

# North Pacific Fishery Management Council

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## DRAFT ADVISORY PANEL MINUTES

June 7-11, 2016

Kodiak, AK

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

Ruth Christiansen  
Kurt Cochran  
John Crowley  
~~Dan Donich~~  
Jerry Downing  
Angel Drobnica  
Jeff Farvour

~~John Gruver~~  
~~Jeff Kauffman~~  
Alexus Kwachka  
Craig Lowenberg  
Chuck McCallum  
Art Nelson  
Paddy O'Donnell

Joel Peterson  
Theresa Peterson  
Jeff Stephan (Co-Vice Chair)  
Ben Stevens  
Matt Upton (Co-Vice Chair)  
Ernie Weiss (Chair)  
Sinclair Wilt

### Election of Officers

Art Nelson announced his resignation as co-vice Chair of the Advisory Panel. Jeff Stephan and Angel Drobnica were nominated to take that seat. Ms. Drobnica declined the nomination at this time but noted she would be interested in the future. Jeff Stephan was elected co-vice Chair replacing Art Nelson.

### **C1 Observer Program Reports**

The AP appreciates the hard work of staff involved with preparing the North Pacific Observer Program Annual Report and agrees with the OACs five recommendations on the 2017 ADP on page 2 of OAC minutes:

- The OAC agrees with maintaining dockside monitoring only on pollock deliveries.
- The OAC agrees that vessels under 40 feet should be in the no-selection pool, as should vessels participating in the 2017 EM pre-implementation program. The OAC notes that while priority should continue to be given to vessels under 57.5 feet where taking an observer is problematic, the EM Workgroup is contemplating a 2017 pre-implementation pool that would not be limited by vessel size, and the 2017 ADP should reflect the Workgroup's 2017 proposal.
- The OAC agrees with maintaining sampling strata by gear in 2017, and using optimal allocation to evaluate deployment rates while trying to maintain the expectation of at least three observed trips in each NMFS area.
- The OAC also supports continuing to allow vessels to log three trips at a time in ODDS, and providing automatic release from coverage for the third observed trip for vessels 40-57.5 feet in length. The Committee clarified that the automatic cancellation should not, however, apply in the case of an inherited observed trip, i.e. when an observed trip gets cancelled and the next logged trip is automatically selected.

- The OAC supports NMFS' recommendation to evaluate two additional strata for the 2017 ADP, for vessels delivering to tenders and for partial coverage catcher-processors. The OAC is cautious, however, about the viability of these strata, given the potential that small sample sizes for data in some areas/times, or that the number of vessels involved may trigger confidentiality concerns. The OAC looks forward to the analysis in the ADP, and asks that it be structured to allow the OAC and the Council to choose in October whether or not these strata make sense.

Additionally, the AP agrees with the OAC's comments bulleted on page 3:

- The OAC requests that the agency continue to track trips both by gear type and vessel size categories in next year's Annual Report, as is done in Table 4-1. There is no vessel size distinction in 2016 as there was in 2015, but it will be useful to continue to track size categories.
- The OAC reiterates its request for an examination of observer sampling results (such as percent of hauls sampled vs. total hauls per trip, and sample fractions by vessel type, size, and gear), either in the descriptive statistics section of annual report, or in a separate report.
- It would be helpful to provide debriefing times for full coverage observers, to compare to partial coverage.
- The OAC also noted that the agency is beginning to integrate reporting on the EM program into the Annual Report, and recommends that the agency collaborate with the EM Workgroup to identify performance metrics and descriptive statistics for EM to track in the Annual Report.
- The OAC requests that Observer Program analysts provide an evaluation of the average number of days in an observed trip, by gear type and other categorization as appropriate, in order to consider the implications of allocating the partial coverage budget between EM participants and human observers in the EM analysis.

And also the four comments and requests in bolded text on pages 2-5 listed below:

- **The OAC recommends that the Council continue to express concern to NMFS leadership about the timeliness of OMB's release of fees collected from harvesters and processors in the partial coverage program. The OAC expressed that such funds should not be subject to recession, and that timely distribution is critical to maintaining coverage throughout the year.**
- **The OAC sincerely appreciates the effort undertaken by NMFS to develop these variance methods, and considers this to be an exciting new tool for understanding the catch estimates that are derived from observer data. The OAC supports the next steps and the near term work that NMFS has proposed.**
- **The OAC is interested in providing input on the Statement of Work for the next partial coverage observer contract.**
- **The OAC also requested the Observer Program to work with NOAA Acquisition and Grants Office to determine if the current EM Grant with PSMFC can be used in 2018 and 2019 to continue EM implementation work using partial coverage observer fees.**

*Motion passed 18-0.*

Rationale in support:

- The AP believes that the OAC recommendations will be useful in informing the Council about areas needed for improvement and refinement of the North Pacific Observer's Program.

## **AIS Application**

The AP recommends the Council request NMFS postpone action on AIS's application to be a full coverage observer provider until getting input from the Council after they have received the October white paper on LL2 observer issues that will include looking at the impacts of an observer provider being in the partial and full coverage categories in terms of (1) confidential fisheries information; (2) reimbursements by the Federal government; and (3) other unfair competitive advantages.

*Motion passed 18-0.*

### **Rationale in support:**

- NMFS received an application from AIS to be a full coverage BSAI provider in addition to their partial coverage GOA contract. Some stakeholders are concerned about AIS's potential impacts on LL2 observer availability and unfair competition.
- The Council is scheduled to receive a white paper on the LL2 issues in October, including a discussion of AIS, which could be expanded to help better inform a recommendation to NMFS.

*The following motion failed 9-9: "The AP recommends the Council increase observer coverage of the Gulf trawl fisheries during interim development of the Gulf trawl bycatch package."*

### **Rationale in Support of failed motion:**

- *Low levels of observer coverage on GOA trawlers remain a concern given the high levels of salmon and halibut bycatch, and concerns about bias in data.*
- *The GOA trawl bycatch package has been delayed for a few years, and it's unclear when it will be finalized, increased observer coverage has been discussed but nothing has happened, this could be an interim but important measure for bycatch management.*
- *Implementation of more accurate observer coverage on GOA trawl vessels is needed, and would provide a more complete and accurate basis and set of data upon which to design a future GOA TBM program.*

### **Rationale in Opposition of failed motion:**

- *Coverage rates for gear sectors are established annually each Fall as part of the Observer Deployment Plan (for the upcoming fishing year); asking for an increase in observer coverage for any sector is not appropriate as part of the Observer Program Review in the spring (for the previous fishing year).*
- *The bullet point above is emphasized by the fact that the recommendation for an increase in observer coverage for the GOA trawl fleet does not offer a specific coverage percentage nor it is accompanied by recommendations as to where (what sector) the observer days/funds would be subtracted from in order to fund an increase in coverage for the GOA trawl sector.*

## **C2 BSAI Crab Management**

The AP recommends the Council approve the OFLs and ABCs for WAIRKC, AIGKC, and PIGKC as recommended by both the Crab Plan Team and SSC.

*Motion passed 18-0.*

## **C3 BSAI Crab Rationalization Program: 10-Year Review**

The AP recommends the Council approve the BSAI Crab Rationalization Program 10-year review.

*Motion passed 17-1.*

#### Rationale in Support:

- Staff presented a comprehensive and complete picture of the rationalized crab fishery. There were no issues that would warrant bringing this issue back to the Council for further review.
- The review indicates that the Crab Rationalization Program has successfully met each of the eight implicit goals as adopted by the Council. Issues of concern raised during the program's 5-year review are being addressed by industry in cooperation with NMFS, the State of Alaska, and the Council.
- This program review is meant to review the program within the context of its stated goals. It is not a traditional Council analysis, therefore, not an action forcing document. It addresses the program since its implementation; therefore, pre-implementation information is not the metric by which this program should be judged.
- A separate discussion paper should be initiated if a desire exists to modify the program to address any perceived inequities or concerns. Any such discussion paper should not delay approval of the Program Review.

#### Rationale in Opposition:

- Expressions of dissatisfaction with the outcomes of the program, including: the significant reduction of vessel participation, the dislocation of large numbers of skippers and crew as a result of the elimination of employment opportunities, the exercise of leasing behavior of this public resource that permits the concentration and accumulation of the economic rewards and benefits from this fishery in the hands of many who do not actively participate in this fishery, and the significant reduction of economic activity in certain coastal communities that had previously enjoyed important economic benefits from this fishery.

The AP recommends the Council request that a discussion paper be initiated that reviews the crab rationalization arbitration system.

The staff shall prepare a discussion paper that will analyze the changing operational costs of crab IFQ holders and crab IPQ holders and the impacts of such cost changes on the historical distribution of first wholesale revenue that has been divided between crab harvesters and processors. The staff shall review the current criteria used by the non-binding price formula arbitrator to allow the Council to determine if operational cost changes to the participants in the crab fisheries should be considered in setting the non-binding price formula. Additionally, the staff shall review the implications of allowing IPQ holders to initiate binding arbitration in the case of non-performance by share matched IFQ holders.

*Motion passed 12-6.*

#### Rationale in Support:

- Operational costs cannot be considered under the current arbitration system. Processors are faced with new mandated operational cost increases due to Alaska's increased minimum wage, the Affordable Care Act, and potential tax increases (i.e., Alaska Raw Fish Tax).
- The non-binding price formula was meant to preserve the historical share of first wholesale value.
- The current arbitration system only permits harvesters to trigger arbitration.

- Processors desire the opportunity to trigger arbitration in cases of non-performance by harvesters who are share-matched with processors, and would like the ability to seek remedies through the arbitration system.
- Now that the rationalized fishery has operated for ten years, it may be appropriate to re-examine the arbitration system, to open a discussion of the operational cost changes for processors and harvesters, and to make modifications if warranted.
- A staff discussion paper and analysis should be developed that addresses whether the non-binding price formula arbitrator should be permitted to consider and include certain operational costs that incur to crab IFQ and IPQ holders, and analyze whether the historical price formula is still appropriate considering shifting cost structures, and how certain costs may impact the development of the formula.
- Certain new conditions in the operation of the share matched IFQ/IPQ may give rise for IPQ holders to trigger arbitration for non-performance.
- Testimony and discussion addressed the possibility that certain IPQ shares would be stranded due to non-harvesting by the share-matched IFQ. If that occurs the IPQ holder would only have the civil law court system and not the arbitration system. The majority would like to see a discussion paper and analysis of this possibility.

Rationale in Opposition:

- Designing a system to allow arbitrators to evaluate costs, and in which all parties would have comfort, would require an extensive, and possibly quite expensive, mechanism to examine internal finances.
- Permitting the consideration of costs removes incentives for both harvesters and processors to constantly seek efficiencies; that is, it would simply allow them to pass their costs along.
- A recent dispute that was raised as the justification for the examination of this option. It was noted that this matter still playing out and has not come to any final resolution among the parties. Therefore, it would be premature to begin an analysis of possible regulatory changes until the matter has run through to its conclusion. Only then can the Council understand if any changes should be evaluated.

**C4 Tanner Crab Custom Processing: Initial/Final Review**

The AP recommends the Council adopt Alternative 2, Suboption 1 (with a 5-year sunset) for final action.

The suboption was added by a motion to amend that *passed 11-6*.

*Final motion as amended passed 17-0.*

Rationale in Support:

- While the timing may not be ideal; harvesters will take the brunt of lost quota if this matter is not addressed now.
- The potential impacts for doing nothing can be significantly devastating and widespread.
- A 5-year sunset compels a more comprehensive and non-rushed examination of the issues resulting from consolidation of crab processors, and should be an adequate amount of time.

Rationale in Opposition:

- The inclusion of a sunset provision sends the signal that actions under this agenda item should take priority over other items that are currently being considered by the Council; it also creates the potential for a scenario that is similar to what the fishery has just recently faced, and that led to emergency action for the 2015/2016 season.

- More processors are better; therefore some fishermen have a fundamental problem with the motion.
- The program was set up with these rules and caps for a reason. By adopting this alternative, we're taking away opportunity for another processor to enter the fishery.
- This Alternative is a significant impediment for entry into the fishery.

The AP recommends the Council initiate a discussion paper to look at additional solutions to the bairdi custom processing use cap issue. Specifically,

- Raise the bairdi IPQ use cap to 40%.
- A share to B share conversion.
- Apply exemption only in years when capacity to process is not sufficient (i.e., when there are less than 4 processors).

*Motion passed 16-1.*

Rationale in Support:

- This action is appropriate due to the abbreviated scope and alternatives that are analyzed under this agenda item, and the fact that initial review and final action were taken during the same meeting.
- Allows analysis of a broader range of alternatives, and the potential impacts to communities, harvesters and processors.
- A blanket exemption for bairdi does not preclude further processor consolidation.
- This action does not create additional barriers to entry; in fact, it leaves room for additional processors to enter the fishery.
- Responsive to public testimony.

Rationale in Opposition:

- Tanner crab processing caps should be treated the same as the other crab species as passed under Amendment 27; there's no need for further complication for this one specie.

## **C5 GOA Trawl Bycatch Management**

### **Motion 1 – Alternatives (Passed 16-1)**

The AP recommends moving forward the analysis of the Gulf of Alaska Trawl Bycatch Management Program, with the following changes to Alternative 2.

**ALTERNATIVE 2.** Gulf of Alaska Trawl Bycatch Management Program for the Western Gulf, Central Gulf and West Yakutat areas. The following elements apply to the program:

#### **1. Observer Coverage and Monitoring**

All trawl vessels in the GOA will be in the 100% observer coverage category **(or carry electronic monitoring at such time it is an option for trawl vessels)**, 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, including those necessary for gear conversion. The Council authorizes NMFS to report weekly vessel-level bycatch information as authorized under MSA Sec 402(b)(2)(A). Full retention of allocated target species is required.

~~The Council request staff to evaluate the ability/challenges for the fleet to meet the full retention requirement for allocated species if the prohibition for directed fishing for Pollock and cod remains in effect for the time period of Nov 1 to Dec 31.~~

## **2. Sector eligibility**

Inshore sector: Shoreside processors with an eligible FPP and harvesters with an eligible FPP and LLP endorsed for GOA trawl. 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 LLP at the time of implementation.

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

## **3. Allocated species (more than one option can be selected)**

### **a. Target species:**

- Option 1. Pollock (610/620/630/640) and Pacific cod (WG/CG)
- Option 2. WGOA rockfish (northern, dusky, and Pacific ocean perch) and WY rockfish (dusky and Pacific ocean perch)

### **b. Secondary species:**

- Option 1. Sablefish (WG, CG, WY). Allocations of CG sablefish under the CG Rockfish Program are maintained.
- Option 2. Thornyhead rockfish, shorttraker rockfish, rougheye/blackspotted rockfish, other rockfish (WG, CG). Allocations of CG rockfish under the CG Rockfish Program are maintained.  
  
Suboption: Big skates and longnose skates
- Option 3. (*Mutually exclusive with Options 1 and 2*) Cooperative measures are required to manage secondary species under maximum retainable amounts (MRAs), as opposed to cooperative allocations.

### **c. PSC species: Halibut and Chinook salmon**

## **4. Sector allocations of target and secondary species**

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.

### **a. 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.

- Option 1. Revise the GOA-wide pollock apportionments to 30% (A); 30% (B); 20% (C); 20% (D)

- Option 2. Modify the pollock fishery to two seasons: Jan 20 to June 10 and June 10 to Nov 1. (If selected with Option 1, the seasonal split would be 60%/40%).

**Suboption: The second season for pollock is June 10 to December 31.**

- Option 3. Modify the Pollock trip limit from 136 mt (300,000 lbs.) to 159 mt (350,000 lbs.).

None of the options change the distribution of GOA pollock among Areas 610, 620, or 630 as established through the specifications process.

- Option 4: Modify the trawl Pacific cod fishery to two seasons: Jan 20 to June 10 and June 10 to Nov 1. **No change to the A and B season allocations.** (The seasonal split for trawl gear would be maintained per Am 83).

**Suboption: The second season for Pacific cod is June 10 to December 31.**

- b. Other target species and secondary species: Sector allocations would be based on each sector's retained catch (Option: total catch for secondary species) from:

- Option 1. 2008 – 2012  
Option 2. 2007 – 2012  
Option 3. 2003 – 2012

- c. 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  
Option 2. Allocate to the CP sector only. The CV sector is prohibited from directed fishing and managed under MRAs.  
Option 3. Establish a CV sector allocation of WG rockfish of 2% - 5%. Any unharvested rockfish (by a specified date) is reallocated to the CP cooperatives.

## **5. Sector allocations of PSC**

- a. Chinook salmon:

The Chinook salmon PSC limit allocated pro rata based on pollock trawl landings is a CV allocation only of:

- Option 1. 25,000 (status quo based on Am 93)  
Option 2. 18,750 (25% reduction)

Chinook salmon PSC allocated pro rata based on trawl CV and CP non-pollock landings (excluding CG rockfish program for the CV sector) are based on GOA Amendment 97. Any Chinook salmon PSC caught in WY comes off the cooperative's Chinook salmon PSC limit.

- b. Halibut:

**Historical PSC use would accrue to the history of the sector in which the license holder operated (i.e., PSC associated with vessels that operated as CVs would accrue to the CV sector PSC apportionment; PSC associated with vessels that operated as CPs would accrue to the CP sector PSC apportionment.)**



i. The halibut PSC limit allocated pro rata based on CV and CP trawl landings (excluding the CG rockfish program) is:

- Option 1. 1,515 mt (status quo under Am 95 by 2016, with full 15% reduction in place)
- Option 2. 1,364 mt (additional 10% reduction relative to 2016, phased in over a two-year period)
- Option 3. 1,288 mt (additional 15% reduction relative to 2016, phased in over a three-year period)
- Option 4. 1,212 mt (additional 20% reduction relative to 2016, phased in over a three-year period)
- Option 5. 1,136 mt (additional 25% reduction relative to 2016, phased in over a three-year period)

ii. 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

c. Rockfish Program PSC:

Any Rockfish Program **halibut** PSC that would roll over for use in other fisheries ~~under the current rules~~ (after the set aside for halibut savings) can be transferred to the Gulf program cooperatives through inter-cooperative transfer. Halibut PSC from CV cooperatives cannot be transferred to CP cooperatives. **Rockfish program Chinook salmon PSC would be rolled over to the Gulf program CV cooperatives in proportion to their initial annual non-pollock Chinook salmon PSC allocations.**

d. Gear modification. Option: gear modifications for crab protection.

## 6. Voluntary inshore cooperative structure

a. Annually allocate species to the cooperative, based on aggregate retained catch histories associated with member vessels' LLPs during the qualifying years:

- Option 1. 2008 – 2012
- Option 2. 2007 – 2012
- Option 3. 2003 - 2012

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, pollock Chinook salmon PSC cap divided by area (**WG and CG/WY**) and then based on pollock landings; non-pollock Chinook salmon cap divided by area and then based on non-pollock landings (excluding CG rockfish); halibut PSC apportioned by area and then in proportion to target landings associated with cooperative members' LLPs.] Once in the cooperative, PSC can be used to support any target fisheries within the cooperative at any time (no seasonal **or area** PSC apportionments).

- Option: Each processor controls a portion of the annual PSC within a cooperative [options: 10% - 40%]. Each processor would assign the incremental PSC to vessels in the cooperative under the terms of the cooperative agreement. PSC made available by these agreements cannot be used by vessels owned by the processor

(a vessel with more than 10% ownership by a processor using individual and collective rules for determining ownership).

Suboption: No prohibition on processor-owned vessels using processor-controlled PSC. Processor-owned vessels cannot access an amount of the cooperative's PSC greater than the amount they brought into the cooperative.

Suboption: Alternatives for distribution of PSC quota to processors:

- 1) NMFS holds the PSC and distributes the PSC quota upon the processor's request.
- 2) Distribute to processors using the same method as harvester's portion of the PSC quota is distributed.

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 **GOA** 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.

If a license has qualifying landings in both regions (WG and CG/WY), initial cooperative formation would be based on the majority of the license's historical landings to a processor in each region (the license holder would join a cooperative in each region). After the initial cooperative formation period, a license holder can choose to be in one cooperative per region on an annual basis. **A processor (facility) can only be in one cooperative on an annual basis.**

e. Each cooperative would be required to have an annual cooperative contract filed with NMFS. Formation of the cooperative would require a cooperative contract signed by (options: 33%, 51%, or 80%) of the license holders eligible for the cooperative and the processor (option: and community in which the processor is located). If a license does not have any qualifying landings, it could still join a cooperative but the license holder does not count toward the cooperative formation threshold. 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.

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
- 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 and PSC allowances, 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.

## 7. Voluntary catcher processor cooperative structure

- a. Annually allocate species to the cooperative. For an eligible CP, the CP history of the vessel in the qualifying years will be assigned to the LLP on the vessel at the time of implementation of the program. Qualifying years:
- Option 1. 2008 – 2012
  - Option 2. 2007 – 2012
  - Option 3. 2003 – 2012
- 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 by area and then based on non-pollock landings (~~excluding CG rockfish~~ **including a PSC apportionment to CG rockfish program participants on a pro rata basis relative to CG rockfish targets**); halibut PSC apportioned by area and then in proportion to target groundfish landings associated with cooperative members' LLPs (**excluding CG rockfish**).] Once in the cooperative, PSC can be used to support any target fisheries within the cooperative at any time (no seasonal **or area** PSC apportionments).
- 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 1: at least 2 separate entities (using the 10% individual and collective rule) and/or
  - Option 2: at least [2 – 4] eligible LLP licenses. An LLP must have associated catch history 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
  - Operational plan for monitoring and minimizing PSC, with vessel level accountability, as part of the annual fishing plan
- f. 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.

- g. 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.
- h. Permit post-delivery transfers of annual allocations among cooperatives. All post-delivery transfers must be completed by December 31.
- i. No person may hold or use more than the following percentage of allocated target species CP cooperative quota in each region, using the individual and collective rule:
  - Option 1. 30%
  - Option 2. 40%

## **8. Fishery dependent community stability (applies to inshore cooperatives)**

### **a. Consolidation limits**

Option 1. Harvest use (ownership) caps in each region (WG and CG/WY). Harvesters that exceed these percentages are grandfathered into the program. No person may hold or use more than the following percentage of individual target species CV cooperative quota, using the individual and collective rule:

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

Option 2. Vessel use caps are also applicable within the cooperatives. A vessel may not be used to harvest more than the following percentages of individual target species cooperative quota issued to the CV sector:

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

Option 3. Processor use caps (facility-based) in each region (WG and CG/WY). Processors that exceed these percentages during the qualifying years are grandfathered into the program. No processor shall receive or process more than the following percentage of individual target species issued to the CV sector:

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

### **b. Regionalization of target species quota**

Target species cooperative 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 Kodiak would have a port of landing requirement to be delivered to Kodiak; CG quota not historically landed in Kodiak would be regionalized (WG or WY/CG).

### c. Active participation criteria

To be eligible to purchase a GOA trawl CV license or catch history severed from a license, a person must be eligible to document a fishing vessel in the U.S. (status quo) and must:

Option 1. Hold at least (options: 20% - 30%) ownership of a trawl vessel; or provide documentation of participation as a captain or crew in the GOA trawl groundfish fishery for 150 days (verified by a signature on a fish ticket or crew members' affidavit) for at least (options: 1, 2, or 4) fishing trips in the GOA groundfish trawl fishery in the most recent two years previous to purchase. **A trawl vessel is a vessel to which a trawl LLP is assigned or used to harvest groundfish with trawl gear.**

Option 2. Communities do not need to meet the criteria under Option 1.

Suboption (applies to Option 1 or 2):

To retain catch history, a person must be eligible to purchase catch history.

## 9. **Transferability**

- a. (Annually) Full transferability of cooperative quota, including PSC separately, for annual use 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.
- 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).

Allocated species history is severable from a **GOA** CV trawl license and transferable to another eligible **GOA** CV trawl license (which, when entered into a cooperative, target species history brings with it a pro rata share of PSC). Transferred history retains the regional delivery designation. PSC cannot be permanently transferred separately from the license. **(Options below are not mutually exclusive.)**

**Option 1: No more than (20%, 30%, or 40%) of a CV trawl license's catch history during the qualifying years, for each allocated species, may be transferred to a different CV trawl license.**

**Option 2: Only CV trawl license holders in the lowest quartile of CV trawl license holdings, per allocated species, may transfer all of the catch history associated with those species from their GOA trawl CV license.**

Option **3**: (Cooling off provision) License transfers (sale) and the severability provisions are prohibited for CV licenses in the first two years of the program.

## 10. **Gear conversion**

Pacific cod allocations associated with a trawl CV license may be fished with pot gear; a pot endorsement is not necessary but the license must have the appropriate area endorsement. 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. Similar to status quo, PSC taken with pot gear does not accrue to a PSC limit or cooperative PSC allocation.

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

If a license holder chooses not to join a cooperative, it may register to fish in the limited access fishery with an eligible FFP and LLP endorsed for GOA trawl by November 1 of the previous season. 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:

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

## 12. Sideboards

Sideboards that apply under the Rockfish Program for the CV and CP sectors, GOA non-exempt AFA CV sideboard limits, non-AFA crab vessel groundfish sideboards that apply to GOA trawl, and Amendment 80 groundfish and halibut PSC sideboard limits in the GOA, are removed for species allocated under the GOA trawl bycatch management program.

~~The Council requests further discussion of 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), as well as further information to consider whether CV sideboards are necessary for the BSAI Pacific cod and yellowfin sole fisheries.~~

## 13. Program review

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

## 14. 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.

*Motion passed 16-1.*

### Rationale in Support:

- Motion is primarily in response to staff questions or clarifications put forward in this or previous discussion papers.

### Rationale in Opposition:

- More work needed before we advance for an EIS.
- Severability of the target not responsive to GOA needs.

## **Motion 2 – Annual Allocation (Passed 10-7)**

The AP recommends the following (applies to Alternatives 2-4):

- The Council consider an annual allocation of target species, with individual apportionments to qualifying LLPs.
- The criteria for determining individual apportionments should include criteria in addition to catch history for the purpose of minimizing or limiting the durability [*Amendment to strike “of minimizing or limiting the durability failed 7-10*] of individual apportionments. This could include GOA dependence, active participation, cooperative contract compliance, ~~bycatch performance~~ [*Amendment to add “bycatch performance” failed 5-12*], or other criteria that the Council deems necessary ~~as part of the next discussion paper~~. [*Amendment to motion passed 16-0*]

*Motion passed 10-7.*

### **Rationale in Support:**

- The proposed changes to the allocation matrix are responsive to community concerns in regards to allocations based solely on history.
- The motion will end the race for fish, provide for increased OY, provide for increased product value, improved product value, safety, bycatch reductions, regulatory reductions and many of the goals and objectives of the GOA TBA.
- Durability: Limited durability can be created in such a way that it will not critically undermine stability of fishing businesses. The fears of industry are out of proportion.

### **Rationale in Opposition:**

- Including the language “minimizing or limiting the durability of individual apportionments” sends the message that the shortest length of durability is the desired outcome. It does not take into consideration the balance between durability of the allocation and stability of the program.
- This motion is procedurally out-of-order as the first motion passed by the AP encompassed the entire suite of Alternatives for analysis as changed. This motion should have been addressed as an amendment to the first motion.
- Durability of catch share allocations are important for a stable fishery (bank loans, crew pay, vessel safety, bycatch reduction)
- Program has reviews at 5 years and 10 years already and can make changes.
- The Council has already reviewed, and rejected, looking at coop bycatch performance structures with quota reallocations; doing so again is redundant.
- Bycatch performance structures with quota reallocations create an incentive for fisherman not to communicate to avoid bycatch due to a perverse incentive.
- Quota reallocations would be difficult to administer because of the mandated appeals process.

## **Motion 3 – Goals & Objectives (Failed 7-9)**

*The AP recommends the following changes to the Council’s Goals and Objectives.*

1. *Balance the requirements of the National Standards in the Magnuson Stevens Act.*
2. *Increase the ability of the groundfish trawl sector to avoid PSC species and utilize available amounts of PSC more efficiently by allowing groundfish trawl vessels to fish more slowly, strategically, and cooperatively, both amongst the vessels themselves and with shore-based*

processors .

3. Reduce bycatch and regulatory discards by groundfish trawl vessels.
4. Authorize mechanisms that provide a distribution of trawl groundfish allowable harvest by means other than just catch history, and that otherwise provides fair and equitable access and entry opportunities. Such mechanisms will ~~privileges that~~ take into consideration the value of assets and investments in the fishery and dependency on the fishery for harvesters, processors, and communities.
5. Balance interests of all sectors and provide equitable distribution of benefits and similar opportunities for increased value, while minimizing the value of newly created tradable rights.
6. Promote community stability and minimize adverse economic impacts by limiting consolidation, providing employment and entry opportunities, and increasing the economic viability of the groundfish harvesters, processors, and support industries.
7. Improve the ability of the groundfish trawl sector to achieve Optimum Yield, including increased product retention, utilization, landings, and value by allowing vessels to choose the time and location of fishing to optimize returns and generate higher yields.
8. Increase stability relative to the volume and timing of groundfish trawl landings, allowing processors to better plan operational needs as well as identify and exploit new products and markets.
9. Increase safety by allowing trawl vessels to prosecute groundfish fisheries at slower speeds and in better conditions.
10. Include measures for improved monitoring and reporting.
11. Increase the trawl sector's ability to adapt to applicable Federal law (i.e., Endangered Species Act).
12. Include methods to measure the success and impacts of all program elements.
13. Minimize adverse impacts on sectors and areas not included in the program.
14. Promote active participation by owners of harvest vessels and fishing privileges and GOA groundfish trawl LLP holders.

Motion failed 7-9.

#### Rationale in Favor:

- As the alternatives have developed, it is appropriate to make recommendations for the Council to consider in terms of the overall objectives and goals of the proposed action. The additional language is responsive to community concerns and the development of a program unique to the GOA and the long-term health of coastal communities and the need to maintain access.
- Minimizing value of tradeable assets: It should not be a goal to maximize the value of any quota based fishing privilege. It should be a goal to minimize that value while achieving the objectives of the program.

#### Rationale in Opposition:

- The proposed language change in #4 is in direct opposition to the options under consideration in Alternative 2, which was previously passed by the AP for analysis.
- Regarding the change to #5, it should not be the goal of any management program to include an objective that focuses on "minimizing the value" of a fishery. The goal of management should always be to increase the value a fishery in the best and most appropriate way possible.
- Alternative 3 already includes analysis of an allocation scheme not based on history.
- The motion is not responsive to the Council and requests to provide clarification within existing alternatives.



- Any potential catch share allocation would not be permanent and there could be reallocations as has happened with other programs, for example rockfish.

#### **Motion 4 – Purpose & Need (Passed 9-7)**

The AP recommends the following changes to the Council’s Purpose and Need Statement:

Management of Gulf of Alaska (GOA) groundfish trawl fisheries has grown increasingly complicated in recent years due to the implementation of measures to protect Steller sea lions and reduced Pacific halibut and Chinook salmon Prohibited Species Catch (PSC) limits under variable annual total allowable catch (TACs) limits for target groundfish species. These changes complicate effective management of target and non-target resources, and can have significant adverse social and economic impacts on harvesters, processors, and fishery-dependent GOA coastal communities.

The current management tools in the GOA Groundfish Fishery Management Plan (FMP) do not provide the GOA trawl fleet with the ability to effectively address these challenges, especially with regard to the fleet’s ability to best reduce and utilize PSC. As such, the Council has determined that consideration of a new management regime for the GOA trawl fisheries is warranted.

The purpose of the proposed action is to create a new management structure ~~which allocates that assigns PSC prohibited species catch limits~~ and/or allowable harvest to individuals, cooperatives, or other entities, in a manner that minimizes the monetization of PSC limits and allowable harvest and the economic barriers to entry that are based on allocation of PSC or allowable harvest, that provides entry opportunities for new entrants, and that ~~which will~~ mitigate the impacts of a derby-style race for fish. It is expected to improve stock conservation by creating vessel-level and/or cooperative-level incentives to eliminate wasteful fishing practices, provide mechanisms to control and reduce bycatch, and create accountability measures when utilizing PSC and/or target and secondary species. It will also increase at-sea monitoring in the GOA trawl fisheries, have the added benefit of reducing the incentive to fish during unsafe conditions, and improve operational efficiencies.

The Council recognizes that GOA harvesters, processors, and communities all have a stake in the groundfish trawl fisheries. The new program shall be designed to provide tools for the effective management and reduction of PSC and bycatch, and promote increased utilization of both target and secondary species harvested in the GOA. The program is also expected to increase the flexibility and economic efficiency of the GOA groundfish trawl fisheries and support the continued direct and indirect participation of the coastal communities that are dependent upon those fisheries. These management measures could apply to those species, or groups of species, harvested by trawl gear in the GOA, and/or to PSC. This program will not modify the overall management of other sectors in the GOA, or the Central GOA rockfish program, which already operates under a catch share system.

*Motion passed 9-7.*

#### **Rationale in Favor:**

- It is appropriate for the AP to provide comments to the Council with respect to issues related to the Purpose and Need Statement for GOA TBM.
- Concern over new entrants into the trawl fishery means that the current path that anyone now follows to end up in the wheelhouse and/or ownership of a trawl operation will be higher, more expensive, and difficult path if no mitigation efforts are made and a traditional catch share system is put in place.

#### Rationale in Opposition:

- The AP's role is not to change the purpose and need statement, is procedurally inappropriate, and will unnecessarily delay action.
- Including a priority focused "minimizing value" within fisheries FMP conflicts with the explicit goals of the MSA to increase value.
- Using "means other than just catch history" for the basis of an allocation is already included in the alternatives and redundant.
- "Entry level opportunities" for a trawl catcher vessel fishery could result in additional vessels that increase the race for fish and lead to more bycatch.

*Minority report for motions on Purpose and Need: The Gulf of Alaska needs a trawl catch share program now to be able to handle the bycatch cuts the Council has already put in place, this has been needed for years. Drastic changes in the purpose and need focused on minimizing the value of trawl fisheries is a step backwards in fisheries management, we can do better.*

*Signed by: Kurt Cochran, Craig Lowenberg, Sinclair Wilt, Patrick O'Donnell, Matt Upton, Ruth Christensen, Jerry Downing*

#### **C6 Squid to Ecosystem Component Category: Initial Review**

The AP recommends the Council adopt Alternative 2 with Option 1 as their preliminary preferred alternative and to schedule final action, in order to move squid into the ecosystem category in the BSAI/GOA with periodic updated stock assessments.

*Motion passed 18-0.*

#### Rationale in Support:

- Squid meets the current National Standard 1 guidelines to be designated as an ecosystem component species, and is not generally retained except for the small amounts caught incidentally.
- Periodically updating the stock assessment and catch monitoring will allow for the Council to be responsive to any future changes.
- An MRA would have limited benefit because the squid would typically be dead.

#### **D1 Research Priorities**

The AP received the report on research priorities and took no action.

#### **E1 Staff Tasking**

The AP received the report on staff tasking and took no action.