

## ADVISORY PANEL Motions and Rationale October 4-8, 2021 - Anchorage, AK

### C4 BSAI Pacific cod Trawl CV LAPP

The AP recommends the Council take final action on the BSAI Pacific Cod Trawl Catcher Vessel Cooperative Program at this meeting. There is sufficient analysis to determine the impacts of the various alternatives to all stakeholders. This motion works from the June Council motion with the “staff recommended changes to improve consistency to the language” (which begins on page 507 of the analysis):

- The strikethroughs and underlines are from the staff recommendations.
- **The bold language is the Council’s PPAs from June.**
- The AP Final Preferred Alternatives (FPA) are highlighted in yellow.
- The language that is written in blue are AP recommended language changes from Council’s June PPA. If the blue text is highlighted yellow it is included in today’s FPA recommendations. AP recommended changes that were not ultimately included in the FPA are indicated with blue text and ~~strikethrough~~.

#### Element 1. Cooperative Style System

##### **Voluntary harvester cooperatives.**

**Holders of qualified trawl catcher vessel (CV) License Limitation Program (LLP) licenses under Element 2 must join a cooperative annually in association with an eligible licensed processor (Federal Fisheries Permit (FFP) or Federal Processing Permit (FPP)) to harvest their trawl CV allocations of Pacific cod cooperative quota (CQ). Harvesters may change cooperatives and cooperative associations may change annually without penalty.**

**No limitation on the number of LLP license holders or eligible qualifying catch history (legal landings) needed to form a cooperative.**

**No limitation on the number of cooperatives that may form. Inter-cooperative formation is allowed.**

**Option: A minimum of three LLP licenses are needed to form a cooperative.**

#### Element 2: Initial Allocation to LLP Licenses

**Catch history to determine initial quota share (QS) allocations under this management action will not be considered beyond December 31, 2019.**

**2.1. Eligibility – Any LLP license assigned to a vessel that made qualifying catch history (legal landings) of targeted trawl CV catcher vessel BSAI Pacific cod during the qualifying years (or an LLP license as of December 31, 2019 assigned to an American Fisheries Act (AFA) trawl CV that had BSAI Pacific cod catch in 1997) and any transferable Aleutian Islands (AI) endorsement is eligible to receive QS harvest shares.**

Option: Establish a minimum threshold percentage range of 0.25%-1% by LLP holder for eligibility to receive QS harvest shares. Partial ownership of LLP licenses counts toward the minimum threshold

using the individual and collective rule. Does not apply to those 8 LLP licenses with a transferable AI endorsement.

**2.2. Harvester Allocations – Eligible LLP licenses must be assigned to a cooperative for the cooperative to receive annual Pacific cod CQ Cooperative Quota. The initial allocation of QS harvest shares will be made to eligible LLP licenses or transferable AI endorsements, with each LLP license’s or transferable AI endorsement’s QS harvest shares based on the Pacific cod qualifying catch history (legal landings) of targeted BSAI Pacific 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**

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**

<sup>2</sup>Suboption 2.2.2. Drop 2 Years

*Amendment<sup>2</sup> to make suboption 2.2.2 the FPA instead of 2.2.1 failed 9-10*

**2.3. For the initial allocation of QS harvest shares, qualifying catch history is attached to the LLP license at the time of harvest. If multiple LLP licenses authorized catch by a vessel, in the absence of an agreement provided by the LLP license holder at the time of application, qualifying catch history will be:**

Option 2.3.1: divided equally between those LLP licenses.

**Option 2.3.2: assigned to an LLP license by the owner of the vessel that made the catch.**

<sup>1</sup>Replace section 2.3 with the following:

~~2.3 — For the initial allocation of QS, qualifying catch history is attached to the LLP license at the time of harvest. If multiple licenses authorize catch by a vessel except that if multiple licenses were assigned to a vessel that authorized catch by a vessel in either the BS or AI, the qualifying catch history from either area will be assigned to any such LLP license in accordance with the terms of any written lease or sale agreement applicable to the license. In the absence of an written agreement, signed by both parties provided by the license holder at the time of application, history will be:~~

*Amendment<sup>1</sup> - to return 2.3 to original Council PPA language passed 10-9*

**2.4. Annual CQ cooperative quota will be issued to each cooperative license by NMFS based on the aggregate QS attached to LLP licenses that are assigned to the cooperative by the LLP license holder. QS allocations will not be designated for harvest in a management area (i.e., BS or AI) but may be harvested from either area.**

NMFS will issue CQ by season as a tool to ensure that the season limits are not exceeded and allow for seasonal limits to be effectively enforced:

- NMFS would issue CQ and rely on coop agreements to ensure the seasonal limits are not exceeded
- Rollovers from A to B season may occur
- Individual issuance of season CQ would limit the fleet's potential to fish their CQ entirely in one season

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

A and B season trawl CV Pacific cod sector allocations ~~TACs~~ (after deduction of the ICAs) will be allocated to cooperatives as CQ. Annual ~~CQ cooperative allocations~~ attributable to each LLP license will be that LLP license's proportional share of the total ~~QS qualifying Pacific cod history~~.

The C season trawl CV Pacific cod allocation will remain 15 percent and remain a limited access trawl CV fishery and will be available to any trawl CV 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 trawl CV sector apportionments (including A and B season ICAs and CQ remaining after June 10) that NMFS projects to go unused are subject to reallocation to other sectors under current reallocation rules.

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

2.7 The BSAI Pacific cod sideboard limit for AFA trawl CVs at 50 CFR 679.64(b)(3)(ii) is removed upon implementation of this program.

### Element 3. Prohibited Species Catch Limits

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

Option 3.1: Crab PSC limits 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. Halibut PSC limit will be based on historical use (using qualifying years selected under Element 2) between the trawl CV sector and the AFA catcher processor (CP) sector. Crab PSC limits will be based on the proportion of BSAI Pacific cod allocated to the trawl CV sector and the AFA CP sector.

Option 3.3: Reduce PSC limit to BSAI trawl CV Pacific cod sector.

<sup>4</sup>Suboption 3.3.1: Reduce halibut PSC limit by 10%; ~~15%~~; 25%; 35%, ~~the 3-year phase in does not apply to the halibut PSC reduction.~~

<sup>3</sup>Suboption 3.3.2: Reduce crab PSC limit by 10%; ~~15%~~; 25%; 35%; 45%, ~~the 3-year phase in does not apply to the crab PSC reduction.~~

Suboption 3.3.3: Phase in PSC limit reduction over 3 years. One-third of the total reduction is implemented each year.

**Option 3.4: If Element 2.5 is selected, establish separate C season halibut and crab PSC apportionments (5-15%) before applying PSC limit reductions for the PCTC program.**

*Option 3.5 The AP recommends that if the total PSC for the sector is exceeded by 150% by any combination of co-ops that all Co-ops are to stop in that area or zone.*

**Each cooperative will receive annual CQ allocations of Pacific cod and apportionments of PSC limits 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 limits will be apportioned to cooperatives in proportion to its initial their members' Pacific cod CQ apportionment qualifying catch histories (and processing histories, if applicable). PSC limits are transferable between cooperatives based on the same rules established for Pacific cod CQ.**

*Amendment<sup>3</sup> to select 35% for suboption 3.3.2 passed 11-8*

*Amendment<sup>4</sup> (as amended by Amendment<sup>5</sup>) to select 35% for suboption 3.3.1 passed 10-9*

*Amendment<sup>5</sup> to amend amendment 4 and strike "the 3-year phase in does not apply to the halibut PSC reduction" passed 14-5*

*Amendment<sup>6</sup> to add option 3.5 failed 9-10*

#### **Element 4: Gulf of Alaska (GOA) Sideboards**

**Option 4.1: All AFA non-GOA exempt CVs and AFA LLP licenses will be sideboarded (in aggregate for all GOA groundfish fishing activity and halibut PSC (on the annual amount of the total trawl halibut PSC limit)), except for vessels when participating in the CGOA Rockfish Program, based on their GOA catch history during the BSAI Pacific cod qualifying period.**

**Prohibit directed fishing in regulations for the GOA non-exempt AFA CVs and LLPs for Southeast Outside pollock, Western shallow-water flatfish, and both Central and Eastern deep-water flatfish, and Eastern Pacific Ocean perch.**

**Option 4.2: AFA GOA-Exempt and non-AFA CVs assigned to LLP licenses and under 60' LLP licenses with AI transferable endorsements that receive annual BSAI Pacific cod CQ will not be permitted to lease their BSAI Pacific cod CQ as a condition of benefiting from GOA sideboard exemption. If the vessel assigned to the qualified GOA exempt LLP license does not fish the GOA during the calendar year, except for the Central GOA Rockfish Program, the BSAI Pacific cod CQ generated by the LLP license can be leased that calendar year. Cooperatives will be required to monitor GOA AFA exempt and non-AFA 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 BSAI Pacific cod cooperative annual 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 Pacific cod history may lease their BSAI Pacific cod CQ history and benefit from the GOA sideboard exemption.**

#### **Element 5: Processor and Community Provisions**

**5.1 No closed class of processors; all processors with an eligible FPP or FFP are eligible to process BSAI Pacific cod CQ under this program (subject to eligibility requirements under BSAI FMP Amendment 120 to limit catcher processors CPs acting as motherships).**

**5.2 Limit (sideboard) on directed BSAI Pacific cod CQ 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.**

Option 5.2.1: Each eligible CP acting as a mothership may process up to the higher of  
1) <sup>7</sup>125% of the eligible CP's processing 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 CP ~~catcher processor~~ LLP eligible for the offshore sector of the target non-CDQ BSAI Pacific cod trawl CV fishery (as of December 31, 2019), not to exceed 125% of the eligible CP's processing history.

*Amendment 7 to add "125% of" passed 11-8*

Option 5.2.2: Each eligible CP acting as a mothership may process up to the eligible CP's processing history (percentage based on qualifying years selected in Element 2.2).

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:

1. An LLP license that is owned (in excess of 75%) directly or indirectly by the owner of a CP ~~catcher processors~~ LLP eligible for the offshore sector of the target non-CDQ BSAI Pacific cod fishery (as of December 31, 2019)
2. An LLP license in which a) 90% or b) 75% or more of the quota arising from the history of the LLP license qualifying for the non-CDQ BSAI trawl CV Pacific cod fishery was delivered offshore during the qualifying years selected in Element 2.2.

Only initial 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 sector 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.

**5.4 Allocation of harvest shares QS to processors (this option is only applicable to Bering Sea processors and eligible CPs if AI provisions are selected under element 6):**

**Onshore and offshore processors with an eligible FFP or FPP (subject to eligibility requirements under BSAI FMP Amendment 120 to limit CPs ~~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 QS ~~harvesting shares~~ based on each onshore processor's and offshore processor's processing history. To be used, the processor's CQ harvest shares would be transferred to the CV cooperative.**

**Option: A cooperative cannot assign a greater proportion of the CQ resulting from processor held QS ~~harvest shares allocated to a processor~~ to an LLP license owned by that processor for harvest by a vessel owned by that processor than the LLP license would have brought into the cooperative absent any processor held QS shares. The cooperative will monitor this provision and include reporting on ~~allocation and~~ harvest of CQ resulting from processor held QS shares in the BSAI Pacific cod cooperative annual report.**

**Percent of QS ~~harvest shares~~ to be allocated to eligible processors:**

- Option 5.4.1: 5%
- Option 5.4.2: 10%
- Option 5.4.3: 15%
- Option 5.4.4: 20%

Option 5.4.5: 22.5%

Option 5.4.6: 25%

Option 5.4.7: 30%

Processing history years to receive QS harvest shares are the same as harvester years in Element 2. Processors that are no longer active (no longer hold an FPP) would not be issued QS harvester shares. The processing history associated with those processors would be deducted from the total amount of eligible processing history during the qualifying years when calculating the distribution of QS harvester shares to processors.

### Element 6: Aleutian Islands Processor Provisions

Options 6.1 and 6.2 are mutually exclusive.

Under this element:

An Aleutian Islands (AI) shoreplant is defined consistently with vacated Amendment 113 regulations.

An AI shoreplant operating under the provisions of this element is exempt from the processing facility use cap in element 8.4.

All cooperatives will be required to establish an intercooperative agreement that describes how <sup>11</sup>either the set-aside provision in option 6.1 <sup>11</sup> or the annual AI community shoreplant QS allocations in option 6.2 will be administered by the cooperatives to ensure that harvests in the Bering Sea BSAI do not exceed the minimum set aside or shoreplant allocation amounts. This intercooperative agreement should establish how the cooperatives intend to harvest the set-aside <sup>11</sup> or shoreplant allocation amounts QS in years when it applies. This intercooperative agreement must be provided as part of the annual cooperative application and is required before NMFS can issue CQ.

*Amendment <sup>8</sup> to add "BSAI" failed 9-9*

*Amendment <sup>11</sup> to remove reference to 6.2 language from the FPA passed 18-0 with 2 abstentions*

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 an Aleutian Islands shoreplant. The amount of the set-aside will be 10% to 25% of the BSAI CV trawl directed A season CQ harvest amount and is in effect only during the A and B season. Any remaining portion of the set-aside will be reallocated to cooperatives in the same proportion as the initial CQ allocation QS if Adak and/or Atka withdraws its intent to operate notice <sup>9</sup> [during the A season], or after the end of the A season, whichever comes first.

*Amendment <sup>9</sup> to remove bracketed language from the FPA passed 10-8*

The intercooperative agreement must establish how cooperatives would ensure that CVs < 60 feet LOA assigned to an LLP license with a transferable AI trawl endorsement have the opportunity to harvest a percentage of the Aleutian Islands set-aside for delivery to an AI shoreplant. Option 1: 50%, option 2: 25%, or option 3: 10% of the A season Aleutian Islands community set-aside.

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

Annual AI community shoreplant allocations shall be transferable ~~\*\*only in the event of an emergency in-season closure of the AI shoreplant~~ 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. CQ shall be harvestable exclusively in the AI and landed in the AI management region. ~~\*\*In-season transfers due to plant closures will only be allowed in 2 of every 5 years.~~

*Amendment<sup>10</sup> passed 9-7 with 2 abstained  
The vote to rescind amendment 10 passed 12-7*

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

Suboption 6.2.3: AI trawl ~~CVs vessels~~ less than 60' assigned to an LLP license with a transferable AI endorsement will be eligible under the program to be assigned to a cooperative annually in association with the Adak and/or Atka plant regardless of whether they otherwise qualify for the program. Option 1: 50%, option 2: 25%, or option 3: 10% of the Annual Aleutian Islands community shoreplant allocation must be harvested by these vessels.

## **Element 7. Transferability**

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

**<sup>12</sup>Suboption 7.1.1: For the LLPs licenses associated with the non-exempt AFA vessels, within ninety (90) days of initial issuance of QS harvest quota shares, the owners of the LLP licenses that are associated with AFA non-exempt CVs catcher vessels that had engaged in fish transfer agreements during the qualifying periods may transfer the QS between other LLP licenses associated with AFA non-exempt vessels. After these transfers are approved by NMFS, the BSAI Pacific cod QS harvest quota share will no longer be severable from the LLP license to which it was reassigned.**

**A dispute resolution process <sup>13</sup>~~should~~ shall be developed and implemented which may exempt transfers from the 90-day deadline.**

*Amendment<sup>12</sup> to remove suboption 7.1.1 and the new language from the Council's PPA failed 4-16  
Amendment<sup>13</sup> passed 19-0*

**7.2. QS 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 QS 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 QS history over the cap is**

allowed to be severed from the permit and transferred to another eligible processor permit or shoreside processor that holds an FPP.

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

7.4. Post-delivery transfers of CQ are permitted, but must be completed by December 31<sup>st</sup> (i.e. prior to annual CQ expiring).

## Element 8: Ownership and Use Caps

8.1 ~~Harvester-issued QS cooperative shares. Processor-issued QS cooperative shares do not count toward this use cap. No person may hold or use more than option: 5%- 10% of the Pacific cod QS CQ 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 QS quota to a holder's/entity's cap.

**Suboption 8.1: Persons over the cap at the time of QS quota share issuance are grandfathered.**

8.2 No vessel may harvest more than option: 3%; 4%; 5% of the annual Pacific cod CQ issued in the fishery.

**Option 8.2.1: Vessels over the cap at the time of QS quota share issuance are grandfathered.**

8.3 ~~Processor-issued QS cooperative shares: No person may hold or use more than option: 15% - 20% of the Pacific cod QS CQ:~~

**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 QS quota share issuance are grandfathered.**

8.4 No processing company facility may process more than 20%-30% of the Pacific cod CQ.

**Option 8.4.1: Processing facilities over the cap at the time of QS issuance are grandfathered.**

## Element 9. Cooperative Provisions

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

Cooperatives shall be formed by holders of qualified LLP licenses with trawl CV Pacific cod QS. Each LLP license may be assigned to one cooperative. A list of CVs (both trawl and pot gear vessels, if Element 14 is selected) eligible to harvest a portion of that cooperative's CQ must be identified in the annual cooperative application.

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

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

#### Element 10. Share duration

All ~~QS 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 ~~QS harvest shares~~ and associated PSC limit apportionments is 10 years. These permits will be renewed before their expiration, unless revoked, limited, or modified.

#### Element 11. Monitoring

All vessels harvesting CQ will be in full coverage (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 or the current observer data transmission requirements for non-AFA trawl ~~CVs catcher vessels~~. 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 ~~PSC bycatch~~ information as authorized under Magnuson-Stevens Act (MSA) Sec 402(b)(2)(A).

#### Element 12. Reporting and Program Review

Each cooperative shall annually produce a report for the Council describing its membership, cooperative management, and performance in the preceding year including use of CQ derived from processor issued QS, if applicable.

Per the MSA, 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 <sup>14</sup>Conversion Flexibility

Pacific cod CQ associated with trawl CV LLP licenses may be fished annually by a CV using pot gear. A pot endorsement is not required, but the LLP license used by a CV must have the appropriate area endorsement. Harvest would be deducted from the annual trawl CQ account to which the LLP license is assigned and will not affect sector allocations. ~~CQ cooperative quota~~ harvested by a pot CV is not permanently designated as pot CV CQ quota. If Option 2.5 is selected, gear <sup>14</sup>conversion flexibility only applies to the A and B seasons based on the start and end dates for the trawl fishery. Pot CVs harvesting CQ would be subject to 100% coverage and PSC use would be deducted from the PSC limit allocated to the cooperative. NMFS will develop monitoring and enforcement provisions necessary to track quota, harvest, PSC, and use caps.

<sup>14</sup>Three years after implementation, the Council will review the gear flexibility aspect of the PCTC program and implement any changes needed to help achieve program objectives.

<sup>14</sup>The Gear Conversion Element will be dropped from the regulatory package and addressed through a subsequent motion recommending an Exempted Fishing Permit (EFP) process focused on gear flexibility and intended to begin concurrently with the PCTC program in 2023.

Amendment <sup>14</sup> passed 11-9

Main Motion as Amended passed 13-7

#### Rationale in Favor of Amendment 1

- *The proposed language change under Element 2.3 differs enough from the original that it rises to the level of needing analysis since it creates a situation not anticipated in the current analysis. The suggested change would certainly result in lost catch history for the offshore processing platform that doesn't operate catcher vessels, but because the suggested change has not been contemplated before now, it is difficult to understand what the full range of potential effects/impacts may be at time of final action.*
- *This program is an LLP based program, not a vessel based program as would result from the suggested change. This suggested change was previously proposed and not picked up by the Council for analysis.*
- *The catch associated with the LLP was earned in the Aleutian Islands, using an AI permit whereas the suggested change would assign catch history to an LLP not authorized to fish in the AI. This would also exacerbate the problem of the Bering Sea reaching its cod allocation early in the year since the LLP can only be used in the Bering Sea and the history is from operating in the Aleutian Islands.*

#### Rationale in Opposition of Amendment 1

- *It is important to support allowing a vessel that made cod landings using stacked LLPs to determine where the quota will be assigned under this program. While it is recognized that the proposed change will specifically help one business, it is understood that the majority of the affected LLP holders support this approach. The proposed language change is further warranted given the possibility that the offshore processing company could be sold, leaving the fate of the LLP licenses (and the vessel that made the cod landings with those LLPs) unknown.*
- *The consequences for the harvesting vessel that would lose access to the quota that underpins their operation as the fishery moves from open access to a catch share would be extremely detrimental. Active participation in the fishery should be recognized over passive LLP ownership.*

#### Rationale in Opposition to Amendment 2

- *The inclusion of a drop year is a generally adopted component of the majority of catch share programs undertaken in this region. Not including at least one drop year punishes those year-in and year-out participants who found themselves on either the receiving end of something outside their control or who made a conscientious decision to not fish in order to undertake improvements for vessel safety. The inclusion of one drop year is a compromise. Dropping two years begins to transfer quota from those vessels that have been in the fishery year in and year out to those vessels who may not be as dependent on the fishery.*
- *The lack of a minimum threshold and the 11 year range for establishing quota, is a compromise that already benefits vessels with only sporadic history in the fishery.*

Rationale in Favor of Amendment 2

- *Under the GOA Rockfish Program, the Council chose to drop two years out of a range of seven. Dropping two years under this program would be consistent with the Rockfish Program and would treat participants fairly across regions and programs. It would also be consistent with the west coast that dropped two years for the whiting program and three years for the non-whiting program.*
- *Public testimony received at the June and October meetings requested a two year drop option.*
- *Past catch share programs have not considered an 11 year range of years for the basis of establishing quota, the long period justifies two drop years.*

Rationale in Favor of Amendment 3 (Crab PSC)

- *With 100% monitoring and all crab bycatch counting towards the trawl PSC limit under this cooperative program, there will be strong incentives to keep crab bycatch low thus supporting a 35% reduction to the PSC limit.*
- *Important work outside of the proposed cod trawl catch share program will further address crab bycatch issues and habitat protections/closed areas for all gears/sectors. This includes the BREP grant work on gear design to reduce crab bycatch in cod pots, the results of which look promising (see February 2021 Council report).*
- *While there is a clear conservation concern for crab stocks, pot cod boats operating under a future cooperative program will be able to effectively manage bycatch. References to bycatch rates in the  $\geq 60'$  Pot Cod CV sector are not relevant in the context of discussions regarding this cooperative program, as that sector is in a race for fish and does not have the tools to address bycatch rates at this time. The NMFS bycatch reports show approximately 27 crab encountered by the trawl sector in Zone 1 and approximately 235,000 crab encountered by the directed  $\geq 60'$  Pot Cod CV sector. It is difficult to reconcile these reports given the differences in observer coverage rates between sectors, the huge discrepancy between the two sectors bycatch reports, and information received from fishermen on the grounds.*

Rationale in Opposition to Amendment 3

- *In general, trawl CVs harvesting cod do not take a significant number of red king crab (less than 50 animals per year); however, in recognition of the recent status of red king crab and other crab stocks, a reasonable reduction to crab PSC limits is warranted for conservation purposes. But it is important for this reduction to be balanced with the needs of the fleet when prosecuting the fishery. Further, beyond the scope of this action, it will be important to look at all sources of crab bycatch mortality (direct and indirect) in order for the Council to best address the severe declines in BSAI crab stocks.*
- *A PSC reduction that results in approximately 500 red king crab being apportioned down to the cooperative level is unreasonable and unworkable. By the time this number of animals are divided out to each cooperative, a single tow could force the members of the cooperative to move from relatively clean cod fishing to areas with scratchier fish and higher incidence of halibut bycatch (as detailed in the analysis).*
- *The cooperative structure will provide the tools, incentives, and deterrents for minimizing crab catch; however, the potential for such a small PSC amount will have direct vessel level effects that would erode many of these positive coop benefits. Further, constraints would not be limited to just the vessels but would also negatively impact processors and communities.*

- *Lower crab limits are already going to be triggered by the condition of the stock, a further reduction beyond the PPA creates the possibility of shutting down co-ops.*

#### Rationale in Favor of Amendment 4 (Halibut PSC)

- *A 35% reduction is a reasonable and expected outcome of the catch share program and is consistent with one of the objectives in the purpose and need statement for minimizing bycatch to the extent practicable. There is ample information in the analysis to support this recommendation while balancing the other suite of objectives identified in the purpose and need statement.*
- *Table 2-105 captures the success of the voluntary catch share program organized by the fleet in 2021. In 2020 the trawl fleet prosecuted the A and B seasons using 140 mt and in 2021 the fleet used 50mt. The achievements made in 2020 and in 2021, when the fleet opted for a voluntary stand-down due to high PSC encounters in 2020 and subsequently initiated a mid-February start date in 2021, capture the PSC savings in a manner consistent with what we would expect from a comprehensive program that reduces the race for fish.*
- *Under this program, it is assumed that the fleet will continue the practice of beginning fishing later, when the cod are aggregated and PSC rates are less; that the fleet will stand down when PSC rates are high; and that the processors and harvesters will work together as they have throughout a global pandemic to get all the cod out of the water while minimizing bycatch. It is reasonable to expect to see the 2020-21 average rate of 3.85 kg per metric ton of halibut continue.*
- *While a low TAC is described as a contributing factor to reduced PSC during the voluntary coop, when the encounter rate is considered in the context of the suite of years analyzed (2004 to 2020), the fleet would not have been restrained in any years that a 3.85 rate was applied to the cod catch. The final allocations to the CV trawl sector found in Table 2-5 of the analysis captures the high and low cod TACs and allocations over the time period. Looking at the highest allocation in 2012, the projected PSC use for the 46,373 mt of cod would be 179 mt of PSC or 72% of the 35% reduction. This amount leaves plenty of buffer room in PSC for the trawl sector and is consistent with what we would expect to see in this program.*
- *While the analysis concludes that a 35% reduction would be insufficient to allow for full sector harvest in some years, it appears to overestimate PSC usage based on PSC rates from when the sector was racing for fish. 2020 and 2021 serve as examples of what is achievable under cooperative fishing practices and are more representative of PSC rates likely to occur going forward. Allowing for headroom of halibut PSC with a reduction of less than 35%, which would provide for PSC rates experienced before the fleet operates under a catch share, is not a proper course of action. If the rates are high the fleet should stand down; therefore, it is reasonable for use rights to have constraints.*
- *A 35% reduction in halibut PSC adheres to National Standard 9 for minimizing bycatch to the extent practicable. The Council has pursued rationalized fisheries to help reduce bycatch and waste of other species that are important to Alaska coastal communities and this is supported in written and oral testimony. A meaningful reduction helps ensure that Pacific halibut stocks are equitably utilized among user groups, and conservation is borne by all sectors.*

#### Rationale in Opposition to Amendment 4

- *The analysis shows the successful job the trawl CVs have done over the last decade to reduce their interactions with halibut, which has resulted in halibut bycatch reductions over 68%*

*between 2012 and 2020 numbers. With the focus that has been placed on performance in 2020 and 2021, it is important to note that: 1) the fleet did not operate under a voluntary catch share in 2020 but instead stood down at the beginning of the season and 2) the low halibut catch was due primarily to what the encounter rates happened to be at that time relative to both halibut and cod abundance on the fishing grounds. A 15% halibut PSC reduction is reasonable and will result in meaningful reductions that are not unworkable.*

- *PSC limits are not targets. Instead, they are ceilings which allow fishermen to use the various tools available to them to stay way under the ceiling. The cooperative structure under this program will provide the tools, incentives, and deterrents for minimizing halibut catch (reducing halibut catch to the extent practicable will take place under the coop structure); however, halibut rates may look different year to year based on what the ocean is giving you, especially if the cod and/or halibut stock increase in the future. As such, it is important to keep in mind that the lower a PSC limit is, the more a race for bycatch is created, which is in conflict with the purpose and need for this action as well as National Standard 9. Unnecessarily ratcheting down halibut PSC will cause inefficiencies, constraints, and inflexibility, particularly in years that aren't as optimal as 2021.*
- *The directed halibut users will benefit from the reduced use of halibut because the IPHC manages based on what's actually taken and not on a cap.*
- *The cooperative structure in this program is likely going to allow for much larger reductions to halibut PSC than the range of alternatives being analyzed, which will translate into benefits back to the resource and directed users. However, there are valid concerns regarding the impact that an overly constraining PSC level could have on compressing the fishery and compromising other objectives of the program. These concerns justify some room for flexibility in the introductory years of the program. The Council's original PPA, which selected a 25% reduction, strikes a better compromise and will give the program some room to mature; further reductions in the future may be reassessed with an increased understanding of how the program is going to work.*

#### Rationale in Support of Amendment 5

- *This amendment is intended to retain a phase in approach and allow for some flexibility in consideration of a higher PSC reduction.*

#### Rationale in Opposition to Amendment 6

- *This option is unanalyzed at the time of final action and its impacts are not understood.*
- *On its surface, without the benefit of a full analysis, it appears that this option would result in penalties to other vessels/coops based on the actions of others, which goes against the intent of assigning PSC to the cooperative level.*

#### Rationale in Favor of Amendment 6

- *This amendment is intended to correct the accounting of crab PSC in the trawl fishery. Currently, there is the potential for each cooperative to exceed their PSC limit without affecting the other cooperatives. While the scenario proposed (exceeding 150% of limit) is extremely unlikely given the success coops have at managing their catch and PSC, this proposed option provides a backstop and true hard cap for the sector as whole.*

#### Rationale in Favor of Amendment 7

- *Using only a 2009-2019 average processing history to determine a cap on the two smallest processors will harm both businesses, because it makes it impossible to achieve the higher*

*years that occurred during the 11 year range that are needed to help a business offset the low production years that happen. The years where a processing company does above average production are crucial for their stability, a strict average makes that impossible. Even a cap of 125% will prevent catcher processors from being able to process the way they did in many years. Allowing both catcher processors to at least process up to 125% of the average during the time period provides some flexibility under what will already be a very constraining cap that is unique to the smallest processors that operate offshore.*

- *The analysis does not provide information supporting different sideboard limits for the two offshore processors, and for treating them differently from the floater motherships and shoreside processors. No other processors are getting restrictions on the amount of cod that could be processed that limits them to an average over 11 years. Community protections are going to be achieved by reserving QS for Adak and substantial harvest shares going to processors.*

#### *Rationale in Opposition to Amendment 7*

- *Allowing the catcher processor company that didn't make investments in catcher vessels to also access up to 125% of their processing history will marginally increase the amount of cod that may be processed offshore relative to what the Council was considering under only suboption 5.2.1. The Council consistently recognizes that investments in the fishery can be different, justifying different outcomes within a catch share program based on those investments.*

#### *Rationale in Opposition to Amendment 8*

- *The restriction under Element 6 needs to be on harvesting in the Bering Sea in order to preserve the opportunity for harvesting in the Aleutian Islands. The issue Option 6.1 is trying to address relates to vessels choosing to harvest all their quota in the Bering Sea and amending the language to include the Aleutian Islands would make this option not work as intended.*

#### *Rationale in Favor of Amendment 8*

- *The addition of language to include the Aleutian Islands (and not just Bering Sea) was intended to address the unrestricted DFA in the AI and clear up an oversight.*

#### *Rationale in Favor of Amendment 9*

- *Removing this language is consistent with the main motion's intent to add the B season to the time period that the set-aside is reserved for.*

#### *Rationale in Favor of Amendment 10*

- *The suggested language was intended to address some of the primary concerns under the original language in Option 6.2 that could potentially allow for a scenario where an entity issued CQ could lease without limitations, after an intent to process was submitted. If a different FPA were selected by the Council, including restrictions on leasing would be important to ensure that benefits were directed to AI communities, consistent with the purpose of the program.*

#### *Rationale in Opposition to Amendment 10*

- *Option 6.2 is not included as a component of the FPA proposed under this motion. In order to make any amendments to the language contained within this option, it would first have to become part of the FPA.*

Minority Report on Rescindment of Amendment 10

- *A minority of the AP believes that changes contained in Amendment 10 are warranted and appropriate. This amendment is responsive to public comment and stakeholder concerns. It also provides the Council with guidance should they want to select Option 6.2 as their FPA.*

*Signed by Julie Kavanaugh, Marissa Wilson, and Mellisa Johnson*

Amendment 11

- *The exclusion of this language is meant to clarify intent that the FPA incorporates only Option 6.1.*

Rationale in Opposition of Amendment 12

- *Including a dispute resolution is necessary given the lack of a “blend” option under Element 2 (Option 7.1 is responsive to the needs of proponents of the blend option to some degree). This option is expected to minimize consolidation and actually expand the number of participants given the lack of the blend option.*
- *There is not a significant concern about gaming the system under this option and expanding this option beyond non-exempt AFA vessels would be disruptive.*
- *Ample public comment has been received supporting this suboption including from CDQ organizations.*

Rationale in Favor of Amendment 12

- *This suboption, which allows a 90-day transfer period for AFA non-exempt CVs, has no data to analyze its effect on the program’s overall consolidation (there is no link to any leasing contracts and there is only one mechanism under Element 8 that caps QS holdings but does not constrain transfers in any other way). Presently there are 92 LLPs that could transfer quota while 15 non-AFA LLPs and 10 AFA-cod exempt LLPs are not allowed to participate. There is no clear understanding of the impacts due to confidentiality constraints.*

Rationale in Favor of Amendment 13

- *This amendment is intended to clarify that a dispute resolution needs to be part of the program and to remove ambiguity associated with the word ‘should’.*

Rationale in Favor of Amendment 14

- *Voluntary gear flexibility through Element 14 meets the purpose and need statement and provides flexibility in a changing ocean climate. Fishery management programs with adaptive harvest ability provide needed flexibility as ocean conditions change. Management systems that codify gear types do not allow for innovation and adaptive management in the face of significant changes in the BSAI ecosystem. This provision is a tool for added flexibility, bycatch management, and habitat protection that provides the option, not requirement, to use pots gear.*
- *Under a catch share program, participants need flexibility built in upfront to give the fleet the best chance to succeed. In addition to meeting the objectives of the purpose and need statement, gear flexibility will allow stakeholders and historical participants the efficiency and flexibility to utilize quota in a way that could help keep them stay afloat during times of super-low cod abundance. CQ holders will need every tool in the toolbox to extract the most profit when TACs are low. With gear flexibility, a coop vessel could keep fishing pollock while a*

*pot boat on the grounds can target cod thereby improving operational efficiencies and the bottom line.*

- *In addition to the largest benefit, operational efficiency, gear flexibility provides the potential to increase product value, reduce habitat impacts and reduce halibut, salmon, and opilio bycatch.*
- *To address the concern that pot boats harvesting CQ will increase the sector's BBRKC PSC take it is important to keep in mind that trawl cod CQ holders will not sabotage themselves and risk leaving quota in the water. CQ holders need to extract every pound in low quota years to survive. One of the program goals is to reduce the sector's PSC take and pots can help accomplish this. Under this program, the coops will never have to race for fish again and PSC will be reduced both in pots and trawl.*
- *CQ holders will create coops and all coop rules necessary to prosecute the fishery successfully and fully on an annual basis. At implementation, coops will have the ability/tools to close areas of concern to one or both gear types under this program for the protection of BBRKC and other PSC species.*
- *The EFP proposal is a last-minute addition to the process and has not been vetted by the SSC or AP. The EFP process is lengthy, involves NOAA, AFSC, and others, and the NEPA and ESA processes. It also requires significant human resources, a test vessel, and a lot of money. Then the Council would need to recognize an issue within the CV trawl cod sector to get gear flexibility back on the agenda, then start the EA/RIR process, which could take years. In addition, the Council's schedule will be full over the next several years as ocean conditions and stock dynamics are changing. As a trailing amendment, gear flexibility is unlikely to move forward expeditiously.*
- *Many of the questions posed as a reason for an EFP have already been answered. It is understood how pots interact with trawl gear (these gear groups have worked around each other for decades), how pots perform with PSC species, and EM is already being tested on cod boats in the BSAI. An EFP cannot test for the number of CQ holders that may use pots to harvest CQ, nor can it test for improved operational efficiencies.*
- *Testing of pot gear and modifications is already underway for king crab avoidance. The study was conducted by highly respected scientists and members of the industry. The lab results are in and show the possible reduction of crab bycatch by 90%, and the preliminary field tests are so far bearing that out.*
- *The three-year review of gear conversion should alleviate implementation concerns. The actual implementation and use of this provision plus a thorough review is a more realistic way to answer questions than a proposed EFP. Implementation will allow pot gear to be in the water for those who wish to use it, to develop the functionality of the gear flexibility option. A review of actual fishing results in three years will serve to inform the Council and allow them to determine if change is needed.*
- *Trawl stakeholders have expressed interest in gear flexibility.*

#### *Rationale in Opposition of Amendment 14*

- *Gear flexibility is supported as a concept and could be a beneficial component for the future management of the cod resource; however, the trawl CV sector has expressed significant concerns revolving around the uncertainty and potential disruption of cooperative formation and function, which will be exacerbated by the inclusion of pot gear at the time of implementation. Emphasis should be placed on the development of a stable and*

*well-functioning trawl CV cod fishery program before considering options to include other sectors into the program.*

- *With concerns surrounding coop formation and function, implementation of the gear flexibility at the outset of the trawl CV cod LAPP is unpopular with the majority of trawl participants. A more appropriate approach to vetting, understanding, and informing this provision is through an EFP to test the use of pot gear for harvesting trawl CV cod quota (concurrent with the implementation of the program). An EFP can explore a variety of items including level of interest, gear interactions, PSC impacts, data timeliness/quality, and economics for both harvesters and processors. An EFP would not be about testing an already legal gear type, but would instead be about understanding the potential positive and negative impacts of transferring one sector's quota to another sector for harvest. While coops do have some ability to control vessel behavior, a cooperative is not going to put itself at a disadvantage under regulations (e.g., coops won't send vessels to areas cod CPUE is low in order to test crab bycatch levels). An EFP provides participants with incentives for "testing" by removing regulations and allowing for scenarios that would otherwise put vessels at a disadvantage when compared to non-EFP participants. EFPs also provide participants with direct input and a level of control over the shape of future regulations via their direct involvement and cooperation with regulators that occurs throughout the EFP process. The majority of trawl cod fishery participants support the EFP approach. And while the EFP process would result in some delay in the use of the gear flexibility provision, it will allow stakeholder and Council to be better informed by answering outstanding questions/uncertainties.*
- *With the high level of uncertainty and concerns for increased crab bycatch with pot gear, this element is contrary to the purpose and need for minimizing bycatch to the extent practicable. The analysis is clear in several places that crab bycatch will increase under a gear flexibility option and NMFS data (January through September 2021) shows that approximately 230,000 red king crab have been taken in the pot cod sector. Given the current status of crab stocks, a holistic examination of and approach to reducing crab bycatch in all sectors is necessary moving forward.*
- *While ongoing crab bycatch reduction research is reported to be showing excellent results, there is nothing published about the study design, results, collaboration with NMFS/AFSC, etc. for interested stakeholders to read and gain a better understanding. It is also important to keep in mind that while gear modification results look promising, they could ultimately result in a determination that modifications do not work as anticipated resulting in no change to the pot gear being used under this provision.*

#### *Rationale in Favor of Amended Main Motion*

- *All aspects of the proposed PCTC program have been thoroughly analyzed and sufficient information is available for decision-making at final action.*
- *This package was developed with broad public input and complete transparency and includes many components structured to mitigate negative impacts to non-participants in the trawl cod CV fishery while recognizing harvesters, Bering Sea and Aleutian Islands processors, and coastal communities. Many key areas of this program reflect compromises made by stakeholders over a multi-year process with plentiful opportunities for public input. Through this balanced approach, the resulting program will meet all of the MSA National Standards including NS 10. The trawl cod CV fishery is a dangerous fishery that has been made more treacherous with shorter and shorter seasons and a race for fish that puts vessels and crews in*

*perilous positions often exacerbated by poor weather. While a rationalized fishery does not prevent all tragedies from occurring, there is ample evidence that rationalized fisheries dramatically improve safety.*

- *Under Element 1 it is most appropriate to require a minimum of 3 trawl CV LLPs to form a cooperative. While in reality it is unlikely there will be a coop of one, without including a minimum number of LLPs this possibility could happen and it takes at least two entities to reap the benefits of cooperative behavior.*
- *Under Element 2 the qualifying period of 2009-2019 recognizes both historic and recent participation throughout this 11-year window period. The Element now includes NMFS' request (language presented during staff presentation) to issue quota seasonally to the A & B season and this is a provision that coop managers can accommodate. Finally, to be responsive to non-trawl CV participants who take advantage of rollovers of trawl cod later in the year, C season shall remain unallocated and managed as a limited access fishery.*
- *The recommendations under Element 4 will protect Gulf fisheries without punishing those who may be included in the cod program and were designed with direct input from Gulf boats and holds harmless vessels that may have participated in the BSAI cod fishery but who will not be receiving an initial allocation of cod. At the June meeting the Council clarified that sideboard reductions would apply to groundfish only, and not to halibut PSC. The analysis is proposing an annual halibut limit versus one by fishery complex and season. An annual limit provides greater flexibility for AFA Non-Exempt vessels fishing GOA ground, as noted on page 231. The under 60' LLP licenses with AI transferable endorsements are presently exempt from any sideboard limits in the GOA even though they will receive BSAI Pacific cod CQ. The proposed modification treats these LLPs the same as all other highly dependent GOA LLPs that will receive BSAI Pacific cod CQ. The leasing provision needs to be balanced where vessels can benefit from their cod allocation in the BSAI fishery and continue to be able to access the GOA fisheries as they have done in the past. The mechanism for keeping fishing activity similar to the past is to require vessels to catch their own allocation. However, some vessels in this grouping will receive very small allocations that are not economical to fish. Many are non-AFA vessels that will not be able to sever and sell off their low quota holding. The leasing provision is the one mechanism to allow them to receive some economic benefit for their cod dependency.*
- *Element 5 establishes a CP specific sideboard for offshore cod processing as a compromise and recognizes investments that a CP company made in CVs/LLPs allowing some, but not all of their CV quota to be delivered offshore to their own CP. Allowing both catcher processors to at least process up to 125% of the average during the time period provides some flexibility under what will already be a very constraining cap that is unique to the smallest processors that operate offshore. Using only a crude average over 11 years would punish companies that stood down to benefit other stakeholders and make it impossible to ever process up to the higher levels that can sustain businesses for when production is lower. Community protections are achieved in this program through a set aside for Adak, and harvest shares to processors.*
- *Element 5.4 will issue 22.5% of harvesting shares. This amount has broad support from both harvesters and processors and recognizes processor investment and provides them with some surety as to the amount of fish that will come across their docks. It is understood that processors intend to make harvesters whole by putting shares back out on those vessels that deliver to them creating a strong incentive to work together to maximize the value of the fishery for all participants.*
- *Under Element 6, using the coops and an inter-cooperative agreement to determine how a 10% set-aside from the A season could and should be fished is the best approach for protecting*

*Adak as the coops are set-up to handle this type of situation and they are the best suited to do so. Allowing this 10% set-aside from the A season to be fished in A or B season was incorporated to be responsive to public comment and concerns regarding the A season set aside expiring if harvesters did not fish in the AI before the A season ended.*

- *Element 8 has a vessel use cap of 5% and is broadly supported by harvesters. This change from 4% will have several benefits including: 1) cod dependent boats that are currently close to a 4% value will have opportunity to annually trade some B season pollock quota for extra cod quota; 2) allowing vessels opportunity for specialization and investing for efficient execution of the fishery (under low TACs) including potential investments for additional halibut reductions; 3) minimizing potential limits a large multi-boat company may face by allowing them to dictates how many vessels they have to put into the cod fishery (without increasing the amount of cod to them); and 4) allowing for more flexibility in fishing plans year to year. The change to have the processor cap associated with the company versus a facility will provide more flexibility for harvesters and processors alike. Higher caps for processors is appropriate since some processors will be grandfathered in over the caps; holding processors to a lower cap prevents them from growing and being competitive with those processors who were grandfathered in at higher levels at the start of the program.*

#### Minority Report #1 in Opposition to Amended Main Motion

*The suite of Final Preferred Alternatives does not fully address the Purpose and Need of this program, and information is lacking to fully determine the impacts of various alternatives on some stakeholders. While co-ops can be effective for managing single or targeted species catch, the cooperative management framework that this program will be based upon contains no new tools for addressing PSC overages at the sector level, which is alarming. This was illuminated during staff explanation of how king crab PSC in Zone 1 would be addressed at the co-op level; there appears to be no mechanism to keep the fleet from exceeding PSC caps. In concert, the full suite of FPAs selected for a final vote offers insufficient evidence that the action provides for the sustained participation of fishery-dependent communities. The current PPA under Element 6 does not treat Aleutian Island communities on a level playing field with those in the Bering Sea, in the absence of leverage quota. Furthermore, there are compounding consolidation effects that are embedded in Element 7 and 8 that are not fully understood and could have negative impacts on participants and communities.*

*Signed: Julie Kavanaugh, Erik Velsko, and Marissa Wilson*

#### Minority Report #2 in Opposition to Amended Main Motion

*With the changes adopted under Elements 3 and 14, a minority of the AP felt that the package going forward fails to recognize the incredible amount of compromise that went into developing each of the originally recommended FPAs. There is a tremendous amount of consideration being included in this program for stakeholders that are not direct participants in the fishery. This level of compromise speaks to the overwhelming need for this program such that the majority of participants (harvesters, processors, communities) are willing to make these compromises in order to get to final action and implementation. The adopted changes under Elements 3 and 14 ignore these compromises as well as the balance to be struck in this program, as identified in the Purpose and Need Statement, for minimizing bycatch to the extent practicable. A rationalized cooperative program including PSC reductions of 15% will provide immediate conservation benefits to the crab and halibut resources while allowing the cooperative structure on which this program is founded to function successfully.*

Advisory Panel  
C4 Motion  
October 2021

*Steeper PSC reductions remove many of the benefits of the coop by creating a 'race for bycatch' upon implementation of the program. The improvements in trawl gear efficiency and ability to minimize bycatch are well documented and they continue to always evolve as fishermen continue to invest in improving technology. The BSAI cod trawl catcher vessel fleet is forward thinking and technologically sophisticated and the fishermen care deeply for the resource and sustainable fisheries as a whole. Large PSC reductions in concert with the gear flexibility provision, which the overwhelming majority of cod trawlers oppose at this time, will have significant negative impacts on the trawl cod CV cooperatives and the overall success of the PCTC program.*

*Signed: Ruth Christiansen, John Gruver, Heather Mann, and Susie Zagorski*