

# North Pacific Fishery Management Council

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## **FINAL ADVISORY PANEL MINUTES October 7-10, 2014 Anchorage, Alaska**

The following members were present for all or part of the meetings (absent ~~stricken~~):

Ruth Christiansen  
Kurt Cochran  
John Crowley  
Jerry Downing  
Jeff Farvour  
Becca Robbins Gisclair  
John Gruver

Heath Hilyard  
Jeff Kauffman  
Mitch Kilborn  
Alexus Kwachka  
Craig Lowenberg  
Brian Lynch  
Chuck McCallum

Paddy O'Donnell  
Joel Peterson  
Theresa Peterson  
Lori Swanson  
Anne Vanderhoeven  
Ernie Weiss  
Sinclair Wilt

Minutes from the June 2014 meeting were approved.

### **C1 Observer Annual Deployment Plan**

#### Observer ADP

The AP recommends the Council approve the Annual Deployment Plan for 2015 with the following recommendations of the OAC and in the Executive Summary of the ADP:

- Using trip selection strata to assign vessels in 2015.
- Using two selection strata for 2015: small vessel trip selection and large vessel trip selection.
- Using 12% selection probability for the small vessel trip selection stratum and 24% selection probability for the large vessel stratum.
- Allowing conditional releases in 2015 ~~only~~ for vessels in the small vessel trip selection stratum that do not have sufficient life raft capacity to accommodate an observer.
- Vessels selected by NMFS to participate in EM Cooperative Research will be in the no selection pool while participating in such research.
- Trawl vessels that fish for Pacific cod in the BSAI will be given the opportunity to opt-in to full observer coverage and carry an observer at all times while fishing in the BSAI using the same approach as 2014.
- The Annual Report will include information to evaluate a sunset provision, including information on the potential for bias that could be introduced through life raft conditional release, the costs to an individual operator of upgrading to a larger life raft, and the enforcement disincentives from downgrading one's life raft.

Amendment:

The AP recognizes the need to continue bunk space releases for some vessels and recommends that NMFS refine criteria for those releases. This motion removes the word 'only' from the fourth bullet.

*The amendment to the above motion passed 15-5 with 1 abstention*

*The motion as amended passed 20-0 with 1 abstention.*

Rationale:

- Switching to trip selection should improve data quality as it's likely that the number of vessels carrying observers should increase.
- ADP does not assess impacts of eliminating releases on small fishing operations, families and coastal communities.
- Public testimony clearly established that impacts to crew, jobs, community and safety are real.

LL2 Observers

The AP recommends the Council move the fixed gear (FG) LL2 observer discussion paper higher on the priority list with the intent to bring that paper back sooner.

Additionally, to address the immediate problem of freezer longliners being stuck at the dock for lack of available FG LL2 observers, the AP recommends the Council direct NMFS, the BSAI freezer longline fleet and observer providers meet collectively and come back to the Council at an upcoming meeting with short-term solutions. Potential discussion points could include substituting trawl LL2 observers, suspending the FG LL2 requirement for a period of 6 months to replenish the pool, coordinating with the contractor for the restructured program to steer observers who are close to having the experience requirements in to FG assignments, etc.

*Motion passed 20-0 with 1 abstention.*

Rationale:

- Several freezer longliners were left waiting at the dock to receive LL2 observers this year.
- Because different observer contractors cover the fully observed sector and the restructured program vessels, observers gaining experience in partial coverage are not easily available to vessels in the full coverage sectors.
- We believe if all parties work together, short-term solutions may be developed.

The AP continues to be concerned about the observer effect when vessel operators have the option to deliver to a tender, and recommends the Council explore remedies for this situation.

*Motion passed 19-1 with 1 abstention.*

Rationale:

- Vessels that make continuous deliveries to a mothership are exempt from taking an observer.
- According to the 2013 Annual Observer Report, 156 vessels made deliveries to tenders, some of which made numerous landings, and only 13 of these trips were observed for the entire Pacific cod and pollock fisheries in the GOA.
- This issue also arises with fixed gear vessels delivering to tenders and will continue to be a concern after the GOA Bycatch Management program is implemented.

## **C2 EM Workgroup Report**

The AP appreciates the work of the EMWG to articulate operational “strawman” EM approaches and the related decision points. The AP recommends the Council ask the EMWG to continue to refine these approaches to inform 2015 field work and study design, and to continue to assign a high priority to implementing an EM alternative for the small boat fixed gear fleet.

The AP notes the need to include “vessel compatibility” in the purpose and need statement and when evaluating alternatives.

The AP supports the goal of EM implementation in 2016, and recommends expanding 2015 field work to support this goal. *Motion passed 19-0.*

### Rationale:

- EM is particularly important for improving data quality from small vessels.
- EM will relieve the problems associated with observing vessels that have difficulty carrying a human observer.
- EM will be an important option for many vessels across all sectors.
- Some of the options discussed by the EMWG (e.g., discard chutes) may not be compatible with small vessels.

## **C3 BSAI Crab SAFE**

The AP received a report and no action was taken.

## **C4 Groundfish Specifications**

The AP recommends the Council adopt the proposed Gulf of Alaska groundfish specifications for OFLs and ABCs as recommended by the SSC for 2015 and 2016 and set TACs as shown in Item 5 in the action memo, with proposed TACs from 2015 rolled over for 2015 and 2016. Proposed federal TACs for 2015 and 2016 for Pacific cod have been revised to account for the State cod fisheries. *Motion passed 21-0.*

The AP recommends that the Council set the 2015 and 2016 annual and seasonal Pacific halibut PSC limits and apportionments in the Gulf of Alaska as provided in Tables 9, 10, 11, 12, 13 and 14 for Item 7 in the action memo. *Motion passed 21-0.*

The AP recommends the Council adopt the proposed Bering Sea/Aleutian Islands groundfish specifications for OFLs and ABCs as recommended by the SSC for 2015 and 2016 and set TACs as shown in Item 2, with proposed TACs from 2015 rolled over for 2015 and 2016. *Motion passed 20-0.*

The AP recommends the Council adopt BSAI PSC specifications as shown in Tables 8, 9, 10 and 11. The AP further recommends that the Council adopt Table 9 in Item 3 for ABC reserves for flathead sole, yellowfin sole, and rock sole. *Motion passed 21-0.*

## C5 GOA Skate MRA

The AP recommends the Council pick a 7% skate MRA for a PPA. The AP also recommends the Council ask staff to explore DMRs for skates. *Motion carried 21-0.*

### Rationale:

- This percentage was recommended by the analysis to achieve the necessary reduction in skate catch.
- Skates are a valuable incidental species for both trawl and longline fishermen.
- Lower MRA numbers would result in unnecessary discards.
- Discard mortality rates are a concern for skates, and across all other species.

## C6 MRA Enforcement

The AP recommends the Council move the Change to MRA Enforcement Period Discussion Paper forward for full regulatory review. In addition, the AP also recommends the Council consider the following comments if it chooses to develop a Problem Statement:

- Current regulations (with one exception) governing the maximum retainable allowance (MRA) enforcement period prohibit the retention of species closed to directed fishing in an amount exceeding the MRA percentage of the basis species at any point in time during a fishing trip.
- Non-target species with an MRA, in excess of the MRA need to be immediately discarded or the vessel is in violation, regardless of the condition of the discarded fish.
- The current regulations regarding MRA enforcement at any point during a fishing trip tend to increase regulatory discards, promote “topping off”, and are difficult to enforce at-sea.
- The one exception in regulation is the enforcement period of the MRA for BSAI Pollock for non-AFA vessels, which is on an offload to offload basis.
- The proposed action is to reduce regulatory discards by calculating retention of MRA species at the time of offload while at the same time not increasing the catch of MRA species above the existing MRA.

*Motion passed 21-0.*

### Rationale:

The proposed action will likely:

1. Reduce regulatory discards and incentives for “topping off” which, in turn, will increase retention while not increasing total mortality of species with MRAs;
2. Increase retention and utilization of species with MRAs and result in a positive overall economic impact;
3. Align regulations with existing enforcement practices;
4. Enhance implementation of EM by reducing the number of discards of species that are difficult to identify via video recording;
5. Reduce unnecessary enforcement action. With an increased number of observers being deployed on a larger number of vessels along with the future implementation of EM this action, eliminate the possibility of enforcement action when a vessel inadvertently commits an observed or recorded violation of MRA regulations at sea, irrespective of the percent species composition at the time of offload

Definition of offload: offload means the removal of any fish or fish product from the vessel that harvested the fish or fish product to any other vessel or to shore. 679.20(e)(3)(iii)

*Motion passed 21-0.*

## **C7 GOA Trawl Bycatch Management**

See **Attachment A**; motion attached separately to these minutes.

## **C8 CDQ Pacific Cod Fishery**

The AP recommends that the Council retain the PPA, and add a suboption under Option 3 of the proposal by NMFS, for additional analysis. Final action would thus not be taken at this meeting, but at a subsequent meeting when the additional analysis is complete.

Option 3 as described in the document would become Option 3.1. The new Option, Option 3.2, would remove the use of the beginning and end dates of the official halibut season as dates upon which halibut accounting in the small vessel CDQ Pacific cod fishery switches from halibut PSC to halibut CDQ or IFQ, and back to halibut PSC.

Option 3.2 would instead include the following:

“Each CDQ group participating in the small vessel CDQ Pcod program shall annually determine the date upon which halibut catch accounting for the group’s CDQ Pcod fishery switches from halibut PSC to halibut CDQ (or participants’ IFQ), and the date upon which the halibut catch accounting switches from halibut CDQ back to halibut PSC.

The switch dates shall be provided to NMFS by each participating CDQ group by February 15 annually.”

*Motion passed 20-0.*

## **C9 Crab ROFR**

The AP recommends Council adopt PPA 2 for final action. *Motion passed 19-0.*

## **D2 Charter Halibut CATCH Proposal**

The AP recommends the Council form a committee of stakeholders to identify the problem and a set of alternatives to address the problem. *Motion passed 10-7 with 1 abstention.*

*Minority Report: A minority of the AP did not support a substitute motion, but rather supported a motion to move the CATCH proposal and resulting staff discussion paper forward for development of a formal analysis of a common-pool compensated reallocation mechanism. The original motion supported by a minority of the AP included recommended language for a problem statement and alternatives and options for analysis.*

*The CATCH proposal is a result of 3 years and \$250,000 in development by the charter sector to bring forward a thorough and thoughtful proposal. The CATCH proposal provides a well-developed framework for a compensated reallocation mechanism that is more responsive to the unique dynamics of the charter sector and the recreational anglers they serve. CATCH is a reasonable option to address allocation splits between the charter and commercial sectors and should be moved forward for analysis. An analysis will provide answers to questions raised by affected stakeholders in response to the proposal and will allow it to move forward rather than languishing in a committee of unknown composition and scope. Signed by: Becca Robbins Gisclair, Heath Hilyard, Jeff Kaufman, Ruth Christiansen, Paddy O'Donnell.*

#### **D4 Bering Sea Fishery Ecosystem Plan (FEP)**

The AP recommends the Council continue to move forward developing the Bering Sea FEP and that the Ecosystem Committee further explore how the Council's FEP would interact with AFSC ecosystem modeling efforts, and what the appropriate format for the FEP should be, to be most useful.

*Motion passed 19-0 with 1 abstention.*

## C7 GOA Trawl Bycatch Management Program

The AP recommends that the Council advance for analysis the following alternative (including the elements and options therein).

(additions from the April 11, 2014 Council motion in **bold**, deletions in ~~strikeout~~)

### 1. Bycatch management

- a. The primary objective of this action is to improve incentives for PSC reduction and PSC management, achieved in several ways through this program design. Reduced PSC: The Council intends to adopt a program to: (1) minimize Chinook salmon bycatch, and (2) **minimize halibut bycatch**. ~~allowing some efficiency gains to provide additional target fishery opportunity while leaving some halibut PSC savings in the water for conservation and contribution to exploitable biomass.~~

*The above amendment passed 11/10.*

#### Rationale:

- The goal of this action is to reduce halibut bycatch, not just to provide for more efficient use.
- Catch limits for the directed halibut fishery have been greatly reduced, minimizing halibut PSC is as important as minimizing Chinook PSC.
- Setting a clear direction for the action up front about the expectations for PSC reductions is critical.

*Minority report: The amendment sacrifices the potential for both achieving reasonable PSC savings and maintaining healthy Gulf trawl fisheries. The existing motion reasonably balances these two objectives. The Council has previously noted that a management environment that creates strong incentives for PSC avoidance (rather than rigid limits) will yield the greatest gains from all the fisheries under its authority. Gulf trawl fisheries are already experiencing significant pressure from the stairstep reductions in halibut PSC recently adopted by the Council. This action is intended to aid those fisheries in achieving PSC reductions set out in that action while creating an environment conducive to additional PSC reductions. Signed by: Craig Lowenberg, Anne Vanderhoeven, Mitch Kilborn, Paddy O'Donnell, Lori Swanson, Sinclair Wilt, John Gruver, Kurt Cochran, Jerry Downing, Ruth Christiansen.*

#### ***Proposed amendment:***

##### *1. Halibut PSC*

*Reduce halibut PSC limits for the GOA trawl fishery from the 2016 limits (including the Amendment 93 reduction of 15%) by:*

#### *Options*

- a. 15%
- b. 25%
- c. 40%

#### *Sub-options (apply to all options above)*

- a. *Reductions will be phased in over 3-5 years*
- b. *After the selected reduction has been put in place, halibut PSC limit will be indexed to abundance (e.g. halibut bycatch will be reduced by the selected amount, and then will float with abundance).*

*The proposed amendment failed 10/11.*

Minority Report for Halibut PSC reductions: A minority of the AP supported including explicit reductions in halibut PSC as part of this action. Achieving significant halibut bycatch reduction is a primary goal of this action, and it is critical that we include targets and expectations up front. Directed halibut catch limits have been reduced 73% in the GOA over the past decade to conserve and rebuild stocks. Halibut fishermen and members of the public have requested comparable reductions of halibut bycatch and halibut PSC caps for many years. Including alternatives for halibut PSC reductions is critical at this time, and the proposed options would still result in a total reduction which is less than that of the directed fisheries. The 15% bycatch reductions adopted with Amendment 93 were considered a first step, with the industry noticed that more meaningful reductions would accompany development and implementation of GOA trawl catch or bycatch shares, fishery cooperatives, or other tools that facilitate individual bycatch accountability. Signed by: Jeff Favour, Joel Peterson, Jeff Kaufman, Theresa Peterson, Heath Hilyard, Becca Robbins Gisclair, Alexis Kwachka, Chuck McCallum.

**Proposed amendment:**

Chinook salmon PSC

Reduce PSC limit for the GOA trawl pollock fishery by:

Options

- a. 10%
- b. 15%
- c. 25%

Reduce PSC limit for the GOA trawl non-pollock fishery by:

Options

- a. 5%
- b. 10%
- c. 15%

The proposed amendment failed 6/15.

Minority Report for Chinook PSC reductions: A minority of the AP supported analyzing Chinook PSC cap reductions as part of the GOA Trawl Bycatch Management program. Chinook salmon are an iconic species, and reducing PSC catch is an important ongoing goal. Chinook salmon are critical to commercial, sport and subsistence users throughout Alaska, and these users groups have experienced severe reductions in catch in many parts of the state as Chinook salmon struggle. The Chinook PSC caps for pollock and non-pollock were set at levels that exceed the average bycatch in the fisheries. These caps were set as a first step, and additional reductions are appropriate with this action as we give the trawl fleet additional tools to reduce bycatch. Signed by: Alexis Kwachka, Chuck McCallum, Becca Robbins Gisclair, Theresa Peterson, Jeff Favour, Jeff Kauffman.

**Proposed amendment:**

Include a cap on tanner crab indexed to abundance with a range of 1 to 3% of the biomass.

The proposed amendment failed 8/13.

Minority Report to add Tanner crab PSC: A minority of the AP supported this amendment to include a Tanner crab PSC limit as part of this action. The minority recognizes the importance of the directed Tanner crab fishery to the small boat fishermen in GOA coastal communities and is concerned with the lack of any crab protections in the developing GOA TBM program. Tanner crab stocks around Kodiak are currently rebuilding and in 2014 the directed crab fishery was closed due to low abundance. The developing program provides significant opportunity to better understand the interactions with trawl gear



*on the rebuilding Tanner crab stocks with 100% observer coverage and measures to mitigate the potential impacts should be built in with the design of the program. Kodiak Island fishermen have been asking for many years for protection from trawl gear on the tanner crab populations, and this request is more urgent now given the fishery closure. The AP minority felt this range was a reasonable approach to consider for analysis on the onset of the program. Signed by: Alexis Kwachka, Chuck McCallum, Ernie Weiss, Becca Robbins Gisclair, Theresa Peterson, Jeff Kauffman, Joel Peterson, Jeff Farvour.*

- b. Cooperative management: A system of cooperative management is best suited to managing and reducing bycatch (such as, hotspot program, gear modifications, excluder use, incentive plan agreements) while maximizing the value of available target species. Cooperatives are intended to facilitate a flexible, responsive, and coordinated effort among vessels and processors to avoid bycatch through information sharing and formal participation in a bycatch avoidance program.
- c. Gear modification. Option: gear modifications for crab protection.

## 2. Observer Coverage

All trawl catcher vessels in the GOA will be in the 100% observer coverage category, whether they participate in the voluntary cooperative structure or the limited access fishery with trawl gear. NMFS will develop monitoring and enforcement provisions necessary to track quota, harvests, and use caps for catcher vessels and catcher processors.

## 3. Areas

Western Gulf, Central Gulf, West Yakutat

## 4. Sector eligibility

Inshore sector: Shoreside processors and harvesters that meet the qualifications under the cooperative program. Allocations are based on trawl landings during the qualifying years with a CV trawl LLP or a CP trawl LLP that did not process catch onboard. Any CP LLP not used to process catch offshore during the qualifying years will be converted to a CV LLPs at the time of implementation.

~~Offshore sector: Am 80 vessels, and their replacement vessels, defined in Table 31 CFR Part 679, and their current LLPs. Allocations are based on trawl landings during the qualifying years with a CP trawl LLP that processed catch onboard.~~

**Offshore eligible vessels should be Amendment 80 vessels (as listed in Table 31 CFR Part 679); their replacement vessels; and the current GOA trawl LLPs on the Amendment 80 vessels and their replacement vessels.**

## 5. Allocated species

### Target species:

**Pollock (610/620/630/640) – inshore sector allocations/offshore sector MRA**

**Pacific cod (WG/CG) – inshore sector allocations/offshore sector MRA**

**WGOA Pacific Ocean Perch – inshore sector MRA/offshore sector allocations**

**WGOA Northern Rockfish – inshore sector MRA/offshore sector allocations**

**WYAK Pacific Ocean Perch – inshore sector MRA or allocations/offshore sector allocations**

**CGOA Arrowtooth flounder – no allocation or sector split**

**WGOA Arrowtooth flounder – no allocation or sector split**

**CGOA Flathead sole – no allocation or sector split**

**WGOA Flathead sole – no allocation or sector split**

**CGOA Shallow water flatfish – no allocation or sector split**

**WGOA Shallow water flatfish – no allocation or sector split**

Additional target species for consideration include:

~~CGOA flatfish: Rex sole, arrowtooth flounder, and/or deep water flatfish~~

~~WGOA rockfish and WY Pacific ocean perch~~

**For the following species, additional analysis should be done to determine the correct management measures:**

**WGOA Dusky rockfish**

**WYAK Dusky rockfish**

**CGOA Rex sole**

**WGOA Rex sole**

**CGOA deep water flatfish**

**WGOA deep water flatfish**

Secondary species management:

**For each of the following species, options should be for management that should be considered are 1) Current MRA, 2) reduced MRA to control harvests, 3) allocations, and 4) required cooperative measures to control harvests.**

Sablefish (that not allocated under the CG Rockfish Program)

~~CG~~Skates (big and longnose)

Thornyhead rockfish **(that are not allocated under the CG Rockfish Program)**

Shortraker rockfish **(that are not allocated under the CG Rockfish Program)**

Rougheye/blackspotted rockfish **(that are not allocated under the CG Rockfish Program)**

Other rockfish

Consider whether **continued maximum retainable amounts (MRA) management at present levels/reduced levels or** cooperative measures would be an effective approach to managing secondary species, as opposed to cooperative allocations.

**For all allocated target species, the analysis should consider the feasibility of using management options under which non-directed catches of allocated species would be deducted from an ICA, rather than a cooperative allocation.**

PSC species: Halibut and Chinook salmon

6. Sector allocations of target species, secondary species, and PSC

Allocations to the trawl CV sector for WG and CG Pacific cod (Am 83), CGOA rockfish program (Am 88), and GOA pollock (Am 23) are maintained. Allocations to the trawl CP sector for the CGOA rockfish program are maintained. GOA flatfish eligibility for the trawl CP sector under Am 80 is maintained.

Pollock and Pacific cod:

Pollock and Pacific cod TACs would be allocated to the inshore sector; the offshore sector would receive an incidental catch allowance (ICA) for Pacific cod and pollock and be managed under ~~maximum retainable amounts (MRAs).~~

Other target species and secondary species: If other target and/or secondary species are allocated under the program, sector allocations would be based on each sector's ~~harvest share~~ **retained catch (with or without fish meal) or total catch** from:

Option 1. 2008 – 2012

Option 2. 2007 – 2012

Option 3. 2003 – 2012

In addition to the options based on catch history above, options for establishing WG and WY rockfish sector allocations include:

Option 1. Allocate based on Am 80 sideboards (dusky rockfish would be recalculated based on dusky rockfish harvest only)

Option 2. Allocate to the CP sector only. The CV sector is prohibited from directed fishing and managed under MRAs.

PSC sector allocations:

Chinook salmon PSC apportionments to support the non-pollock trawl CV and CP sectors (excluding CG rockfish program for the CV sector) are based on GOA Amendment 97. The Chinook salmon PSC limit to support the pollock trawl fisheries (**Amendment 93**) is a CV allocation only. ~~Any Chinook salmon PSC caught in WY comes off the cooperative's Chinook salmon PSC limit.~~

**Since WY catches of Chinook are currently unlimited, a Chinook limit in WYAK trawl fisheries should be developed based on historical Chinook catches in the fisheries. This Chinook limit should be apportioned to licenses in the same manner as the prescribed for other PSC limits. Require full retention of all bycaught salmon in WY trawl fisheries.**

Halibut PSC apportionment between the CP and CV sectors will be based on halibut PSC use during:

Option 1. 2008 – 2012

Option 2. 2007 – 2012

Option 3. 2003 – 2012

Rockfish program PSC

**Any rockfish program PSC that would rollover for use in other fisheries under the current rules (i.e., after the set aside for halibut savings) will be rolled over for use by the sector of the rockfish cooperative that has remaining halibut PSC. Remaining halibut and chinook PSC will be distributed to Gulf program cooperatives as directed by the rockfish program cooperative with unutilized PSC.**

7. Voluntary inshore cooperative structure

- a. Annually allocate target species at the cooperative level, based on aggregate retained catch histories associated with member vessels' LLPs:

Option 1. 2008 – 2012 **(no drop year or 1 drop year)**

Option 2. 2007 – 2012 **(no drop year or 1 drop year)**

Option 3. 2003 – 2012 **(no drop year or 1 drop year)**

- b. Apportion halibut PSC and Chinook salmon PSC limits to each cooperative on a pro rata basis relative to target fisheries of GOA trawl vessels in the cooperative [such as, pollock Chinook salmon PSC cap divided based on pollock landings; non-pollock Chinook salmon cap divided based on non-pollock landings (excluding rockfish); halibut PSC apportioned in proportion to target groundfish landings associated with cooperative members' LLPs.] PSC ~~could~~**would** be further divided based on use in target fisheries or fisheries groupings, prior to being allocated to each cooperative on a pro rata basis. Once in the cooperative, PSC **restrictions by area, season and fishery complex are removed and** can be used to support any target fisheries within the cooperative.

Option: Each processor controls a portion of PSC within a cooperative and negotiates terms of access through private agreement. The processor would activate the incremental PSC through NMFS, making it accessible to the cooperative. PSC made available by these agreements cannot be used by processor-owned vessels.

- c. Participants can choose to either join a cooperative or operate in a limited access fishery [sector-level, non-transferable target allocations and PSC]. Harvesters would need to be in a cooperative with a processor by November 1 of the previous season to access a transferable allocation.
- d. Initial (2 years) cooperative formation (suboption: in the first two years of each harvester's participation in a cooperative) would be based on the majority of each license's historical landings (aggregate trawl groundfish deliveries, excluding Central GOA rockfish harvested under a rockfish cooperative quota allocation) to a processor during:
- Option 1. The qualifying years for determining target species allocations
- Option 2. 2011 – 2012, or the two most recent qualifying years they fished
- e. **LLP licenses will be allowed to form one cooperative based on the QS of the license for each region (CGOA/WYAK and WGOA). If they have qualifying history for each region then the LLP can be in a cooperative in each region. Initial formation of the cooperative would require a cooperative contract with their affiliated processors signed by (options: 51% - 90%) of the license holders eligible for the cooperative and the processor. Cooperative members shall internally allocate and manage the cooperative's allocation per the cooperative contract.**

***Proposed amendment:***

*Add the words "and the community in which the processor is located" to the end of the third sentence above.*

*Community definition: The "community" will be a required signatory with full voting power in the cooperative. The community representative will be a person or persons appointed by the governing body (city or borough) of the community in which the processor is located.*

*The proposed amendment failed 7-14.*

*Minority Report Community Sign-On: A minority of the AP supported the inclusion of a community sign-on provision in the voluntary inshore cooperative structure provisions. Including a community sign-on provides an option to look at for community protections. Making the community sign-on meaningful requires that the community be a full signatory, with veto power over the cooperative contract. Catch share programs always come with unanticipated impacts and this program will be no different. A community sign-on would give the community a dynamic way to work toward adapting to*

*these future unanticipated impacts. Signed by: Chuck McCallum, Alexis Kwachka, Heath Hilyard, Ernie Weiss, Becca Robbins Gisclair, Jeff Favour*

- f. Cooperative members shall internally allocate and manage the cooperative's allocation per the cooperative contract.**

**Option: Multiple cooperatives would be allowed to form with a processor within a region. A minimum of 2 or 3 (range for analysis) LLPs are required to form a cooperative.**

**An LLP is eligible for cooperative membership in any area in which it carries an area endorsement.**

- ~~g. Each cooperative would be required to have an annual cooperative contract filed with NMFS. Initial formation of the cooperative would require a cooperative contract signed by (options: 51%–80%) of the license holders eligible for the cooperative and the processor (option: and community in which the processor is located). Cooperative members shall internally allocate and manage the cooperative's allocation per the cooperative contract.~~

- f. The annual cooperative contract must include:

- Bylaws and rules for the operation of the cooperative
- Annual fishing plan
- Operational plan for monitoring and minimizing PSC, with vessel-level accountability, as part of the annual fishing plan
- Clear provisions for how a harvester and processor may dissolve their contract after the cooling off period of two years. If a harvester wants to leave that cooperative and join another cooperative or the limited access sector, they could do so if they meet the requirements of the contract.
- Specification that processor affiliated harvesters cannot participate in price-setting negotiations except as permitted by general anti-trust law.

- h. Additional contract elements (such as, bycatch management, active participation, mechanism to facilitate entry, community provisions) may be required to ensure the program is consistent with Council objectives.

- i. Full transferability for annual use by other harvesters within the cooperative. Cooperatives can engage in inter-cooperative transfers of annual allocations **(including PSC)** to other cooperatives on an annual basis. Inter-cooperative transfers must be processed and approved by NMFS. Inshore allocations can only be transferred to and used by inshore cooperatives.

- j. Cooperative members are jointly and severally responsible for cooperative vessels harvesting in the aggregate no more than their cooperative's allocation of target species and PSC allowances, as may be adjusted by annual inter-cooperative transfers.

- k. Cooperatives will submit a written report annually to the Council and NMFS. Specific criteria for reporting shall be developed by the Council and specified by NMFS as part of the program implementing regulations.

- l. Permit post-delivery transfers of annual allocations among cooperatives. All post-delivery transfers must be completed by December 31.

## 8. Voluntary catcher processor cooperative structure

- a. ~~Annually allocate target species at the cooperative level, based on aggregate total catch histories associated with member vessels' LLPs~~ **CP history should attach to the LLP assigned to the vessel at the time of implementation of the program. CP allocations should be based on Amendment 80 vessel CP trawl landings during the qualifying years that were both harvested and processed aboard the same Amendment 80 vessel. Qualifying years:**

- Option 1. 2008 – 2012 **(drop 1 year)**
- Option 2. 2007 – 2012 **(drop 1 or 2 years)**
- Option 3. 2003 – 2012 **(drop 1 year, 2 years or three years)**

- b. Apportion halibut PSC and Chinook salmon PSC limits to each cooperative on a pro rata basis relative to target fisheries of vessels in the cooperative [such as, non-pollock Chinook salmon cap divided based on non-pollock landings; halibut PSC apportioned in proportion to target groundfish landings associated with cooperative members' LLPs.] PSC ~~could~~ **would** be further divided based on use in target fisheries or fisheries groupings, prior to being allocated to each cooperative on a pro rata basis. Once in the cooperative, PSC **restrictions by area, season and fishery complex are removed and** can be used to support any target fisheries within the cooperative.

- c. Participants can choose to either join a cooperative or operate in a limited access fishery [sector-level, non-transferable target allocations and PSC]. No later than November 1 of each year, an application must be filed with NMFS by the cooperative with a membership list for the year. In order to operate as a cooperative, membership must be comprised of:

Option: at least 2 separate entities (using the 10% individual and collective rule) and/or

Option: at least [2 – 4] eligible LLP licenses

**Suboption: an LLP must have associated QS to count toward the threshold.**

- d. Cooperative members shall internally allocate and manage the cooperative's allocation per the cooperative contract. Cooperatives are intended only to conduct and coordinate harvest activities of the members and are not FCMA cooperatives.
- e. The contract would require signatures of all LLP holders in the cooperative. The annual cooperative contract must include:
- Bylaws and rules for the operation of the cooperative
  - Annual fishing plan
  - An operational plan for monitoring and minimizing PSC, with vessel level accountability, as part of the annual fishing plan
  - ~~Specification that processor affiliated harvesters cannot participate in price setting negotiations except as permitted by general anti-trust law.~~
  - A cooperative may adopt and enforce fishing practice codes of conduct as part of their membership agreement.
- f. Full transferability for annual use by other harvesters within the cooperative. Cooperatives can engage in inter-cooperative transfers of annual allocations to other cooperatives on an annual basis. CP annual cooperative allocations may be transferred to inshore cooperatives; inshore

annual cooperative allocations cannot be transferred to CP cooperatives. Inter-cooperative transfers must be processed and approved by NMFS.

- g. Cooperative members are jointly and severally responsible for cooperative vessels harvesting in the aggregate no more than their cooperative's allocation of target species, secondary species, and PSC, as may be adjusted by annual inter-cooperative transfers.
  - h. Cooperatives will submit a written report annually to the Council and NMFS. Specific criteria for reporting shall be developed by the Council and specified by NMFS as part of the program implementing regulations.
  - i. Permit post-delivery transfers of annual allocations among cooperatives. All post-delivery transfers must be completed by December 31.
9. Fishery dependent community stability (applies to inshore cooperatives)
- a. Consolidation limits
    - Vessel **and individual use** caps and limits. ~~on the percentage of the total allocation that a person can hold (accessible only through a cooperative).~~

Harvester use caps in each region (WG and CG/WY). **Individual use caps define the percentage of quota share units that a person can hold (accessible only through a cooperative).** Harvesters that exceed these percentages **on initial allocation** are grandfathered into the program. No person may hold or use more than the following percentage of target species CV shares **of 1) pollock, 2) Pacific cod, and 3) sablefish (if allocated)**, using the individual and collective rule:

- Option 1. 3%
- Option 2. 5%
- Option 3. 7%

Vessel use caps are applicable within the cooperative. **Vessel use caps define the portion of the total allocation that may be harvested by a vessel (based on the tonnage of annual quota derived from a specified percentage of the quota share pool).** A vessel may not be used to harvest more than the following percentages of target species cooperative quota issued to the CV sector:

- Option 1. 3%
- Option 2. 10%
- Option 3. 15%

- Processor use caps **in quota share units**

Processor use caps (facility-based) in each region (WG and CG/WY). Processors that **historically exceeded** these percentages **in the qualifying years** are grandfathered into the program. No processor shall receive or process more than the following **processing cap limit. Options for analysis include percentage of 1) aggregate groundfish; aggregate 2) pollock and cod target species cooperative quota; and 3) allocated secondary species (with a suboption to define a separate limit for sablefish )** issued to the CV sector.

**Processing cap percentage options:**

- Option 1. 10%
- Option 2. 20%
- Option 3. 30%

**Suboption: If processors control a portion of PSC within a cooperative the Council should analyze options that include 1) setting an appropriate cap limiting the portion of the processor controlled halibut and Chinook PSC; and 2) no cap.**

- b. Target species quota would be required to be landed in the region in which it is designated (WG or CG/WY designation) based on historical delivery patterns during the following years:
  - Option 1. The qualifying years for determining target species allocations
  - Option 2. 2011 - 2012
  - Option 3. Target species CG quota that has historically been landed in **the City of Kodiak** would have a port of landing requirement to be delivered ~~to~~ **in the City of Kodiak**; CG quota not historically landed in **the City of Kodiak** would be regionalized (WG or WY/CG)- **and be required to be delivered to the community in which the qualifying landing was historically processed, if a processor is available to process those landings. If no processor in that community wants to accept these deliveries, then the quota could be delivered to processors within the region including the City of Kodiak.**
- c. Require individuals or entities to meet fishery participation criteria in order to be eligible to purchase an eligible trawl license with associated history.

***Proposed amendment:***

- d. *Community Fishing Association*
  - 2. *Allocate fishing quota for all species allocated to CVs under the program to a Community Fishing Association established under §303(a)(c)(3) of the MSA. Allocation range:*  
*Options:*
    - a. 10%
    - b. 15%
    - c. 20%
  - 3. *Goals and objectives for a Community Fishing Association:*
    - a. *Provide for the sustained (current and historical) participation of fishing communities (MSA National Standard 8).*
    - b. *Minimize adverse economic impacts on fishing communities (MSA National Standard 8).*
    - c. *Assist entry-level and small vessel owner-operators, captains and crew and fishing communities (MSA §303A(c)(5)(C)).*
  - 4. *Community eligibility criteria for participation via the CFA*
    - a. *Traditional fishing or processing practices in, and dependence on, fisheries in the management area;*
    - b. *Cultural and social ties to fisheries in the management area;*
    - c. *Economic barriers to access to the fishery;*
    - d. *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;*
    - e. *There will be no more than two Community Fishing Associations, one for the Western and one for the Central Gulf of Alaska.*



5. *Requirements of a community sustainability plan (required under MSA §303A(c)(3). CSP must include:*
  - a. *Description of board, governance structure;*
  - b. *Description of quota allocation process;*
  - 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. *Dispute resolution process.*
6. *Establish annual reporting requirements to the Council and communities*
7. *CFA Cooperative Program Integration*
  - *Quota allocated to the Community Fishing Association may not be sold.*
  - *The Community Fishing Association will operate within the co-op structure. Quota leased from the Community Fishing Association must be utilized on a license and accessed through a cooperative.*
  - *Community Fishing Association quota will be subject to the same set of rules as other quota in the program in terms of bycatch management, observer coverage, sector allocations, cooperative structure, and gear conversion.*
  - *If selected by the Council, regionalization will apply to the Community Fishing Association quota, but port of landing requirements will not.*
  - *Any vessel and owner consolidation limits established under the overall program will also apply to quota leased by the Community Fishing Association.*
  - *A participant who leases quota from the Community Fishing Association will be required to fish at least that amount of fish within their co-op (e.g. they may not lease quota from the CFA, then have that quota fished by another person in the co-op since the contract terms would not apply to a person who had not leased quota from the CFA).*

*The proposed amendment failed 9/11.*

*Minority Report for CFA:* *An amendment to add a Community Fishing Association as an alternative to consider for analysis failed 11/9. A minority of the AP supported inclusion of a Community Fishing Association (CFA) as an alternative for community protection within the program. A CFA provides a reasonable alternative for community protection and should be included for additional analysis at this time. The MSA clearly provides the Council the authority to allocate to fishing communities. A CFA provides for community protection beyond the measures included in the rest of the motion. The CFA provides a mechanism for providing access for coastal communities to the fisheries outside their doors and provide a means for entry/transition into the fishery. In addition, the CFA can provide a flexible structure to respond to additional community concerns that may develop under the program. The letter from the City and Borough of Kodiak and signatories from a broad cross section of GOA communities support continued analysis of a CFA. Signed by: Theresa Peterson, Alexis Kwachka, Heath Hilyard, Chuck McCallum, Ernie Weiss, Becca Robbins Gisclair, Jeff Kaufman, Jeff Farvour, Joel Peterson.*

***Proposed amendment:***

## Active Participation Requirements for Purchase & Ownership (CV only)

### 8. Eligibility for purchase of quota shares:

To be eligible to purchase trawl groundfish quota shares a participant must either:

- a. Hold at least 20-30% (options) ownership of a vessel;
- b. Provide documentation of participation as a captain or crew in the trawl groundfish fishery (or any U.S. fishery) for 150 days (verified by a signature on a fish ticket or crew members' affidavit) for at least 1, 2, 3, or 4 (options) fishing trips in the groundfish trawl fishery in any of the 3 or 4 (options) previous seasons.

### ~~9. Ongoing Active Participation requirements:~~

~~To be eligible to receive quota shares on an annual basis, quota recipient must meet ongoing active participation requirements~~

- ~~a. Vessel ownership or~~
- ~~b. Participation as captain or crew in the fishery in 3 of the previous fishing seasons.~~
- ~~c.~~

*An amendment to strike section two from the proposed amendment passed 11/9/1.*

Rationale for voting to strike section two:

- The proposed program is not an IFQ program. History attaches to an LLP, and quota share is allocated to a cooperative. Requirements to receive quota share do not fit in the program structure.
- Owner on board requirements could lead to consolidation, which could be harmful to communities.
- The definition of participation is unclear since 'fishing seasons' may no longer apply in the proposed program.

*The amended amendment passed 11/9/1.*

*Minority Report on active participation: The AP minority believes that it is important to tie participation to the owners of the quota share that is created whether it be cooperative shares or individual quota shares. It is imperative that we keep an active element in the trawl fishery to maintain the people that are currently participating and future participants. Signed by: Alexis Kwachka, Chuck McCallum, Ernie Weiss, Heath Hilyard, Becca Robbins Gisclair, Jeff Kauffman, Jeff Farvour, Joel Peterson, Theresa Peterson.*

### **Proposed amendment:**

*Direct Allocation to Skippers and Crew*

*15% or 20% (options) of total quota will be allocated to active captains.*

*Active captain defined by participation in trawl fishery in 2 of the last 3 years (as shown by fish tickets).*

*The proposed amendment failed 8/11/1*

*Minority report on skippers and crew: A minority of the AP supported a motion to include an allocation of quota to active skippers. It is critical that skippers are included in initial allocation in recognition of their role and history in the fishery. Additional work may be required to determine how this will fit in the overall program, which is LLP-based in the future, but this amendment was intended to serve as a placeholder for further development in the analysis. Amendment failed 8/11 Signed: Alexis Kwachka, Chuck McCallum, Jeff Kaufmann, Becca Robbins Gisclair, Jeff Favour, Ernie Weiss, Theresa Peterson. Joel Peterson*

#### 10. Transferability

- a. (Annually) Full transferability for annual use within the cooperative. Cooperatives can engage in inter-cooperative agreements on an annual basis- **of any allocations including target species, secondary species, and PSC.**
- b. (Long-term) The LLP is transferable, with the associated history of the target species (which, when entered into a cooperative, brings with it a pro rata share of PSC.)

Target species history is severable from a CV trawl license and transferable to another eligible CV trawl license (which, when entered into a cooperative, brings with it a pro rata share of PSC). Transferred history retains the regional delivery designation. **A two year cooling off period for long-term transfers of CV QS is required.**

**QS is non-severable from the associated CP trawl license and no two year cooling off period applies.**

#### 11. Gear conversion

Upon further development, the Council could include gear conversion provisions that allow Pacific cod trawl CV allocations to be fished with pot gear, although any harvest would continue to be deducted from the vessel's annual trawl quota account and would not affect the pot gear Pacific cod sector allocations.

#### 12. Limited access trawl fisheries (CV and CP)

If a license holder chooses not to join a cooperative, it may fish in the limited access fishery. Under the limited access fishery, the LLP's historic share of (non-transferable) target species will be fished in a competitive fishery open to all trawl vessels in the sector who are not members of a cooperative. The catcher vessel limited access fishery will be subject to all current regulations and restrictions of the LLP and MRAs.

PSC limits in the limited access fishery will retain status quo apportionments by area, season, and/or fishery. Halibut and Chinook salmon PSC limits are annually apportioned to the limited access fishery on a pro rata basis relative to groundfish catch histories associated with LLPs that are not assigned to a cooperative, as reduced by [options: 10% - 30%].

#### 13. Sideboards

~~Consider whether~~ **Remove 1) sideboards in the GOA that apply under the Rockfish Program for the CV and CP sectors, 2) Gulf sideboards on non-exempt AFA CV-sideboard limits, 3) Gulf groundfish sideboards on non-AFA crab vessels-groundfish-sideboards, (except for sideboards applicable to pot fishing), 4) and Amendment 80 groundfish and halibut PSC sideboard limits in the GOA should be removed and 5) CV Pacific cod/pollock – BSAI/GOA exclusivity/time stand downs.**

**The removal of West Yakutat rockfish program sideboards is contingent on whether WYAK rockfish is allocated.**

~~Consider sideboards for or prohibition of directed fishing for Pacific cod in the West Yakutat area with trawl gear.~~ Consider sideboards on directed fishing for Pacific cod with pot gear in the WG and CG (harvest that accrues to the Pacific cod pot sector allocations).

***Proposed amendment:***

***Consider CV sideboards for the BSAI cod and BS yellowfin sole fisheries***

*The proposed amendment passed 20/0/1.*

**14. Program review**

Per the Magnuson Stevens Act, a program review would be conducted five years after implementation and every seven years thereafter.

**15. Cost recovery and loan program**

Per the Magnuson Stevens Act, a cost recovery program would be implemented to recover the incremental agency costs of the program related to data collection, analysis, and enforcement, up to a maximum of 3% of the ex-vessel value from landings of species allocated under the program. Up to 25% of cost recovery fees may be set aside to support a loan program for purchase of shares by fishermen who fish from small vessels and first-time purchases of shares under the program. Loan qualification criteria would need to be defined.

~~The Council also requests further information on latent trawl licenses and their effect on the proposed cooperative program, to evaluate the need for further recency criteria in the WG and CG trawl CV sectors.~~

**16. Maximize Retention**

**Full retention of allocated target rockfish, pollock, Pacific cod and any allocated secondary species as allowed by regulation.**

**Consider modifying SSL regulations as follows:**

**Trip Limits:** Remove daily landing limit and revise the fishing trip limit to 159 mt. Declassify the trip limit violation from a SSL violation to a regulatory violation.

**Pollock Seasonal Structure:** Change the pollock fishery structure to two season: Jan 20 to June 10 and June 10 to Nov 1. The allocation of pollock for the first half of the year and second half of the year would not change from current GOA-wide percentages.

**Pacific cod Seasonal Structure:** Change the Pacific cod fishery structure to allow B season directed fishing from June 10 to Nov 1.

**Nov 1 to Dec 31 prohibition of targeting Pacific cod and Pollock:** Allow directed fishing of pollock and cod from Nov 1 to Dec 31 but require that the co-ops continue to limit each species to their seasonal allocations.

**Prohibition of directed fishing for both Pacific cod and Pollock within haul outs: Revise the flatfish trip target definition where a trip is considered in the flatfish target if more than 50% of the landed catch is flatfish.**

**Change the MRA enforcement period for all fisheries in the GOA to an offload-to-offload basis.**

*The amended main motion passed 12/9.*

Rationale:

- The proposed action is intended to provide the trawl fishery with the tools necessary to better manage PSC and to accommodate significant PSC reductions already approved by the Council. The AP motion provides harvesters and processors the stability needed to manage PSC and to better utilize underharvested species, increasing the value of the fisheries and benefiting participants and communities. Further reductions in PSC may severely compromise the ability to prosecute the fishery and should not be considered until the 5-year review.
- Community interests are protected through regionalization and consolidation limits. Introducing a community representative into coop operations, or giving a community board control over release of allocations, may bring conflicts of interest or political or personal bias that may inhibit coop formation and compromise coop function. Reallocation of quota to new participants will increase bycatch and harm existing communities. New entrants can participate in the fishery by starting on deck and working into the wheelhouse and vessel ownership.

*Minority report on main motion: A minority of the AP did not support the final motion. In its present form, the motion is simply a standard catch share program without any explicit measures or targets for bycatch (PSC) reduction, despite the title. The motion does not contain adequate community protections – the community sign-on proposed in the Council motion has been deleted and a Community Fishing Association or other means of community protections was not included. Without meaningful bycatch reductions and adequate community protections we cannot support moving forward with a catch share program of this magnitude which includes a broad suite of GOA groundfish species (beyond the two target species of pollock and cod). In addition, forwarding a motion where the only alternative is a program concept with mandatory processor/ harvester linkages which NOAA GC has advised are illegal does not meet our obligation to provide a reasonable range of alternatives. Signed by: Alexis Kwachka, Ernie Weiss, Becca Robbins Gisclair, Jeff Favour, Jeff Kauffman, Heath Hilyard, Theresa Peterson, Chuck McCallum.*