

North Pacific Fishery Management Council

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FINAL

ADVISORY PANEL MINUTES North Pacific Fishery Management Council March 30–April 4, 2009

The following members were present for all or part of the meetings

Joe Childers
Mark Cooper
Craig Cross
Becca Robbins Gisclair
Tom Enlow
Tim Evers

Jeff Farvour
Jan Jacobs
Bob Jacobson
Simon Kinneen
Chuck McCallum
Mike Martin

Matt Moir
Rex Murphy
Theresa Peterson
Ed Poulsen
Beth Stewart

The AP unanimously approved the minutes from the previous meeting.

C-1 Fixed Gear LLP recency

The AP made the following changes to the Alternatives and Options and modified the problem statement as follows: (deletions are shown in ~~strike through~~, **bold/underlined** information is new language.)

~~Alternative 1. No Action. No changes would be made to the current License Limitation Program.~~

Alternative 2.

Add non-severable gear-specific Pacific cod endorsements to fixed gear licenses. Pacific cod endorsements would limit entry into the directed Pacific cod fisheries in Federal waters in the Western and Central GOA.

Component 1 – Area included

Western GOA

Central GOA (current LLP endorsement includes West Yakutat)

- Different options may be applied to each management area.

Component 2 – Identify and define sectors

The sector definitions for awarding Pacific cod endorsements may be different from those used for the GOA Pacific cod sector split action. The purpose of sector definition in this action is to allow the Council to select different catch thresholds for the different gear types, operational types and vessel lengths. Individual licenses may for any combination of a jig, hook-and-line, and a pot endorsement if the license meets the respective threshold(s) for the appropriate gear type, operational type and vessel length.

- Hook-and-line CP
~~Option: Hook and line CP \geq 125~~
~~Hook and line CP \leq 125~~

- Hook-and-line CV
Option: Hook-and-line CV \geq 60
Hook-and-line CV $<$ 60
- Pot CP
- Pot CV
Option: Pot CV \geq 60
Pot CV $<$ 60
- Jig (**LLPs that received jig gear Pacific cod endorsements are exempted from jig gear restrictions.**)
Exempt vessels using jig gear from the LLP requirement (including Pacific cod endorsement requirement) that using a maximum of 5 jiggling machines, 5 lines, and 30 hooks per line or one line of 150 hooks.

Option: Exempt vessels participating with fixed gear in the Western GOA B season directed Pacific cod fishery from the Pacific cod endorsement requirement.

Suboption: Exempt vessels using pot gear only

- **For pot CV LLPs that qualify for a pot endorsement with an MLOA of <50' will be increased to 50' MLOA.**

Component 3 – Qualifying years

~~Option 1: 2000 – 2006~~

Option 2: 2002 – 2006

Option 3: Add the qualifying period January 1, 2007 through:

Suboption 1: June 4, 2008

~~Suboption 2: December 8, 2008~~

~~Either of these suboptions will may be selected in addition to one of the qualifying periods in Option 1 or Option 2.~~

Suboption 3: If an LLP license qualifies only when the supplemental range of years in Suboption 1 or ~~Suboption 2~~ is included, any Pacific cod endorsements granted to licenses under ~~these~~ suboptions would be extinguished upon transfer of the LLP license **to another person or designate** another vessel or owner **after March 31, 2009. A vessel may be replaced if a person submits clear and unambiguous written documentation that the vessel can no longer be used in the fishery due to actual total loss or constructive total loss. If an LLP license would have qualified for an endorsement under this supoption but is not assigned to a vessel as of March 31, 2009 it would not receive an endorsement.**

~~If a GOA hook and line catcher processor LLP license holder was a voluntary non-participant in the Freezer Longliner Coalition informal PSC co-op efforts for 2006, 2007, or 2008, and does not qualify under Component 3, Options 1, 2, or 3, the LLP would not be extinguished. If Pacific cod endorsements are a result of this action in the GOA hook and line CP sector, the LLP would receive a Pacific cod endorsement~~ **If a GOA hook-and-line catcher processor LLP license holder was a voluntary non-participant in the Freezer Longliner Coalition informal PSC co-op efforts of 2006, 2007, or 2008, the LLP would receive a Pacific cod endorsement. If gear-specific Pcod endorsements are a result of this action, the licenses would receive a H&L Pcod endorsement, but would only be allowed to participate in the offshore Pacific cod fishery.**

Component 4 – Catch thresholds

Thresholds shall be based on legally retained catch in the aggregate during all of the qualifying years in the Federal and parallel fisheries (excluding IFQ catch). Separate and distinct thresholds may be determined for each defined sector.

~~Option 1: All directed Pacific cod 1, 3, or 5 landings (resulting in a Pacific cod endorsement)~~

~~Option 2: All directed Pacific cod~~

Hook-and-line CV < 60 feet and Pot CV < 60 feet = 10 MT (resulting in a Pacific cod endorsement)

Hook-and-line CP, Pot CP, Hook-and-line CV ≥ 60 feet and Pot CV ≥ 60 feet = 50MT (resulting in a Pacific cod endorsement)

Jig = 5 MT (resulting in a Pacific cod endorsement)

For licenses with a MLOA ≥ 60 feet but assigned to vessels with a LOA of < 60 feet, those licenses that do not meet the higher threshold (i.e. ≥ 60 ft) can qualify at the lower catch threshold, however the MLOA of the license will be changed to match the LOA of the vessel. The LLP license must have been used on a vessel under 60 feet LOA during the entire qualifying period. The recipient would need to certify the LPA of the vessel as of the effective date of the rule.

~~Option: Hardship provision. A GOA fixed gear LLP holder who had 5 or more Pacific cod landings in 1999, but had a vessel on which the LLP was used sink in 1999 or 2000, shall be credited with qualifying history so as to obtain a Pacific cod endorsement.~~

Directed Pacific cod catch is defined as landings made when the directed Pacific cod fisheries are open. For purposes of catch accounting, licenses are credited with deliveries or processing activity recorded up to 7 days after the directed season closes.

Component 5 – Stacked license provisions

Where there are multiple LLPs registered to a single vessel, also known as ‘stacking’ of LLPs, groundfish harvest history will be fully credited to all stacked licenses, each carrying its own qualifying endorsements and designations.

Component 6—Capacity/efficiency limits to CV and CP fixed gear LLPs

~~Add a width restriction (efficiency restriction) on each CV and CP fixed gear LLP license that is eligible to access Pacific cod under this action. The width restriction would be 1 ft of width for each 3 ft of length, and is based on the LOA of the vessel assigned to the license on December 8, 2008. The licenses that are assigned to vessels on December 8, 2008 that exceed the width restriction will be grandfathered at their present LOA. For vessels under construction on December 8, 2008, the width restriction for the license shall be equal to the vessel width upon completion. Vessels would be required to report width measurements to RAM.~~

~~Option: Add a simple gross tonnage maximum to licenses.~~

Component 7—CQE community resident exemption

~~CQE community residents currently holding latent, non-qualifying, LLP permits shall retain their LLP and area endorsement (s) and be exempt from the Pacific cod endorsement requirement. A hook and line or pot gear endorsement shall be made through (a) a one-time designation at the time the endorsement is issued or (b) designated at the time the first Pacific cod landing is made based on the gear type used. The CQE community resident’s LLP, shall not be leased, and can only be transferred to an individual who has lived continuously in the permit holder’s CQE community for 24 consecutive months prior to the transfer and who intends to remain a resident of the community. Residency shall be affirmed annually upon renewal. If a CQE community LLP holder with a restricted transfer LLP is no longer a resident of the CQE community or dies without a designated qualified LP community beneficiary, the community CQE shall designate a qualified individual in the CQE community to hold the restricted transfer LLP.~~

~~Option: Restrict exemption to LLPs with a MLOA endorsement less than 60 ft.~~

The motion passed 11/4.

Minority Report: A motion to keep Component 7 in the document failed 6/9. A minority of the Advisory Panel supported component 7 in the document that would preserve latent LLPs for use by residents of smaller fishery dependent Gulf of Alaska coastal communities to fish cod in federal waters. As an alternative, the minority of six in favor and nine in opposition supported an amendment that would allocate cod endorsed LLPs directly to CQE's and so avoid the administrative burden that the agency was concerned with regarding exempting residents of CQE communities from losing their LLP cod endorsements if they had not fished their LLPs recently. While the minority accepted that the legal requirement under national standard 8 may have been satisfied they felt that by stripping component 7 out and not replacing it with a meaningful alternative addressing community impacts, that the congressional intent behind national standard 8 and MSA in general was not met and the minority was concerned with the actual negative community impacts if up to 72 LLPs are eliminated from the smaller fisheries dependent coastal communities. Signed: Chuck McCallum, Becca Robbins Gisclair, Rex Murphy, Theresa Peterson, Simon Kinneen, and Tim Evers.

A motion to exempt LLP licenses on vessels 50 feet and less using pots from threshold criteria to receive cod endorsements failed 6/9.

Minority Report: The minority of the AP supported an amendment to exempt LLP licenses on vessels 50 feet and less using pots from threshold criteria to receive cod endorsement. Six AP members supported with nine opposing. The minority believe that Alaska needs vibrant coastal communities and policy makers need to build in management measures to make this happen. This action would help to allow a level of flexibility in combination fishing operations which make up the bulk of many Alaska harbors. The restraining components for this size class and the ability to carry only a small number of pots will not pose a significant threat to current participants but will provide access to future generations without high cost entry. The entry level component for the jig sector is good, but there should be additional opportunity for small boats. Signed: Theresa Peterson, Chuck McCallum, Rex Murphy, Jeff Favour, Simon Kinneen, Becca Robbins Gisclair.

Additionally, the AP changed the Purpose and Need statement as follows:

“...These long-term participants need protection from those who have little or no recent history and who have the ability to increase their participation in the Pacific cod fisheries. At the same time, ~~retaining Federal waters opportunities for small community quota eligible (CQE) communities dependent on access to a range of fishery resources and expanding~~ **entry-level** opportunities in Federal waters for small capacity jig operations is valued to promote community protections at a level that imposes minimal impact on historic catch shares of recent participants.

The intent of the proposed amendment is to prevent the future entry or re-entry of latent fixed gear groundfish fishing capacity that has not been utilized in recent years into the Pacific cod fisheries, ~~and to preserve the traditional vessel operational efficiencies within the fisheries.~~ This requires prompt action to promote stability in the fixed gear sectors of the GOA Pacific cod fisheries, and is expected to be implemented concurrently with the division of GOA Pacific cod among sectors which is currently under consideration. However, this action cannot address continued growth in the waters managed by the State of Alaska.”

Motion passed 8/7.

C-2 Salmon Bycatch

The AP recommends the Council approve Amendment 91 to the FMP for Groundfish of the BSAI Management Area which includes adoption of Alternative 4 (PPA), with the following additions (underlined) and deletions (~~indicated as strikethrough~~).

Alternative 4: Preferred Alternative

Alternative 4 would establish a Chinook salmon bycatch cap for each pollock fishery season which, when reached, would require all directed pollock fishing to cease for that season. Components 2-4 specify the allocation and transferability provisions associated with the cap. (*Adopting PPA 1 + PPA 2*)

Component 1: Hard cap with option for ICA regulated incentive system

Annual scenario 1: Hard cap with an ICA that provides explicit incentive *plan(s)* to promote salmon avoidance in all years

Hard cap if an ICA is in place that provides explicit incentive *plan(s)* for each participant *in the plan* to avoid salmon bycatch in all years:

Overall cap: 68,392, allocated by season and under Components 2-4 as described below:

For those ~~operators~~ *individuals or entities* that opt out of such an ICA, *their collective hard cap will be equal to those individuals' or entities' pro rata share of the backstop cap as* follows:

Overall *back stop* cap: 32,482

CDQ allocation: 2,436

Non-CDQ cap: 30,046

To ensure that the 68,392 Chinook salmon cap is a "hard" cap, subtract from the 68,392 hard cap the pro rata proportion of the 32,482 back stop cap represented by the vessel(s) opting out of the ICA. (option C on page 66 of the DEIS).

~~All salmon bycatch attributed to the AFA pollock trawl fleet will accumulate against this lower cap, but only those operations not in the ICA will be required to stop fishing when has been reached. This backstop cap of 32,482 will not be allocated by sector, so all other components in Alternative 4 are not relevant to this backstop cap. (In the absence of a sector allocation for this backstop cap a 7.5% allocation applies to the CDQ sector by default, and the remaining 92.5% is set as the non-CDQ cap.)~~

Incentive plan requirements:

- An *incentive plan* must provide incentive(s) for each vessel to avoid salmon bycatch under any condition of pollock and salmon abundance in all years.
- Incentive measures must include rewards for salmon bycatch avoidance and/or penalties for failure to avoid salmon bycatch at the vessel level.
- The *incentive plan* must specify how those incentives are expected to promote reductions in actual individual vessel bycatch rates relative to what would have occurred in absence of the incentive program. Incentive measures must promote salmon savings in any condition of pollock and salmon abundance, such that they are expected to influence operational decisions at bycatch levels below the hard cap.

Annual reporting:

- The ICA must be made available for Council and public review.
- An annual report to the Council will be required and must include:
 - 1) a comprehensive explanation of incentive measures in effect in the previous year,
 - 2) how incentive measures affected individual vessels, and
 - 3) evaluation of whether incentive measures were effective in achieving salmon savings beyond levels that would have been achieved in absence of the measures.

Annual scenario 2 (from PPA 2): Hard cap in the absence of an ICA with explicit incentive plan(s) to promote salmon avoidance

Hard cap in absence of an ICA that provides explicit incentive plan(s) for all participants to avoid salmon bycatch in all years:

Overall cap: 47,591, allocated by season and under Components 2-4 as described below.

Seasonal distribution of caps

Any hard cap would be apportioned between the pollock A and B seasons. The seasonal distribution is 70/30, based on the average distributional ratio of salmon bycatch between the A and B seasons in the 2000-2007 period.

Seasonal rollover of caps

No restrictions: There will be no restrictions on rollover of caps for participants in an ICA that includes explicit incentive plan(s).

Component 2: Sector allocation

Separate sector level caps will be distributed within each season for the CDQ sector and the three remaining AFA sectors, the inshore catcher vessel (CV) sector, the mothership sector, and the offshore catcher processor (CP) sector, as follows:

A season: CDQ 9.3% ; inshore CV fleet 49.8% ; mothership fleet 8.0% ; offshore CP fleet 32.9%

B season: CDQ 5.5% inshore CV fleet 69.3% ; mothership fleet 7.3%; offshore CP fleet 17.9%

This distribution is based on the 5-year (2002-2006) historical average of the annual proportion of salmon bycatch by sector within each season, adjusted by blending the bycatch rate for CDQ and non-CDQ partner sectors. It is also weighted by the AFA pollock allocation for each sector; in each season, the proportional allocation by sector comprises the adjusted 5-year historical average by sector weighted by 0.75 for the salmon bycatch history and the AFA pollock allocation by sector weighted by 0.25 (*Motion failed 6/13*)

Component 3: Sector transfers

Allocate salmon bycatch caps to each sector and allow the entity representing each non-CDQ sector and the CDQ groups to transfer salmon bycatch among the sectors and CDQ groups. (NMFS does not actively manage the salmon bycatch allocations).

Component 4: Cooperative provisions

Each inshore cooperative and the inshore limited access fishery (if the inshore limited access fishery existed in a particular year) shall receive a salmon allocation managed at the cooperative level. If the cooperative or limited access fishery salmon cap is reached, the cooperative or limited access fishery must stop fishing for pollock.

The initial allocation of salmon by cooperative within the inshore CV fleet or to the limited access fishery would be based upon the proportion of total sector pollock catch associated with the vessels in the cooperative or limited access fishery.

Cooperative transfers

When a cooperative's salmon cap is reached, the cooperative must stop fishing for pollock and may transfer salmon bycatch from other inshore cooperatives, CDQ groups, or entities representing non-CDQ groups (industry initiated), after which the cooperative may continue fishing again.

ICA Eligibility Policy Statement

No individual or group of individuals shall be able to prevent another individual or group of individuals from implementing an incentive plan by refusing to join an ICA or submitting an ICA to the exclusion of others. (C-2(h) item B page 1 of 9)

An ICA must allow any AFA eligible vessel, cooperative, legal entity, or CDO group to join the ICA. (C-2(h) item C page 2 of 9).

Motion passed 13/6.

C-3 (a) Bristol Bay Trawl Closure and Walrus issues

The AP has reviewed information presented on the Nearshore Bristol Bay Trawl Area yellowfin sole fishery, and believes that there is no compelling evidence of walrus interaction. However, the AP recommends the Council direct staff to prepare an updated discussion paper that would incorporate 2009 bycatch data; that Council should consider scheduling the discussion paper for the October 2009 meeting; and, the AP further recommends that the Council consider scheduling an outreach effort to Bristol Bay communities for the purpose of presenting the discussion paper and explaining the Council process.

Motion passed 14/0

C-4(a) Review annual report from Best Use Cooperative

The AP received a presentation from Jason Anderson, Executive Director of the Best Use Cooperative

C-4(b) Final action on Amendment 80 cooperative formation criteria

The AP recommends that the Council approve Alternative 1 (status quo – A minimum of three unique quota share holders holding at least nine quota share permits are required to form a cooperative) with the suboption that the GRS shall be applied in aggregate to all cooperatives if this calculation meets or exceeds the GRS requirement.

The AP also recommends that the Council approve the modified purpose and need statement presented on Page 63 of the March 10, 2009 EA:

“As the GRS increases, participants may have increased difficulties meeting the GRS requirements. Allowing cooperatives to aggregate the GRS among all cooperatives could provide additional assurance to cooperatives that a minimum amount of retention is met without requiring specific vessel owners to form a cooperative with other vessel owners who may not share common goals or operating procedures. An aggregate cooperative GRS would continue to further the goals of maximizing groundfish retention while providing some additional flexibility for vessel owners.”

Motion passed 15:2:1

D-1 (a) Halibut Sorting EFP

The AP recommends the Council approve the Halibut Sorting EFP.

Motion passed 17:0