An LLP license that is owned (in excess of 75%) directly or indirectly by the owner of a catcher processor LLP eligible for the offshore sector of the target non-CDQ BSAI Pacific cod fishery (as of December 31, 2019)

Option 5.3.2 Council will develop other eligibility thresholds for LLPs on trawl catcher vessels

³Option 5.3.3 CV's that delivered to CP's in the qualifying years maintain their ability to deliver to CP's

Amendment 3 passed 15-2

Only quota arising from the history of an LLP license qualifying for the offshore sector will be permitted to be delivered offshore. Only vessels that are assigned LLP licenses that qualify for the offshore will be permitted to make offshore deliveries. Vessels using LLP licenses that are permitted to deliver offshore may also deliver any or all of the quota derived from the LLP license to shore based or floating processors.

Element 5.4 Allocation of harvest shares to processors (this option is only applicable to Bering Sea processors and eligible C/Ps if AI allocations are selected under element 6):

Onshore and offshore processors (subject to eligibility requirements under the April 2019 Council action to limit catcher processors acting as motherships) that have history of processing in the federal BSAI Pacific cod trawl CV fishery will be eligible to receive a percentage of total harvesting shares based on each onshore processor's and offshore processor's processing history. To be used, the processor's harvest shares would be transferred to the CV cooperative.

Option 5.4.1 Percent of harvest shares to be allocated to eligible processors:

~~Option 5.4.1.1: 5%~~

Option 5.4.1.2: 10%

Option 5.4.1.3: 15%

Option 5.4.1.4: 25%

~~*Option 5.4.1.5: 30%~~

Amendment 4 (to remove strikeout from 5.4.1.5) failed 4-12

Option 5.4.2: A cooperative cannot assign a greater proportion of the harvest shares allocated to a processor to a vessel owned by that processor than the vessel brought into the cooperative absent any processor held shares. The cooperative will monitor this provision and include reporting on allocation of processor held shares in their report to the Council.

Processing history years to receive harvest shares are the same as harvester years in Element 2.

Element 6: Aleutian Islands Processor Provisions (no revisions & no PPA)

~~⁵The AP supports maintaining Options 6.1 and 6.2 with the following clarifications:~~

Options 6.1 and 6.2 are mutually exclusive.

Option 6.1: In any year when the community of Adak and/or Atka files a notice of intent to process, require the cooperative(s) to reserve a set-aside for delivery to a shoreplant, as defined in Amendment 113 regulations, in the Aleutian Island management region. The amount of the set-aside will be 10% to 25% of the BSAI CV trawl directed A season harvest amount. Adak or Atka may withdraw its intent to operate notice during the season if necessary; if so, the set aside requirement is removed.

Option 6.2: In any year when the community of Adak and/or Atka files a notice of intent to process, annual harvest quota shall be issued to the plant operator designated in that notice of intent. In the event, one community issues a notice, the lesser of 5,000 mt or (option 1: 5.5%, option 2: 10%) of the total BSAI trawl catcher vessel Pacific cod quota (prior to allocations based on harvesting or

processing histories) shall be issued to the plant. In the event both communities issue a notice the allocation shall be divided equally between two plants. Adak or Atka may withdraw its intent to operate notice during the season if necessary. In that case, the unharvested portion of the allocation will be reissued to the other AI shoreplant if it is operating.

Suboption 6.2.1: If no AI shoreplants are operating, the amount of annual quota equivalent to unharvested portion will be reissued to cooperatives (holders of LLP licenses with BS and/or AI harvest history in proportion to their annual allocations).

Annual Aleutian Islands community shore plant allocations shall be transferable to any cooperative(s) (and between cooperatives) for harvest by member vessels that are assigned an AI trawl CV LLP license eligible under this program. Quota shall be harvestable exclusively in the AI and landed in the AI management region.

Suboption 6.2.2: If the community of Adak and/or Atka files a notice of intent to process, annual harvest quota should be issued to an entity representing the community designated in the notice of intent.

Suboption 6.2.3: AI trawl vessels less than 60' LLP will be eligible under the program to receive and harvest option 1: 50%, option 2: 25%, or option 3: 10% of the Annual Aleutian Islands community shore-plant allocation of which must be harvested by these vessels. These vessels will be eligible to join a cooperative annually in association with the Adak and/or Atka plant regardless of whether they otherwise qualify for the program.

- ~~**A. PSC will be allocated pro-rata to the AIDQ and the amount of CQ cod allocated to AI shoreplant cooperative(s).**~~
- ~~**B. The AI shoreplant(s) is/are exempt from any facility use cap.**~~
- ~~**C. Include an AI DFA (Aleutian Islands directed fishing allowance), partitioned into Restricted and Unrestricted amounts; the Restricted amount shall include the AIDQ (Aleutian Islands delivery quota) and the harvester CQ committed to the AI shoreplant cooperative(s).**~~

Amendment 5 failed 7-9

Element 7: Transferability (no revisions & no PPA)

7.1. Catch histories are attached to LLP licenses and are non-severable from the LLP. Transfer of an LLP license eligible for this program results in the transfer of any program eligibility and catch history/harvest shares associated with the LLP license.

Suboption: For the LLPs associated with ~~all the non-exempt AFA~~ vessels, within ~~ninety (90) days~~ **1 year** of publishing the Final Rule of this program, the owners of the LLP licenses that are associated with ~~AFA non-exempt~~ catcher vessels that had engaged in fish transfer agreements during the qualifying periods will be allowed to transfer the quota shares between other LLPs associated with ~~AFA non-exempt~~ **all** vessels. Upon redistribution of the initial allocation to the designated LLP license, the BSAI P. Cod harvest quota shares will no longer be severable from its applicable LLP license to which it was reassigned.

Advisory Panel

C4 Motion

June 2021

Amendment 6 (to strike out "AFA non-exempt" from Element 7) passed 17-0

Amendment 7 passed 15-0

7.2. Allocations based on processing history are issued as separate permits, and the permit is only transferable to another processor. Permits issued to shoreside processors can only be transferred to other shoreside processors that hold an FPP. The history is non-severable from the permit except in the case that transfer of the permit to another eligible processor would result in exceeding the use cap under Option 8.3. In that case, the portion of the history over the cap is allowed to be severed from the permit and transferred to another eligible processor permit.

7.3. Annual allocations of Pacific cod and PSC (whether derived from harvesting or processing histories) are transferable between cooperatives.

7.4. Post-delivery transfers of cooperative quota are permitted, but must be completed by December 31 (i.e., prior to annual cooperative quota expiring).

Element 8: Ownership and Use Caps (no revisions & no PPA)

Element 8.1. Harvester-issued cooperative shares. Processor-issued cooperative shares do not count toward this use cap. No person may hold or use more than option: 5%- 10% percent of the Pacific cod cooperative quota issued:

Option 8.1.1: using the individual and collective rule or

Option 8.1.2: using 10% ownership threshold or management and control for assigning quota to a holder's/entity's cap.

Suboption 8.1: Persons over the cap at the time of implementation are grandfathered.

Element 8.2. No vessel may harvest more than option: ~~3%—5%~~ **5%-10%** percent of the annual Pacific cod cooperative quota issued in the fishery.

Amendment 8 passed 16-1

Option 8.2.1: Vessels over the cap at the time of implementation are grandfathered.

Element 8.3. Processor-issued cooperative shares: No person may hold or use more than option: 15% - 20% percent of the Pacific cod cooperative quota:

Option 8.3.1: using the individual and collective rule or

Option 8.3.2: using 10% ownership threshold or management and control for assigning quota to a holder's/entity's cap.

Suboption 8.3: Persons over the cap at the time of implementation are grandfathered.

Advisory Panel

C4 Motion

June 2021

Element 8.4. No processing facility may process more than 20%-30% percent of the Pacific cod cooperative quota.

Option 8.4.1: Processing facilities over the cap are grandfathered.

Element 9: Cooperative Provisions (one change & PPA)

Annual cooperative applications must be filed on or before November 1 of the preceding year.

Cooperatives shall be formed by qualified LLP licenses with trawl CV Pacific cod history. Each LLP license is eligible to join one cooperative. A vessel assigned a qualified LLP license is a member of that LLP license's cooperative. A vessel may join a single cooperative. **Vessels that are not designated on a trawl CV qualified LLP license are not eligible to join a cooperative. (PPA) unless participating under Element 14.**

Cooperatives are intended only to conduct and coordinate harvest activities of members and are not Fishermen's Collective Marketing Act (FCMA) cooperatives.

Element 10: Share Duration (no revisions)

All allocations and allowances under this program are revocable privileges that 1) may be revoked, limited or modified at any time; 2) shall not confer any right of compensation to the holder, if they are revoked limited, or modified, and; 3) shall not create or be construed to create any right, title or interest in or to any fish before the fish is harvested by the holder.

The duration of all harvest shares and associated PSC apportionments is 10 years. These permits will be renewed before their expiration, unless revoked, limited, or modified.

Element 11: Monitoring (one revision & PPA)

All vessels in the program will be in the full coverage program (100% observer or electronic monitoring coverage category, if applicable). This element is not intended to modify the observer coverage exception provided for CVs delivering unsorted codends to a mothership. NMFS will develop monitoring and enforcement provisions necessary to track quota, harvest, PSC, and use caps. The Council authorizes NMFS to report weekly vessel-level bycatch information as authorized under MSA Sec 402(b)(2)(A).

Option: Require qualified CVs less than 125 feet to make a computer available for use by the observer. Ensure that the most recent release of NMFS data entry software provided by the Regional Administrator or other approved software is installed on the computer. Data can be transmitted at sea or shoreside at the time of delivery.(PPA)

Element 12: Reporting and Program Review (no revisions)

Each cooperative shall annually produce a report for the Council describing its performance in the preceding year.

Per the Magnuson Stevens Act, a formal detailed review of the program shall be undertaken 5 years after implementation, with additional reviews, at a minimum, each seven years thereafter.

Element 13: Cost Recovery (no revisions)

A fee, not to exceed 3% of the ex-vessel value, will be charged on all program landings to cover the actual costs directly related to the management, data collection, and enforcement of the program.

Element 14: Gear Conversion (no revisions)

Pacific cod allocations/quota associated with trawl CV licenses may be fished annually with pot CV gear, ~~by vessels that are a member of the trawl CV cooperative.~~ **by a member/s of the trawl CV cooperative who chooses to use designates pot gear for harvest of the cooperative quota associated with their trawl CV license/s. The vessel using pot gear does not need to be a member of the trawl CV cooperative.** A pot endorsement is not necessary, but the LLP license must have the appropriate area endorsement. Harvest would continue to be deducted from the annual trawl cooperative quota account to which the LLP is assigned and will not affect sector allocations. Quota derived from this program is not permanently designated as pot CV quota. ~~If Option 2.5 is selected,~~ Gear conversion only applies to the A and B seasons based on the start and end dates for the trawl fishery. PSC use would be deducted from the PSC allocated to the cooperative. NMFS will develop monitoring and enforcement provisions necessary to track quota, harvest, PSC, and use caps.

Amendment 9 passed 10-7

Main Motion as amended passed 15-3

Rationale in Support of Main Motion as Amended

- *The Council has been actively working on a cooperative management program for the BS cod fishery for close to two years, but the need for a rationalized fishery has been articulated in written and oral public comment going back much further in time. NOAA fisheries identifies catch share programs as powerful tools to manage fisheries sustainably at the same time as they improve a fisheries economic performance. The NOAA Catch Share Policy States, "Both here and in other countries catch shares programs demonstrate they can effectively achieve annual catch limits, reduce the negative biological and economic impacts of the race for fish, and when properly designed can eliminate overfishing and result in safer and more profitable fisheries while also addressing other social objectives."*
- *It is imperative to retain the CV trawl sector integrity, not just for participating harvesters but for the seafood processors and the communities where this fish is delivered. There has been an erosion of cod available to the federal trawl fishery, which has been significant and continues to erode. The MSA does not allow favoring the residents of one state over another so dependent*

communities span from Kodiak to Dutch to Akutan all the way to Newport, Oregon. The proposed program is not narrowly focused on one thing and is set up to be a holistic approach that mitigates many problems – most importantly – it ends the race for fish, which benefits participants and the resource. This package is about stability for participants, ability to plan, ability to increase product value, ability to feel confident that fishing vessels are not going to feel they must fish during dangerous weather. This is about providing tools to mitigate bycatch and support a sustainable trawl cod fishery.

- *It is important to move this package forward without delay. The 400+ page analysis does an excellent job of laying out the problem statement and including a reasonable range of options and alternatives to meet the goals and objectives of the program. With minor revisions and clarifications coupled with the PPA's identified in this motion, there is ample information contained within the analysis with which to inform a final decision. The PPAs identified will help focus attention on impacts – impacts which are already described and analyzed in the document. There is ample information in the document for direct participants, communities, and the public to understand how the options impact their particular sector or business.*
- *Cooperatives, and the trawl LLPs that comprise them, form the foundation of this proposed trawl cod LAPP program. The motion focuses on some of the Elements that have the greatest influence on the participants in the program, while taking into account the impacts to other fisheries. With the Options under these Elements narrowed down via the PPAs identified, it will be easier for readers of the analysis to identify the effects these Elements have upon the remaining Elements and Options (as well as their interaction with one another) for decision-making at the time of final action. In addition, revisions and clarifications have been identified and while not major structural changes, the modifications will make the intent of the elements clearer so that impacted participants as well as the general public can gauge how the proposed program will impact their business and their communities. To this end, the package is ready to move forward to final action later this year.*
- *For Element 1, no minimum number of licenses to form a cooperative as a preliminary preferred alternative. Requiring a minimum of three unique LLPs will be problematic for the formation of some cooperatives; it removes maximum flexibility while creating barriers with no associated benefits. The directly impacted participants (trawl catcher vessels and seafood processors) have indicated a desire to build on existing arrangements and create a program which respects and builds on the current relationships between those harvesters and their processors. Forcing a cooperative to find three unique licenses could prove challenging and disruptive to existing relationships. Further, the analysis notes on page 148 that “requiring three LLP license holders to form a cooperative could be a potential barrier for a new processor entering the BSAI Pacific cod trawl CV fishery.” Providing new entry for participants is an important component to this program. While the analysis notes that technically a large number of coops could form, increasing the administrative and enforcement burden on the agency and other regulators, the reality of that happening is not expected. Harvesters and processors will likely continue operating under the existing informal coops they participate in now but without the race for fish. As with existing AFA pollock coops, much of the administrative and enforcement burden is transferred from the agency to the coop managers.*
- *For Element 2, the date range of 2009-2019 recognizes both long-term and recent participation in the cod fishery. This recommendation is responsive to public comment, particularly coming from two trade associations that represent the majority of the BSAI trawl cod harvesters, including the AFA cod-exempt boats. This option is a compromise approach (some harvesters would do “better” for their businesses in the shorter suite or years, while*

others would do “better” with the longer suite). MSA national standards require balancing “fair and equitable” allocations with consideration of historical participants as well as recent entrants. Dependence must also be considered when making allocations. Recognition of historical and current participation by fishing communities is also paramount. Option 2.2.2. best meets the intent of the MSA where allocations are concerned as it captures a reasonable number of participants without heavily favoring more recent entrants or participants who are no longer actively fishing cod each year. Identifying 2009-2019 allows the public to focus more attention on how the various other options under Element 2 could work. Impacts to other sectors are required to be considered, but the MSA guidelines are clear under National Standard 4 that “(B) An allocation of fishing privileges may impose a hardship on one group if it is outweighed by the total benefits received by another group or groups. An allocation need not preserve the status quo in the fishery to qualify as “fair and equitable,” if a restructuring of fishing privileges would maximize overall benefits.

- *Under Element 2, Option 2.3.2 is recommended as the PPA with a slight revision, which has been informed by staff. While this component does not impact a large number of participants, it is of extreme importance to those harvesters it does impact. Allowing the owner of the vessel that harvested the fish to assign the quota share will more accurately reflect reality versus a simple division equally between licenses, which may unnecessarily reallocate fish to someone who did not earn that allocation to the detriment of those who did land the fish. Without the wording adjustment, a long-term participant that has been fishing cod for decades could lose 80-100% of their cod history to another entity, an entity who does not own CVs that harvest cod, which is in direct conflict with the goals of this program as well as the MSA standards.*
- *Under Element 4, clarifications and revisions are noted but a PPA is not identified. The recommended revisions better reflect the Council’s intent of what sideboards are intended to do. Sideboards are established to protect participants in unrationalized fisheries from participants in rationalized fisheries. Sideboards are not intended to be punitive and eliminate existing competition but rather to hold participants to their historical catch.*
 - *The objective of Option 4.1 is to allow vessels that have been active participants in the GOA to continue to conduct their current fishing practices but not expand. Non-exempt vessels will continue to be managed as an aggregate fleet so as not to exceed the sideboard limits (i.e., each vessel is not held to their individual catch history). To that end, the removal of halibut sideboards is recommended as is the decision on which fisheries should be closed via regulations (since they are too small for directed fisheries) and which fisheries to continue to close during the annual specification process.*
 - *Option 4.2 has clarifications for language: 1) staff requested clarifications (reference to AFA GOA sideboard and CGOA rockfish program); 2) clarify it is an LLP sideboard not vessel (steel) sideboard; and 3) define what “as a condition of benefiting from” means.*
 - *Option 4.2.1 with to clarify what 200 mt, 400 mt and 600 mt means (i.e., average versus total qualifying BSAI cod catch history).*
- *Under Element 5, Option 5.2.1 creates a vessel-specific sideboard for each of the two CPs that can still take cod deliveries. This option ensures that a CP company will be able to process whatever QS their vessels/LLPs may receive. If a sideboard is mandated, it should be specific to the vessel and reflect each distinct business plan. This option establishes a sideboard but doesn’t make it shared at the sector level which would continue a race. Shoreside processing*

received protection already via Amendment 120 that prevented the 6 CPs that took cod deliveries from continuing to do so, and any other CP from even processing trawl CV cod.

- *Under Option 5.4, the range of the percentage of harvesting shares that could be issued to processors is narrowed by eliminating the outliers and creating a range of 10-25%. This is a signal that while protecting processing investments is a key factor in this action, a more reasonable range is appropriate. Eliminating the lower bound or 5% from the range demonstrates a commitment by harvesters to considering something meaningful for processors while at the same time recognizing that 30% harvesting shares issued too processors could easily tip the balance of bargaining power more in the favor of processors relative to the status quo, creating unfair leverage over the harvesters. A range of 10-25% narrows the options for consideration, which will aid in the deliberations for final action.*
- *Option 5.4 is an important component of this proposed program and is the primary tool processors have to help create stability, recognize historic dependence, and improve value on the processing side. By helping to maintain the existing fleet and securing deliveries this element provides stability to the processor and the community they operate in. They also recognize the existing investment in infrastructure and excess capacity in the shore plants that will exist post rationalization. Stability in delivery patterns can create incentives for future investment in processing and new product forms. It can encourage the development of new markets and also provides incentives in creating increased value that will benefit all. Processors will transfer its shares to its cooperative and the cooperative assigns the shares to the harvesters, thus creating a tool to help maintain a healthy relationship with the existing fleet.*
- *Under Element 9, functioning and effective cooperatives are the backbone of this proposed LAPP. As such, cooperative formation needs to be vested with historical trawl participants and the holders of trawl LLP licenses. Membership outside of this group will increase the complexities in coop formation resulting in a disruption to existing relationships and arrangements since non-trawl LLP licenses have no trawl cod catch or PSC history associated with them. To best ensure the success of this proposed cooperative program at the time of implementation, complexities and disruptions should be minimized to the greatest extent practicable.*
- *Under Element 11, requiring vessels under 125 feet to transfer ATLAS data at-sea is an unnecessary cost burden. Neither the GOA rockfish program nor the American Fisheries Act require this for vessels under 125 feet. In those fisheries data is transmitted one of three ways: at-sea if the vessel has the capability, at the dock via wireless, or transfer the data to a thumb drive to upload on a processor computer and then transmit to NMFS. ATLAS transmission systems can cost \$20-30,000 and a 24-48 hour lag in transmission of data for some vessels will not jeopardize the cooperative program. Further, as a rationalized fishery, the coop will be managing the catch and bycatch rather than the agency thereby eliminating or at least reducing the need for the agency to receive catch data while vessels are at sea.*

Rationale in Opposition to Main Motion

- *It is important to acknowledge the complexity of the concerns expressed in public comment as well as the insight offered by the SSC. The SSC found that the EA/RIR is not sufficient to advance to final action and requested another chance to review the analysis after the Council identifies a preferred alternative or set of alternatives.*

- *Many of the elements, whose effects are currently presented in isolation, have significant interactions with one-another and with the current structure of the fishery. The proposed policy is distinct from previous LAPPs in that Pacific cod is not the primary species for a significant portion of the vessels that will likely be eligible for the program; therefore, the effects of the elements will depend on existing arrangements in the primary fisheries. It is likely these effects will be different for AFA vessels with established processor-based cooperatives, and non-AFA vessels who do not have established cooperatives. This demonstrates the need for a second initial review, which is not the expressed intent of the main motion.*
- *The 2009-2019 suite of years does not best capture and reflect current and active participants in the BSAI Pacific cod fishery. Additionally, the blended option that considers pre-AFA catch history from 1995-1997 does not reflect current and active participation and dilutes QS available for current and active participants. Further, sideboards are not allocations and QS should not be awarded based on sideboards.*
- *The analysis does not include adequate information to evaluate whether harvesting shares should be awarded to processors. Without that information and analysis to provide a common starting point, it is difficult to have a reasonable debate on this issue or evaluate the appropriate amount of QS to award to processors.*

Rationale in Opposition to Amendment 1

- *Within the Council process, releasing an analysis for public review signals that final action may be taken at the next meeting for which the agenda item is scheduled; therefore, removing reference to final action does not meet the intent of the proposed amended language for another initial review analysis. The Council is not obligated to take final action even if they were to signal their intent at this meeting. If an issue of concern were to come forward in the public review analysis, the Council can always choose to delay final action at that time. Additionally, inserting the word 'draft' is not additive as all analyses reviewed by the Council are drafts until final approval by the Secretary of Commerce.*
- *Moving this action forward as expeditiously as possible is important to multiple directed fishery stakeholders, as signaled in public comment. These stakeholders feel that the current analysis does not have significant structural issues (no different than other Council analyses) and contains sufficient information, incorporating those suggestions brought up by the SSC and during public testimony (as analysts stated they would), for moving forward with a public review document. It is not unusual for recommendations from the AP to differ from those made by the SSC (both are relevant and important for Council consideration) and any delay would not address concerns voiced by communities, especially Adak.*

Rationale in Support of Amendment 1

- *The proposed language change reflects some comments received by the public, SSC, and during AP discussions that the current analysis needs reorganization and further information warranting another initial review, which would be beneficial to inform the interplay between elements and the PPAs for stakeholder understanding. For example, the two strawman proposals have additional detail that was not discussed in the individual element sections. Additionally, AP discussion around Element 2.3.2 "LLP license assignment" highlighted the need to be reorganized for a clearer coherent alternative within the analysis. Reorganization and additional information in another initial review would give informed clarity for stakeholder and public comment that be offered and meaningfully considered.*

Rationale in Opposition to Amendment 2

- *The selection of qualifying years is important and, for this package, forms an analytical basis upon which to more fully understand the impacts and interconnectedness of the majority of other Elements and Options contained in the action. To this point, the SSC has requested a selection of PPAs to help further inform their evaluation of the analysis. Of all Elements and Options, it is critical to identify a PPA for the qualifying years.*

Rationale in Support of Amendment 2

- *It is too soon to select PPA as there is need to understand what the various Options mean and how they fit in together within the broader context of the entire analytical package. Concern was expressed in comment letters by some Adak stakeholders about some AI <60' vessels being potentially ineligible by the years selected in the PPA.*

Rationale in Support of Amendment 3

- *The current wording of Element 5.3 made it unclear as to whether CVs with history delivering to offshore CPs would maintain that ability under the new PCTC program. Given changing environmental conditions (shifting population distributions), it is important to maintain flexibility for a subset of catcher vessels that have delivered offshore previously (during the qualifying years) and that may desire to in the future. If the Council were to sideboard CPs, that could result in some of these CVs no longer being able to deliver to the CPs if they're constrained by the sideboard. The intent of this option is to underscore the ability of catcher vessels to engage in offshore deliveries as permitted under the sideboard limit of Element 5 (the highlighted PPA does not limit the number of CVs to deliver offshore, just the amount that C/Ps can process).*

Rationale in Opposition to Amendment 4

- *The option for 30% harvesting shares issued to processors could easily tip the balance of bargaining power in the favor of processors relative to the status quo thereby creating unfair leverage over the harvesters.*

Rationale in Support of Amendment 4

- *It is difficult to find a quantitative way to determine what the appropriate percentage of harvester shares to processors should be, therefore a full range should be looked at rather than removing the upper limit. Retaining Option 5.4.1.5 is important as a 30% allocation to the eligible processors is an appropriate level amount for consideration. The issuance of harvesting shares to processors is one of the most important community protection measures in the package and will help ensure the long term stability of cod dependent shoreside operations that have been critical to the economic sustainability of many rural Alaska communities.*
- *This option is important and is the primary tool to create stability (by maintaining existing fleets and securing deliveries), recognize historic dependence, and improve value on the processing side. This element also recognizes the existing investment in infrastructure and excess capacity in shore plants that will exist post rationalization. Stability in delivery patterns can create incentives for future investment in processing and new product forms, encourage*

the development of new markets and provide incentives in creating increased value that will benefit all.

Rationale in Opposition to Amendment 5

- *Some of the language in Option 6.2 could result in a leasing scenario where the shoreplant or community entity would not necessarily be required to operate and the QS would not be required to be delivered shoreside to Adak and Atka. Without any limitations, and in combination with a restricted AI DFQ, this may result in a scenario where an AI plant would not be operating while other sectors are restricted from fishing in the AI. BS fishing for trawl CV cod could also be restricted, requiring QS to be harvested in the AI and tendered back to another plant or on a floater.*
- *A pro-rata PSC allocation does not reflect the differential encounters of halibut PSC in the BS and AI and would result in excessive PSC being allocated to the shore plant or community entity controlling the QS/PSC. As such, BS coops would not have sufficient PSC and would need to lease more at a cost.*
- *The listed bullets are not clarifications but are specific action options with allocative impacts that go beyond the scope of what Options 6.1 and 6.2 establish as possible paths for community stability in the AI, the exception being that only 6.1 requires any cod to actually be landed on Adak or Atka when a plant is open and operational.*

Rationale in Support of Amendment 5

- *The three points of clarification, applicable to both 6.1 and 6.2, are intended to reflect public comment received by AI community stakeholders and should be addressed in the next iteration of the analysis.*
- *Regarding Point A, members of AI shorebased cooperatives should receive allocations of PSC pro-rata to any other CV trawl cooperatives, relative to the amount of cod available to them. Element 6 does not explicitly identify how PSC would be handled and this clarification needs to be made before final action.*
- *Regarding Point B, given that table 2-128 shows that 75% of the CV history has been processed at BS based firms, a facility cap on AI processors is unnecessary.*
- *Regarding Point C, given that the CV trawl fishery operates off of two separate TACs and there are no area specific sector allocations, it is possible under 6.2 that stakeholders (processors in AI communities as well as harvesters who have committed to deliver to AI processors) in the AI can be preempted from the ability to harvest by other sectors. As with 6.1 it is essential that an AI DFA be specified, as well as apportioning the AI DFA into an Unrestricted and Restricted Fishery components that would limit other sectors, including deliveries to CP motherships, from encroaching on the AIDQ allocation as well as other CQ committed by members of the AI shorebased coop(s). The Restricted Fishery limit would apply only to the AI TAC and should remain in place for the duration of the A and B seasons. This would not limit the ability of members of BS CV trawl coops to fully harvest their CQ in the BS at the pace they choose. Without an AI DFA, the AI stakeholders would lose the ability to plan and thus would not be able to capture the benefits that their competitors receive from ending the race for cod under this LAPP.*

Rationale in Support of Amendment 6

- *Under the current language, it is not clear whether all of the potential small QS holders will only be AFA non-exempt vessels. All vessels should be able to transfer QS at the start of the program to allow for some consolidation and to prevent long-term leasing agreements. This is especially relevant if a threshold is not adopted as a number of stakeholders may end up with small amounts of cod that are not practicable to harvest. As an example, in the Rockfish Program a major problem encountered has been small amounts of QS that must be consolidated annually to be able to be harvested.*
- *Without this amendment, the only way to permanently transfer cod QS would be to transfer the entire LLP. The option to divest cod QS, without having to divest of the associated LLP, should be available to all recipients of QS under the new PCTC program.*

Rationale in Support of Amendment 7

- *As pointed out in the analysis, more time than the identified 90 days will likely be needed to allow for agreements to be structured and the sale of QS to occur, as stakeholders assess what makes the most sense for their business plans.*

Rationale in Support of Amendment 8

- *The current range of 3-5% is based on vessels participating in an open access style fishery and the analysis of this option examines the harvest amounts by vessel in an open access fishery. Once the cod trawl fishery is governed by a cooperative catch share structure, the LLP holders will organize their fishing activities around this cooperative structure and the upper limit of the current range of 5% will likely be constraining, especially in light of reducing TACs and reductions in the federal fisheries to the state waters fisheries. An upper percentage amount of 10% is a more reasonable limit to examine in the analysis.*

Rationale in Support of Amendment 9

- *The amended language is intended to better reflect how Element 14 will work under the regulated program. Under this provision, the designated pot vessels will abide by the bylaws, rules, restrictions, requirements, and reporting that are put in place by the trawl cooperative they are associated with. The QS holder is responsible for the vessel it designates to harvest its quota regardless of whether pot or trawl gear is utilized by the license holder. Designated pot vessels are subject to the same observer requirements as vessels using trawl gear, presumably 100%.*
- *This provision would allow a member(s) of a trawl CV coop to designate trawl or pot gear to harvest QS associated with its LLP. This provides the most flexibility at the LLP holder level without significant or any impacts on other members of the coop anticipated. The LLP holder and designated/associated pot vessel would be responsible for adhering to coop mandates. This does not change anything for the QS holders who fish with trawl gear.*
- *Gear conversion is not intended to erode the trawl fishery through the increased use of pot gear. Since the holders of the trawl CV licenses will have control over which coops they join, a role in what the coop rules are, and ultimately what occurs with the CQ associated with their trawl CV license/s, pot vessels cannot gain access to trawl CV QS unless there is a willing member who opts to lease to a pot vessel. Gear conversion under this structure simply allows*

the LLP license holder to decide which gear type to use to maximize benefits within its operation and under this new program.

- *Proponents of this element believe that allowing quota holders to utilize pot gear may provide the sector greater flexibility to reduce halibut PSC, a primary goal of this and other Council actions, as well as National Standard 9. Ongoing field testing of pot gear modifications show promise in reducing crab bycatch as well. Reducing PSC also helps to address the objectives of National Standard 8 as halibut and crab dependent communities would benefit from the improved health of those resources. In addition, responsive to the objectives of National Standard 1, and as testified to by processor and community representatives, Pacific cod caught in pots tends to be of better quality and obtains better market prices. Optimum yield of the cod resource managed by this action is therefore likely to increase.*
- *Removal of the reference to Option 2.5, clarifies that gear conversion under this amendment is limited to the A and B seasons. The intent is not to preempt fishery sectors historically dependent on rollovers from the trawl cod CV sector.*

Rationale in Opposition to Amendment 9

- *Limiting gear conversion to only the A and B seasons seems intended to maximize transfers of cod outside of the trawl sector, increasing the likelihood of more rollovers and decreasing the potential for trawl CVs to harvest their C season allocation, as originally intended.*
- *Gear conversion will result in multiple unintended consequences, including: making cooperative formation more challenging; increased gear conflicts; increased amounts of crab bycatch (trawl vessels in a coop with an associated pot vessel won't get any increase in crab PSC assigned to coop so will be forced to share limited PSC amount with a gear type that harvests more crab PSC); allowing under 60' vessels to operate with some QS in an open access fishery; and displacing trawl crew members from the benefits of being able to efficiently and safely harvest cod.*
- *Allowing QS transfer across different cod sectors is a major shift in policy and should be considered more widely rather than only as part of one specific sector's new LAPP program. Incorporating a gear conversion element would be better considered as part of a five year review process.*

Rationale in Opposition to Amendment 10

- *PSC reductions are an integral part of any catch share program and minimizing bycatch to the extent practicable is one of the stated goals of the proposed trawl cod LAPP program, as captured in the adopted Purpose and Need Statement.*
- *As a public resource, the increased flexibility and stability afforded as a benefit of catch share programs should be expected to result in meaningful bycatch reductions therefore leaving the current range of reductions in the analysis is appropriate. The concept of a stair stepped approach to reductions, as a way to provide some tempered stability to the trawl fleet as the cooperative program matures in its early years, may be appropriate to consider at final action.*

Rationale in Support of Amendment 10

- *Under a cooperative catch share program, reductions in PSC will naturally occur via the structure of the program that allows vessels to fish in the safest and most efficient way possible. Because of this, it is not necessary to establish PSC reductions at the start of program implementation. It would be more appropriate to allow the program to be implemented and*

Advisory Panel

C4 Motion

June 2021

function for a few years and then evaluate the need for possible PSC reductions based on vessel performance under the LAPP.