

**D2 BSAI Pacific Cod Trawl Catcher Vessel Management
Council Motion
October 7, 2019**

The Council adopts the following revised purpose and need statement and alternatives, elements, and options for a preliminary review analysis. Deleted text is shown in strikethrough and added text is in bold.

Purpose and Need

*Over the last several years, total allowable catch for Pacific cod in the Bering Sea-Aleutian Islands has steadily decreased. ~~At the same time, the number of LLP licenses used by trawl CVs to participate in the BSAI non-CDQ trawl Pacific cod fishery has increased.~~ The pace of the BSAI Pacific cod trawl catcher vessel 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 (CVs, 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 management tools ~~a cooperative-based program~~ **a cooperative-based program** to improve the prosecution of the fishery, ~~including the development of a cooperative-based program,~~ with the intent of promoting safety and stability in the harvesting and processing sectors, increasing the value of the fishery, **providing for the sustained participation of fishery dependent communities, and insuring the sustainability and viability of the resource.***

Alternative 1. No action

Alternative 2. Implement a cooperative style limited access privilege program for the BSAI Pacific cod trawl catcher vessel sector.

Element 1. Cooperative Style Systems

Option 1: One cooperative will be formed for AFA vessels and one cooperative will be formed for non-AFA vessels.

Each eligible license will be eligible for one cooperative and must join that cooperative to participate in the Pacific cod cooperative fishery.

Cooperative requires membership of 80% of the eligible catch history for that cooperative.

Vessels and LLPs that do not join a cooperative would be eligible to fish in a limited access fishery. Harvest and PSC in the limited access fishery would be limited to the Pacific cod and halibut and crab PSC that would have been issued to cooperatives had the eligible LLPs joined a cooperative.

Supoption: Reduce halibut and crab PSC apportionment to the BSAI trawl CV limited access fishery by 25% to 40%.

Option 2: Voluntary harvester cooperatives with no minimum number of licenses required.

Holders of qualified LLPs must join a cooperative annually in association with a licensed processor (FFP) 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 holders or eligible catch history needed to form a cooperative.
No limitation on the number of cooperatives that may form.

Suboption: A minimum of three LLP license holders are needed to form a cooperative

Suboption (applicable to Options 1 and 2): inter-cooperative formation is allowed.

Element 2: Allocation to LLPs

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 is eligible to receive harvest shares.

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

Option 1: 2014 - 2019

Option 2: 2009 –2019

Option 3: 2004 –2019

Option 4: Allocations based on a blend of catch history and AFA sideboard history

Suboptions to credit catch history/sideboard at:

1. 50%/50%

2. 80%/20%

3. 20%/80%

Suboptions (applicable to Options 1 – 4):

1. Drop 1 Year

2. Drop 2 Years

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 1: divided equally between those licenses.

Option 2: assigned to an LLP by the owner of the vessel that made the catch.

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 will be that LLPs proportional share of the total qualifying Pacific cod history.

Staff should analyze distributional impacts of this option based on differential catch histories in the A and B season.

The C season allocation will remain 15 percent and remain a limited access fishery to any vessel with an eligible groundfish LLP 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) 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

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

Option 1: Status quo methodology

Suboption: Establish trawl CV Pacific cod halibut PSC apportionment based on historic use between the trawl CV sector and the AFA CP sector.

Option 2: Reduce halibut and crab PSC apportionment to BSAI trawl CV Pacific cod sector that would be harvested under a status quo methodology by 10% to 25%.

Element 4: Gulf of Alaska Sideboards

Option 1: AFA LLPs or CVs will be sideboarded as to all Gulf of Alaska (GOA) fishing activity, except for the CGOA Rockfish Program, based on their Gulf catch history during the BSAI Pacific cod qualifying period.

Option 2: AFA GOA-Exempt CVs will not be permitted to transfer their BSAI cod history on their respective LLP as a condition of continuing to benefit from its GOA exemption.

Suboption: AFA GOA Exempt CVs with LLPs of less than a threshold amount of qualifying BSAI cod history may transfer their BSAI cod history and continue to benefit from GOA exemption.

Option 3: Non-AFA LLPs would be sideboarded in the GOA (with the exception of the CGOA Rockfish Program) based on their GOA catch history during the qualifying years with the exception that those non-AFA CV with less than a threshold amount of qualifying BSAI cod history, which would be exempt from the sideboard limitation.

Suboption: Any eligible CV LLP that opts out of the BSAI Pacific cod program at implementation of the program will be exempt from GOA sideboards created by this program (one-time option).

Element 5: Processor and Community Provisions

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

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

5.3. Allocation of harvest shares to processors (option: only applicable to Bering Sea processors and eligible CPs if different AI shoreside protections are selected under element 6):

Onshore and offshore processors (Option: 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. *Additional restrictions on use of this quota must be developed through further analysis.*

Percent of harvest shares and PSC to be allocated to eligible processors:

- Option 1: 5%
- Option 2: 10%
- Option 3: 15%
- Option 4: 25%
- Option 5: 30%

Suboption: Harvest shares only

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

Element 6: Aleutian Islands Processor Provisions

Option 1: Require the cooperative(s) to reserve a set-aside for delivery to a shoreplant 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.

Suboption: The set-aside will be reduced by any amount Adak/Atka processors receive as a direct allocation of harvesting shares pursuant to this LAPP Program, regulation or legislation.

Option 2: In any year when the community of Adak 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 5.5% of the total BSAI trawl catcher vessel Pacific cod quota (prior to allocations based on harvesting or processing histories) (1,961 mt in 2019) shall be issued to the plant. In the event both communities issue a notice the allocation shall be divided equally between two plants.

Suboption: Allocations are transferrable between qualified entities.

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 eligible under this program. Quota shall be harvestable exclusively in the AI and any catch must be landed to the shore plant operated by the annual quota recipient (i.e., plant operator).

In the event any Aleutians community shore plant allocation is not fully harvested by March 21, that unharvested allocation will expire and an amount of annual quota equivalent to the unharvested portion will be reissued to cooperatives (holders of LLPs with BS and AI harvest history in proportion to their annual allocations).

Suboption: If the community of Adak and 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.

Element 7. Transferability

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

7.2. Allocations based on processing history are issued as separate permits. *To be analyzed: Use and transfer restrictions on processor cooperative shares if selected (e.g., options for restrictions on use on company-owned vessels, transferability restrictions).*

7.3. Annual allocations of Pacific cod and PSC 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

8.1. Harvester-issued cooperative shares: No person may hold or use more than ___ percent of the Pacific cod cooperative quota or PSC apportionment issued:

Option 1. using the individual and collective rule or

Option 2. using 10% ownership threshold or management and control for assigning quota to a holder's/entity's cap.

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

8.2. No vessel may harvest more than ___ percent of the annual Pacific cod cooperative quota or PSC apportionment issued in the fishery.

8.3. Processor-issued cooperative shares: No person may hold or use more than ___ percent of the Pacific cod cooperative quota or PSC apportionment:

Option 1. using the individual and collective rule or

Option 2. using 10% ownership threshold or management and control for assigning quota to a holder's/entity's cap.

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

8.4. No processing facility may process more than ___percent of the Pacific cod cooperative quota.

Suboption: Processing facilities over the cap are grandfathered.

Element 9. Cooperative Provisions

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

Cooperatives shall be formed by qualified LLPs with Pacific cod history. Each LLP is eligible to join one cooperative. A vessel assigned a qualified LLP is a member of that LLP's cooperative. A vessel may join a single cooperative.

Cooperatives are intended only to conduct and coordinate harvest activities of members and are not FCMA cooperatives.

Membership agreements will specify that processor affiliated members cannot participate in any price setting negotiations, except as permitted by antitrust laws.

Each cooperative will receive annual cooperative quota allocations of Pacific cod and apportionments of halibut and crab 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 halibut and crab PSC will be apportioned to cooperatives in proportion to their members' Pacific cod qualifying catch histories (and processing histories, if applicable).

Option: Maintain crab PSC limits at the sector level.

Element 10. Share duration

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

All vessels in the program will be in the full coverage program (100% observer or electronic monitoring coverage category) (if applicable). NMFS will develop monitoring and enforcement provisions necessary to track quota, harvest, and use caps. The Council authorizes NMFS to report weekly vessel-level bycatch information as authorized under MSA Sec 402(b)(2)(A).

Element 12. Reporting and Program Review

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

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

Pacific cod allocations associated with trawl CV license may be fished with pot gear. A pot endorsement is not necessary but the LLP license must have the appropriate area endorsement and will not affect sector allocations.