

North Pacific Fishery Management Council
GULF OF ALASKA GROUND FISH RATIONALIZATION
Updated to October 8, 2004

STAFF ANNOTATION FOR DECEMBER 2004 MEETING

The following provisions apply to Alternative 2 only:

2.2 Harvest Sector Provisions

2.2.1 Management Areas:

Areas are Western Gulf, Central Gulf, and West Yakutat—separate areas

For Pollock: 610 (Western Gulf), 620 and 630 (Central Gulf), 640 (West Yakutat (WY))

- Shortraker and rougheye (SR/RE) and thornyhead rockfishes will be divided between Southeast Outside (SEO) and WY
- The allocation of rockfish bycatch to the halibut IFQ fishery will be on a NMFS management area basis
- Non-SR/RE and thornyhead rockfish trawl catch history in SEO during 95-98 will be used in the calculation of WYAK allocation
- SEO is exempt except for SR/RE and thornyhead rockfishes as secondary species. Allocation will be based on target catch in sablefish, halibut, Demersal Shelf Rockfish and P. cod fishery

Gear: Applies to all gear except jig gear—

Option 1. The jig fishery would receive an allocation based on its historic landings in the qualifying years – the jig fishery would be conducted on an open access basis.

Option 2. Catch by jig would be accounted for in a manner similar to sport halibut harvests in halibut IFQ fishery.

Suboption: Cap jig harvest at ___% of current harvest by species and area:

1. 100%
2. 125%
3. 150%
4. 200%

2.2.2 Qualifying periods and landing criteria (same for all gears in all areas)

(The analysis will assess AFA vessels as a group)

Option 1. 95-01 drop 1

Option 2. 95-02 drop 1

Option 3. 95-02 drop 2

Option 4. 98-02 drop 1

Suboption 1: For Pacific cod under all options consider only A season harvests for 2001 and 2002.

Suboption 2: For Pacific cod consider a sector allocation based on specified percentages prior to individual allocations.

2.2.2.1 Qualifying landing criteria

Landings based on retained catch for all species (includes weekly processor report for Catcher/Processor sector)

NOTE: Total pounds landed will be used as the denominator.

Catch history determined based on the poundage of retained catch year (does not include meal)

Suboption: catch history for P. cod fisheries determined based on a percentage of retained catch per year (does not include meal)

The Council should clarify for staff whether harvests inside of 3nm should be considered in making allocations under the Federal program. Exclusion of catch inside 3nm could be justified, if that catch is used for making an allocation to a State water fishery. On the other hand, some federal participants with extensive catch history from the parallel fishery may wish to have their catch credited in making a federal fishery allocation. Uncertainty concerning the treatment of harvests inside 3nm greatly complicates the quantitative analysis.

2.2.2.2 Eligibility

LLP participation

Option 1. Eligibility to receive catch history is any person that holds a valid, permanent, fully transferable LLP license.

Suboption 1. Any person who held a valid interim LLP license as of January 1, 2003.

Suboption 2. Allow the award of retained incidental groundfish catch history arising from the halibut and sablefish IFQ fishery.

Basis for the distribution to the LLP license holder is: the catch history of the vessel on which the LLP license is based and shall be on a fishery-by-fishery basis. The underlying principle of this program is one history per license. In cases where the fishing privileges (i.e., moratorium qualification or LLP license) of an LLP qualifying vessel have been transferred, the distribution of harvest shares to the LLP shall be based on the aggregate catch histories of (1) the vessel on which LLP license was based up to the date of transfer, and (2) the vessel owned or controlled by the LLP license holder and identified by the license holder as having been operated under the fishing privileges of the LLP qualifying vessel after the date of transfer. (Only one catch history per LLP license.)

Option 2. Non-LLP (State water parallel fishery) participation

Suboption 1. Any individual who has imprinted a fish ticket making non-federally permitted legal landings during a State of Alaska fishery in a state waters parallel fisheries for species under the rationalized fisheries.

Suboption 2. Vessel owner at time of non-federally permitted legal landing during a State of Alaska fishery in a state waters parallel fisheries for species under the rationalized fisheries.

The Council could select a preferred option for eligibility to receive an allocation under the program. Since LLP licenses are used to control access to the fishery, the use of LLP licenses for determining eligibility to receive an allocation in the rationalized fishery would be consistent with current regulation of entry. In addition, allowing entry to persons not holding permanent LLPs might be unfair to persons that have relied on the LLP regulations in trading licenses.

Including holders of interim LLP licenses could be argued by some to be fair, since these licenses have not been fully adjudicated and may be held by some persons that would ultimately be awarded permanent licenses. However, the agency anticipates having all appeals resolved prior to implementation of this program, so outstanding appeals concerning interim licenses should not be an issue at the time of implementation. Using a threshold date (such as January 1, 2003 in Suboption 1) could be supported by an argument that persons who maintained appeals through that date should be included. As written in suboption 1, persons whose appeals were denied after that date would still be eligible for an allocation. Eligibility for any holders of interim permits, however, could be argued to be unfair by those that either met the requirements for a permanent license or chose to purchase a license to continue in the fisheries. Persons that have purchased licenses to remain in the fishery, in particular, have a compelling argument that holders of interim licenses should be excluded. In some cases, appeals are likely to have been perpetuated by persons that knew their appeals would be denied to avoid having to purchase a license. Even in the case of legitimate appeals, including persons denied licenses would not have met the threshold requirements for the license appears to be inconsistent with the Council's earlier decisions concerning eligibility.

Options for the allocation to halibut and sablefish IFQ participants are included in a separate part of the motion. The second suboption may be retained and, if necessary, adapted consistent with the other section at a future date.

The treatment of participation inside of 3nm should be coordinated across this section, section 2.2.2.1 above, and section 2.2.2.3 below. Including parallel fishery participants in the program could be desirable, if no State water fishery is developed to accommodate these participants. If a State water allocation is made to support fisheries for State water participants that do not hold LLPs, the inclusion of parallel water fisheries participants in the Federal allocation could be viewed as rewarding their historic participation twice.

2.2.2.3 State Waters - Parallel Fisheries and State Groundfish Management

A portion of the TAC will be allocated to fisheries inside of 3 nm and will be subject to State management:

- Option 1. An amount equivalent to the total annual catch (for each groundfish species/group) from state waters (inside of 3 nautical miles [e.g., parallel and 25% Pacific cod fishery]) by all vessels will be managed directly by the State of Alaska Board of Fisheries as a TAC/GHL equivalent to:
 - a. Highest amount taken in state waters by area
 - b. Highest amount taken in state waters by area plus 15%
 - c. Most recent four-year average harvest from state waters
- Option 2. All catch inside of 3 nautical miles by non-federally permitted vessels fishing the parallel fishery plus all catch under the 25% state water cod fishery and the PWS Pollock fishery remains under the authority of the State of Alaska Board of Fisheries.
- Option 3. Only the catch associated with the 25% state water cod fishery and the PWS Pollock fishery remains under the authority of the State of Alaska Board of Fisheries.

The Council could consider establishing criteria for making allocations (both the allocation between the State and Federal fisheries and the allocations to individuals under the Federal program). In making these allocation decisions, the Council should consider the interactions of the different allocations. Valuing catch for individual allocations in the Federal program might not be necessary, if the same catch history is also allocated to a State water fishery. The Council should provide a rationale for its decisions, particularly if catch that is counted in making an allocation to a State water fishery is also counted in the Federal program.

Future analysis by staff would benefit from the following Council decisions

- 1) defining individuals eligible for the federal program (i.e., permanent LLPs, interim LLPs, any State permitted harvests in a parallel fishery)
- 2) deciding whether catch of eligible participants inside of 3nm will be credited in the federal program

2.2.3 Primary Species Rationalization Plan

Primary Species by Gear

2.2.3.1 Initial Allocation of catch history

Allocate catch history on an individual basis

- a. Trawl CV and CP:
Pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, Pelagic shelf rockfish
- b. Longline CV and CP:
Pacific Cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if turbot is targeted), northern rockfish, Arrowtooth flounder
- c. Pot CV and CP:
Pacific Cod

2.2.3.2 Harvest share (or QS/IFQ) Designations

2.2.3.2.1 Vessel Designation of low producers and high producers in the fixed gear class.

Low producing vessels are:

- Option 1: less than average primary species harvest shares initially allocated by gear and area.
- Option 2: less than the 75th percentile primary species harvest shares initially allocated by gear and area.

High producing vessels are the remainder.

2.2.3.2.2 Harvest share sector designations:

Designate harvest shares (or QS/IFQ) as CV or CP. Annual CV harvest share allocation (or IFQ) conveys a privilege to harvest a specified amount. Annual CP harvest share allocation (or IFQ) conveys the privilege to harvest and process a specified amount. Designation will be based on:

Actual amount of catch harvested and processed onboard a vessel by species.

2.2.3.2.3 Harvest share gear designations

Designate CV harvest shares as Trawl, longline, and Pot

Designate CP harvest shares as CP trawl, CP longline, CP pot.

Option: Designate harvest shares as high and low producer fixed gear

2.2.3.2.4 Harvest Share Restrictions—Harvest restrictions apply to primary species only.

Harvest restrictions for primary harvest shares (or IFQ) may be used by other gear types except that:

Option 1: No restrictions

Option 2: Fixed gear harvest share (or IFQ) may not be harvested using trawl gear

Option 3: Pot gear harvest shares may not be harvested by longline or trawl gear

2.2.3.2.5 If a processor limited entry alternative is chosen, CV primary species harvest shares will be issued in two classes. Class A shares will be deliverable to a licensed processor. Class B shares will be deliverable to any processor as authorized under this program.

Only the annual allocations will be subject to the Class A/Class B distinction. All long term shares or history will be of a single class.

Suboption : Processor affiliated vessels to receive entire allocation as A shares.

The Council could make a decision on the suboption, namely, whether processor affiliates would receive only A shares (and no B shares). In making the determination, the Council should consider the purpose of distinguishing Class A and Class B shares and the effects of the determination on differently situated participants. Differences in Alternative 2A (license limitation for processors) and Alternative 2B (harvest shares with processor linkages), which could affect the impacts of this provision, should also be considered.

Recall, that Class A shares are subject to delivery restrictions. Under Alternative 2A, Class A shares may be delivered to any licensed processor. Under Alternative 2B, Class A shares are required to be delivered to the processor that the shares are associated with. Processor associations can be changed (or removed) by the harvester forfeiting a portion of its shares for a period of time. Class B shares are not subject to landing limitations. Because of this lack of landings restrictions, B share landings could command a higher price than A share landings. The price disparity for B share landings is likely larger under Alternative 2B, because of the greater limit on landings under that alternative. Class B shares are generally intended to provide bargaining leverage to independent harvesters. This purpose generally suggests that Class B shares should not be issued to vertically integrated harvesters (i.e., processor affiliates). Likewise, to the extent that Class B shares are intended to create opportunities for entry in the processing sector, issuance of B shares only to independent harvesters is most likely to facilitate that entry, since Class B shares provide the only opportunity for unlicensed processors to enter the general fishery. These arguments suggest that B shares should not be issued to processor affiliates.

One possible competing effect under Alternative 2B could support an argument for allocating B shares to processor affiliates, particularly if a substantial portion of the harvest sector is vertically integrated. Under Alternative 2B, if Class B shares are issued only to independent harvesters, the relative Class B share allocation to each independent share holder will increase with each increase in the vertical integration in the fishery. Processors that are not vertically integrated would be faced with associated share holders that would hold substantially fewer associated Class A shares. For example, in a fishery with no vertical integration if the A share/B share ratio is 80/20, a non-vertically integrated processor that is associated with 100 quota shares (long term shares) would have 80 IFQ associated with it. If instead 50 percent of the harvest shares in the fishery are vertically integrated and B shares are issued only to independent harvesters, the same non-vertically integrated processor that associated with 100 QS would be associated with only 60 IFQ (since the B share allocation to the independent harvesters would be doubled). This effect could be limited by limits on vertical integration and would be affected by the A share/B share ratio adopted by the Council. No similar issue arises under Alternative 2A because of the lack of processor associations in that alternative.

An additional aspect of Alternative 2B could suggest that the allocation of only A shares to licensed processors may have unintended consequences. Under Alternative 2B, if a vertically integrated processor were to hold shares that are associated with a different processor, the allocation of only A shares to the vertically integrated processor would disadvantage that vertically integrated processor in its negotiations with the processor to which its shares are linked. To overcome this potential problem, a provision could be adopted for Alternative 2B under which only A shares would be issued for QS held by the processor to which the QS is linked.

2.2.3.3 Transferability and Restrictions on Ownership of Harvest shares (or QS/IFQ)

2.2.3.3.1 Persons eligible to receive harvest shares by transfer must be:

Entities eligible to document a vessel (apply to CP).

Initial recipients of CV or C/P harvest share.

Community administrative entities would be eligible to receive harvest shares by transfer.

Individuals eligible to document a vessel with at least 150 days of sea time (apply to CV shares)

Definition of sea time:

Sea time in any of the U.S. commercial fisheries in a harvesting capacity.

2.2.3.3.2 Restrictions on transferability of CP harvest shares

CP harvest shares maintain their designation when transferred to persons who continue to catch and process CP harvest shares at sea, if CP harvest shares are processed onshore after transfer, CP harvest shares convert to CV harvest shares.

2.2.3.3.3 When CP shares are redesignated as CV shares;

CP harvest shares retain their gear designation upon transfer.

Purchaser must further identify which processing provision and regionalization provision apply to the shares, consistent with the gear type.

2.2.3.3.4 Vertical integration

Harvest shares initial recipients with more than 10% limited threshold ownership by licensed processors are capped at:

115-150% of initial allocation of harvest CV shares.

2.2.3.3.5 Leasing of QS outside of a co-op

Leasing of QS is defined as the transfer of annual IFQ permit to a person who is not the holder of the underlying QS for use on any vessel and use of IFQ by an individual designated by the QS holder on a vessel which the QS holder owns less than 20% -- same as "hired skipper" requirement in halibut/sablefish program.

- Option 1. No leasing of CV QS (QS holder must be on board or own at least 20% of the vessel upon which a designated skipper fishes the IFQ).
 Suboption: Allowing leasing by initial recipients of QS (grandfather clause)
- Option 2. Allow leasing of CV QS, but only to individuals and entities eligible to receive QS/IFQ by transfer.
- ~~Option 3.~~ Allow leasing of CP QS, but only to individuals and entities eligible to receive QS/IFQ by transfer.

The Council could decide the extent of any limits on leasing at this time.

First, since the only option with respect to leasing on catcher processors would allow free leasing, the Council could consider that a provision without option (as noted by the strike out).

Leasing prohibitions tend to be supported as a means of discouraging absentee ownership of interests in the fisheries. Although a share holder need not actively fish on a vessel, if leasing is prohibited the share holder would have to own a portion of a vessel, keeping an active role in the fishing industry. In considering whether to apply the above limitations on leasing, the Council should consider that the provisions as drafted would apply only to cooperative members (suggesting that no limit applies to cooperative members). While the Council may wish to encourage cooperative membership, by allowing free leasing in cooperatives, preventing any leasing by non-members of cooperatives may limit the effectiveness of any prohibition on leasing from serving any purpose other than encouraging cooperative membership.

The Council could also apply different leasing provisions to different sectors (i.e., low producing fixed gear catcher vessels, high producing fixed gear catcher vessels, trawl catcher vessels).

2.2.3.3.6 Separate and distinct harvest share use caps

Caps will be expressed as QS units indexed to the first year of implementation.

Option 1. Caps apply to all harvesting categories by species with the following provisions:

1. Apply individually and collectively to all harvest share holders in each sector and fishery.
2. Percentage-caps by species and management area are as follows (a different percentage cap may be chosen for each fishery):
 - i. Trawl CV and CP (can be different caps):
 Use cap based at the following percentile of catch history for the following species:
 (i.e., 75th percentile represents the amount of harvest shares that is greater than the amount of harvest shares for which 75% of the fleet will qualify.)
 pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, pelagic shelf rockfish
 Suboption 1. 75 %
 Suboption 2. 85%
 Suboption 3. 95 %
 - ii. Longline and Pot CV and/or CP (can be different caps)
 based on the following percentiles of catch history for the following species:
 Pacific cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if Greenland turbot is targeted), northern rockfish
 Suboption 1. 75 %
 Suboption 2. 85%
 Suboption 3. 95 %

Option 2. Caps equal to a percentage that would allow contraction of QS holders in the fishery by 20%, 30% or 50% of the number of initially qualified QS recipients by species and sector.

Conversion of CP shares:

- i. CP shares converted to CV shares
~~Option 1.~~ will count toward CV caps

Caps will be applied to prohibit acquisition of shares in excess of the cap.

Vessel use caps on harvest shares harvested on any given vessel shall be set at

- i. 100%
- ii. 150%
- iii. 200%

the individual use cap for each species. Initial issues that exceed the individual or vessel use caps are grandfathered at their current level as of a control date of April 3, 2003, including transfers by contract entered into as of that date.

2.2.3.3.7 Owner On Board Provisions

Provisions may vary depending on the sector or fishery under consideration (this provision may be applied differently pending data analysis)

- i. All initial issues (individuals and corporations) would be grandfathered as not being required to be aboard the vessel to fish shares initially issued as “owner on board” shares. This exemption applies only to those initially issued harvest share units.

A range of 0-50% for fixed gear CVs and 0-40% for trawl gear CVs, of the quota shares initially issued to fishers/harvesters would be designated as “owner on board.”

In cases of hardship (injury, medical incapacity, loss of vessel, etc.) a holder of "owner on board" quota shares may, upon documentation and approval, transfer/lease his or her shares a maximum period of 3 years out of any 10 year period.

Suboption: Owner on board provision would not apply within a cooperative.

The Council could consider selecting a preferred owner on board provision. In determining whether to require owner on board use of shares, the Council should consider the nature of the fisheries and whether such a requirement is reasonable for the future conduct of these fisheries. Establishing a portion of shares as owner on board could lead to a more fluid market for those shares since holders would be required to be on the vessel fishing those shares. Tenure of share holdings would likely decline for the owner on board shares. Owner on board shares are also likely to trade at a lower price than shares not subject to an owner on board requirement.

As with the leasing limitations discussed in 2.2.3.3.5 above, the Council should consider that the provisions as drafted would apply only to cooperative members (suggesting that no owner-on-board requirement would apply to cooperative members). The Council should bear in mind that removing owner on board requirements for members of cooperatives may limit the effectiveness of owner-on-board provisions in achieving any purpose other than encouraging cooperative membership.

The Council could also apply different owner-on-board provisions to different sectors (i.e., low producing fixed gear catcher vessels, high producing fixed gear catcher vessels, trawl catcher vessels).

2.2.3.3.8 Overage Provisions (only apply outside of a co-op)

A 7 day grace period after an overage occurs for the owner to lease sufficient IFQ to cover the overage. Failure to secure sufficient IFQ would result in forfeiture of the overages and fines.

- i. Trawl CV and CP:

Suboption 1. Overage up to 15% or 20% of the last trip will be allowed— greater than a 15% or 20% overage result in forfeiture and civil penalties. An overage of 15% or 20% or less, results in the reduction of the subsequent year’s annual allocation or IFQ. Underages up to 10% of harvest shares (or IFQ).

Suboption 2. Overage provisions would not be applicable in fisheries where there is an incentive fishery that has not been fully utilized for the year. (i.e., no overages would be charged if a harvest share (or IFQ) holder goes over

his/her annual allocation (or IFQ) when incentive fisheries are still available).

ii. Longline and pot CV and CP:

Overages up to 10% of the last trip will be allowed with rollover provisions for underages up to 10% of harvest shares (or IFQ).

Suboption. Overages would not be applicable in fisheries where there is an incentive fishery that has not been fully utilized for the year. (i.e., no overages would be allowed if a harvest share (or IFQ) holder goes over his/her annual allocation (or IFQ) when incentive fisheries are still available).

The Council could consider finalizing overage and underage provisions. The Council should make clear its purpose for establishing overage and underage provisions and make certain that the provision is consistent with that purpose. Under the proposed underage carryover provision a share holder that underharvests an allocation would be permitted to carryover up to 10 percent of their annual allocation to the following year. Underage carryover provisions can have an advantage, in reducing a person's incentive to attempt to fish all allocated shares, if there is a risk of overage. This incentive, in turn, reduces the possibility of an overharvest of the fleet share allocation. A downside of an underage carryover is that the agency may have to allocate in excess of the TAC to allocate both the annual share allocations and the underage carryover.

Overage carryover provisions, on the other hand, allow a person to exceed their allocation by a specific percentage without risk, since shares would be deducted from the following year's allocation. An overage carryover provision reduces any incentive to limit catch to one's allocation, since the risk of loss of catch or penalty for overages is reduced (or possibly removed). Including both overage and underage carryovers in a program could allow participants to speculate at the margin of their allocations, either intentionally underharvesting or overharvesting allocations, depending on the condition of markets. Including both provisions could be important for smaller participants, who are less likely to be able to project their harvest within the bounds of the overage and underage provisions because they fish relatively small allocations. Applying overages or underages only outside of cooperatives is consistent with this approach. As with other provisions in the motion, overage and underage provisions could be applied only to the sectors to which they are most important.

2.2.3.3.9 Retention requirements for rockfish, sablefish and Atka mackerel:

Option 1. no retention requirements.

Option 2. require retention (all species) until the annual allocation (or IFQ) for that species is taken with discards allowed for overages

Option 3. require 100% retention (all species) until the annual allocation (or IFQ) for that species is taken and then stop fishing.

2.2.3.3.10 Limited processing for CVs

Option 2. Limited processing of groundfish species by owners of CV harvest shares of rockfish species not subject to processor landing requirements are allowed up to 1 mt of round weight equivalent of groundfish per day on a vessel less than or equal to 60ft LOA. (consistent with LLPs - 679.4(k)(3)(ii)(D)).

The Council could decide whether to allow limited processing by catcher vessels under 60 feet, as is currently allowed under the LLP.

2.2.3.3.11 Processing Restrictions

Option 1. CPs may buy CV share fish not subject to processor landing requirements.
Suboption. 3 year sunset

Option 2. CPs would be prohibited from buying CV fish.

- Option 3. CPs may buy incentive fish and incidental catches of CV fish not subject to processor landing requirements.

A CP is a vessel that harvests CP shares under the program in a year.

The Council could select a preferred provision concerning the extent of catcher vessel harvests that may be processed by catcher processors. If Option 2 is adopted as a preferred provision, the Council should clarify whether it would permit catcher processors to process harvest shares subject to processor landing requirements, if the catcher processor met those requirements. For example, in Alternative 2A a licensed processor is permitted to receive deliveries of any A share landings. The Council should clarify whether a catcher processor that purchased a processing license would be permitted to purchase A share landings under that alternative. Similarly, under Alternative 2B, whether a catcher processor could purchase a license and establish linkages with harvest shares should be clarified. Although deliveries to catcher processors are very limited in the Gulf of Alaska fisheries, the Council should clarify whether a catcher processor that met qualifications for either a processing license or a linkage would be permitted to receive landings to the extent permitted by the license and linkage. Option 3 would allow catcher vessels to deliver harvests (including incidental harvests) from the incentive fishery to catcher processors.

(In deciding this provision, the Council should note that its decision should be consistent with any decision concerning 2.3.1.1.1 below).

Current inshore/offshore regulations allocate all directed pollock and 90 percent of the all Pacific cod to the inshore sector and 10 percent of the all Pacific cod to the offshore sector. The inshore sector is defined as shore-based processors, floating processors that remain in a single geographic location during a fishing year, and vessels less than 125 feet LOA that hold an inshore processing permit and process less than 126 mt of aggregate pollock and Pacific cod in a week. Since the current provision includes limited processing by catcher processors in the inshore sector, the division between inshore and offshore is not equivalent to the distribution between catcher processors and shore-based and floating processors.

Any allocation of species under this program would supersede these allocations. Quantitative analyses of the share distributions to catcher vessels and catcher processors under this program could be provided at a future time. In general, the affects of the program on the distribution between the inshore and offshore sectors, however, depends on the degree to which individuals would choose to take advantage of the different provisions to adapt their behavior and not the share allocations. For example, a provision allowing catcher vessels to deliver B share landings to catcher processors would only affect the distribution of landings, if catcher vessels choose to use the latitude of the provision. The size of the B share allocation (which the Council has yet to decide) could also affect the extent of the effects.

2.2.4 Allocation of Secondary Species

Thornyhead, roughey, shortraker, other slope rockfish, Atka mackerel, and trawl sablefish

Includes SEO shortraker, roughey, and thornyhead rockfish.

i. Allocation of shares

- Option 1. Allocate shares to all fishermen (including sablefish & halibut QS fishermen) based on fleet bycatch rates by gear:

Suboption 1. based on average catch history by area and target fishery

Suboption 2. based on 75th percentile by area by target fishery

- Option 2. Allocation of shares will be adjusted pro rata to allocate 100% of the annual TAC for each bycatch species.

Suboption 1. Other slope rockfish in the Western Gulf will not be allocated, but will be managed by MRB and will go to PSC status when the TAC is reached.

- Option 3. Secondary species allocations will be awarded to the owners of sablefish and halibut QS.

- ii. Include these species for one gear type only (e.g., trawl). Deduct the secondary species catch from gear types from TAC. If deduction is not adequate to cover secondary species catch in other gear types, on a seasonal basis, place that species on PSC status until overfishing is reached.
- iii. Retain these species on bycatch status for all gear types with current MRAs.
- iv. Allow trawl sablefish catch history to be issued as a new category of sablefish harvest shares (“T” shares) by area. “T” shares would be fully leasable, exempt from vessel size and block restrictions, and retain sector designation upon sale.
Suboption. These shares may be used with either fixed gear or trawl gear.
- v. Permit transfer of secondary species QS
 - Option 1. Primary species shares and secondary species shares are non-separable and must be transferred as a unit.
 - Option 2. Primary species shares and secondary species shares are separable and may be transferred separately

2.2.5 Halibut PSC

2.2.5.1 Accounting of Halibut Bycatch

Pot vessels continue their exemption from halibut PSC caps.

Hook and line

- Option 1: Modeled after sablefish IFQ program (no direct inseason accounting of halibut PSC. Holders of halibut IFQ are required to land legal halibut. Estimates of sub-legal and legal size incidental mortality are accounted for when setting annual CEY.
- Option 2: Halibut PSC will be managed through harvest share allocations.
- Option 3: Continue to fish under halibut PSC caps.
Suboption (to all options): Holders of halibut IFQ are required to land legal halibut. Halibut bycatch occurring without sufficient IFQs would count against halibut PSC allocations.

Trawl Entities:

- Option 1: Halibut PSC will be managed through harvest share allocations.
- Option 2: Continue to fish under halibut PSC caps.

2.2.5.2 Halibut PSC Allocation

Each recipient of fishing history would receive an allocation of halibut mortality (harvest shares) based on their allocation of the primary species shares. Secondary species would receive no halibut allocation. Initial allocation based on average halibut bycatch by directed primary species during the qualifying years. Allocations will be adjusted pro rata to equal the existing halibut PSC cap.
By sector average bycatch rates by area by gear:

- Option 1. Both sectors
- Option 2. Catcher Processor/Catcher Vessel

2.2.5.3 Annual transfer/Leasing of Trawl or Fixed Gear Halibut PSC mortality

- Option A: Halibut PSC annual allocations are separable from primary groundfish annual allocations and may be transferred independently within gear types. When transferred separately, the amount of Halibut PSC allocation would be reduced, for that year, by:
 - Suboption 1. 0%
 - Suboption 2. 5%
 - Suboption 3. 7%
 - Suboption 4. 10%
 - Suboption 5: Exclude any halibut PSC transferred for participation in the incentive fisheries (includes transfers outside the cooperative).
 - Suboption 6: Exclude any halibut PSC transferred within a cooperative.

Option B: No leasing/annual transfer of halibut PSC outside of cooperatives.

All halibut PSC reductions under this section will remain unfished (in the water).

2.2.5.3.1 Halibut PSC Reduction for Non-Members of Cooperatives

Non-members of cooperatives would have halibut PSC reduced by:

- i 5%
- ii 15%
- iii 30%

Halibut PSC reduction will not apply to low-producing fixed gear participants.

All halibut PSC reductions under this section will remain unfished (in the water).

2.2.5.4 Permanent transfer of Halibut PSC harvest share mortality

- Option 1. Groundfish primary species harvest shares (QS) and Halibut PSC harvest shares (QS) are non-separable and must be transferred as a unit
 - Suboption. exempt Pacific cod
- Option 2. Groundfish primary species harvest shares (QS) and Halibut PSC harvest shares (QS) are separable and may be transferred separately

2.2.5.5 Retention of halibut incidentally caught by fixed gear vessels

Halibut incidentally caught may be retained outside the halibut season from Jan. 1 to start of commercial fishery. Any person retaining halibut must have adequate halibut IFQ to cover the landing. Retention is limited to (range 10-20%) of primary species.

Option 1: In all GOA areas.

Option 2: Limited to Areas 3A, 3B, and 4A.

The Council requests that staff notify the IPHC concerning these provisions.

2.2.6 Incentive species

Arrowtooth flounder, deepwater flatfish, flathead sole, rex sole, shallow water flatfish.

Owners of shares must utilize all their shares for an incentive species before participating in incentive fishery for that species.

Option. The portion of historic unharvested West Yakutat Pacific cod TAC will be made available as an incentive fishery, subject to provision of incentive fisheries.

2.2.6.1 Eligibility to fish in the incentive fisheries

- A. The unallocated QS for the incentive fisheries are available for harvest, providing the vessel has adequate halibut PSC and secondary species.
 - Suboption: vessels must be a member of a GOA fishing cooperative to fish in the incentive fishery.
- B. Any holder of halibut or sablefish IFQ that has adequate IFQ or halibut PSC and secondary species.

2.2.6.2 Catch accounting for the incentive fisheries – Allocated QS and Incentive fishery quota

- Option 1. The individual co-op member's apportionment of the allocated incentive species QS must be used prior to the individual gaining access to the incentive fishery unallocated portion. The co-op will notify NMFS when a vessel enters the incentive fishery quota pool.
- Option 2. The co-op's allocation of incentive species QS must be fished before gaining access to the unallocated portion of the incentive species quotas. The co-op members through a contractual coop agreement will address catch accounting amongst the co-op members.

- Option 3. For shareholders not participating in co-op, the unallocated incentive species are available for harvest once the individual IFQ holder's allocation of the incentive species has been used.

2.2.7 Preserving entry level opportunities for P. cod

2.2.7.1 Each initial allocation of P.cod harvest shares based on the final year of the qualifying period to fixed gear catcher vessels below the block threshold size would be a block of quota and could only be permanently sold or transferred as a block.

- Option 1 10,000 pounds constitutes one block
- Option 2 20,000 pounds constitutes one block
- Option 3 No Block Program

Suboption. Lowest producer harvest shares earned as a bycatch in the halibut sablefish ITQ program would be exempt from the block program

2.2.7.2 Eligible participants would be allowed to hold a maximum of:

- Option 1, 1 block
- Option 2. 2 blocks
- Option 3. 4 blocks

2.2.7.3 Any person may hold:

- Option 1. One block and any amount of unblocked shares
- Option 2. Two blocks and any amount of unblocked shares
- Option 3. Four blocks and any amount of unblocked shares

2.2.8 Skipper/Crew

A skipper is defined as the individual owning the Commercial Fishery Entry Permit and signing the fish ticket.

- Option 1. No skipper and/or crew provisions
- Option 2. Allocate to skippers and/or crew
 - Suboption 1. Initial allocation of 5% shall be reserved for captains and/or crew
 - Suboption 2. Initial allocation of 10% shall be reserved for captains and/or crew
 - Suboption 3. Initial allocation of 15% shall be reserved for captains and/or crew
- Option 3. Establish license program for certified skippers. For initial allocation Certified Skippers are either:
 - i. Vessel owners receiving initial QS or harvest privileges; or
 - ii. Hired skippers who have demonstrated fishing experience in Federal or State groundfish fisheries in the BSAI or GOA for 3 out of the past 5 years as documented by a CFEC permit and signed fish tickets and/or appropriate NMFS documentation (starting date for five years is 2003).
 - Suboption 1. include crew in the license program.
 - Suboption 2. require that new Certified Skippers licenses accrue to individuals with demonstrated fishing experience (Groundfish – BSAI/GOA, state or federal waters) similar to halibut/sablefish program.

Under any alternative that establishes QS and annual harvest privileges, access to those annual harvest privileges is allowed only when fishing with a Certified Skipper onboard. Certified Skipper Licenses are non-transferable. They accrue to an individual and may not be sold, leased, bartered, traded, or otherwise used by any other individual.

Defer remaining issues to a trailing amendment and assumes simultaneous implementation with rationalization program.

2.2.9.1 Regionalization

If adopted, all processing licenses (for shore-based and floating processors) will be categorized by region. Processing licenses that are regionally designated cannot be reassigned to another region.

Catcher vessel harvest shares are regionalized based on where the catch was processed, not where it was caught. Catcher processor shares and incentive fisheries are not subject to regionalization.

In the event harvest shares are regionalized and the processor linkage option is chosen, a harvester's shares in a region will be linked to the processor entity in the region to which the harvester delivered the most pounds during the qualifying years used for determining linkages under 2.3.1.1.2.

The following describes the regions established and fisheries that would be subject to regionalization:

Central Gulf: Two regions are proposed to classify harvesting shares: North - South line at 58 51.10' North Latitude (Cape Douglas corner for Cook Inlet bottom trawl ban area) extending west to east to the intersection with 140° W long, and then southerly along 140° W long.).

The following fisheries will be regionalized for shorebased (including floating) catch and subject to the North - South distribution: Pollock in Area 630; CGOA flatfish (excludes arrowtooth flounder); CGOA Pacific ocean perch; CGOA northern rockfish and pelagic shelf rockfish (combined); CGOA Pacific cod (inshore); GOA sablefish (trawl); WY pollock.

The Council should clarify a few aspects of regionalization, particularly its coordination with processor associations under section 2.3.1.1.2.

First, the specific method of regionalizing allocations is delineated here for clarity. In the absence of additional direction from the Council, staff would estimate regionalization of allocations in the following manner:

- 1) Estimate individual harvest allocations for each management area based on the qualifying years in section 2.2.2.*
- 2) For management areas and species that are regionalized, divide each individual allocation of each regionalized species between the different regions based on the individual's landing history of that species during the years selected for determining regionalization under 2.2.9.1.2.*
- 3) Under Alternative 2B, for each region determine the individual's processor association (under section 2.3.1.1.2) based on all groundfish landings (regionalized and non-regionalized species) of the individual in the region during the years used for associations.*

Assuming the above method for regionalization and association of shares, a few issues arise concerning regionalization. First, sablefish is not allocated based on individual history, but based on fleet incidental catch rates. Individual landing histories of sablefish could be used for regionalization, but it is possible that some individuals could receive a sablefish allocation with no sablefish landings history. Alternatively, the Council could regionalize an individual's sablefish allocation based on the regionalization of the primary species allocation that the sablefish allocation is secondary to.

Second, an issue arises by not having all primary species included in regionalization. Since all groundfish landings in a region would be used to determine the association under Alternative 2B, not regionalizing all primary species in a management area complicates administration and implementation of regionalization. The exclusion of CGOA arrowtooth from regionalization would mean that arrowtooth allocations would have a single association, while all other primary species would have a processor association in each of the two regions. Although not an insurmountable problem, the exclusion of Central Gulf arrowtooth from regionalization adds complication to the administration of the program by creating the potential for multiple associations.

Third, the method of including pollock in regionalization creates some complication in applying regional designations to those allocations. Including 640 pollock (WY) in regionalization, but no other species in West Yakutat, requires that pollock landings be used for making the regional division of each allocation. Once the

regional division is made, all groundfish landings in each region would be used for making the processor association for the pollock allocation in the region. In addition, all other primary species allocated to the individual would be subject to processor associations based on all landings of groundfish taken in the West Yakutat management area. Regionalization of one species in the area could complicate an individual's operations, if a substantial portion of the individual's pollock allocation is associated with one processor, while all of the other primary species allocated to the individual are associated with another processor.

The inclusion of 630 pollock and the exclusion of 620 pollock from the regionalization component also raises questions. The Central Gulf management area is divided into areas 620 and 630 for purposes of managing pollock only. With respect to 630 pollock, the first step in applying landings designations would be to regionalize an individual's 630 pollock allocation based on that individual's landings history. Under Alternative 2B, the second step of applying processor associations raises a question. Since the management areas for pollock differ from the management areas for other species, the Council should clarify whether processor associations for regionalized pollock from management area 630 would be based on landings only from that area (i.e., 630) or all of the Central Gulf.

A slightly different issue arises from the exclusion of 620 pollock from the regionalization component. Since the 620 pollock allocation is not regionalized, making processor associations for 620 pollock by using "all groundfish landings" could mean either using all 620 landings or all Central Gulf landings. In either case, a person could have one association for North Central Gulf, another for South Central Gulf, and a third for 620 pollock. The Council should clarify whether 620 pollock processor associations should be based on all Central Gulf groundfish landings or only landings in area 620.

2.2.9.1.1 Secondary species shares

Secondary species shares would not be subject to regionalization (**with the exception of sablefish**)

2.2.9.1.2 Qualifying years to determine the distribution of shares between regions will be:

- Option 1. consistent with the preferred option under "Section 2.2.2 Qualifying Periods"
- Option 2. 1999 – 2002

The use of different years for determining regionalization and for determining allocations will have uncertain effects. To apply a different set of years, but still base regionalization of an individual's shares on that individual's landings would be to:

- 1) *determine individual allocations*
- 2) *determine the individual regional division of landings for each individual based on the regionalization years*
- 3) *apply that regional division to the individual's allocation.*

To then apply associations, would require that within each region one determines the processor that the harvester landed the most pounds of groundfish with in the years used to determine associations (subject to any clarification the Council might make under 2.2.9.1 above).

Other community provisions (CFQ and CPP) moved to separate portion of the motion.

PSC for Crab and Salmon move to separate portion of the motion.

2.2.10 Review and Evaluation

2.2.10.1 Data collection.

A mandatory data collection program would be developed and implemented. The program would collect cost, revenue, ownership and employment data on a periodic basis to provide the information necessary to study the impacts of the program. Details of this program will be developed in the analysis of the alternatives.

2.2.10.2 Review

Preliminary program review at the first Council Meeting in the 3rd year and formal review in the 5th year after implementation to objectively measure the success of the program, including benefits and impacts to harvesters (including vessel owners, skippers and crew), processors and communities, by addressing concerns, goals and objectives identified in the problem statement and the Magnuson Stevens Act standards. This review shall include analysis of post-rationalization impacts to coastal communities, harvesters and processors in terms of economic impacts and options for mitigating those impacts. Subsequent reviews are required every 5 years.

2.2.12 Sideboards

GOA Groundfish sideboards under the crab rationalization plan and under the AFA would be superseded by the GOA rationalization program allocations upon implementation.

Vessels (Steel) and LLPs used to generate harvest shares used in a co-op may not participate in other federally managed open access fisheries in excess of sideboard allotments.

Participants in the GOA rationalized fisheries are limited to their aggregate historical participation based on GOA rationalized qualifying years in BSAI and SEO groundfish fisheries.

The Council should consider adding sideboards for the GOA jig fishery, which will not be included in the rationalization program.

Staff analysis of sideboard issues should examine the potential consequences of the creation of a double set of sideboards relating to BSAI fisheries for vessels already subject to AFA sideboards in BSAI fisheries.

2.3 Processing Sector Provisions

The Council could clarify the processing sector provisions for Alternatives 2A and 2B in several respects at this meeting. As the Council considers these issues, it will be important to develop a coherent package, which incorporates several different consistent decisions into a comprehensive alternative. Since this section contains several overlapping decisions, to aid the Council's development of alternatives the following decisions are listed:

Alternative 2A

- 1) *The percent of shares that will be delivery restricted (A shares) and unrestricted (B shares) (2.3.1.1.1)*
- 2) *The extent of any limits on the number or types of licenses that can be held by a processor (2.3.1.2.6)*
- 3) *Whether catcher/processors may accept delivery of unrestricted shares (B shares) (2.2.3.3.11 and 2.3.1.1.1)*

Alternative 2B

- 1) *The percent of shares that will be delivery restricted (A shares) and unrestricted (B shares) (2.3.1.1.1)*
- 2) *The extent of any limits on the number or types of licenses that can be held by a processor (2.3.1.2.6)*
- 3) *The level of the penalty for movement between linked processors (2.3.1.1.3)*
 - a. *Percentage of shares*
 - b. *Number of years*
 - c. *Does the penalty apply to A shares or both A shares and B shares*
 - d. *Redistribution of the penalty (to share holders associated with the processor or across all co-ops)*
- 4) *Whether penalties are one-time or would apply to a second linkage (or are discounted after the first linkage is severed) (2.3.1.1.3)*
- 5) *The impact of a processor no longer operating in a community at the time of implementation (2.3.1.1.2)*

- a. *Linked harvesters can deliver to*
 - i. *any licensed processor*
 - ii. *any licensed processor in the community*
 - b. *Whether a linkage would be established*
- 6) *Whether catcher/processers may accept delivery of unrestricted shares (B shares) (2.2.3.3.11 and 2.3.1.1.1)*

For alternative 2A, apply provisions generally at the company level.

For 2B, apply provisions generally at the facility (plant) level.

2.3.1 Provisions for Processor License Limitation

2.3.1.1 Harvester Delivery requirements

2.3.1.1.1 Harvester delivery requirements

- Option 1. 50-100% of CV harvest share allocation will be reserved for delivery to:
- i. the linked licensed closed trawl or fixed class processor (Applies to 2B).
 - ii. Any licensed trawl or fixed (Applies to 2A)
- The remaining (50% - 0%) CV harvest share allocation can be delivered to:
any processor including CPs

The Council could decide the percentage of delivery restricted shares in both alternatives. Generally, the Council should set the percentage of A shares to balance the interests of harvesters and processors. The larger the percentage of A shares, the greater the restriction on the harvest share holder's market for landings. Under Alternative 2A, share holders would be required to deliver A shares to processors holding licenses. Under Alternative 2B, a share holder would be required to deliver their delivery restricted A shares to the particular processor to which its shares are linked (with linkages based on historic landings patterns). Given the less restrictive delivery obligation under Alternative 2A, imposing delivery restrictions on a higher percentage of shares is likely reasonable. Under Alternative 2A, a harvester would be able to induce competition among several license-holding processors for all landings, with each processor, generally, on equal footing for attracting those landings. Under Alternative 2B, processors would be able to compete for A share landings only by inducing a share holder to break the linkage associated with those shares, which requires a share reduction penalty. B shares, which are not delivery restricted, could be used to attempt to induce the linked processor to pay a higher price for A share landings or to induce a competing processor to pay a price for A shares that is high enough to make the penalty share reduction worthwhile. Under either alternative, the appropriate level for the restriction should balance the historic investment interests of the processors in having a closed market for a portion of the allocation against the interests of harvesters in having a broader, more competitive market for their landings.

The interests of potential entrants to the processing market should also be considered in setting the percentage. The Council should consider the need to allow new entrants to experiment with innovations, which could benefit the industry in the long run. Leaving a very small portion of the fishery for unrestricted delivery may severely limit opportunity for entry. Under Alternative 2B, the ability to land unrestricted shares with any processor could be of greater importance to new entrants for a few reasons. The linkage creates a relatively strong and specific relationship between the harvest share holder and the linked processor. This relationship could encompass not only the delivery restricted shares, but also the unrestricted shares. If only a small portion of the fishery is unrestricted, the ability of a processor to enter in an effective manner could require not only strong competition for the unrestricted shares, but also establishment of linkages with some share holders. While the establishment of linkages is a reasonable expectation for processors that are to be long term participants, entrants that are experimenting with relatively small quantities of deliveries should not be expected to make the investment in establishing linkages. Under Alternative 2A, the potential to enter the fishery by purchasing relatively small amounts of fish is also worth assessing. Since harvester shares do not have specific processor linkages, more harvesters will have less restrictive relationships with processors with greater competition for landings. The competition among licensed processors, however, is likely to be extensive and could affect the market for shares that are not delivery restricted.

When considering the appropriate percentage of delivery restricted shares under Alternative 2B, the Council should also consider other aspects of the processor dimension of the program. The protection provided to any processor will depend not only on the percentage of shares that are subject to the delivery restriction, but also on the penalty for share movement. While not a direct trade off, the two decisions are closely related. In general, a higher percentage of delivery restricted shares determines the quantity of shares for which a linked processor has a market advantage. The penalty determines the extent of the market advantage with respect to those linked shares.

Lastly, the Council could decide whether to permit catcher processors to purchase catcher vessel shares that have no processor delivery restrictions. This provision should be determined consistently with 2.2.3.3.11 above.

Option 2. Low producing vessels are exempt from delivery requirements (Applies to Fixed Gear 2 Low only)

2.3.1.1.2 Linkage (Linkages apply by area) (Applies to 2B):

A harvester's processor linked shares are associated with the licensed fixed or trawl processor to which the harvester delivered the most pounds of groundfish during the last ___ years of the harvester qualifying years.

- i. 1
- ii. 2
- iii. 3

The Council could decide at this time whether to credit history from one, two or three years for purposes of establishing processor associations. A longer term for establishing the association could be justified on the basis of protecting longer associations. Using fewer and more recent years could be justified as a means to support more current associations. The analysis is unlikely to be able to show any significant contrast across these options because of confidentiality restrictions. Establishing a consistent approach across Alternatives 2 and 3 would simplify the analysis.

Also, the Council should consider establishing consistent association standards across Alternatives 2 and 3, if one standard is clearly superior to the others (Alt. 2 uses "most pounds of all groundfish," while Alternative 3 uses "most pounds of primary species" or "species aggregations"). Differences across alternatives could complicate the analysis significantly. The Council should consider whether preliminary estimates of the different allocations are useful to make decision. Staff intends to provide those analyses at the next meeting.

Processors with history at multiple facilities in a community may aggregate those histories for determining associations.

Option 1: If the processing facility with whom the harvester is associated is no longer operating in the community, and another processing facility within the community has not purchased the history, the harvester is eligible to deliver to

- i. any licensed processor
- ii. any licensed processor in the community

The Council could decide whether to choose option 1 and which of the suboptions (i or ii) to select, if the option is chosen. (This provision applies only to Alternative 2B.) Since this provision is in the section on establishing linkages at the outset of the program, staff assumes that the provision applies only on implementation (provisions later in the section would apply to circumstances that arise after implementation). This option could be used to limit the potential for a harvester to be linked to a secondary processor, should the processor it would otherwise be linked to stop operating in the community. The provision could be justified, if the Council believes it is unreasonable to require a harvester to deliver to either the same processor in another community or to another processor in the same community. The rationale for removing the linkage could be that the intent of the processor linkage provision in general is to protect only the processing plant with the strongest relationship to a harvester historically.

In approaching this question, the Council should consider the interaction of this provision with other provisions in this section (2.3). The outcome should be a package of consistent provisions that meet Council objectives. As a starting point, the Council decided at a previous meeting to use a facility-based approach under Alternative 2B. So, a harvest share/processor linkage would be determined at the facility level (which by its nature would establish the association within a single community).

If this provision is accepted, the Council should first clarify whether any linkage would be established for harvesters that delivered a majority of catch to a processor that is no longer operating. If so, the suboptions (i and ii) would be used to define processors that the share holder must be linked to. This approach would be consistent with a program that allows changes in linkages among processors, but would perpetuate linkages.

If the shares are not subject to any linkages if the processor discontinued operations, the provision would simply require that the shares be delivered to a licensed processor. This second approach could be applied, if the Council intended Alternative 2B to establish a one-time linkage that would not be transferred to a second processor once severed (i.e., suboption B from 2.3.1.1.3 is consistent with the approach). This approach would create an initial linkage for each delivery restricted share, but once the linkage is broken the shares would be subject to a license limitation program for processors similar to Alternative 2A.

If the Council chooses not to include this option in the alternative, the Council should clearly state its intention for addressing processor linkages, in the event a plant is no longer in operation. A possible approach would be to establish the linkage with the processor that the harvester delivered the second most pounds to.

The Council requests that staff provide a discussion paper addressing the effect of a use cap on the number of processors in a region.

2.3.1.1.3 Movement between linked processors (Applies to 2B)

Any vessel that is linked to a processor, may with the consent of that processor, deliver A shares to another plant.

Share reductions of 10% - 20% when a harvester moves from a linked processor for:

- i. 1 year
- ii. 2 years
- iii. 4 years

Suboptions:

- i. Penalty applies to A shares only.
- ii. Penalty applies to both A and B shares.
 - A. Full penalty applies to each move
 - B. Full penalty applies to the first move, subsequent moves are penalized at half of that rate.
 - C. Full penalty applies only to the first transfer

The Council could decide several issues under this section.

First, the penalty for movement between linked processors could be decided at this meeting. The level of penalty should balance the interests of processors that have established histories in the fisheries and the processor protection arising from the linkage/penalty provisions against the interests of harvesters in having a broader market in which to sell their harvests. The penalty represents a loss of revenues to a harvester, which could be used to defer long term fixed costs, such as vessel loans, in addition to variable costs, which are reduced by not having to harvest the shares subject to penalty. This loss of revenues should be balanced against the long term loss of revenues to a processor that occurs, if a processor loses the linkage. In a program of perpetual linkages, the linkages could be of greater importance to a processor, since the

competition for delivery restricted shares linked to other processors will be limited by the need to pay an ex-vessel price that covers the penalty.

As a part of this decision, the Council could decide whether the penalty will be applied in a single year or over the course of more than one year. Extended terms for penalties are likely to discourage movement between processors by increasing the cost of movement. Discounting suggests that extending a penalty over several years, however, is likely to be less costly to a harvester than imposing a penalty of the same quantity of fish over a shorter period of time (i.e., 2 percent per year for 4 years is less costly than 8 percent in a single year, if the TAC and product markets remain constant). Extending the penalty to reduce its magnitude in a single year could also avoid disruption to a harvester's operations that could occur from imposing a larger penalty in a single year. Long term penalties, however, could discourage movement and competition. On the other hand, penalties of relatively long terms could contribute to stronger relationships between harvesters and processors. If a penalty is imposed over several years, the processor with which a new linkage is established could establish a relationship for the term of the penalty (or beyond) to cover the harvester's costs of penalty.

The Council could decide whether to apply the penalty to delivery restricted A shares or to both the delivery restricted A shares and the unrestricted B shares. Assessing the penalty on both types of shares would affect the magnitude of the penalty and the nature of the penalty. Reducing B share allocations to a share holder on severing a linkage, would reduce not only the allocation, but the ability of a harvester to use B share revenues (which are likely to be at least as large as A share revenues on a per pound basis) to disburse the cost of the penalty.

The Council could also decide whether penalties are discounted (or entirely waived) after the first move between linked processors. The possible rationale for discounting (or waiving) the penalty is that the second processor would not have the historic processing association with the share holder that is the justification for the system of linkages. On the other hand, retaining the penalty could be justified as a means to add stability to the processing sector. A discounted penalty could provide a middle ground, diminishing the potential for a harvester to move among freely among processors every year, but recognizing that a the second linked processor has less of a historic interest than the initial linked processor. Discounting penalties after the first move will have two competing effects in the market for ex vessel landings. On one side, the second linked processor will have a lower incentive to pay to establish a new association with a share holder, since its association can be more easily severed by the share holder. On the other side, a share holder will be willing to accept less from the secondary processor for severing the linkage since the share holder will have greater freedom to move among processors thereafter (because of the decreased penalty). This effect is more pronounced, if penalties apply only to the first movement. If no penalty is applied after the first move, a share holder would move, if the fair market value of unrestricted share landings are large enough to cover the cost of the loss of shares through the penalty. In either case (the reduced penalty or no penalty after the first linkage), a share holder and processor could negotiate a long term agreement under which the share holder voluntarily commits landings to a processor to induce the processor to cover the cost of the penalty for the first move.

[If the Council elects to structure Alternative 2B so that no penalty applies after the first move from a linked processor, shares that are subject to delivery restrictions (A shares) would be landed under a limited license program for processors. If the Council intends the program to operate differently, clarification should be made.]

The share reduction shall be redistributed to:

The shareholders in association with that processor that the shareholder left (if it continues to exist).

2.3.1.2 Processor License Qualifications (Applies to 2A and 2B)

2.3.1.2.1 To qualify for a processor license, a processor must have purchased and processed a minimum amount of groundfish by region as described below in at least 4 of the following years:

Option 1. 1995-99.

- Option 2. 1995-01
- Option 3. 1995-02

If a processor meets the threshold for total purchased and processed groundfish for all their facilities combined, but does not meet the threshold for any one facility then the processor would be issued a license for the facility in which it processed most fish. **(Applies to 2B only since 2A is entity based).**

- Option 1.
 - a. Trawl eligible Processors
 - Suboption 1. 2000 mt
 - Suboption 2. 1000 mt
 - Suboption 3. 500 mt
 - b. Fixed gear eligible Processors
 - Suboption 1. 500 mt
 - Suboption 2. 200 mt
 - Suboption 3. 50 mt
 - c. Trawl and Fixed gear eligible processors
 - Meet criteria for both the trawl processor license and fixed gear processor license as described above

- 2.3.1.2.2 Processor history would be credited to (and licenses would be issued to):
 - Operator – must hold a federal or state processor permit.

Custom processing history would be credited to:
the processor that purchased the fish as indicated on the fish ticket and paid for processing

- 2.3.1.2.3 Transferability of eligible processor licenses
 - Processor licenses can be sold, leased, or transferred.
 - Within the same region
 - If the license is transferred outside the community of origin, then vessel linkages are broken and vessels are allowed to deliver to any licensed processor.

(Moved from 2.4.5.2)

License Transfers Among Processors (applies to processor limited entry)

- Option 1. any share association with that license will transfer to the processor receiving the license. All harvest share/history holders will be subject to any share reduction on severing the linkage, as would have been made in the absence of the transfer.**
- Option 2. any share associated with the license will be free to associate with any licensed processor. Harvest share/history holders will be free to move among processors without share/history reduction.**

Allowing the processor association to transfer would grant a transferable interest to a processor of a portion of each harvester's landings market. Some harvesters are likely to argue that this provides a processor with too much control of a harvester's interests and could result in processor associations that a harvester would never voluntarily enter. In addition, allowing transfers of the association could result in a harvester having to deliver to a different port/community. Whether cooperative associations transfer with a processor license will greatly impact the value of processor licenses and the associated linkages. A processor that is interested in exiting the fishery will have a strong disincentive to exit, if the linkages are non-transferable. Harvesters in the association could suffer, if a processor chooses not to sell a license because of the loss of value because of lost associations. In these circumstances, private agreements between the affected share holders and the processor could mitigate any harm. For example, harvesters could agree to maintain the linkage with the new processor in the event that the license sale is agreeable.

- 2.3.1.2.4 Processing Use caps by processor license type (trawl, fixed or trawl and fixed, by CGOA and WGOA regulatory areas:
- Option 1. Range 70% to 130% of TAC processed for all groundfish species for the largest licensed processor
 - Option 2. Processing use caps would be equal to a percentage that would allow contraction of processing companies in the fishery by 20%, 30%, or 50% of the number initially qualified processing companies

(Note: There is no limit on the amount of fish either a trawl or fixed gear licensed processor can buy from the open B share classed fish)

2.3.1.2.5 Processing Caps may apply at the entity level

2.3.1.2.6 License ownership restrictions on processors

- Option 1. No restrictions
- Option 2. Trawl/fixed license holders cannot hold any additional fixed gear only licenses.

The Council could consider adopting provisions that limit licenses that a processor could hold. Although option 2 could be used to limit holding of fixed gear licenses by persons holding licenses endorsed for fixed and trawl gear, the Council should also consider whether to limit the number of licenses that a processor can hold, as aggregating licenses in the absence of such a limitation could be an effective way of limiting competition in the processing sector. Consolidation of license holdings could be an effective way to limit competition in processing and prevent entry. Under Alternative 2A, consolidating licenses would simply limit the number of processors competing for A share landings. Under Alternative 2B, consolidation of licenses could also effectively limit competition. Given that the Council has included processor linkages as a means of protecting processors' historic interests, allowing processors to consolidate licenses could distort any balance of negotiating power between harvesters and processors that the Council intended to establish by selecting the percent of delivery restricted shares (A shares) and the penalty for changing linkages. For example, if a few processors purchase several licenses, the prospect of entry and the competition for linkages could be drastically reduced.

2.3.2 Provisions affecting Allocation of Harvest Shares to Processors (Alternative 2C)

1. Processors are eligible to receive an allocation of QS if they meet eligibility criteria identified in 2.3.1.2.1

The Council should note that entities that cannot document a vessel cannot fish in U.S. fisheries. So, any processor that is not at least 75 percent U.S. owned would not be permitted to fish any shares it holds. These entities could be permitted to hold shares, but would need to lease those shares to U.S. documented vessels for fishing. The Council should be clear in stating whether this provision is intended to allow fishing of harvest shares by processors that are not able to document a vessel. Such a policy would be unique in U.S. fisheries. If the Council intends to require compliance with current documentation laws, it could adopt the following sentence: "Any shareholder under this program is intended to comply with all existing laws concerning documentation of vessels and entry of vessels to U.S. fisheries in fishing those shares. Share holders unable to enter a vessel into U.S. fisheries may lease share holdings or use holdings through cooperative membership to the extent permitted by the program, but not in contravention of current law pertaining to entry of vessels to U.S. fisheries."

2. Up to 30% of CV shares shall be designated as "CVP" shares and eligible to be held by processors and CV recipients. A portion of the CVP share allocation will be divided among eligible processors proportional to their history in the qualifying years as outlined in 2.3.1.2.1. Any balance of CVP not distributed initially to processors shall be distributed proportionally to CV recipients.

The Council could determine the portion of CVP that will be allocated to processors. The Council's table identifying the alternative structures specifies an allocation of between 10 percent and 30 percent of the harvest share allocation would be to eligible processors. This level should be specified for the analysis.

3. CVP is transferable between eligible CV holders and /or processors
4. CVP shares may be fished on any catcher vessel and subject to existing share designations and existing vessel use caps
5. CVP shares may be transferred or leased to any entity eligible to receive CV QS by transfer in 2.2.3.3
6. Caps of CVP will apply at the company level by management area and will be a 10-30% of the total pool of CVP shares available in the management area. Recipients of CVP that exceed the cap will be grandfathered.
7. No processors (and processor affiliates using the 10% rule) may own or control CV quota shares. CVP initially issued to processor affiliates will be grandfathered.
8. CVP shares will be regionalized.

2.4 Cooperative Provisions

Several cooperative provisions contain options. The Council could choose to identify the different options for each of the alternatives. The Council could select different provisions for the alternatives, since the interactions and relationships created under the alternatives are not the same. Differences among the catcher vessels and catcher processors arise out of the processor protections that are contained in most of the catcher vessel alternatives. In addition, low producing fixed gear catcher vessel provisions could differ because of the absence of processor protections under that alternative.

Several provisions in the Council motion together define the rules for cooperative formation, movement among cooperatives, and participation in the fisheries inside and outside of cooperatives. These provisions together are likely to impact the internal rules of the cooperatives, which in turn will affect the return that different participants are able to realize from their allocations. If these provisions are not carefully developed, some participants may be inadvertently affected by differences in negotiating strength across members of a cooperative. For example, in a cooperative composed primarily of pollock fishermen, a cod fisherman could have little leverage for changing rules to reasonably accommodate cod fishing. In the extreme, share holders with little or no direct activity in fisheries could control the harvests of active participants, if the active participants have no reasonable alternative to joining a particular cooperative. In considering rules, the Council should be wary of rules that create incentives to modify share holdings. A rule that requires 90 percent of eligible share holders for cooperative formation may create an incentive for a single share holder to subdivide holdings among his friends and family to affect bargaining strength relative to other eligible share holders.

In general, the assessment of the relative power of participants in a cooperative depends on several factors. These determinants of negotiating strength can be generalized to two categories, internal and external. Internal effects are generated by the rules governing cooperatives, such as rules of cooperative formation and any rules that define membership. External effects, which are equally important, are generated by the outside options available to a harvester that chooses not to join a cooperative. For example, a person's negotiating leverage with respect to another is highly dependent on the ability to walk away from a transaction and pursue other opportunities. In the context of these cooperatives, the harvester's negotiating strength with respect to members of a particular cooperative depend on the ability of the harvester to choose not to join the cooperative and remain in the fishery. In the discussion that follows both internal and external affects are considered. Under the alternatives under consideration, processor protections are also an integral part of the cooperatives programs. The indirect impacts on processors arising from rules that affect cooperative membership decisions should be considered in fashioning cooperative programs.

In assessing the different options below, the Council should take care to develop a comprehensive cooperative program for each alternative. To do so will require that the interaction of the different provisions be assessed for both operational consistency and consistency of purpose.

2.4.1 Cooperative requirements

Cooperative membership is not required to receive an annual harvest share allocation. (i.e., IFQ will be allocated to non-members)

2.4.2 Cooperative formation

2.4.2.1 Co-ops can be formed

- a. between holders of harvest shares or history in an area:
 - Trawl catcher vessels
 - “High producing” fixed gear catcher vessels
 - “Low producing” fixed gear catcher vessels
- b. between holders of harvest shares or history of a catcher/processor

Each group of share/history holders of a defined class that may form cooperatives is defined as a “sector.”

2.4.2.1.1 Co-op/processor affiliations

Option 1. No association required between processors and co-ops

Option 2. CV cooperatives must be associated with

- a) a processing facility (applies to 2B)
- b) a processing company (applies to 2A)

(Option 1 or Option 2 a) or b) could apply to 2 low producing fixed gear)

The associated processor must be:

- a) any processor (could apply to 2 low producing fixed gear)
- b) a limited entry processing license holder (applies to 2A)
- c) a limited entry processing license holder to which the share holder’s shares are linked (applies to 2B)

Suboption 1. Processors can associate with more than one co-op

Suboption 2. Processors are limited to 1 co-op per plant for each sector.

Suboption 1 and 2 could be applied under any of the catcher vessel alternatives. In considering the appropriate suboption, the Council should consider the implications for both share holders and processors of limiting the number of cooperatives that may be associated with a processor. Allowing only a single cooperative to associate with a processor could have management benefits, if the provision leads to larger cooperatives and greater consolidation of annual allocations. Larger cooperatives, generally, will reduce the management burden, since cooperatives can assume some responsibility for managing members’ fishing. Whether this benefit is realized, however, depends on whether the limitation actually leads to more consolidation. If participants choose not to join a cooperative with a processor because the terms of the cooperative agreement are unfavorable, a provision that limits the number of cooperatives associated with a processor could reduce consolidation. In addition, harvesters that are unable to come to terms with the cooperative that does form could lose cooperative benefits that could be realized or suffer PSC reductions for not joining a cooperative (if the option for PSC reductions is adopted). Alternatively, some harvesters may join a cooperative subject to less favorable terms than it would otherwise agree to, if multiple cooperatives were permitted to form. The result would be a redistribution of benefits among harvesters. An indirect impact of the limitation could also be that a processor that is capable of coming to terms with two groups of incompatible share holders that may choose form two separate cooperatives, will be forced to choose between the two groups since only one cooperative would be permitted.

Note: A processor association will not be required for a C/P cooperative.

2.4.2.2 Cooperatives are required to have at least:

Option 1. 4 distinct and separate harvesters (using the 10% threshold rule) (could apply to any alternative)

Suboption: trawl CP sector, all less 1 of distinct and separate harvesters, using the 10% threshold rule).

The suboption applies to CPs only – This provision, however, is likely not manageable, since share holdings are divisible. The number of share holders could change on a daily basis as trades of shares are made, preventing any meaningful determination of whether the threshold has been met.

- Option 2. 40 -100 percent of the harvest shares (or catch history) of its sector (may choose different percentages for different sectors) (applies only to catcher processors)
- Option 3. 40 -75 percent of the harvest shares (or catch history) eligible for the cooperative. (Applies to Alternatives 2A and 2B) ***cannot be applied to catcher vessels under Alternative 2A***

Note: Requirements may differ across sectors (or for CV and CP cooperatives)

The Council could consider selecting cooperative formation thresholds for the alternatives at this meeting. Since the alternatives created under section 2 of the motion differ from one another, the Council could consider establishing different rules for the different alternatives.

Under all of the alternatives in section 2 of the Council motion, harvesters would receive an exclusive annual allocation (i.e., IFQs) regardless of cooperative membership. Since a harvester may choose to fish IFQs instead of joining a cooperative, the effects of cooperatives on negotiating strength should be muted and of less concern. If the Council should choose to reduce PSC allocations to non-members of a cooperative, it would be possible for members of a cooperative to assert negotiating leverage over non-members, if the non-members cannot join or form another cooperative. Similarly, rules that require a minimum percentage of share holders eligible for cooperative formation could provide negotiating leverage to either those agreeing to join the cooperative or those that have yet to join, depending on the circumstances. Generally, the power will be with the non-members until the membership threshold is met and will shift to members once that threshold is reached. As should be apparent, the level of the threshold will determine whether the negotiating leverage lies with a majority of those eligible for the cooperative or a minority and the size of that majority or minority, as the case may be. For example, under the suboption to Option 1, which sets a threshold of all less one harvester, two minority share holders could scuttle the formation of any cooperative unless their demands are met. These demands could relate to distributions from cooperative harvests, which could redistribute benefits of share holdings under the program. Although the suboption is the extreme, any provision that severely limits the number of cooperatives a share holder might join by imposing thresholds for cooperative formation could have similar impacts. For example, a provision that requires 50 percent of eligible shares to form a cooperative would create a system in which holders of a majority of shares would have the ability to structure a cooperative agreement unfavorable to other share holders. In short, in a system in which a person is eligible to join only one cooperative, setting a threshold for cooperative formation without impacting the distribution benefits from the allocation of shares is likely not possible. Increasing the number of cooperatives that a person can join will reduce this effect.

2.4.2.3 Duration of cooperative agreements:

- Option 1. 1 year
- Option 2. 3 years
- Option 3. 5 years

Suboption 1: Duration is minimum.

Suboption 2: Duration is maximum.

The Council could choose an option for length of cooperative agreements. Longer term cooperative agreements could provide stability to participants. The ability to reformulate a cooperative agreement, however, could be important as relationships change. Although these changes could be accommodated through amendments to the agreement, shorter term agreements could provide added flexibility.

2.4.3 Rules Governing Cooperatives

2.4.3.1 Annual Allocations

Annual allocations of cooperative members would be issued to the cooperative.

- Co-op members may internally allocate and manage the co-op's allocation per the co-op membership agreement. Subject to any harvesting caps that may be adopted, member allocations may be transferred and consolidated within the co-op to the extent permitted under the membership agreement.
- Monitoring and enforcement requirements would be at the co-op level. Co-op members are jointly and severally responsible for co-op vessels harvesting in the aggregate no more than their co-op's allocation of primary species, secondary species and halibut mortality, as may be adjusted by interco-op transfers.
- Co-ops may adopt and enforce fishing practice codes of conduct as part of their membership agreement. Co-ops may penalize or expel members who fail to comply with their membership agreement. Processor affiliates cannot participate in price setting negotiations except as permitted by general antitrust law.
- Co-ops may engage in inter-cooperative transfers to the extent permitted by rules governing transfers of shares among sectors (e.g., gear groups, vessel types).
- Require that a cooperative accept membership of any eligible participant subject to the same terms and conditions that apply to other cooperative members.

2.4.4 Ownership and Use Caps and Underages

2.4.4.1 Set co-op use caps at 25 to 100% of total TAC by species

2.4.4.2 Co-op use caps for harvest shares on any given vessel shall be:

- Option 1. Set at the same level as the individual vessel level.
- Option 2. 3 times individual vessel use cap.
- Option 3. No use caps

- To effectively apply individual ownership caps, the number of shares or history that each cooperative member could hold and bring to cooperatives would be subject to the individual ownership caps (with initial allocations grandfathered). Transfers between cooperatives would be undertaken by the members individually, subject to individual ownership caps.
- Underage limits would be applied in the aggregate at the co-op level

2.4.5 Movement between cooperatives

2.4.5.1 Harvesters may move between cooperatives at:

- Option 1. the end of each year.
- Option 2. the expiration of the cooperative agreement.
- Option 3. no movement in the first two years

Allowing movement between cooperatives could be important to maintain competition in the fisheries. Requiring a commitment beyond a single year, however, could provide some stability in the fisheries. While a provision that prevents movement in the first two years could aid stability in the early years of the program (when relationships are likely to be least settled), during these early years the ability to make changes may be most important.

~~2.4.5.2 License Transfers Among Processors (applies to processor limited entry)~~

- ~~Option 1. any share association with that license will transfer to the processor receiving the license. All harvest share/history holders will be subject to any share reduction on severing the linkage, as would have been made in the absence of the transfer.~~
- ~~Option 2. any share associated with the license will be free to associate with any licensed processor. Harvest share/history holders will be free to move among processors without share/history reduction.~~

Moved to 2.3.1.2.3.

TRAILING AMENDMENTS

The Council intent is for these trailing amendments to be implemented simultaneously with the main rationalization program.

1. Fee and Loan Program
2. Skipper/Crew Share Program issues

Alternative 3
Sector Allocations and Voluntary Co-op Structure
Updated to October 8, 2004

STAFF ANNOTATION FOR DECEMBER 2004 MEETING

Alternative 3 is a sector allocation and co-op proposal. This proposal allows new processor entrants and provides a mechanism for harvesters to either enter co-ops voluntarily or continue to fish in LLP/open access fisheries. The alternative provides a flexible structure intended to reflect the diversity of the fisheries in the GOA. It recognizes that harvesters, processors, and communities all have a stake in the fisheries. The nature of the fisheries in the Gulf, however, requires a flexible rationalization program that can accommodate all of the different fisheries. This alternative would:

- Allocate primary and secondary species, and halibut PSC by sector.
- Establish a mechanism which would facilitate co-op formation within each sector.
- Specify the operational rules for co-ops.
- Provide fishing opportunities for harvesters that choose not to participate in co-ops
- Include community protection measures appropriate to a cooperative-based program.

The proposal sets up a step-wise process for the establishment of co-ops. The first step includes a sectoral allocation. This is followed by an initial co-op formation period to provide co-ops time to refine their operations. The third step is ongoing, and establishes rules to govern co-op formation, dissolution, and operation after the initial period of co-op formation.

This proposal would not require the assignment of different classes of history or shares (i.e., class A/B class designations). Gulf History (GH) is generic and would originate from an eligible participant's history. GH is only developed through cooperatives. Co-op participation, however, is strictly voluntary so a harvester may choose to continue to fish in a limited entry (LLP) open access fishery.

The proposal does not limit processor entry. A harvester is initially eligible to join a cooperative associated with the processor that it made the most primary species landings to during the qualification period. The program establishes requirements for contracts between a cooperative and its associated processor. The initial contract between a co-op and its associated processor is required to contain the terms for dissolution of the co-op or the movement of a harvester from one co-op to another. During the initial co-op formation period, inter-co-op agreements are allowed within sectors to address operational issues and ensure further rationalization of the fishery between co-ops. Harvesters may not move between cooperatives during the initial co-op formation period.

Following the initial co-op formation period, new co-ops can form and harvesters can move from co-op to co-op or exit a co-op and move back into open access. The rules for such movement, including compensation to other members of the co-op and the associated processor are part of the contract agreement. New processors can enter the fishery at any time, and following the initial co-op formation period, harvesters can form co-ops with those processors. ~~Community protection provisions are simplified to only include options for regionalization and a community quota system because this is a co-op system.~~

Monitoring of harvests and PSC for the co-op fishery will be at the co-op level. Assignments of GH, including transfers, will be monitored by RAM to ensure proper catch allocations and accounting. GH will result in annual allocations of Gulf Quota (GQ). Current monitoring programs for the open access fishery will continue.

The following provisions apply to Alternative 3 only:

I. SECTOR ALLOCATION PROVISIONS.

3.1 Management Areas:

Areas are Western Gulf, Central Gulf, and West Yakutat—separate areas

For Pollock: 610 (Western Gulf), 620 and 630 (Central Gulf), 640 (West Yakutat (WYAK))

- Shortraker and rougheye (SR/RE) and thornyhead rockfishes will be divided between Southeast Outside (SEO) and WY
- The allocation of rockfish bycatch to the halibut IFQ fishery will be on a NMFS management area basis
- Non-SR/RE and thornyhead rockfish trawl catch history in SEO during 95-98 will be used in the calculation of WYAK allocation
- Allocations will be made to the halibut and sablefish IFQ fisheries of species necessary to support those fisheries under section 3.10 below.
- SEO is exempt from this program. SEO groundfish will be managed in accordance with 3.11 below.

Gear: All gear types are considered.

Option 1. The jig fishery would receive an allocation based on its historic landings in the qualifying years –

1. 100%
2. 125%
3. 150%
4. 200%

3.2 Sector definitions and allocations:

CV trawl
 CV longline
 CV pot
 C/P trawl
 C/P longline
 C/P pot
 jig
 low producing fixed gear

Low producing catcher vessel sector is

- Option 1. fixed gear catcher vessels under 60 feet that are below the 75th percentile of primary species qualified harvest history by gear and area.
- Option 2. fixed gear catcher vessels less than average qualified harvest history by gear and area
- Option 3. fixed gear catcher vessels that are below the 75th percentile in qualified harvest history by gear and area

High producing catcher vessels are the remainder and are divided into a catcher vessel longline and catcher vessel pot sector. Sector definitions apply throughout Alternative 3.

To be determined as a CP a vessel must have a CP LLP license and process no less than

- a) 90%
- b) 50%
- c) 25%

of its qualifying catch ~~processed~~ on-board on average over the qualifying period.

- Option 1: determined by the aggregate of all species
- Option 2: determined by primary species groupings in Section 3.3.5

The Council could decide qualification for catcher processor shares on a policy basis. If the data are necessary for deciding this issue, they can be provided at a future meeting. Determining that a participant is a catcher processor for some species and a catcher vessel for others could result in an allocation that cannot be easily used and could result in some inefficiency.

Option for jig sector: jig sectors would be exempt from co-op provisions.

Option for Fixed Gear Catcher Vessel Low Producers:

- Option 1. Apply same rules for initial co-op formation and general co-op operation as apply to other sectors.
- Option 2. Exclude from co-op program, provide sector allocation and continue as an LLP/Open Access fishery.
- Option 3. Apply all co-op rules except processor affiliation requirement for initial co-op formation (i.e. harvester co-op without processor association).

3.2.1 Sector allocations will be based on the aggregate history of vessels in each sector, which legally fished in the federal fishery and in the state parallel fishery during the qualifying period. Sector allocation qualifying periods and landing criteria (same for all gears in all areas). The analysis will assess AFA vessels as a group.

- Option 1. 95-01
- Option 2. 95-02
- Option 3. 98-02

Suboption: for each sector drop the year of lowest tonnage.

3.2.2 Sector Qualifying landing criteria (same for all gears in all areas)

Landings based on retained catch for each species (includes weekly production report for Catcher/ Processor sector). Total pounds landed will be used as the denominator. Exclude retained catch that is used for meal production.

3.2.3 Sector Allocation: Primary Species:

Allocate catch history by sector and gear type as follows:

Trawl CV and CP:

Pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, Pelagic shelf rockfish

Longline CV and CP:

Pacific cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if turbot is targeted), northern rockfish, Arrowtooth flounder

Pot CV and CP:

Pacific cod

Fixed gear low producers:

Pacific cod

Jig gear

Pacific cod

3.2.4 Sector Allocation: Secondary species and halibut PSC:

Secondary species: Thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, and trawl sablefish. Includes SEO shortraker, rougheye, and thornyhead rockfish.

Option 1: Sector allocation for both secondary species and halibut PSC is based on each sector's average catch during the sector allocation qualifying period by area and primary species target fishery.

Option 2: Maintain current halibut PSC allocations, and MRA management for secondary species.

II. Voluntary Co-op Structure

3.3 INITIAL CO-OP FORMATION PROVISIONS. Voluntary co-ops may form between eligible harvesters in association with processors. Harvesters may elect not to join a co-op, and continue to fish in the LLP/Open Access fishery.

3.3.1 Eligibility.

LLP participation

Option 1. Any person that holds a valid, permanent, fully transferable LLP license is eligible to receive an initial allocation of Gulf catch history (as generic GH) through co-op membership.

Suboption 1. Any person who held a valid interim LLP license as of January 1, 2003.

Suboption 2. Allow the award of retained incidental groundfish catch history arising from the halibut and sablefish IFQ fishery.

Basis for the distribution to the LLP license holder is: the catch history of the vessel on which the LLP license is based and shall be on a fishery-by-fishery basis. The underlying principle of this program is one history per license. In cases where the fishing privileges (i.e., moratorium qualification or LLP license) of an LLP qualifying vessel have been transferred, the distribution of harvest shares to the LLP shall be based on the aggregate catch histories of (1) the vessel on which LLP license was based up to the date of transfer, and (2) the vessel owned or controlled by the LLP license holder and identified by the license holder as having been operated under the fishing privileges of the LLP qualifying vessel after the date of transfer. (Only one catch history per LLP license.)

Option 2. Non-LLP (State water parallel fishery) participation

Suboption 1. Any individual who has imprinted a fish ticket making non-federally permitted legal landings during a State of Alaska fishery in a state waters parallel fisheries for species under the rationalized fisheries.

Suboption 2. Vessel owner at time of non-federally permitted legal landing during a State of Alaska fishery in a state waters parallel fisheries for species under the rationalized fisheries

The Council could select a preferred option for eligibility to receive an allocation under the program. Since LLP licenses are used to control access to the fishery, the use of LLP licenses for determining eligibility to receive an allocation in the rationalized fishery would be consistent with current regulation of entry. In addition, allowing entry to persons not holding permanent LLPs might be unfair to persons that have relied on the LLP regulations in trading licenses.

Including holders of interim LLP licenses could be argued by some to be fair, since these licenses have not been fully adjudicated and may be held by some persons that would ultimately be awarded permanent licenses. The agency anticipates having all appeals resolved prior to implementation of this program, so outstanding appeals concerning interim licenses should not be an issue at the time of implementation. Using a threshold date (such as January 1, 2003 in Suboption 1) could be supported by an argument that persons who maintained appeals through that date should be included. As written in suboption 1, persons whose appeals were denied after that date would still be eligible for an allocation. Eligibility for any holders of interim permits, however, could be argued to be unfair by those that either met the requirements for a permanent license or chose to purchase a license to continue in the fisheries. Persons that have purchased licenses to remain in the fishery, in particular, have a compelling argument that holders of interim licenses should be excluded. In some cases, appeals are likely to have been perpetuated by persons that knew their appeals would be denied to avoid having to purchase a license. Even in the case of legitimate appeals, including persons denied licenses would not have met the threshold requirements for the license appears to be inconsistent with the Council's earlier decisions concerning eligibility.

Options for the allocation to halibut and sablefish IFQ participants are included in a separate part of the motion. The second suboption may be retained and, if necessary, adapted consistent with the other section at a future date.

The treatment of participation inside of 3nm should be coordinated across this section, section 3.2.1 above, and section 3.3.2 below. Including parallel fishery participants in the program could be desirable, if no State water fishery is developed to accommodate these participants. If a State water allocation is made to support fisheries for State water participants that do not hold LLPs, the inclusion of parallel water fisheries participants in the allocation could be viewed as rewarding their historic participation twice (once with federal allocation and a second time with the allocation to a State water fishery.)

3.3.2 Initial Allocation of primary species catch history

Allocate catch history as generic Gulf history (GH) on an individual harvester basis for the following primary species:

Trawl CV and CP:

Pollock, Pacific cod, deepwater flatfish, rex sole, shallow water flatfish, flathead sole, Arrowtooth flounder, northern rockfish, Pacific ocean perch, Pelagic shelf rockfish

Longline CV and CP:

Pacific Cod, pelagic shelf rockfish, Pacific ocean perch, deep water flatfish (if turbot is targeted), northern rockfish, Arrowtooth flounder

Pot CV and CP:

Pacific Cod

GH is designated by sector:

Option 1. Trawl GQ may be fished using fixed gear, if yes – appropriate mechanism to transfer GH/GQ across sectors needed.

Gulf Quota (GQ) is the annual allocation to a cooperative based on the GH of its members.

The Council should clarify for staff whether harvests inside of 3nm should be considered in making allocations under the program. Exclusion of catch inside 3nm could be justified, if that catch is valued for making an allocation to a State water fishery. On the other hand, some Federal participants with extensive catch history from the parallel fishery may wish to have their catch credited in making a Federal fishery allocation. Uncertainty concerning the treatment of harvests inside 3nm greatly complicates the quantitative analysis.

3.3.2.2 Qualifying periods and landing criteria (same for all gears in all areas) for determining GH
(The analysis will assess AFA vessels as a group).

Option 1. 95-01 drop 1

Option 2. 95-02 drop 1

Option 3. 95-02 drop 2

Option 4. 98-02 drop 1

Options to drop years would be to accommodate SSL restrictions or the inclusion of the state portion of the parallel fishery.

Individual GH will be based on retained catch for each species (includes weekly production report for Catcher/Processor sector). The denominator shall be total landed catch by species.

Exclude retained catch that is used for meal production

3.3.3 Allocation of secondary species and halibut PSC within the cooperative will be based on the primary species GH of the individual members of the cooperative using the same criteria used to allocate secondary species and halibut PSC to the sectors (i.e., the option selected in Section 3.2.4). If Option 2 in 3.2.4 is chosen, the current halibut PSC and secondary species management is used.

Secondary species are: thornyhead, rougheye, shortraker, other slope rockfish, Atka mackerel, and trawl sablefish. Includes SEO shortraker, rougheye, and thornyhead rockfish. Secondary species would receive no halibut allocation.

3.3.3.3 Transfer of secondary species and halibut PSC GH:

As permitted by and subject to any other transfer rules:

- Option 1. Primary species and the associated secondary species and/or halibut PSC GH are non-separable and must be transferred as a unit.
- Option 2. Primary species and the associated secondary species and/or halibut PSC GH are separable and may be transferred separately.

III. Co-op Rules for all CPs, trawl, longline, pot and catcher vessels

Option: Jig and low producer fixed gear exempted.

Initial Co-op Formation Rules:

3.3.5 Catcher Vessel Co-ops.

Catcher vessel co-ops may be established within sectors between eligible harvesters in association with an eligible processor. A harvester is initially eligible to join a cooperative in association with the processor to which the harvester delivered the most pounds of primary species by area (Western Gulf, Central Gulf, West Yakutat) and region (North/South)

during the

- a) qualifying years.
- b) most recent 1, 2, or 3 years from the qualifying years.

Provisions applied to a & b:

For the following species groups:

- Pollock
- Pacific cod
- Aggregate rockfish
- Aggregate flatfish
- ~~Aggregate other species~~

All primary species fit into the first four categories, no species are left for the “aggregate other species” category.

3.3.6 Catcher processor co-ops may be formed by eligible CPs within each CP sector. No processor affiliation is required for CP co-op formation.

3.3.7 Cooperatives are required to have at least:

- Option 1. 4 distinct and separate harvesters (using the 10% threshold rule) (***Could apply to any sector***)
- Option 2. 50-100 percent of the GH of its sector. Council may choose different percentages for different sectors. (***Could apply only to catcher processors***)

- Option 3. 50-75 percent of the eligible GH for each co-op associated with its processor (*Could apply to catcher vessel sectors – will apply to low producing fixed gear catcher vessels, only if that sector has processor associations*)
- Option 4. Any number of eligible harvesters within the sector (allows single person co-op) (*Could apply to any sector*)

The Council could consider selecting cooperative formation thresholds for the alternatives at this meeting. Since the alternatives created under section 2 of the motion differ from one another, the Council could consider establishing different rules for the different alternatives.

For all sectors, harvesters can access Gulf History only by joining a cooperative. Limiting harvesters' access to the rationalized fishery through cooperative membership should raise concern that the cooperative formation rules and agreements may provide undue negotiating leverage to some participants. In addition, if the Council should choose to reduce PSC allocations to non-members of a cooperative, it would be possible for members of a cooperative to assert greater negotiating leverage over non-members. Rules that require a majority of share holders eligible for cooperative formation could provide negotiating leverage to either those agreeing to join the cooperative or those that have yet to join, depending on the circumstances. Generally, the power will be with the non-members until the membership threshold is met and will shift to members once that threshold is reached. As should be apparent, the level of the threshold will determine whether the negotiating leverage lies with a majority of those eligible for the cooperative or a minority and the size of that majority or minority, as the case may be. This leverage could be used to distributions from cooperative harvests, which could redistribute benefits of share holdings under the program.

Allowing each harvester to be eligible to join more than one cooperative should limit the ability of harvesters to use cooperative rules to obtain undue negotiating leverage over one another. For example, a provision that requires 50 percent of eligible shares to form a cooperative would create a system in which holders of a majority of shares would have the ability to structure a cooperative agreement unfavorable to other share holders. In short, in a system in which a person is eligible to join only one cooperative, setting a threshold for cooperative formation without impacting the distribution benefits from the allocation of shares is likely not possible. Increasing the number of cooperatives that a person can join will reduce this effect.

Note: Requirements may differ across sectors (or for CV and CP Cooperatives)

3.3.8 Duration of initial cooperative agreements:

- Option 1. 1 year
- Option 2. 2 years
- Option 3. 3 years
- Option 4. Any length agreed between the co-op participants.

The Council could choose an option for length of cooperative agreements at this meeting. Longer term cooperative agreements could provide stability to participants. The ability to reformulate a cooperative agreement, however, could be important as relationships change. Although these changes could be accommodated through amendments to the agreement, shorter term agreements provide added flexibility.

3.3.9 Catcher Vessel co-op/processor affiliations

- Option A: If the processor with whom the harvester is initially eligible to form a co-op is no longer operating, the harvester is eligible to join a co-op with any eligible processor (i.e. any processor eligible to participate in the initial formation of a co-op).
- Option B: If the processor with whom the harvester is initially eligible to form a co-op is no longer operating in the community, the harvester is eligible to join a co-op with any eligible processor (i.e. any processor eligible to participate in the initial formation of a co-op) in that community.

If there are no eligible processors in that community, the harvester may join a co-op in association with any eligible processor within the region.

The Council could decide whether either of the above options will be incorporated into this alternative. Under the first provision, if a processor is no longer operating, harvesters eligible for a cooperative in association with that processor could join a cooperative with any other processor. The first option may be favored, if the specific harvester-processor relationship is intended to be protected by the association and other associations are not relevant to the Council's purpose in establishing this element of the program. If a community interest is intended to be protected, the second option could be favored. In the absence of the Council adopting one of these provisions, the Council should make clear its method of handling harvester/processor associations in the event a processor has closed. An alternative approach would be to have the association with the processor that the harvester delivered the second most landings to.

- Option 1.** CV cooperatives must be associated with an eligible processing facility
- Option 2. Processors can associate with more than one co-op.
- Option 3. Processors are limited to 1 co-op per plant for each sector.

The Council could select specific from the above two options. The first option is not an option under this alternative. The second two options are mutually exclusive. In fisheries as diverse as those in the Gulf, limiting processors to an association with a single cooperative could greatly disadvantage some harvesters. Even within a sector, harvesters vary significantly from one another. Forcing all participants into a single cooperative is likely to create a circumstance in which some participants are forced to accept terms detrimental to their interests or remain the limited entry fishery. Both harvesters and processors could suffer, if cooperative membership is reduced because of such a limitation. Given the complexity of the relationships and differences in participants, allowing more than one cooperative for each processor could substantially reduce efficiency to the detriment of some participants. Options selected should be consistent with the cooperative formation rules in section 3.3.7.

Processors with history at multiple facilities in a community may aggregate those histories for determining associations.

The eligible processor is:

- 1) initially, a processor that the harvester is eligible to associate with in a cooperative under section 3.3.5 above
- 2) after satisfaction of an exit requirement, any processor

3.3.10 Catcher Processor Co-op provisions

Allocation to CP co-ops will be based on the above, with the following exceptions:

- CP co-ops do not need a processor association.
- CP co-ops will be within CP gear sectors. Transfers of GH or leases of GQ across CP gear types is
 - a) not permitted
 - b) permitted.
- CP co-ops are subject to the other terms and conditions specified for CPs under this program

3.3.11 Initial Cooperative Requirements

The following provision is required for the initial co-op:

Catcher vessel co-ops may be formed by eligible harvesters (the co-op) subject to the terms and conditions of a co-op membership agreement. In order to receive an allocation of GH under this program, co-ops must enter into a duly executed contractual agreement (Contract) with the processor identified in Section 3.3.5.

Contracts established under this section shall specify the terms and conditions for transferring GQ or GH from the cooperative, including mechanisms whereby a member exiting the co-op (or transferring GH from the co-op) compensates the remaining co-op members and/or the associated processor for exiting the co-op (or transferring GH from the co-op). Compensation can take on any form agreed to by the members and the associated processor, including permanent transfer of some or all GH generated by the existing participant to the remaining co-op members and/or the associated processor.

The Council should note that entities that cannot document a vessel cannot fish in U.S. fisheries. So, any processor that is not at least 75 percent U.S. owned would not be permitted to fish any shares it holds. These entities could be permitted to hold shares, but would need to lease those shares to U.S. documented vessels for fishing. The Council should be clear in stating whether this provision is intended to allow fishing of harvest shares by processors that are not able to document a vessel. Such a policy would be unique in U.S. fisheries. If the Council intends to require compliance with current documentation laws, it could adopt the following sentence: "Any shareholder under this program is intended to comply with all existing laws concerning documentation of vessels and entry of vessels to U.S. fisheries in fishing those shares. Share holders unable to enter a vessel into U.S. fisheries may lease share holdings or use holdings through cooperative membership to the extent permitted by the program, but not in contravention of current law pertaining to entry of vessels to U.S. fisheries.."

Following the initial co-op period, new GH can be generated by eligible harvesters that have never been co-op members only by joining a co-op in association with the eligible processor pursuant to the terms of an agreement that meets the requirements for an initial co-op.

3.3.12 Initial Co-op Formation Period.

An Initial Co-op Formation period shall be established beginning with year one of program implementation and extended for the period identified below.

- Option 1. period is 1 year
- Option 2. period is 2 years
- Option 3. period is 3 years

The Council could choose a term for initial cooperative formation at this meeting. A relatively long term could contribute to stability. Shorter terms, however, could provide flexibility. In deciding the appropriate term, the Council should bear in mind that a harvester would not be permitted to exit a cooperative during the initial cooperative formation period.

3.4 General Operational Co-op Rules.

3.4.1 General Cooperative Requirements

The following provisions apply to all cooperatives:

1. The harvesters that enter into a co-op membership agreement shall be the members of the co-op. The processor will be an associate of the cooperative but will not be a cooperative member.
2. Except for CP cooperative, a pre-season Contract between eligible, willing harvesters in association with a processor is a pre-requisite to a cooperative receiving an allocation of GQ. For an initial co-op, the Contract must meet the provisions in 3.3.11. After meeting the requirements of Section 3.3.11 and following any periods established pursuant to 3.3.12, a holder of GH may join a cooperative in association with any processor pursuant to a Contract that meets the provisions of this section.
3. The co-op membership agreement and the Contract will be filed with the RAM Division. The Contract must contain a fishing plan for the harvest of all co-op fish.
4. Co-op members shall internally allocate and manage the co-op's allocation per the Contract.

5. Subject to any harvesting caps that may be adopted, GH or GQ may be transferred and consolidated within the co-op to the extent permitted under the Contract.
6. The Contract must have a monitoring program. Monitoring and enforcement requirements would be at the co-op level. Co-op members are jointly and severally responsible for co-op vessels harvesting in the aggregate no more than their co-op's allocation of primary species, secondary species and halibut PSC mortality, as may be adjusted by inter-cooperative transfers.
7. Co-ops may adopt and enforce fishing practice codes of conduct as part of their membership agreement. Co-ops may penalize or expel members who fail to comply with their membership agreement.
8. Co-op membership agreements will specify that processor affiliated vessels cannot participate in
 - Option A: price setting negotiations except as permitted by general antitrust law.
 - Option B: negotiations concerning price setting, code of conduct, mechanisms for expelling members, or exit agreements.

The Council could select an option for limiting terms of the cooperative agreement that a processor affiliated vessel may participate in. Limiting cooperative participation by processor affiliates could be important to maintaining arms length negotiations between the cooperative and the processor. Clearly, processor affiliates should be constrained from participating in price setting negotiations. Since provisions governing exit agreements and expulsion of members could also impact the interests of the affiliated processor, prohibition of participation in the negotiation of those provisions might also be important. Since code of conduct violations could result in the expulsion of members, those provisions could also involve some conflict of interest on the part of processor affiliates. Since the terms of a code of conduct could involve many issues that do not pertain to expulsion, a limitation on processor affiliate involvement in code of conduct provisions could be overbroad (particularly if the Council adopts a provision that limits their involvement in expulsion provisions).

9. Co-op membership agreements shall allow for the entry of other eligible harvesters into the co-op under the same terms and conditions as agreed to by the original agreement. Harvesters that have never been a member of a cooperative must enter an agreement that meets all requirements for an initial co-op, as specified under Section 3.3.11.

3.4.2 General Provisions Concerning Transfers of GH and GQ.

Co-ops may engage in inter-cooperative transfers (leases) of GQ during and after the initial co-op formation period.

During the initial cooperative formation period, GH transfers will be permitted between members of the same cooperative, but not between members of different cooperatives.

Following the initial co-op formation period, members of a co-op may transfer GH-to members of other co-ops.

All transfers will be subject to such terms and conditions as may be specified in the applicable Contract and any ownership or use caps or other conditions as may be established pursuant to this program.

For persons that join cooperatives for the first time after any period established pursuant to 3.3.12, the limits on transfers shall apply for the same period of time as those in 3.3.12.

3.4.2.1 Qualified Persons.

Persons qualified to receive GH by transfer include processors that associate with initial cooperatives pursuant to 3.3.11 and (not mutually exclusive):

- Option 1. US citizens who have had at least 150 days of sea time.
- Option 2. Entities that meet U.S. requirements to document a vessel.
- Option 3. Initial recipients of CV or C/P GH.
- Option 3. Communities would be eligible to receive GH by transfer (this provision would be applicable if certain provisions of 2.9 are adopted).
- Option 4. U.S. citizens. *Note – the agency currently interprets U.S. citizenship as including any corporation formed under U.S. laws. So, this provision would allow any U.S. corporation to acquire shares regardless of whether that corporation is foreign owned.*

The Council could choose preferred options for eligibility to receive shares by transfer. The Council should consider deleting Option 3 from this section and incorporating the provision into a community program. Different provisions could be selected for different sectors.

In addition, the Council should note that the introduction would allow processors that are eligible to associate with initial cooperatives to acquire history. The Council should note that entities that cannot document a vessel cannot fish in U.S. fisheries. So, any processor that is not at least 75 percent U.S. owned would not be permitted to fish any shares it holds. These entities could be permitted to hold shares, but would need to lease those shares to U.S. documented vessels for fishing. The Council should be clear in stating whether this provision is intended to allow fishing of harvest shares by processors that are not able to document a vessel. Such a policy would be unique in U.S. fisheries. If the Council intends to require compliance with current documentation laws, it could adopt the following sentence: “Any shareholder under this program is intended to comply with all existing laws concerning documentation of vessels and entry of vessels to U.S. fisheries in fishing those shares. Share holders unable to enter a vessel into U.S. fisheries may lease share holdings or use holdings through cooperative membership to the extent permitted by the program, but not in contravention of current law pertaining to entry of vessels to U.S. fisheries.”

3.4.2.2 Definition of sea time

Sea time in any of the U.S. commercial fisheries in a harvesting capacity.

3.4.3 Ownership caps.

Ownership of GH by a co-op member shall be capped at:

- Option 1. 1% of the GH by area, sector and species groups in Section 3.3.5 (pollock, Pacific cod aggregate rockfish, aggregate flatfish, ~~aggregate other species~~).
- Option 2. 5% of the GH by area, sector and species groups in Section 3.3.5.
- Option 3. 20% of the GH by area, sector and species groups in Section 3.3.5.
- Option 3. 30% of the GH by area, sector and species groups in Section 3.3.5.
- Option 4. no cap.

Allocations to original issues would be grandfathered at the original level of GH.

3.4.4 Co-op use caps.

Control of GH or use of GQ by a co-op shall be capped at:

- Option 1. 15% by area, sector and species groups in Section 3.3.5 (pollock, Pacific cod, aggregate rockfish, aggregate flatfish, ~~aggregate other species~~).
- Option 2. 25% by area, sector and species groups in Section 3.3.5
- Option 3. 45% by area, sector and species groups in Section 3.3.5
- Option 4. no cap

3.4.5 Vertical integration

Any processor holdings of GH, using the 10% limited threshold rule, are capped at:

- Option 1. initial allocation of harvest CV and CP shares.
- Option 2. 115%-150% of initial allocation of CV GH.
- Option 3. 115%-150% of initial allocation of CP GH.

Option 4. no cap

3.4.6 Processor caps

Processors shall be capped at the entity level.

No processor shall process more than:

- Option 1. 25% of total harvest by area and primary species groups in Section 3.3.5
- Option 2. 50% of total harvest by area and primary species groups in Section 3.3.5
- Option 3. 75% of total harvest by area and primary species groups in Section 3.3.5
- Option 4. no cap

Processors eligible under 3.3.11 will be grandfathered.

3.4.7 Catcher/Processor Provisions

In addition to the rules specified above, the following provisions apply to Catcher/Processors:

3.4.7.1 Restrictions on transferability of CP harvest shares:

CP GH may be converted to CV GH. Once it is converted, it cannot be changed back to CP GH. CP GH maintains its designation when transferred to a person that continues to catch and process the resulting GQ at sea (within a cooperative or in open access.)

3.4.7.2 Re-designate CP GH as CV GH upon transfer to a person who is not an initial issuee of CP shares:

- Option 1. all CP shares
- Option 2. trawl CP shares
- Option 3. longline CP shares

The Council could select options for the conversion of catcher processor history to catcher vessel history at this time. The Council should choose from 3.4.7.1 and 3.4.7.2.

The provisions of 3.4.7.1 would convert catcher processor history to catcher vessel history, if transferred and subsequently landed onshore. This provision would limit the conversion of history, with the conversion taking place only on the use of the history as catcher vessel history by the holder.

The options under 3.4.7.2 would limit the holders of catcher processor history to those that receive an initial allocation of catcher processor history. Options 2 and 3 of 3.4.7.2 would limit the provision to trawl and longline catcher processor history, respectively. In the event that the Council chose a provision that applied to only one type of history, it should also identify a provision for the other gear types. This provision would convert all catcher processor history to catcher vessel history once transferred from initial recipients limiting the market for those shares, and possibly diminishing their value in some fisheries.

3.4.7.3 Leases of CP annual harvest allocations (GQ):

Allow leasing within cooperative or pursuant to an inter-co-op agreement within CP sectors (no CP leases allowed across gear types.)

3.4.7.4 Conversion of CP GH and GQ:

CP GH and GQ converted to CV GH and GQ will count toward CV caps

Caps will be applied to prohibit acquisition of shares in excess of the cap. Conversion of CP GH or GQ to CV GH or GQ alone will not require a CP GH holder or cooperative to divest CP GH and GQ for exceeding CP caps.

3.5 Skipper/Crew Provisions

A skipper is defined as the individual owning the Commercial Fishery Entry Permit and signing the fish ticket.

- Option 1. No skipper and/or crew provisions

- Option 2. Establish license program for certified skippers. For initial allocation Certified Skippers are either:
- i. Vessel owners receiving initial GH or harvest privileges; or
 - ii. Hired skippers who have demonstrated fishing experience in Federal or State groundfish fisheries in the BSAI or GOA for 3 out of the past 5 years as documented by a CFEC permit and signed fish tickets and/or appropriate NMFS documentation (starting date for five years is 2003).
- Suboption 1. include crew in the license program.
- Suboption 2. require that new Certified Skippers licenses accrue to individuals with demonstrated fishing experience (Groundfish – BSAI/GOA, state or federal waters) similar to halibut/sablefish program.

Under any alternative that establishes GH and annual harvest privileges, access to those annual harvest privileges is allowed only when fishing with a Certified Skipper onboard. Certified Skipper Licenses are non-transferable. They accrue to an individual and may not be sold, leased, bartered, traded, or otherwise used by any other individual. Defer remaining issues to a trailing amendment and assumes simultaneous implementation with rationalization program.

3.6 LLP/Open Access fishery provisions:

The allocation for each sector of primary species, secondary species, and halibut PSC to the LLP/Open Access fishery will be those amounts remaining after allocation of the co-ops. Harvesters that choose not to participate in a co-op may continue to fish in the LLP/Open Access fishery.

Allow directed fishing for primary species only. Continue current MRA for secondary species and unallocated species.

Issue 1. Halibut PSC will be reduced by:

Option 1:

- a. 10 percent
- b. 20 percent
- c. 30 percent

Note: this reduction may differ by sector

Option 2:

- 5 percent beginning on the date of program implementation;
- an additional 5 percent beginning on the second year of program implementation;
- an additional 10 percent beginning on year 5 of program implementation; and

Issue 2:

The LLP of any vessel that has entered a co-op and generated GH pursuant to this program may not be subsequently used, or transferred to another vessel, to fish in the LLP/Open Access fishery for any primary or secondary species identified under this program as long as they are a co-op member.

This provision would prevent an LLP from being used in the LLP/Open Access fishery “as long as they are a cooperative member”. The provision, as written, does not appear to prevent anyone from reentering the LLP/Open Access fishery. The provision appears to be intended to protect participants in the LLP/Open Access fishery from participants that might join a cooperative, sell all of their GH, and then return to the LLP/Open Access fishery with an LLP, but no history. If this is the intent, the following words must be added: “unless all GH initially associated with the LLP is held by the LLP holder and is allocated to the LLP/Open Access fishery.”

Note: The intent of this provision is to prevent a vessel from entering a co-op, transferring its GH to the co-op and then subsequently taking its LLP and re-entering the open access fishery or transferring its LLP to another vessel to fish in the Open Access fishery.

3.7 Communities and Regionalization

Community provisions are moved to a separate portion of the motion.

3.7.1 Regionalization

If adopted, GH will be categorized by region (for the fisheries identified below).

GH that is regionally designated cannot be reassigned to another region.

Catcher vessel GH is regionalized based on where the catch was processed, not where it was caught.

Catcher processor GH is not subject to regionalization.

The following describes the regions established and fisheries that would be subject to regionalization:

Central Gulf: Two regions are proposed to classify harvesting shares: North - South line at 58 51.10' North Latitude (Cape Douglas corner for Cook Inlet bottom trawl ban area) extending west to east to the intersection with 140° W long, and then southerly along 140° W long.).

The following fisheries will be regionalized for shorebased (including floating) catch and subject to the North - South distribution: Pollock in Area 630; CGOA flatfish (excludes arrowtooth flounder); CGOA Pacific ocean perch; CGOA northern rockfish and pelagic shelf rockfish (combined); CGOA Pacific cod (inshore); GOA sablefish (trawl); WY pollock.

The Council should clarify the coordination of regionalization and processor associations. First, the specific method of regionalizing allocations is delineated here for clarity. In the absence of additional direction from the Council, staff would estimate regionalization of allocations in the following manner:

- 1) ***Estimate individual harvest allocations for each management area based on the qualifying years in section 3.3.2.2.***
- 2) ***For management areas and species that are regionalized, divide each individual allocation of each regionalized species between the different regions based on the individual's landing history of that species during the years being used for determining regionalization.***
- 3) ***For each regionalized allocation determine the processor association based on the individual's landings of the applicable species aggregation in the region during the years used for associations. (Note – associations do not apply to sablefish.)***

Assuming that the above method for regionalization and association of shares, a few issues arise concerning regionalization. First, sablefish is not allocated based on individual history, but based on fleet incidental catch rates and has no processor association, since it is a secondary species. Individual landings histories of sablefish could be used for regionalization, but it is possible that some individuals could receive a sablefish allocation with no sablefish landings history. Alternatively, the Council could regionalize an individual's sablefish allocation based on the regionalization of a specific species aggregation or all primary species allocations or some other measure.

Second, an issue arises from the exclusion of Central Gulf arrowtooth from the regionalization component. Since all flatfish landings in a region would be used to determine the association for any regionalized flatfish species, not regionalizing all primary flatfish species in a management area complicates administration and implementation of regionalization. The exclusion of CGOA arrowtooth from regionalization would mean that arrowtooth allocations would have a single association, while all other flatfish primary species would have

separate associations in the different regions. Although not an insurmountable problem, the exclusion of Central Gulf arrowtooth from regionalization adds complication to the administration of the program.

The method of including pollock in the regionalization could create some operational complication for participants in the fishery. Including 640 pollock (WY) in regionalization, but no other species in West Yakutat requires that pollock landings be used for making the regional division of each allocation. Once the regional division is made pollock landings in each region would be used for making the processor association for the pollock allocation in the region. In addition, all other primary species allocated to the individual would have a processor association based on landings the applicable species aggregation in the West Yakutat management area but would not be regionalized. Regionalization of one species in the area could complicate an individual's operations, if a substantial portion of the individual's pollock allocation is associated with one processor, while all of the other primary species allocated to the individual are associated with another processor.

The inclusion of 630 pollock in and exclusion of 620 pollock from the regionalization component also raise questions. The Central Gulf management area is divided into areas 620 and 630 for purposes of managing pollock. With respect to 630 pollock, the first step in applying landings designations would be to regionalize an individual's 630 pollock allocation based on that individual's landings history. Each regionalized allocation would then be associated with a processor based on the individual's landings history. At the same time, excluding of 620 pollock from the regionalization component would result in a single processor association for 620 pollock based on all landings of 620 pollock, while all other primary species in that management area (with the exception of arrowtooth) would be regionalized.

3.7.1.1 In the event GH is regionalized, a harvester will be eligible to bring its history in a region to a cooperative associated with the processor in the region to which the harvester delivered the most pounds during the cooperative formation qualifying period:

Using species aggregations identified in 3.3.5 and

Option 1) the period identified in 3.3.5 or

Option 2) the qualifying period under 3.3.2.2.

Option 1: ~~on a species by species basis~~

Option 2: ~~all primary species aggregated~~

3.7.1.2 Qualifying years to determine the distribution of GH between regions will be:

Option 1. consistent with the qualifying period under cooperative formation in Section 3.3.5

3.8 Program Review and Data Collection:

3.8.1 Data collection.

A mandatory data collection program would be developed and implemented. The program would collect cost, revenue, ownership and employment data on a periodic basis to provide the information necessary to study the impacts of the program for this and other Management Councils. Details of this program will be developed in the analysis of the alternatives.

3.8.2 Program Review.

Preliminary program review at the first Council Meeting in the 3rd year and formal review at the Council meeting in the 5th year after implementation to objectively measure the success of the program, including benefits and impacts to harvesters (including vessel owners, skippers and crew), processors and communities, by addressing concerns, goals and objectives identified in the problem statement and the Magnuson Stevens Act standards. This review shall include analysis of post-rationalization impacts to coastal communities, harvesters and processors in terms of economic impacts and options for mitigating those impacts. Subsequent reviews are required every 5 years.

3.9 Sideboards

GOA Groundfish sideboards under the crab rationalization plan and under the AFA would be superceded by the GOA rationalization program allocations upon implementation.

Participants in the GOA rationalized fisheries are limited to their historical participation based on GOA rationalized qualifying years in BSAI and SEO groundfish fisheries.

Vessels (actual boats) and LLPs used to generate harvest shares used in a Co-op unless specifically authorized may not participate in other state and federally managed open access fisheries in excess of sideboard allotments.

Participants in the GOA rationalized fisheries are limited to their aggregate historical participation based on GOA rationalized qualifying years in BSAI and SEO groundfish fisheries.

Provisions related to IFQ and SEO fisheries are moved to a separate portion of the motion.

Provisions related to salmon and crab bycatch are moved to a separate portion of the motion.