

## C-5 Rockfish Program Motion June 2010

*The Council selects the below preferred alternative for final action on the Rockfish Program.*

*Note: Double strikethrough and double underline affirm the Council's April direction, shown in track changes in a C-5 supplemental document. Gray scale strikethrough and underline represent wording changes intended to better reflect the nature of the cooperative harvesting privileges provided under this program. Normal strikethrough and underline represent substantive edits proposed for final action.*

### Elements and options defining the program alternatives

#### Entry-Level Fishery Alternatives (EL)

1. ~~No action (revert back to LLP management)~~
2. ~~Trawl/fixed gear fisheries (the pilot program structure)~~
3. Fixed gear only fishery

#### Catcher Processor Alternatives (CP)

1. ~~No action (revert back to LLP management)~~
2. Catcher processor cooperative only
3. ~~Cooperative or limited access (the pilot program structure)~~

#### Catcher Vessel Alternatives (CV)

1. ~~No action (revert back to LLP management)~~
2. ~~Harvester only cooperative~~
3. ~~Harvester cooperatives with allocation of harvest shares to processors~~
4. ~~Severable~~ Annual harvester/processor association – severable, no forfeiture

The above alternatives are defined by the following elements and options.

#### 1 ICA Set Aside

Prior to calculating annual cooperative allocations ~~of catch history to~~ within the sectors, NMFS shall set aside an Incidental Catch Allocation (ICA) of Pacific ocean perch (POP), northern rockfish, and pelagic shelf rockfish to meet the incidental catch needs of fisheries not included in the cooperative program. (EL – all)

#### 2 Entry-level Set Aside ~~(EL – all)~~

A percentage of CGOA POP, northern rockfish, and pelagic shelf rockfish for catcher vessels not eligible to participate in the program.

##### 2.1 ~~Trawl and fixed gear (non trawl) entry level fisheries (EL – 2)~~

~~The annual set aside will be 5 percent of each of these target rockfish species.~~

~~Set asides shall be apportioned at 50% for trawl gear and 50% for fixed gear.~~

~~The trawl sector's allocation by weight (based on the aggregate TAC for Pacific ocean perch, northern rockfish, and pelagic shelf rockfish) shall first be Pacific ocean perch.~~

~~Unharvested allocations to either sector shall be available to both sectors at the end of the third quarter.~~

~~The entry level fishery will be managed as a limited entry fishery.~~

~~Start dates for the entry level fishery should be January 1, for fixed gear, and approximately May 1, for trawl gear.~~

#### ~~2.1.2 Halibut PSC Limit Allowances~~

~~Prosecution of the entry level fishery will be supported by general allowance of halibut PSC to the gear type and the general allocations of secondary species.~~

#### ~~Trawl halibut PSC options~~

~~Option 1: If sufficient halibut PSC is not available at the start of the trawl gear fishery (May 1), the start date will be on the next release of halibut PSC.~~

~~Option 2: If sufficient halibut PSC is not available at the start of the trawl gear fishery (May 1), halibut usage will be deducted against the following quarter's halibut PSC allowance.~~

~~Vessels that can participate in the entry level fishery are those vessels that did not qualify for the CGOA rockfish cooperative program. Before the beginning of each fishing year an application must be filed with NMFS by the interested vessel that includes a statement from a processor confirming an available market.~~

~~Option: Entry level fixed gear sector targeting rockfish is exempt from VMS requirements (Pacific cod VMS requirements continue to apply).~~

## 2.2 Fixed gear (non-trawl) only entry level fishery ~~(EL-3)~~

The annual set aside will be:

5 mt ~~1 mt~~ ~~10 mt~~ of the POP TAC

5 mt ~~1 mt~~ ~~10 mt~~ of the northern rockfish TAC

~~10 mt~~ 30 mt of the pelagic shelf rockfish TAC

If the entry-level fishery has retained harvests of 90% or more of their allocation of a species, the set-aside would increase the following year by ~~the initial allocation the following year~~:

5 mt ~~1 mt~~ ~~10 mt~~ POP

5 mt ~~1 mt~~ ~~10 mt~~ Northern rockfish

~~10 mt~~ ~~30~~ 20 mt pelagic shelf rockfish

This increase would be capped at a maximum of:

POP

a. 1%

~~b. 3%~~

~~c. 5%~~

Northern Rockfish

a. 2%

~~b. 3%~~

~~c. 5%~~

Pelagic Shelf Rockfish

- a. ~~2.5%~~
- b. ~~3%~~
- c. 5%

The entry level fishery will be managed as a limited entry fishery.

Start date for the entry level fishery should be January 1.

Prosecution of the entry level fishery will be supported by general allowance of halibut PSC to the gear type and the general allocations of secondary species.

Any fixed gear vessel or gear type exempt from CGOA LLP requirements or any holder of a CGOA fixed gear LLP may enter a vessel in the entry level fishery.

~~Option:~~ Entry level fixed gear sector targeting rockfish is exempt from VMS requirements (Pacific cod VMS requirements continue to apply).

**3 Program eligibility** (~~CP all and CV all~~)

The eligibility for entry into the cooperative program is one targeted landing of POP, Northern rockfish or PSR caught in CGOA during the qualifying period using a CGOA trawl LLP license.

~~Option:~~ In addition, the following participants would be eligible to enter the program: those persons whose vessel had one targeted landing of POP, northern rockfish or PSR caught in CGOA during the qualifying period with interim trawl CGOA license that was later determined to be an invalid trawl CGOA endorsement, but who acquired a valid CGOA trawl license prior to December 31, 2003, which has been continuously assigned to the vessel with the target landing since acquired until the date of final Council action.

**4 Qualified catch** (~~CP all and CV all~~)

4.1 Basis for the ~~allocation~~ qualifying catch assigned to the LLP license holder is the catch history of the vessel on which the LLP license is based, and shall be determined 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 qualifying catch assigned ~~allocation 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:~~ ~~For licenses qualified based on catch of a vessel using an interim license, the basis for the allocation qualified catch will be the catch history of such vessel, notwithstanding the invalidity of the interim Central Gulf trawl LLP endorsement under which the vessel operated during the qualifying period. History allocated under this provision shall be assigned to the LLP license.~~

For licenses that qualify based on catch of an interim license (and for licenses used on a vessel that previously fished in the rockfish fishery during the qualifying years using an interim license), the basis of the allocation will be the catch history of such vessel using the interim license (plus the history of the vessel using the permanent license) during qualifying period, notwithstanding the invalidity of the interim endorsement under which the vessel operated during the qualifying period. However, 1) no permanent license shall be assigned history from two vessels for any

portion of the qualifying period and 2) no history shall be assigned to two licenses. To qualify for this provision, the permanent license must be assigned to the vessel on or before December 31, 2003 and must not be assigned to any other vessel through the date of final Council action.

- 4.2 Catch history will be the history during the following qualifying period (dates inclusive):
- 1) ~~1996-2002 (drop two)~~
  - 2) ~~1998-2006 (drop two or four)~~
  - 3) 2000-2006 (drop two)
- 4.3 Qualified target species history is allocated based on retained catch (excluding meal) during the rockfish target fishery. Different years may be used (or dropped) for determining the history of each of the three rockfish species.

The CP catch history will be based on WPR data.

CV catch history will be based on fish tickets.

Note: Only legal landings will be considered in determining catch history.

- 4.4 Entry level trawl qualification/~~allocations~~ for the main program:
- 1) ~~Vessels / LLPs that do not qualify for Cooperative quota (CQ) for the CGOA rockfish cooperative program.~~
  - 2) ~~The trawl LLP must have registered for the entry level fishery in 2007, 2008, and 2009.~~  
 Option: ~~The trawl LLP must have registered for the entry level fishery in two of three years, 2007-2009.~~
  - 3) The trawl LLP must have made a landing of fish in the entry level fishery with trawl gear in 2007, 2008, or 2009.

~~Option: A vessel that qualifies for both the entry level and the main program must opt out of one or the other. A vessel that qualifies for the entry level allocation under this section may elect to opt out of the rockfish program. This is a one-time selection. Opt out qualified catch from the entry level trawl qualified vessels would be redistributed across the CV and CP sectors.~~

- 4.5 ~~The qualified entry level trawl LLP would receive an allocation of QS for the primary rockfish species equivalent to:~~
- 1) ~~Average of the lowest one quarter to one third of the qualified CV LLPs that actively fished in the RPP program in either 2007 or 2008.~~
  - 2) ~~Actual catch history of the vessel/LLP in 2007 or 2008 or 2009 (information would be withheld due to confidentiality restrictions unless the vessel(s) agrees to have the data released to the public).~~
  - 3) ~~Average of all qualified CV LLPs.~~

~~Option:—The qualified entry level trawl LLPs, in aggregate, would shall be assigned 2.5% of receive an allocation of QS for the primary rockfish species total qualified catch in an amount between 1.5% and 5% (the set aside for the entry level trawl fishery and full entry level fishery under the Rockfish Pilot Program), to be determined by the Council. Within that amount allocation, qualified catch for each of the qualified entry level LLPs would receive:~~

- a) ~~an allocation of QS for the~~ be distributed for primary rockfish species in proportion to the number of years they made a delivery to an entry level processor from 2007 to 2009-~~or~~
- b) ~~an equal allocation.~~

Note: secondary species qualified catch ~~allocations~~ and halibut PSC allowances are calculated the same as the other qualified LLPs.

~~Allocations of QS for q~~ Qualified catch for entry level trawl LLPs would be established calculated as a set aside, such that the qualified catch for the entry level LLPs moving into the main program is established from the combined CV and CP sectors. The qualified catch for these LLPs would be assigned to the CV sector. prior to allocations to the other CV sector licenses or CP sector.

**5 Sector definitions** ~~(CP all and CV all)~~

Trawl catcher vessel – A trawl catcher-vessel that has a CV or CP LLP license, but does not process its catch on board.

Trawl catcher processor - A trawl catcher-processor is a trawl vessel that has a CP LLP license and that processes its catch on board.

**6 Rationalized areas** ~~(CP all and CV all)~~

Eligible catch Hhistory is established ~~allocated~~ for the CGOA only (NMFS statistical areas 620 and 630).

**7 Sector ~~allocations~~ catch history** ~~(CP all and CV all)~~

7.1 Target rockfish species

Catch history is determined by the sector's qualified catch in pounds as a proportion of the total qualified catch in pounds.

Sector catch histories ~~allocations~~ of target rockfish species are based on individual qualified vessel histories applying any applicable drop year provision at the vessel level.

Full retention of the target rockfish species is required.

7.2 Secondary species

Secondary species history is ~~allocated~~ based on retained catch of the species while targeting rockfish, over retained catch in all fisheries.

7.2.1 Except as provided below, qualifying history will be ~~allocated to~~ established in each sector for the following secondary species:

sablefish,  
shortraker rockfish,  
rougheye rockfish,  
thornyhead rockfish, and  
Pacific cod.

7.2.3 Except as otherwise provided below, secondary species qualifying history ~~allocations~~ will be based on: The sector's average annual percentage of retained catch of the secondary species by the rockfish target fisheries during the qualifying period. For each qualifying year calculate the sector's retained catch of the species in the target rockfish fisheries divided by the retained catch of all CGOA fisheries. Sum these percentages and divided by the number of qualifying years. The calculated average annual percentage is multiplied by the secondary species TAC for that fishery year ~~and allocated to establish~~ qualified catch for each sector in the cooperative program.

#### 7.2.4 Exceptions:

##### Shortraker and rougheye

For shortraker and rougheye:

For the CP sector:

a shortraker allocation of the TAC will be:

~~Option 1a: 30.03~~ 40 percent

~~Option 1b: 50 percent~~

To be managed as a hard cap, and a rougheye allocation of 58.87% of the TAC, to be managed as a hard cap.

~~Option 2: shortraker and rougheye will be managed with a combined MRA of 2%.~~

For the CV sector, shortraker and rougheye will be managed with a combined MRA of 2 percent. If harvest of shortraker by the CV sector reaches 9.72% of the shortraker TAC, then shortraker will go on PSC status for that sector.

##### Sablefish and Pacific cod

For the catcher processor sector, Pacific cod history will be managed by MRA of 4 percent.

~~Option 1: No directed fishing for secondary species Pacific cod and sablefish~~

~~Option 2: Manage Pacific cod and sablefish under a modified MRA.~~

Secondary species allocations may be fished independently of the primary species allocations.

Full retention of all allocated species is required.

Participants must retain all allocated secondary species and stop fishing when cap is reached.

~~Option 1: MRAs in the CP sector will be enforced on a trip-by-trip basis.~~

~~Option 2: MRAs in the CP sector will be enforced on an instantaneous basis.~~

#### 7.3 Prohibited species (halibut mortality)

~~Option 1: Allowance to the rockfish cooperative program will be based on 87.5 percent of the historical average usage (during the qualifying years), calculated by dividing the total number of metric tons of halibut mortality in the CGOA rockfish target fisheries during the qualifying years by the number of years, and multiplying by 0.875. The difference between the historical average usage and the allowance provided above will remain unavailable for use.~~

~~Option 2: Allowance to the rockfish cooperative program will be based on the historical average usage, calculated as:~~

- ~~1) 50 percent of the total number of metric tons of halibut mortality in the CGOA rockfish target fisheries during the qualifying years, divided by the number of qualifying years plus~~
- ~~2) 50 percent of the total number of metric tons of halibut mortality in the first three years of the rockfish pilot program, divided by three (i.e., the number of years).~~

The halibut PSC allowance will be divided between sectors based on the relative amount of qualifying target rockfish species catch in allocated to each sector ~~(e.g., the sector's share of total qualified catch).~~

Option for supplementing the last seasonal halibut apportionment for trawl gear

~~10 percent, 25 percent, 50 percent, 75 percent, or 100 percent~~ 55 percent of any allowance of halibut PSC that has not been utilized by November 15 or after the declaration to terminate fishing will be added to the last seasonal apportionment for trawl gear, during the current fishing year. The remaining portion of any allowance will remain unavailable for use.

**8 ~~Allocation from sector to v~~ Vessel catch history (CP ~~all and CV all~~)**

Within each sector, history will be assigned to LLP holders with CGOA endorsement that qualify for a sector under the 'sector catch history allocations' above. The ~~allocations~~ history will be assigned to the current owner of the LLP of the vessel which earned the history.

**Target Species**

Each LLP holder will receive ~~an allocation of~~ catch history equivalent to the license's proportion of the total of the sector qualifying catch history.

**Secondary Species**

Each LLP holder will ~~receive an allocation~~ be assigned qualifying catch of allocated secondary species equal to the license's proportion of the sector's target rockfish catch history.

**PSC (Halibut Mortality)**

Each LLP holder will receive an allowance of halibut mortality equivalent to the license's proportion of the sector's target rockfish catch history.

Halibut PSC in the CP sector shall be divided between the co-op(s) ~~and limited access fisheries~~ according to the history of the participating vessels.

~~Allocations are revocable privileges~~

~~The allocations under this program:~~

- ~~1) may be revoked, limited, or modified at any time;~~
- ~~2) shall not confer any right of compensation to the holder, if it is revoked, limited, or modified, and~~
- ~~3) shall not create or be construed to create any right, title, or interest in or to any fish before the fish is harvested by the holder.~~

~~Domestic processing~~

~~All fish harvested with an allocation from this program must undergo primary processing in the U.S.~~

~~Regionalization—Apply to catcher vessel sector only:~~

~~All CV CQ must be landed in the City of Kodiak at a shorebased processing facility.~~

~~Option: Entry level fixed gear landings must be landed at a shorebased processing facility in the Kodiak Island Borough.~~

~~(Moved to Section 9.4)~~

**9 Catcher vessel/shore based processor provisions (CV ~~all~~)**

**~~9.1~~ Processor eligibility (CV ~~3~~)**

~~An eligible processor is a processing facility that has purchased:~~

~~Option 1—250 MT of aggregate Pacific ocean perch, northern rockfish, and pelagic shelf rockfish harvest per year, for 4 years, from 1996 to 2000 (inclusive).~~

~~Option 2—250 MT of aggregate Pacific ocean perch, northern rockfish, and pelagic shelf rockfish per year, for 4 years, from 2000 to 2006 (inclusive).~~

~~Suboption: (entry level fishery processor): 250 MT of aggregate Pacific ocean perch, northern rockfish, and pelagic shelf rockfish for two years from 2007 to 2009 (inclusive).~~

#### ~~Processor qualifying years~~

~~Each eligible shore based processor is allocated processor catch history based on individual processor histories of CGOA target rockfish for the years (inclusive) (Option: based on individual annual average processing history)~~

~~Option 1—1996-2000 (drop 1 year)~~

~~Option 2—2000-2006 (drop 2 year)~~

~~Suboption 1: (entry level processors): 2007-2009 (drop 1 year)~~

~~Suboption 2: (entry level processors) Eligible entry level processors will be allocated target rockfish, secondary species, and halibut PSC from the processor pool of harvest shares that are derived from those trawl LLPs that received allocations based on participation in the entry level trawl fishery into the main program.~~

### ~~9.2—Option B—Harvester cooperatives with processor allocation of harvest shares (CV—3)~~

~~Allocation of the primary rockfish and secondary species and halibut PSC allowances to the CV sector shall be apportioned between harvesters (CV only) and shore based processors:~~

~~Option 1: 90/10~~

~~Option 2: 80/20~~

~~Option 3: 70/30~~

~~Eligible processors will be allocated target rockfish and secondary species and halibut PSC allowances from the processor pool of harvest shares in proportion to its qualifying processing history. Annual allocations will be of the same species and subject to the same allocation and harvest rules governing catcher vessel allocations.~~

~~A holder of catcher vessel harvest history or processor histories must join a cooperative to coordinate the harvest of allocations. (Cooperatives are subject to general cooperative rules below.) Membership agreements will specify that processor affiliated cooperative members cannot participate in price setting negotiations except as permitted by general antitrust law.~~

~~Cooperatives are intended only to conduct and coordinate harvest activities of the members and are not FCMA cooperatives.~~

~~Co-ops may engage in intercooperative transfers of annual allocations with other cooperatives.~~

~~Membership agreements will specify that processor affiliated cooperative members cannot participate in price setting negotiations except as permitted by general antitrust law.~~

### ~~9.4 Option C—Harvester cooperatives with severable annual processor associations and severable, no forfeiture (CV-4)~~

~~Harvesters must join a cooperative to participate in the target rockfish fisheries.~~



The shorebased Kodiak processor must have a federal processor permit and an approved Catch Monitoring and Control Plan (CMCP).

A holder of catcher vessel harvest history must join a cooperative to coordinate the harvest of allocations. (Cooperatives are subject to general cooperative rules below.)

Membership agreements will specify that processor affiliated cooperative members cannot participate in price setting negotiations except as permitted by general antitrust law.

Cooperatives are intended only to conduct and coordinate harvest activities of the members and are not FCMA cooperatives.

Co-ops of at least 2 LLPs may engage in intercooperative transfers of annual allocations with other cooperatives.

Annual allocations issued to cooperatives may be transferred between co-ops of at least two LLPs.

Regionalization – Apply to catcher vessel sector only:

All CV CQ must be landed in the City of Kodiak at a shorebased processing facility.

~~Option:~~ Entry-level fixed gear landings must be landed at a shorebased processing facility in the Kodiak Island Borough.

(Moved from Section 8)

## 10 Catcher processor cooperatives

More than one co-op may form within the sector.

Annual allocations issued to cooperatives may be transferred between co-ops of at least two LLPs.

Participants have a choice of participating in:

~~Option 1:~~ a co-op or opt out of the rockfish program,

~~Option 2:~~ a co-op, a limited access fishery, or opt of the rockfish program

~~Under the LLP/open access fishery option, the LLP's historical share will be fished in a competitive fishery open to rockfish qualified vessels who are not members of a cooperative. The secondary species would be managed under the following reduced MRAs, intended to maintain catch levels below the allocated amount: Pacific cod – 4 percent, sablefish – 3 percent, shortraker/rougheye – 2 percent, and thornyhead – 4 percent. All other species would be managed with MRAs at their current levels.~~

## 11 General cooperative provisions – apply to both sectors

Duration of cooperative agreements is 1 year.

The cooperative membership agreement (and an ancillary agreement with an associated processor, if applicable) will be filed with the RAM Division. The cooperative membership agreement must contain a fishing plan for the harvest of all cooperative fish.

~~Cooperative members shall internally allocate and manage the cooperative's allocation per the cooperative agreement.~~

~~Subject to any harvesting caps that may be adopted, allocated history may be transferred and consolidated within the cooperative.~~

The cooperative agreement must have a monitoring program. Cooperative members are jointly and severally responsible for cooperative vessels harvesting in the aggregate no more than their cooperative's allocation of target rockfish species, secondary species and PSC mortality allowance, as may be adjusted by intercooperative transfers.

A cooperative may adopt and enforce fishing practice codes of conduct as part of their membership agreement.

Cooperatives will submit a written report annually to the Council, ~~as per AFA.~~

Cooperatives will be required to notify RAM division which LLP holders are in a cooperative by March 1<sup>st</sup> of the fishing year.

## 12 Sector Transfer provisions

CP annual cooperative allocations may be transferred to CV cooperatives. CV annual cooperative allocations may not be transferred to CP cooperatives.

All transfers of annual cooperative allocations would be temporary, and history would revert to the original LLP at the beginning of the next year.

A person holding an LLP that is eligible for this program may transfer that LLP. That transfer will effectively transfer all history (below the holdings cap) associated with the LLP and any privilege to participate in this program that might be derived from the LLP.

Permit post-delivery transfers of cooperative quota (annual allocations to cooperatives).

There would be no limits on the number or magnitude of post-delivery transfers. All post-delivery transfers must be completed by December 31st.

No cooperative vessel shall be permitted to begin a fishing trip, unless the cooperative holds unused cooperative quota.

~~Harvest shares held by processors will be divisible for transfer.~~

~~Harvest shares held by processors may be transferred to:~~

~~Option 1: Those processors, at the plant level, who where initially issued harvest shares~~

~~Option 2: Those processors who have processed at least 100 metric tons to 250 metric tons of rockfish delivered by catcher vessels within any two year period during the new program~~

~~Suboption 1: a shorebased processing facility in the City of Kodiak~~

~~Suboption 2: to a shoreside processing facility~~

~~Option 3: a holder of a Central GOA rockfish program eligible CV LLP~~

~~Note: More than one option can be chosen.~~

### 13 Cooperative Harvest Use Caps

#### CV cooperatives

No person may ~~hold or use~~ contribute more than ~~3% to 5~~ 4% of the CV sector catch history to annual cooperative allocations ~~QS (including any shares allocated to processors)~~, using the individual and collective rule (~~Option: with grandfather provision~~).

In the event qualifying history exceeds the applicable cap, the person holding that license will be grandfathered. The initial holder may sever the portion of the history that exceeds the cap on transfer, provided that the severed history is transferred to a qualified CV license holder, after which that history will attach to the license of the recipient. After the transfer, recipients must comply with all caps.

Control of harvest shares by a CV cooperative shall be capped at 30% of aggregate POP, northern rockfish and PSR for the CV sector.

No CV may catch more than ~~4-10~~ 8% of the target CV annual cooperative allocations in the aggregate

~~(Option: with grandfather provision, applicable to the vessel. The amount grandfathered under this provision shall be based on the annual average percentage harvested by a vessel across years the vessel was active during the RPP years 2007, 2008, and 2009.)~~

~~No person may hold or use more than 20-25% of the QS initially allocated to processors, using the individual and collective rule (Option: with grandfather provision).~~

#### CP cooperatives

No person may ~~hold or use~~ contribute more than ~~20%, 30%, or~~ 40% of the CP sector catch history to annual cooperative allocations ~~historical shares~~, using the individual and collective rule (~~Option: with grandfather provision~~).

~~No CP may catch more than Control of harvest share by a CP shall be capped at 60% of aggregate POP, northern rockfish and PSR annual cooperative allocations for the CP sector.~~

~~Option: Eligible CPs will be grandfathered at the current level.~~

#### Shoreside Processor Use Caps

Shoreside processors shall be capped at the entity level.

No processor shall process or receive more than ~~10%, 20%, 25%, 30% or 33%~~ of aggregate POP, Northern Rockfish and PSR for the CV sector.

No processor shall process or receive more than ~~10%, 20%, 25%, 30%, or 33%~~ of the sablefish allocated to the CV sector.

No processor shall process or receive more than 30% of the Pacific cod allocated to the CV sector.

~~Option: Eligible processors will be grandfathered for the processing cap based on total processed catch during the qualifying years.~~

~~Note: The Council requested staff to examine methods of adjusting the cap and grandfather amounts, in the event that a grandfathered processor is not available for processing, and the cap creates a potential barrier to complete harvest of the fishery.~~

(The average annual received catch over the qualifying years used to ~~allocate~~ establish CV QS qualifying catch will be used as a base (or index) for applying the aggregate caps.)

#### 14 **Harvesting provisions**

The cooperative season start date is May 1, and closing date is November 15. ~~Any limited access fishery will open in early July, as under the previous License Limitation Program management.~~

All non-allocated species will be managed by MRA, as in the current regime. This includes arrowtooth flounder, deep water flatfish, shallow water flatfish, flathead sole, rex sole, pollock, 'other species', Atka mackerel, and 'other rockfish'. Basis species for purposes of determining MRAs will be:

All allocated species

~~Secondary species allocations may be fished independently of the primary species allocations.~~

~~Option: No directed fishing for secondary species Pacific cod and sablefish.~~

(Moved to Section 7.2.4)

Full retention of all allocated species is required.

#### 15 **Program review**

In addition to the review required under the MSA, a formal detailed review of the program shall be undertaken ~~3~~ 5 years after implementation. The review shall assess:

- 1) the progress of the program in achieving the goals identified in the purpose and need statement and the MSA, and
- 2) whether management, data collection and analysis, and enforcement needs are adequately met. ~~Additional reviews will be conducted every 7 years, thereafter, coinciding with the fishery management plan policy review.~~

In order to assess program objectives, specific elements of the detailed 3-year program review shall include:

- 1) whether the allocation of rockfish and associated incidental harvests are fair and equitable given consideration of
  - a) present participation in the fishery, including the participation of current rockfish harvesters and processors;
  - b) historical investments in and dependence upon the fishery, including investments and dependence upon the fishery by the historical harvesters and processors in the fishery; and
  - c) employment in the harvesting and processing sectors.
- 2) changes in annual cooperative formation, including number of LLPs associated with each cooperative, number of active vessels, and stability of annual cooperative membership
- 3) stability and use of annual processor associations
- 4) number of processing facilities, distribution of program harvests among facilities, temporal distribution of program harvests and 5<sup>th</sup> season flatfish opportunities made available from rockfish program halibut allowance
- 5) changes in product form, first wholesale value, and distribution of first wholesale value between the catcher vessel and shorebased processing sectors relative to those under Rockfish Pilot Program and LLP management

## 16 Duration

### ~~Share Duration~~

~~The duration of all CGOA rockfish LAPP program permits are 10 years. These permits shall be renewed before their expiration, unless the permit has been revoked, limited, or modified.~~

### ~~Option: Program Duration~~

~~Absent Council review and recommendation to extend, t~~ The CGOA rockfish LAPP program shall expire ~~s~~ 10 years after implementation.

## 17 Cost recovery

A fee, not to exceed 3 percent of ex vessel value, will be charged on all program landings to cover the costs of administration of the program.

## 18 Sideboards

### 18.1 Catcher vessel options

#### West Yakutat and Western Gulf Primary Rockfish Species

~~Option 1: For fisheries that close on TAC in the Gulf, the qualified vessels in the trawl catcher vessel sector would be limited, in aggregate, in the month of July to the historic average catch of those vessels based on the retained catch as a percentage of the retained catch in the fishery in the month of July during the qualification years. Fisheries that this sideboard provision would apply to include West Yakutat rockfish and Western Gulf rockfish.~~

~~Option 2: For catcher vessels, prohibit directed fishing for WYAK and WGOA primary rockfish species in the month of July.~~

~~Suboption: Exempt a vessel that participated in the WYAK rockfish fishery for 2006-2008 and participated in the entry level pilot fishery at least one year. These vessels will be sideboarded at their catch history for 2006-2008.~~

#### Halibut PSC

~~Option 1: For flatfish fisheries in the GOA that close because of halibut PSC, the qualified vessels in the trawl catcher vessel sector would be limited, in the aggregate, in the month of July to the historical average halibut mortality taken by those vessels in the target flatfish fisheries in the month of July, by deep and shallow complex target fisheries, as a Gulf wide cap.~~

~~Option 2: For the month of July, limit all CVs to the shallow water complex fisheries (except for rockfish target fisheries in CGOA, WYAK and WGOA).~~

IFQ halibut and sablefish are exempt from sideboard provisions

#### Bering Sea and Aleutian Island Sideboard Provisions

Yellowfin sole, other flatfish, and Pacific ocean perch fisheries

~~Option 1: The qualifying vessels in the trawl catcher vessel sector may not participate in the directed yellowfin sole, other flatfish (flathead, etc.) or Pacific ocean perch fisheries in the BSAI in the month of July.~~

~~Option 2: The qualifying vessels in the trawl catcher vessel sector may participate in the limited access yellowfin sole, other flatfish, or Pacific ocean perch fisheries in the BSAI in the month of July.~~

#### Pacific cod fishery

~~Option 1: Qualifying vessels in the trawl catcher vessel sector may fish in the BSAI Pacific cod fishery in the month of July and would be limited, in aggregate, to the historical average catch of those vessels in the BSAI Pacific cod fishery, based on the retained catch as a percentage of retained catch in the catcher vessel trawl fishery in July, during the qualifying years.~~

~~Option 2: The qualifying vessels in the trawl CV sector may participate in the BSAI Pacific cod fishery in the month of July, without any sideboard limit.~~

AFA non-GOA exempt CVs qualified under this program are subject to the restraints of AFA sideboards and their co-op agreements, and not subject to additional sideboards under this program.

## 18.2 Catcher processor options

### West Yakutat and Western Gulf Primary Rockfish Species

~~Option 1: For fisheries that close on TAC in the Gulf, the qualified vessels in the trawl catcher processor sector would be limited, in aggregate, in the month of July, to the historical average catch of those vessels, based on the retained catch as a percentage of the retained catch in the fishery in the month of July, during the qualification years. Fisheries that this sideboard provision would apply to are the West Yakutat and Western Gulf primary rockfish species fisheries.~~

~~Option 2: For catcher processors, no sideboard limits will apply to the West Yakutat and Western Gulf primary rockfish species fisheries (rockfish eligible catcher processors that are also Amendment 80 participants would continue to be limited by Amendment 80 sideboards).~~

Non-Amendment 80 catcher processors will be prohibited from West Yakutat and Western Gulf rockfish species fisheries for the month of July.

### Halibut PSC

~~Option 1: For flatfish fisheries in the GOA that close because of halibut PSC, the qualified vessels in the trawl catcher processor sector would be limited, in the aggregate, in the month of July, to the historical average halibut mortality taken by those vessels in the target groundfish fisheries in the month of July, by deep water and shallow water complex targets, as a Gulf-wide cap.~~

~~Option 2: For catcher processors, no July GOA halibut sideboard limit (rockfish eligible catcher processors that are also Amendment 80 participants would continue to be limited by Amendment 80 sideboards).~~

~~Suboption: Limit all CPs to the deep water complex fisheries in the CGOA for the month of July.~~

Note: IFQ halibut and sablefish are exempt from sideboard provisions

Standdown for vessels that opt out of the rockfish fisheries

~~Option 1:~~ CP vessels may decide to opt out of the CGOA cooperative program on an annual basis. These CP vessels may not target POP, northern rockfish or pelagic shelf rockfish in the CGOA, in the years they choose to opt out. They may retain these species up to the MRA amount in other fisheries. They will be sideboarded at the sector level in the GOA, as described in the general provisions.

The history of CP vessels which opt out will remain with the sector.

CPs that opt out of the rockfish cooperative program will be prohibited, for two weeks following the start of the traditional July rockfish fishery, from entering other GOA fisheries in which they have not previously participated. Participation shall be defined as having been in the shallow water flatfish complex or deep water flatfish complex or target rockfish fisheries during the first week of July in at least two of the qualifying years. For purposes of qualifying under this provision, history from area 650 (SEO) will be considered the same as history from area 640 (WY). The following week ending dates will be used for determining participation in a ~~target~~ fishery:

1996 – July 6  
 1997 – July 5  
 1998 – July 4  
 1999 – July 10  
 2000 – July 15  
 2001 – July 7  
 2002 – July 6  
 2003 – July 5  
 2004 – July 10  
 2005 – July 9  
 2006 – July 8

Opting out is an annual decision. CP vessels which do not join cooperatives will be assigned opt out status. The decision to opt out should not, in any way, alter the status of their catch history for future rationalization programs.

~~Option 2: No standdown for vessels that opt out of the rockfish fishery.~~

Standdown for vessels that join cooperatives

~~Option 1: For the CP sector, the cooperative program fishery participants must either:~~

- ~~1) start fishing in the target rockfish fisheries at the same time as the opening of the CGOA rockfish limited access fisheries (in July) and harvest 90% of their CGOA rockfish allocation prior to entering any other GOA non-pollock groundfish fishery, or~~
- ~~2) standdown for two weeks from the opening of the CGOA rockfish limited access fishery, prior to participating in any other GOA non-pollock groundfish fishery.~~

~~A vessel which has met either standdown requirement can then move into the GOA open access fisheries, subject to the sector level limitations in the GOA in the general sideboard provisions.~~

~~To the extent permitted by the motion, history may be leased between vessels. Each member of a cooperative that transfers its history to another CP or CV must still refrain from operating in any other GOA groundfish fishery, until the earlier of:~~

- ~~1) 90% of all of the CGOA rockfish allocation on the stacked vessel is harvested in the CGOA, provided fishing of the allocation began on or after the opening of the limited access fishery;~~
- ~~2) two weeks from the opening of the limited access fishery, prior to participating in any other GOA groundfish fishery.~~

~~Members of a cooperative will be subject to all limitations and restrictions described in the general sideboard provisions and CP specific sideboard provisions, except that cooperative members shall not be subject to any standdown in the GOA groundfish fisheries, if all vessels in the co-op maintain adequate monitoring plans during all fishing for CGOA rockfish sideboard fisheries.~~

~~In addition to the other limitations and restrictions described above, each cooperative and opt-out vessels in the aggregate will be limited:~~

- ~~1) for fisheries that close on TAC in the GOA in the month of July, to the historical average total catch of the cooperative members or opt-out vessels in the month of July during the qualification years 1996 to 2002. Fisheries that this sideboard provision would apply to include West Yakutat rockfish and WGOA rockfish, and~~
- ~~2) for flatfish fisheries in the GOA that close because of halibut PSC in the month of July, to the historical average halibut PSC mortality taken by cooperative members or opt-out vessels in the target flatfish fisheries in the month of July, by deep water and shallow water complex fisheries.~~

~~Option 2: No standdown (or alternative cooperative limit) for vessels that join cooperatives in the rockfish fishery.~~

~~Standdown for vessels that join the limited access fishery~~

~~Option 1: The limited access fishery starts at the same time as the traditional rockfish target fishery (early July). For vessels that account for less than 5% of the allocated CP history in the Pacific Ocean perch fishery that participate in the limited access rockfish fishery, there are no additional intra sector sideboards. For vessels that account for greater than or equal to 5 percent of the allocated CP history in the Pacific ocean perch fishery that participate in the limited access rockfish fishery and GOA standdowns are in place until 90% of the limited access Pacific Ocean perch quota is achieved.~~

~~Option 2: No standdown for any vessels that join the limited access rockfish fishery.~~

## 19 Observer Coverage

Shoreside observer coverage

Shoreside processor observer coverage requirements for all rockfish program deliveries will be:



~~Option 1: An observer will be on duty whenever program deliveries are made. No observer will be allowed to work more than 12 hours per day.~~

~~Option 2: Same observer coverage requirement for shoreside processors as in other groundfish fisheries.~~

Option 3: Employ a CMCP Monitor to oversee deliveries

Catcher vessel observer coverage

Fishing days and observer coverage under the rockfish program will be separate from and not count towards meeting a vessel's overall groundfish observer coverage requirement.

The Council deems proposed regulations that clearly and directly flow from the provisions of this motion to be necessary and appropriate in accordance with section 303(c).

The Council authorizes the Executive Director and the Chairman to review the draft proposed regulations when provided by NMFS to ensure that the proposed regulations to be submitted to the Secretary under section 303(c) are consistent with these instructions.