

1 Appendix 4 – Community Fisheries Association: Stakeholder proposal for structure of Alternative 4, Option 1

Analysts' note: This material was provided by a stakeholder group, and has not been altered by NMFS, ADF&G, or Council staff.

Introduction:

This alternative presents an initial allocation process to apply if the Council proceeds with development of a LAPP program for the Gulf of Alaska Trawl Bycatch Management Program. In the North Pacific, the Council has over 20 years of direct experience with LAPP programs. The greatest challenge facing fishery managers and communities to date has been how to adequately protect communities and working fishermen from the effects of fisheries privatization, notably excessive consolidation and concentration of fishing privileges, crew job loss, rising entry costs, absentee ownership of quota and high leasing fees, and the flight of fishing rights and wealth from fishery dependent communities. Collectively, these impacts are altering and in some cases severing the connection between Alaska coastal communities and fisheries (see for example Reedy and Maschner 2014; Carothers 2010). For example, since the implementation of the halibut and sablefish IFQ program in 1995 the number of fishermen in small, rural Gulf of Alaska fishing communities holding quota in these fisheries has declined by 50 percent.¹ The Gulf of Alaska Trawl Bycatch Management Program represents an opportunity for policy innovation in the North Pacific to address community concerns through initial allocation of quota to a Community Fishing Association (CFA). A CFA allocation allows for a more equitable distribution of the benefits wrought from the public resource of our fisheries.

CFA Allocation – Need and Benefit in the Gulf of Alaska:

National Standard 8 requires that “[c]onservation and management measures shall . . . (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.”² CFAs provide the Council with an opportunity to fulfill National Standard 8’s dual mandate.

A CFA ensures sustained fishing community participation by providing an alternative point of access and viable entry opportunity to the fishery for fishing communities in Gulf of Alaska communities. This is particularly vital for new entrants, community-based fishermen, and current harvesters who may be small quota holders or lack the history needed to qualify for a viable quota allocation. A community allocation provides a clear mechanism to retain local access and protect coastal communities by bolstering locally based vessels and locally based ownership through affordable access to more quota.

The need for such a mechanism is supported by fisheries data. The current average age of CV owners in the GOA trawl fishery is 57 years and highlighting the need to ensure that clear and affordable entry opportunities are included in the initial program design. A new management structure which fails to

¹NOAA Fisheries Service, “Report on Holdings of Individual Fishing Quota (IFQ) by Residents of Selected Gulf of Alaska Fishing Communities 1995–2014,” November 2015, https://alaskafisheries.noaa.gov/sites/default/files/reports/ifq_community_holdings_95-14.pdf (accessed December 30, 2015).

² 16 U.S.C. 1851(8)

include a clear and affordable entry opportunity in the initial design will likely result in succession processes which exacerbate the loss of local fisheries access in Alaska. Coastal Alaska provides many bleak examples of fishery dependent communities experiencing drastic declines in levels of local fisheries participation, including local vessel ownership and locally held fishing rights, due in part to the high cost to entry. Kodiak City has fared better than many rural villages across the Gulf of Alaska in this regard, but still shows concerning signs of loss of local participation. Between 2000 and 2010, Kodiak experienced declines in locally held (CFEC) permits (1646 to 1279); halibut quota holders (304 to 224), active crew licenses (1263 to 884), and locally owned vessels (719 to 452).³The need for a carefully designed management program which addresses social and community concerns through initial design becomes more apparent and imperative when couched in the cumulative effects of other limited access and rights based management programs which have contributed to severe hardship and loss of local opportunity in Gulf of Alaska rural and fishery dependent communities (see for example Knapp 2006; Knapp and Lowe 2007; Carothers 2010, 2015).

A CFA also helps to reduce adverse economic impacts associated with LAPP programs. This includes impacts associated with initial allocation processes and especially the ‘transitional gains trap’ where the “value of the quota is a windfall conferred upon initial allocation recipients, and paid for by future generations who must purchase the privilege to harvest fish from these recipients” (Copes 1986:287). This also includes adverse economic impacts associated with lease prices of market driven transfers, which may rise beyond the means of many smaller and locally-based vessels (Pinkerton 2013).

The well-documented concentration of quota ownership and wealth, and related to this, declines in ownership of small quota holders around the globe, is a central concern for the GOA trawl fishery for two primary reasons: 1) the rise in corporate ownership of trawl vessels in the Central Gulf of Alaska since the most recent move toward privatization of the groundfish trawl fishery; and 2) the particular vulnerabilities of smaller trawl vessels and fishing communities in the Western Gulf of Alaska (Olson 2011; Stewart et al. 2006; Copes and Pálsson 2000; Reedy 2015). The Western Gulf in particular will be greatly impacted by shifts in the restructuring of harvesting and seafood processing opportunities in the region.

Overarching all of these concerns is the challenges the Council has faced when attempting to address or improve the shortcomings of catch share programs after implementation and money has changed hands through quota transfers and fishery investments. In practice, when quota is distributed and takes on a financial value upon which people make business decisions, it has proven extremely challenging to make subsequent changes to a catch share program (Copes and Pálsson 2000). An initial allocation to a CFA can protect and enhance the role of fisheries in GOA communities and regional economies and maximize opportunities to keep community-based fishing access and livelihoods viable into the future. It allows for flexibility and integration of social and community concerns into initial program design.

The CFA also provides an important nexus between the resource and the fishing community. A community with some “skin in the game” has a vested interest in resource conservation, management, and long term protections. Allocation of quota to the CFA also has an education component. Because a CFA

³ NOAA Community Profiles for North Pacific Fisheries – Alaska, November 2013. Available at: http://www.afsc.noaa.gov/REFM/Socioeconomics/Projects/communityprofiles/Regional_Kodiak_Island_Archipelago.pdf (accessed April 20, 2016).

would engage elected officials and others involved in the business of managing a community, it will force those community members to better understand fishery economics and resource dynamics. As a result, for individuals living in a CFA community, the fishing industry moves from being viewed as a “them” to being understood as an “us.” This important psychological shift to align individual community member’s interests with those of the fishing industry should not be underestimated and contributes to strengthening the fabric of the CFA community.

The proposal presented here represents a conceptual framework for this type of design feature. We expect that further details and options will be refined as the Council moves forward with developing a management program. Thank you for your consideration of this proposal.

Proposal:

ALTERNATIVE 4. Gulf of Alaska Trawl Bycatch Management Program (Alternative 2 and Alternative 3) with a Community Fisheries Association allocation or Adaptive Management Program. (*Options 1 and 2 are mutually exclusive.*)

Option 1. Community Fisheries Association (CFA)

The CFA program would distribute target species of Pacific cod and pollock, secondary species (to mirror Council’s allocation of species under Alternative 2, Element 3.b), and halibut and Chinook PSC quota to qualified applicants representing eligible Gulf communities, in order to provide benefits to communities. The intent of the CFA program is to mitigate the potential economic impacts and undesirable social costs of the GOA Trawl Bycatch Management Program on GOA communities with a historical dependence on groundfish. Further, it is the intent of the program to sustain current participation and access to groundfish fisheries by community-based vessels.

This provision would allocate the annual federal total allowable catch (TAC) for trawl target species and associated prohibited species catch (PSC) to a CFA, a non-profit entity described in more detail in below. The CFA would be established under the Fishing Communities provisions of the Magnuson Stevens Act (MSA)⁴, and would be required to comply with the provisions of that section. The CFA would determine how to distribute the annual harvest privileges according to criteria consistent with the goals and objectives, which will be approved by the Council and set in federal regulation. Annual reporting to the Council would be required. The intent of the CFA is to ensure that quota is anchored in GOA communities and that community concerns, including sustained community participation, entry opportunities, equitable crew compensation, bycatch reduction, among others are addressed in the initial program design. CFA quota would be anchored to GOA eligible communities as defined by the Council and would not be available for purchase by individuals or corporations.

Element 1. Allocate 5% - 15% of the fishing quota for all species allocated to CVs under the program to a Community Fishing Association established under §303A(c)(3) of the MSA. Quota allocated to the Community Fishing Association may not be sold.

⁴U.S.C. § 1853A(c)(3)

Element 2. Number of CFAs

Option 1. One GOA CFA

Suboption 1. The CFA will be a single Gulf-wide administrative entity with two divisions, one for the CG and one for the WG. Each division will establish their own contract terms and criteria for distributing quota.

Option 2. Two CFAs (one for the WG and one for the CG)

Element 3. Goals and objectives for a Community Fishing Association:

a. Council-established Goals and Objectives for the CFA (in regulation and/or the FMP):

1. Provide for the sustained (current and historical) participation of fishing communities (MSA National Standard 8).
2. Minimize adverse economic impacts on fishing communities (MSA National Standard 8).
3. Assist entry-level and small vessel owner-operators, captains and crew and fishing communities (MSA §303A(c)(5)(C)).
4. Incentivize additional bycatch savings beyond standard requirements by rewarding those willing to adopt additional measures to reduce bycatch with access to additional CFA quota.

b. The CFA may respond to several of the Council's established Goals and Objectives for the program (numbers refer to Council Goals and Objectives):

4. Authorize fair and equitable access privileges that take into consideration the value of assets and investments in the fishery and dependency on the fishery for harvesters, processors, and communities.
6. Promote community stability and minimize adverse economic impacts by limiting consolidation, providing employment and entry opportunities, and increasing the economic viability of the groundfish harvesters, processors, and support industries.
13. Minimize adverse impacts on sectors and areas not included in the program.
14. Promote active participation by owners of harvest vessels and fishing privileges.

c. Possible CFA goals and objectives adopted by the CFA within Council objectives:

- ~~1. Maintain the historical number of active trawl vessels home ported in CFA communities.~~
- ~~2. Maintain the historical number of active trawl skippers that are resident in CFA communities.~~
- ~~3. Maintain the historical number of GOA trawl vessel crewpersons that are resident in CFA communities.~~
- ~~4. Maintain the amount of quota owned and/or operated by CFA community residents.~~
5. 1. Maintain crew compensation **for CFA quota** at levels established prior to the rationalization program.
6. 2. Enable fishermen to transition into the GOA trawl fishery under the new management
7. 3. Facilitate gear conversion within provisions of main program.

Element 4. Communities eligible for participation via the CFA ^{SEP}

Eligible communities are Kodiak, Homer, Seward, Whittier, Valdez, Cordova, as well as communities within the Western Gulf, Central Gulf, or West Yakutat regulatory areas that meet the CQE eligibility criteria:

- ~~In order to be eligible for participation, a community must meet the following criteria:~~
- ~~— Adjacent to saltwater located within the Western, Central, or West Yakutat regulatory areas of the GOA coast of the North Pacific Ocean;~~
 - ~~— Population of less than 6,500 (based on 2000 census);~~
 - ~~— Consists of residents having any Gulf (WG, CG, WY) groundfish commercial permit and/or fishing or processing activity as documented by CFEC in the last ten years (2004-2014);~~
 - ~~— Have a high potential for economic and social impacts associated with a LAPP program on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery, or the potential for improving economic conditions in~~
 - ~~— remote coastal communities lacking resources to participate in harvesting or~~
 - ~~— processing activities in the fishery; and~~
 - ~~— Have submitted a community sustainability plan through the CFA.~~

Element 5. The CFA must provide community sustainability plan which includes: ^{SEP}

a. Description of board, governance structure: ^{SEP}

The administrative entity shall be comprised of a Board of Directors as follows:

Option 1. (applies to Element 2, Option 1 Suboption 1 or Option 2)

The Governor of the State of Alaska shall appoint the initial CFA Board of Directors from names submitted for each of the designated seats. Board members shall serve staggered 3 year terms. Thereafter, when a term expires, names to fill the expired term, by seat designation, shall be submitted to the CFA and will be selected by member communities on a one vote per community basis. ~~The Board of Directors will be selected via a nomination process in which each interest group submits nominations to the relevant borough government (Kodiak Island Borough for the Central Gulf and Aleutians East Borough for the Western Gulf). Board members will serve 4 year terms. The relevant borough assembly will then appoint a representative from the nominees in a public meeting. The Boards will be structured as follows:~~

Central Gulf (9 seats)

Kodiak Borough government (1 seat)

Kodiak City government (1 seat)

~~Kenai Borough government~~

Cook Inlet/Prince William Sound Non-CQE (1 seat)
At-large **CQE or non CQE community** seat (1 seat)
Trawl sector (1 seat)
Processors (1 seat)
Fixed gear sector (1 seat)
Crew-trawl or non-trawl (1 seat)
~~Rural~~**CQE Community Member** (1 seat)

Western Gulf (9 seats)

Aleutians East Borough (1seat)

City of King Cove (1 seat)

City of Sand Point (1 seat)

At-large community seat **King Cove** (1 seat)

At-large community seat Sand Point (1 seat)

Trawl sector (1 seat)

Processors (1 seat)

Fixed gear sector (1 seat)

Crew – **trawl or non-trawl** (1 seat)

Option 2. (Applies to Element 2, Option 1 without the suboption)

~~The Board of Directors will be selected via a nomination process in which each interest group submits nominations to the relevant city or borough government (crew will apply to the borough government within which they reside). Board members will serve 4-year terms. The relevant borough assembly will then appoint a representative from the nominees in a public meeting. The Board will be structured as follows:~~

~~Aleutians East Borough (3 reps)~~

~~Lake and Peninsula Borough (1 rep)~~

~~Kodiak Borough (2 reps)~~

~~Yakutat Borough (1 rep)~~

~~Kenai Borough (2 reps)~~

~~City of Kodiak (2 reps)~~

~~Crew (1 seat)~~

~~Trawl sector (1 seat)~~

The CFA will be governed by an Executive Committee with administrative and oversight responsibilities for the organization.

Option 1: (applies to Option 1 above)

~~The Board of Directors will vote on the Executive Committee, which consists of members from the Board of Directors for the Central and/or Western Gulf of Alaska regions~~

~~. Executive Committee members will serve [4] 3-year **staggered** terms. Executive Committee will consist of:~~

Kodiak Island Borough/City Government (1 seat)
Aleutians East Borough (1 seat)
Trawl sector (1 seat)
Fixed gear sector (1 seat)
Processor (1 seat)
Crew (1 seat)

~~Option 2: (applies to Option 2 above)~~

~~The Board of Directors will vote on the Executive Committee, which consists of members from the Board of Directors. Executive Committee members will serve 4 year terms. It will consist of:~~

~~Aleutians East Borough (1 rep)
Lake and Peninsula Borough (1 rep)
Kodiak Borough (1 rep)
Yakutat Borough (1 rep)
Kenai Borough (1 rep)
City of Kodiak (1 rep)
Trawl sector (1 seat)~~

b. Description of quota distribution process:

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

Eligibility to receive quota distribution on an annual basis will be tied to owning a qualified LLP/vessel or fishing that quota on a qualified LLP/vessel. (Option: A qualified LLP is defined as any GOA endorsed groundfish LLP.) The vessel must be active in the fishery (to be defined by CFA Board of Directors). The Board of Directors will develop specific scoring criteria to provide benchmarks and distribution relative to meeting the performance standards.

~~Quota may be distributed based on a combination of fishing history, code of conduct, GOA dependence, entry level needs and bycatch performance standards. For instance, quota distribution could be based 20% on history, 20% code of conduct (including but not limited to limits on lease rates, equitable crew compensation, community hire preference) 20% GOA dependence, 20% entry level needs, 20% bycatch performance.~~

Contract terms may include:

- Delivery/landing requirements based on historical delivery patterns.
- Membership in a co-op/risk pool and compliance with bycatch avoidance measures.

- Active participation in the fishery – either owner-onboard or significant ownership interest in a vessel.
- Crew share standards.
- Contract terms will be developed by the CFA in accordance with goals and objectives set out by the Council.

The CFA's lease rates:

Option 1: will be capped at a level which will cover administrative costs for the quota entity and will not exceed reasonable administrative costs as audited by NMFS (not to exceed 5-10%).

Option 2: will be managed by the CFA in accordance with the goals and objectives established by the Council and CFA Board of Directors through the Community Sustainability Plan.

~~To receive quota, harvesters must join a cooperative. Vessels must also comply with a set list of contract terms via a contract with the CFA. Contract terms will be phased in over the initial 2-year period to allow time for the fleet to adapt.~~

~~An appeal/redress mechanism will need to be established for community members to express disagreement with how the quota is being leased. This appeals process must include NMFS since the agency is charged with providing due process and fair, impartial hearings.~~

Processor Cooperatives. Vessels must be part of a cooperative to have access to quota distributions from the CFA. The co-op must be consistent with the harvester/processor structure required and defined by the Council for the fishery overall.

New Entrants. When a new entrant joins the fishery by purchasing a vessel or permit, they will be eligible to lease quota for primary, secondary and PSC species based on the distribution criteria established by the CFA.

Consolidation limits. Limit the amount of CFA quota that a lessee can use:

Option 1: 5-25% of the CFA's quota.

Processors would also be limited by a cap to ensure that all processing is not consolidated into too few processors in each area (Western and Central GOA).

Option 1: 10-30%

Use of Lease Proceeds by CFA.

Option 1. Use of lease proceeds is restricted to operational and administrative expenses

Option 2. Use of lease proceeds is restricted to investments that directly support community based fisheries and enhance entry level opportunities within eligible communities.

- c. Goals and objectives for the CFA, and explanation of how the CFA intends to meet those goals and objectives
- d. Description of how the CFA will meet the goals of sustaining community participation in the fishery, providing for new entry/inter-generational transfer, and encouraging active participation
- e. Description of how the plan will address the social and economic development needs of coastal communities

Element 6. Require an annual report **on or before January 31 as a public document** to the **Agency Council and communitie**

The purpose of the annual report is to provide programmatic information to enable NMFS and the Council to assess the CFA's performance regarding Council goals and objectives and adherence to the Community Sustainability Plan.

Element 7. CFA Cooperative Program Integration

- Annual quota allocated to the CFA may not be sold.
- The CFA will operate within the cooperative structure of the main program. Quota leased from the CFA must be utilized on a license and accessed through a cooperative, and is subject to that cooperatives' exit provisions.
- CFA quota will be subject to the same set of rules as other quota in the program such as bycatch management, observer coverage and monitoring, sector allocations, cooperative structure, and gear conversion.
- If selected by the Council, regionalization and port of landing requirements will apply to CFA quota (option: do not apply port of landing requirements).
- Quota leased from a CFA counts toward any vessel and ownership use caps.