

Amendment 80 – Council Motion – April 7, 2006

The Council adopts the following components and options for analysis as a Preferred Alternative:

Issue 1: Sector Allocation of BSAI Non-Pollock Groundfish to the Non-AFA Trawl Catcher Processor Sector and CDQ Program

Component 1 Allocate only the following primary target species to the Non-AFA Trawl CP sector: yellowfin sole, rock sole, flathead sole, Atka mackerel, and Aleutian Islands Pacific Ocean perch. Species could be added or deleted through an amendment process.

Component 2 CDQ allocations for each primary target (Component 1) species in the program shall be removed from the TACs prior to allocation to sectors at percentage amounts equal to one of the following.

Option 2.2 10%

For Amendment 80 species, the reserves would be set at 10% of the TAC and all would be allocated to the CDQ reserves.

CDQ allocations for secondary groundfish species (except Pacific cod) taken incidental in the primary trawl target fisheries shall be removed from the TACs prior to allocation to sectors at percentage amounts equal to one of the following:

Suboption 2.2 10%

Component 3 Identifies the sector allocation calculation (after deductions for CDQs, ICAs, and other existing fishery allocations, i.e., Atka mackerel jig) for the Non-AFA Trawl CP sector. The remaining portion of the primary species TAC included in this program would be allocated to the BSAI trawl limited access fishery.

For purpose of allocation to the Non-AFA Trawl CP sector, each primary species allocation is:

| | |
|----------------|---|
| Yellowfin Sole | 82.5% |
| Rock Sole | 97% |
| Flathead Sole | 98% |
| Atka Mackerel | 98% in 541/EBS and 542, in the first year of the program, decreasing by 2% increments over 4-yr period to 90%. 100% in 543. |
| AI POP | 95% in 541 and 542 in the first year of the program, decreasing to 90% in the second year of the program. 98% in 543. |

Suboption 3.2.2 Allocations would be managed as a hard cap for the H&G sector, and for the Non H&G sector, an ICA would be taken off the top to accommodate incidental bycatch by the non-H&G sector. AFA vessel sideboard amounts will be determined after CDQ reserve amounts are deducted from TAC.

Option 3.5 Target species and PSC rollover: any unharvested portion of the Amendment 80 target species or unharvested portion of PSC in the limited access fishery that is projected to remain unused shall be rolled over to vessels that are members of Amendment 80 cooperatives.

Any roll over of halibut PSC to the Non-AFA Trawl CP sector shall be discounted by 5%. That is, if 100 mt of halibut is available for roll over, then 95 mt of halibut would be re-

allocated to the Non-AFA Trawl CP sector. Once the initial allocation has been determined, the Non-AFA Trawl CP sector may re-allocate the PSC among the target species.

NMFS shall perform a review on or before May 1 and August 1 each year, and at such other times after August 1 as it deems appropriate. In making its determination, NMFS shall consider current catch and PSC usage, historic catch and PSC usage, harvest capacity and stated harvest intent, as well as other relevant information.

Component 4 Elements of Component 4 were integrated in Component 3 with selection of percentages.

Issue 2: PSC Allowance for the Non-AFA Trawl Catcher Processor Sector and the CDQ Program

Component 5 Increase PSQ reserves allocated to the CDQ program (except herring and Chinook salmon) to levels proportional to the CDQ allocation of primary species under Component 2.

Component 6 PSC allowances of halibut and crab to the Non-AFA Trawl CP Sector.

Council Preferred Halibut PSC Alternative 1

Option 6.1 Apportion halibut PSC to Non-AFA Trawl CP sector:

Suboption 6.1.1 Allocation based on historical usage of PSC by the Non-AFA Trawl Catcher Processor sector from January 1, 2002 thru December 31, 2004 rather than the sector's allocation, with the remainder available to the other sectors.

Option 6.2 Select a Non-AFA Trawl CP sector halibut PSC reduction option from the following that would apply to any PSC apportionment suboption selected in 6.1. PSC reduction options can vary species by species. Any reduction in the Non-AFA Trawl CP sector should not result in an increase in PSC allocation to any other sector.

Suboption 6.2.8 Reduce apportionments to 80% of calculated level.

Suboption 6.2.8.1 Phase in PSC reductions 5% per year starting in second year.

Council Preferred Halibut PSC Alternative 2

Suboption 6.1.4 Allocation of halibut PSC to the non-AFA Trawl CP sector shall be determined by that sector's percentage allocations of target species groups (contained in Component 3) multiplied by the trawl PSC amounts for those target species groups as set forth in the annual specifications.

Sectoral PSC allocations will be calculated using a predetermined fixed target fishery bycatch rate, based on the 2002-2004 average consumption rate across the trawl sectors based on the lesser of the TAC or the previous year's catch, with initial allocations of the PSC to all trawl target fisheries adjusted pro rata such that their sum equals the overall trawl PSC allocation.

The following maximum and minimum allowances shall apply to the initial PSC allocations: Non-AFA Trawl CP sector shall receive an allowance of not less than 2,200 mt of halibut and not more than 2,450 mt of halibut. Trawl limited access sectors shall receive an allowance of not less than 950mt of halibut and not more than 1,200 mt of halibut.

Council Preferred Crab PSC Alternative

Allocation of crab PSC to the non-AFA Trawl CP sector shall be based on the % of historic usage of crab PSC in all groundfish fisheries from 1995 to 2002 (resulting percentages are reported in the

far right column in Table 3-43 March 16, 2006 EA/RIR/IRFA). The initial allocation will be reduced by 5% per year starting in the second year until the Non-AFA Trawl CP sector is at 80% of their initial allocation. Trawl limited access sectors shall receive an allowance of the sum of the combined AFA CV/CP sideboards. These levels shall be reviewed, and further reduced as necessary, by the Council during the fifth year of the program. (Note – basing usage on a % of annual PSC limits, results in a calculation that is crab abundance based.)

Issue 3: Cooperative Development for the Non-AFA Trawl Catcher Processor Sector

Component 7 The BSAI non-pollock groundfish CP buyback legislation establishes the vessels eligible to participate as a catcher processor in the BSAI non-pollock groundfish fisheries. The members of the Non-AFA Trawl Catcher Processor subsector are defined as the owner of each trawl CP:

- a.) that is not an AFA Trawl CP
- b.) to whom a valid LLP license that is endorsed for BSAI Trawl CP fishing activity has been issued; and
- c.) that the Secretary determines who has harvested with trawl gear and processed not less than a total of 150 mt of non-pollock groundfish during the period January 1, 1997 – through December 31, 2002.

This definition establishes the vessels that can participate in the Amendment 80 program.

Restrict LLPs that are used for eligibility in Amendment 80 (either to be included in the Non-AFA CP sector or to be used in Amendment 80 cooperative formation) from being used outside of the Amendment 80 sector, except that any eligible vessel which is authorized to fish Pollock under the AFA would still be authorized to fish under the statute.

Only history from eligible vessels will be credited in the program. The catch history credited to an eligible vessel will be catch history of that vessel. The catch history credited to an eligible vessel for the first license assigned to that vessel will only be the catch history of the eligible vessel. The catch history of any vessel that meets the non-AFA and catch criteria of Component 7 which has sunk, is lost, or becomes inoperable, or becomes otherwise ineligible during or after the qualifying period will be credited to the license that arose from that vessel. Any such license assigned to an eligible vessel will be credited with the catch history during the Component 10 period of the eligible non-AFA trawl CP from which the license arose, except that no history can be assigned to more than one vessel at a given time. Once the catch history has been assigned to the license, that license must be used on an eligible Non-AFA Trawl CP vessel.

Component 8 Component 8 establishes the number of vessels required before the cooperative is allowed to operate. No later than November 1 of each year, an application must be filed with NOAA fisheries by the cooperative with a membership list for the year.

In order to operate as a cooperative, membership must be comprised of at least three separate entities (using the 10% AFA rule) and must be:

Option 8.2 At least 30% of the eligible vessels

Component 9 Determines the method of allocation of PSC limits and groundfish between the cooperative and eligible Non-AFA Trawl CP participants who elect not to be in a cooperative.

Option 9.1 Catch history is based on total catch

Assign PSC within the sector to allocated target species and Pacific cod based on the average use of PSC in each target species from the years 1998-2004, expressed as a percent of the total PSC allocation to the sector.

Each eligible vessel will then receive an allocation percent of PSC for catch of allocated target species and Pacific cod equal to its proportion of the catch history of the allocated fishery.

This PSC allocation will not change from year to year (i.e., will not fluctuate annually with the TAC).

Component 10 Determines which years of catch history are used for establishing cooperative allocations. The allocation of groundfish between the cooperative and those eligible participants who elect not to join a cooperative is proportional to the catch history of groundfish of the eligible license holders included in each pool. Applicable PSC limits are allocated between the cooperative and non-cooperative pool in same proportions as those species that have associated PSC limits. The catch history as determined by the option selected under this component would be indicated on the Sector Eligibility Endorsement, which indicates the license holder's membership in the Non-AFA Trawl CP sector. The aggregate histories would then be applied to the cooperative and the non-cooperative pool.

Notwithstanding the qualifying history of the vessel, a qualified vessel that has not fished after 1997 will receive an allocation under the program of no less than:

0.5 percent of the yellowfin sole catch history

0.5 percent of the rock sole catch history

0.1 percent of the flathead sole catch history

Option 10.8 1998 – 2004, but each vessel drops its two lowest annual catches by species during this period

For AI POP, all vessels will receive their allocation equally in 541, 542 and 543.

Each vessel will receive its historic share of the sector's Atka mackerel allocation based on component 10 (all areas combined). Vessels less than 200' in length having less than 2% of the sector's Atka mackerel history ("Non-mackerel vessels") will receive their allocation distributed by area according to each individual vessel's catch distribution during the component 10 years. The remainder of EBS/541, 542 and 543 sector allocation after "Non-mackerel vessels" have been removed will be allocated to vessels that are greater than 200' in length or have more than 2% of the sector's Atka mackerel allocation ("mackerel vessels"). Mackerel vessels will receive their respective percentages (adjusted to 100%) equally in each area.

In the event that the Non-AFA Trawl CP sector receives an exclusive allocation of Pacific cod, that allocation will be divided between cooperatives and the sector's limited access fishery in the same manner (and based on the same history) as the division of the other allocated species within the sector.

Component 11 Determines if excessive share limits are established in the Non-AFA Trawl CP sector.

Option 11.2 Consolidation in the Non-AFA Trawl Catcher Processor sector is limited such that no single person (using the individual and collective rule) can hold catch history more than a fixed percentage of the overall sector apportionment history. The cap would be applied on an aggregate basis at 30%, of the sector's allocation).

Suboption 11.2.2 Persons (individuals or entities) that exceed the cap in the initial allocation would be grandfathered.

Option 11.3 No vessel shall harvest more than 10% of the entire Non-AFA Trawl CP sector allocation.

Suboption 11.3.1 Vessels that are initially allocated a percentage of the sector allocation that is greater than the vessel use cap shall be grandfather at their initial allocation.

Component 12 Establishes measures to maintain relative amounts of non-allocated species until such time that fisheries for these species are further rationalized in a manner that would supersede a need for these sideboard provisions. Sideboards shall apply to eligible licenses and associated vessels from which the catch history arose.

Option 12.3 In the BSAI, Pacific cod will be managed under existing sector apportionments, with rollovers, until new Pacific cod sector allocations are implemented. Pacific cod will be allocated between the cooperative and non-cooperative sub-sectors based on the same formula as Component 10.

In the BSAI, management of unallocated species should remain status quo.

Option 12.4 GOA sideboard provisions

Sideboard provisions for Amendment 80 qualified non-AFA trawl CP sector with valid GOA LLP with appropriate area endorsements are as follows:

- Suboption 12.4.1 Vessels associated with LLPs that have Gulf weekly participation of greater than 10 weeks in the flatfish fishery during the years defined in Component 10 will be eligible to participate in the GOA flatfish fisheries.
- Suboption 12.4.2 Non-AFA trawl CP vessel(s) that fished 80% of their weeks in the GOA flatfish fisheries from January 1, 2000 through December 31, 2003 will be exempt from GOA halibut sideboards in the GOA. Vessel(s) exempted from Amendment 80 halibut sideboards in the GOA and may participate fully in the GOA open-access flatfish fisheries. The history of this vessel will not contribute to the Non-AFA Trawl CP sideboards and its catch will not be subtracted from these sideboards.
 - Suboption 12.4.2.1 Vessel(s) exempted from Amendment 80 GOA sideboards may not lease their BSAI Amendment 80 history.
- Suboption 12.4.3 Gulf-wide halibut sideboards for the deep and shallow complex fisheries would be established by season calculated based on:
 - Option B: Actual usage for the Amendment 80 qualified non-AFA trawl sector for the years defined in Component 10.
- Suboption 12.4.4 GOA Pollock, Pacific cod, and directed rockfish species (POP, NR and PSR) sideboards for the Amendment 80 qualified non-AFA trawl CP sector would be established using the years defined in Component 10, where catch is defined as retained catch by Gulf area as a percentage of total retained catch of all sectors in that area.
- Suboption 12.4.5 While the CGOA rockfish demonstration program is in place, the CGOA rockfish demonstration program takes precedence. The demonstration program would remove the need for catch sideboards for the CGOA directed rockfish species. The Amendment 80 CPs deep halibut mortality sideboard cap for the 3rd seasonal allowance (in July) will be revised by the amount of the deep complex halibut mortality allocated to the rockfish demonstration program for the Amendment 80 qualified non-AFA trawl CP sector while the demonstration program is in effect.
- Suboption 12.4.6 Sideboards apply to vessels (actual boats) and LLPs used to generate harvest shares that resulted in allocating a percentage of the Amendment 80 species

TACs to the non-AFA trawl CP sector. The intent is to prevent double-dipping with respect to GOA history related to sideboards.

- Suboption 12.4.7 On completion of a comprehensive rationalization program in the GOA, any sideboards from the BSAI Amendment 80 plan amendment will be superseded by the allocations in the GOA rationalization program.
- Suboption 12.4.8 Sideboards for PSC and GOA groundfish would be allocated between cooperative and non-cooperative vessel/licenses that are initially assigned harvest privileges for the five BSAI species allocated, based on the same formula as Component 10.
- Suboption 12.4.9 Each cooperative will receive its GOA sideboards; cooperatives that sign an intercooperative agreement that allow aggregation of sideboards will be included within the aggregated sideboards. GOA sideboards may not be transferred between cooperatives. Sideboards limits assigned to cooperative will be managed as hardcaps.

Issue 4: Development of a Yellowfin Sole Threshold Fishery

Component 13 The Council will allocate yellowfin sole above the threshold to participating sectors when the ITAC is anticipated to reach the threshold level. ITAC below the threshold level would be allocated to the Non-AFA Trawl Catch Processor sector based on the formula determined in Components 3 and 4. Threshold levels for other species may be developed at a later date. AFA yellowfin sole sideboards do not apply to the YFS threshold fishery. The Council will allocate yellowfin sole above the threshold to participating sectors when the ITAC is anticipated to reach the threshold level. Above a yellowfin sole ITAC of 125,000 mt, the non-AFA Trawl CP sector will be allocated 60% of the threshold reserve.

Option 13.1 Threshold Rollover options:

- Suboption 13.1.3 Allow rollovers of any portion of the yellowfin sole TAC that is projected by the NOAA Regional Administrator to go unused. The NOAA Regional Administrator would be responsible for determining both the amount and the timing of the rollover.

Other Elements of Amendment 80

This section provides additional specifics and elements for the Non-AFA Trawl CP cooperative program. These specifics and elements are common for any cooperative program that might be developed.

- The cooperative program developed in Amendment 80 would not supersede pollock and Pacific cod IR/IU programs.
- The Groundfish Retention Standards (GRS) (Amendment 79) would be applied to the cooperative as an aggregate on an annual basis and on those vessels who did not join a cooperative as individuals.
- Non-AFA Trawl CP sector participants that did not elect to join a cooperative would be subject to all current regulations including all restrictions of the LLP and the GRS if approved.
- All qualified license holders participating in the fisheries of the Non-AFA Trawl CP sector for Amendment 80 species would need to have trawl and catcher processor endorsements with general licenses for BSAI and the additional sector eligibility endorsement. Length limits within the license would also be enforced such that any replacement vessel entering the fishery would not exceed the Maximum Length Overall (MLOA) specified on the license.

- Permanent transfers of an eligible vessel, its associated catch history, and its permit would be allowed. Eligible vessels, their associated catch history, and a sector eligibility endorsement would not be separable or divisible. In the case of a sunk, lost, inoperable or otherwise ineligible vessel, catch history would be attached to the license that arose from the vessel and would not be separable or divisible. All transfers must be reported to NOAA fisheries in order to track who owns the sector eligibility permit and harvest privileges of a vessel. The purchaser must be eligible to own a fishing vessel under MarAd regulations or any person who is currently eligible to own a vessel.
- Annual allocations to the cooperative will be transferable among Non-AFA Trawl CP cooperative members. Such transfers will not need NOAA Fisheries approval.
- Annual allocations to the cooperative will be transferable among Non-AFA Trawl CP cooperatives. Inter-cooperative transfers must be approved by NOAA Fisheries.
- Any non-trawl or non-BSAI catches by qualified license holders that are considered part of the Non-AFA Trawl CP sector will not be included in the defined cooperative program. In addition, these non-trawl or non-BSAI catches allocated to the Non-AFA Trawl CP sector would not necessarily be excluded from other rationalization programs.
- Catch history used for allocation and eligibility purposes will be legal and documented catch.
- Disposition of groundfish species not allocated to the Non-AFA Trawl CP sector will not change as a result of the cooperative program developed in Amendment 80.
- Bycatch limits for non-specified species or marine resources would not be established. However, if the Council deems that bycatch is unreasonable, specific regulations to minimize impacts would be considered.
- The cooperative(s) would need to show evidence of binding private contracts and remedies for violations of contractual agreements would need to be provided to NOAA Fisheries. The cooperative would need to demonstrate adequate mechanism for monitoring and reporting prohibited species and groundfish catch. Participants in the cooperative would need to agree to abide by all cooperative rules and requirements.
- Specific requirements for reporting, monitoring and enforcement, and observer protocols will be developed in regulations for participants in the Non-AFA Trawl CP sector. These monitoring and enforcement provisions are described in Section 3.3.7 of the April 2006 EA/RIR/IRFA. Revisions to 3.3.7 have been described in March 27, 2006 letter from NMFS to the Council.
- A detailed annual report will be required from each cooperative(s). Fishery managers will review the annual report and determine if the program is functioning as desired. An in-depth assessment of the program will be undertaken under the auspices of the Council/NOAA Fisheries every five years). The in-depth studies will report the accomplishments of the program and indicate whether any changes are necessary. This assessment shall determine whether the program is successful in reducing bycatch, minimizing waste, and improving utilization to the extent practicable to provide the maximum benefit to present generations of fishermen, associated fishing industry sectors, including the CDQ sector, communities and the nation as a whole. The Council shall consider significant changes or events (regulatory, economic, or biological) which negatively impact the Amendment 80 participants.
- A socioeconomic data collection program will be implemented under the Non-AFA Trawl CP Cooperative Program. The program will collect cost, revenue, ownership, and employment data on a periodic basis. The purpose of the data collection is to fully understand the socio-economic impacts of the action, to inform future management actions, and to assure that this action serves its intended

purpose and meets the goals set forth in the problem statement. Data will be used by Council and agency staff, recognizing that confidentiality is of extreme importance.

The ownership data will be collected by vessel for enforcement of the ownership cap regulations; ownership data collection is essential to ensure that ownership caps are not exceeded. Employment data will be collected for monitoring of the community impacts of this program. Revenue and cost data by vessel and sector are essential to identify/estimate the costs associated with bycatch reduction and estimate the revenues generated to the sector, as an objective of this program is to offer sector participants the opportunity to mitigate, to some degree, the costs associated with bycatch reduction. Revenue, cost and employment data will be used to monitor the program benefits to present generations of fishermen, associated fishing sectors, including the CDQ sector, communities, and the nation as a whole.

The Council will implement the following process for developing appropriate elements of the data collection program.

1. Convene a staff workgroup to develop information necessary to answer questions posed by NOAA Fisheries by letter of March 28, 2006 to ensure an adequate basis for the data collection program.
2. Host an industry workshop during the June 2006 Council meeting week to review and solicit comments in the socio economic data collection program.
3. Council review and approval of the socio-economic data collection program and considerations of SSC comments.