

Gulf Rationalization Alternatives – (showing all provisions and options)
NPFMC Motion
April 2006

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Problem Statement

To guide the identification of a rationalization program for the Gulf of Alaska groundfish fisheries, the Council has developed the following purpose and need statement:

The Council is proposing a new management regime that rationalizes groundfish fisheries in the Gulf of Alaska west of 140 degrees longitude and rockfish bycatch east of 140 degrees longitude. A rationalization program includes policies and management measures that may increase the economic efficiency of GOA groundfish fisheries by providing economic incentives to reduce excessive capital investment. These management measures would apply to those species, or groups of species identified by the Council as benefitting from additional economic incentives that may be provided by rationalization. This rationalization program would not modify the hook-and-line halibut and sablefish fisheries currently prosecuted under the IFQ Program, except for management of associated groundfish bycatch.

The purpose of the proposed action is to create a management program that improves conservation, reduces bycatch, and broadly distributes the benefits of rationalization to harvesters, processors and fishery-dependent coastal communities. A rationalization program could allow harvesters and processors to manage their operations in a more economically efficient manner. Rationalization of GOA fisheries should eliminate the derby-style race for fish by allocating privileges and providing economic incentives to consolidate operations and improve operational efficiencies of remaining operators. Because rationalization programs can have significant impacts on fishing dependent communities, this program should address community impacts and seek to provide economic stability or create economic opportunity in fishery dependent communities.

Rationalizing GOA fisheries may improve stock conservation by creating incentives to eliminate wasteful fishing practices, improve management practices, and provide mechanisms to control and reduce bycatch and gear conflicts. Rationalization programs may also reduce the incentive to fish during unsafe conditions.

Management of GOA groundfish has grown increasingly complicated due to impositions of measures to protect Steller sea lions, increased participation by fishermen displaced from other fisheries such as Alaska salmon fisheries and the requirements to reduce bycatch and address Essential Fish Habitat requirements under the Magnuson-Stevens Act (MSA). These changes in the fisheries are frustrating management of the resource, raising attendant conservation concerns. These events are also having significant, and at times, severe adverse social and economic impacts on harvesters, processors, crew, and communities dependent on GOA fisheries. Some of the attendant problems include:

1. reduced economic viability of the harvesters, processors, and GOA communities
2. high bycatch,
3. decreased safety,
4. reduced product value and utilization,
5. jeopardy to community stability and their historic reliance on groundfish fishing and processing,
6. limited ability of the fishery harvesters and processors to respond to changes in the ecosystem
7. limited ability to adapt to MSA requirements to minimize bycatch and protect habitat,
8. limited ability to adapt to changes to other applicable law (i.e., Endangered Species Act).

All of these factors have made achieving the goals of the National Standards in the MSA difficult and encourage reevaluation of the status quo management of the GOA groundfish fisheries. The management tools in the current GOA groundfish FMP do not provide managers with the ability to improve the economic efficiency of the fishery and effectively solve the excess harvesting capacity and resource allocation problems in the GOA groundfish fisheries. The Council has determined that some form of rationalization program is warranted.

Statement of intent concerning alternative 3

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 assignation 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 one or more cooperative(s) associated with the processor(s) through which its GH (qualified landings of primary species) arose 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.

Upon formation of a cooperative, members may dissolve their relationship with that cooperative subject to the dissolution terms and either: a) join a different cooperative, b) transfer their residual quota to a different cooperative or individual, or c) move into limited 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.

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.

Requested Input, Discussion Papers, and Analysis

Placeholder options

The Council intends to accept public input concerning the potential development of the following alternatives for analysis:

Limited duration harvesting quota shares

Duration of initially allocated shares of variable lengths

Expiration/reissuance of shares on staggered, cyclical basis

Processor linkages that expire on a graduated basis over a limited number of years

Community linkages, rather than processor linkages, for single- processor communities or regions

Subalternatives for formation and dissolution of processor linkages:

Linkage based on the processor to whom the harvester delivered the most groundfish poundage (all species combined)

Linkage based on the processor to whom the harvester delivered the most poundage by species (Pacific cod, pollock, other species possibly at different processors)

Linkage based on recent groundfish deliveries of any amount, above a minimum threshold (harvester's choice of processor)

No processor linkages

Skipper and crew provisions

The Council recommends consideration of the following list of possible objectives for skipper and crew provisions:

- 1) promote and sustain stable skipper and crew employment levels
- 2) establish skipper and crew share holdings
- 3) compensate skippers and crew that lose employment as a result of consolidation
- 4) maintain current level of negotiating leverage for future skippers and crew
- 5) ensure current (or experienced) skippers and crew receive priority in future employment in the fisheries;
- 6) ensure a portion of the quota pool is held by active skippers and crew.

The Council recommends that the following list alternatives and program elements as a starting point for development of additional Skipper and Crew Provisions to complement the current provisions already included in the Gulf Rationalization Alternatives document.

Alternative 1

Allocation of Quota to Skippers and Crew

1. Skipper and Crew Quota Allocation Program Elements
 - a. Shares to be allocated based on:
 - i. Species
 1. Primary
 2. Secondary
 - ii. Gear type
 - iii. Portion of total pool
 - b. Division of allocated shares between skippers and crew:
 - i. Eligibility for an initial allocation (may differ for skippers and crew)
 - ii. Criteria for allocation of shares (may differ for skippers and crew)
 - c. Use requirements
 - i. Owner on board

- d. Eligibility to receive by transfer
 - i. Active participation
- e. Provisions governing leases
 - i. Hardships

Alternative 2

Establish a Skipper and Crew License Program

1. Skipper/Crew License program Elements
 - a. Sectors subject to the license system
 - i. Gear type
 - ii. Vessel type
 - b. License eligibility for initial entrants on implementation
 - i. Skippers
 - ii. Crew
 - c. License eligibility for new entrants after implementation
 - i. Skippers
 - ii. Crew
2. Percent of catch subject to Licensed Skipper or Crew requirement:
 - a. Species
 - i. Primary
 - ii. Secondary
 - b. Level of application for:
 - i. Cooperatives
 - ii. Share holder
 - iii. vessel

Other requests

Should the fixed gear longline sector and/or the fixed gear jig sector wish to modify current alternatives for GOA Groundfish rationalization they should provide direction to the AP and Council. It is not the Council's intent to have these sectors impact the timeframe for decision regarding rationalization of the pot and trawl sectors.

The Council requests that staff provide:

- 1) Distributions of Quota share by Area and Sector for aggregate rockfish and aggregate flatfish species groups for LLP catch history from 3 to 200 miles (EEZ, excludes parallel fish catch) for purposes of excessive share caps.
- 2) Distributions of Quota share by Area and Sector for pollock, Pacific cod, aggregate rockfish and aggregate flatfish species groups for LLP catch history from 0 to 200 miles (includes parallel fish catch) for purposes of excessive share caps.
- 3) Provide the number of potentially qualifying licenses by processing entity for 2A
- 4) Provide the number of potentially qualifying facility licenses by processing entity for alternative 2B
- 5) Potential Association combinations between processors and vessels for alternative 2 & 3

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

Include in the analysis a discussion of the history from 1) 0-200 miles (including parallel history), 2) 3-200 miles, and 0-200 miles, including parallel history and state water fishery history.

The analysis will assess AFA vessels as a group.

List of the Alternatives

Provisions labeled **G** are general provisions that apply to all sectors and alternatives. A second set of provisions are labeled by gear types: **T – trawl gear**, **P – pot gear**, **L – longline (or hook-and-line) gear**, and **J – jig gear**). Provisions applicable to a single alternative are labeled using the following abbreviations:

Trawl Alternatives

T2A – IFQ/Cooperatives with Processor License Limitation
T2B – IFQ/Cooperatives with Processor Linkages
T2C – IFQ/Cooperatives with Harvest Share Allocations to Processors
T3 – Cooperatives/Limited Access with Processor Associations

Pot Gear Alternatives

P2L – Low Producer – IFQ/Cooperatives
P2HA – High Producer – IFQ/Cooperatives with Processor License Limitation
P2HB – High Producer – IFQ/Cooperatives with Processor Linkages
P2C – IFQ/Cooperatives with Harvest Share Allocations to Processors
P3L1 –Low Producer – Sector Allocation with Limited Access Fishery
P3L2 –Low Producer – Cooperatives/Limited Access
P3 – Cooperatives/Limited Access with Processor Associations

Hook-and-Line Gear Alternatives

L2L – Low Producer – IFQ/Cooperatives
L2HA – High Producer – IFQ/Cooperatives with Processor License Limitation
L2HB – High Producer – IFQ/Cooperatives with Processor Linkages
L2C – IFQ/Cooperatives with Harvest Share Allocations to Processors
L3L1 –Low Producer – Sector Allocation with Limited Access Fishery
L3L2 –Low Producer – Cooperatives/Limited Access
L3 – Cooperatives/Limited Access with Processor Associations

Jig Gear Alternatives

J2 – Open Access
J3A – Jig Sector Allocation
J3B – Cooperatives/Limited Access with Processor Associations (the motion is unclear concerning whether this alternative applies to the jig sector)

List of Provisions Referencing the Catcher Processor Sector

- G-5 – catcher processor share designations
- G-14 – transfer of shares across gear types
- G-15 – catcher processor transfers to catcher vessels
- G-21 – processing of catcher vessel catch by catcher processors

- T-2 – individual share caps
- T-4 – vertical integration caps
- T-5 – cooperative caps
- T-7 – eligibility to receive shares by transfer
- T2A-2 – cooperative formation
- T2A-3 – catcher processor cooperative exemption from processor association
- T2B-2 – cooperative formation
- T2B-3 – catcher processor cooperative exemption from processor association
- T2C-2 – catcher processor cooperative exemption from processor association
- T3-8 – cooperative eligibility
- T3-9 – cooperative formation threshold
- T3-11 – catcher processor cooperative exemption from processor association

- P-2 – individual share caps
- P-4 – vertical integration caps
- P-5 – cooperative caps
- P-8 – eligibility to receive shares by transfer
- P2HA-2 – cooperative formation
- P2HA-3 – catcher processor cooperative exemption from processor association
- P2HB-2 – cooperative formation
- P2HB-3 – catcher processor cooperative exemption from processor association
- P2C-2 – catcher processor cooperative exemption from processor association
- P3-8 – cooperative eligibility
- P3-9 – cooperative formation threshold
- P3-11 – catcher processor cooperative exemption from processor association

- L-1 – limits on leasing
- L-3 – individual share caps
- L-5 – vertical integration caps
- L-6 – cooperative caps
- L-10 – eligibility to receive shares by transfer
- L2HA-2 – cooperative formation
- L2HA-3 – catcher processor cooperative exemption from processor association
- L2HB-2 – cooperative formation
- L2HB-3 – catcher processor cooperative exemption from processor association
- L2C-2 – catcher processor cooperative exemption from processor association
- L3-8 – cooperative eligibility
- L3-9 – cooperative formation threshold
- L3-11 – catcher processor cooperative exemption from processor association

General Provisions – Apply to all rationalization alternatives

G-1. Management Areas

For all species except pollock: Western Gulf (WG), Central Gulf (CG), and West Yakutat (WY)

- TACs for shortraker, rougheye, and thornyhead rockfishes will be divided between Southeast Outside (SEO) and WY
- Allocation and management of species in SEO and to halibut and sablefish IFQ holders are contained in separate motion

For pollock: 610 (WG), 620 (CG), 630 (CG), and 640 (WY)

G-2. Species

Primary species by gear (allocated based on individual catch history):

Trawl:

pollock
Pacific cod
deepwater flatfish
rex sole
shallow water flatfish
flathead sole
arrowtooth flounder
northern rockfish
Pacific ocean perch
pelagic shelf rockfish

Longline:

Pacific cod
WGOA deep water flatfish

Pot:

Pacific cod

Jig:

Pacific cod

Entry Level Fishery: Pacific Ocean perch, Northern Rockfish and pelagic shelf rockfish for non-trawl catcher vessels

- An annual set aside for CV non-trawl gear capped at 2-5% of each of these target rockfish species
- The set aside will begin at 1% of the annual TAC
- The set aside amount will increase by one percentage point the following year in which the set aside quota is reached.

Secondary species by gear (allocated based on average sector/gear catch history):

Trawl:

Thornyhead
Rougheye
Shortraker
Other slope rockfish
Atka mackerel
sablefish

Longline:

Thornyhead

Rougheye
Shortraker
Other slope rockfish
Atka mackerel

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

Unallocated species will be managed under the existing MRA system and will be accommodated in the annual TAC-setting process.

G-3. State and Parallel Fishery Allocation

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:
- Highest amount taken in state waters by area
 - Highest amount taken in state waters by area plus 15%
 - 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.

G-4. Sector/Gear Designations

C/P trawl
C/P longline
C/P pot

CV trawl
CV longline
CV pot
jig

- Option: Separate low producing CV longline and CV pot into high producing vessels and low producing vessels
- Low producing catcher vessel sector is
- Suboption 1. fixed gear catcher vessels less than average qualified harvest history by gear and area
 - Suboption 2. fixed gear catcher vessels that are below the 75th percentile in qualified harvest history by gear and area
 - Suboption 3. **(applicable only to Alternative 3)** fixed gear catcher vessels under 60 feet that are below the 75th percentile of primary species 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.

G-5. Catcher Vessel/Catch Processor Designation Criteria

Alternative 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.

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 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

G-6. Sector Allocations for Trawl, Pot, and Hook-and-Line Gears – Primary Species, Secondary Species, and Halibut PSC

Alternative 2 and 3

No explicit sector allocation calculation. Allocation to the sector is implicitly the sum of individual allocations

G-7. Sector Allocations – Jig Sector

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

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

Option 2. **(Applies only to Alternative 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 Pacific cod by area:

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

Option 3. _____ % of TAC

G-8. Individual Allocations – Eligibility

LLP participation

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

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.)

A person who acquired an LLP license with GQP and EQP qualifications to remain in one or more GOA QS fisheries may obtain a distribution of QS for those fisheries based on the history of either (a) the vessel on which the replacement LLP is based prior to its transfer and any landings made on the vessel for which it was acquired subsequent to its transfer to that vessel, or (b) the vessel for which the LLP was acquired, NOT both. License transfers for the purposes of this provision must have occurred by June 1, 2005.

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.

It is the intent of the Council that catch history, whether harvested in the state water parallel fishery or the federal fishery, will be credited a single time, either in the state or federal program.

G-9. Individual allocations – Qualifying landing criteria

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.

Qualified catch is from:

Option 1: 3-200 miles

Option 2: 3-200 miles, plus 0-3 miles parallel history

Suboption: (**Alternative 2 only**) catch history for Pacific cod fisheries determined based on a percentage of retained catch per year (does not include meal)

G-10. Individual Allocations – Qualifying periods

Qualifying periods (same for all gears in all areas) for allocations of shares or history

Option 1. 95-01 drop 1, on a species by species basis

Option 2. 95-02 drop 1, on a species by species basis

Option 3. 95-02 drop 2, on a species by species basis

Option 4. 98-02 drop 1, on a species by species basis

Option 5. 98-03 drop 1, on a species by species basis

Suboption 1: (**Alternative 2 only**) For Pacific cod under all options consider only A season harvests for 2001 and 2002.

Suboption 2: (**Alternative 2 only**) For Pacific cod consider a sector allocation based on specified percentages prior to individual allocations.

G-11. Individual allocations – Secondary Species

Alternative 2

Option 1. Share Allocations

Allocate shares to all 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

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

Suboption. Division of catch history would be determined in Option 1 above between gear types upon implementation of the program. Secondary species may be allocated to individuals or cooperatives for one gear type (i.e., trawl) with other gear types maintaining status quo management (i.e., species managed with MRAs, where fisheries status changes from bycatch to prohibited once the gear type's quota allocation is reached).

Option 2. Retain these species on bycatch status for all gear types with current MRAs.

Alternative 3

Option 1: Allocation of secondary species to and within cooperatives and to the limited access is based on the distribution of primary species history of individual cooperative members and the sector's average catch during the sector allocation qualifying period by area and primary species target fishery.

Option 2: Maintain current MRA management for secondary species.

G-12. Individual allocations – Halibut PSC

Alternative 2

Share allocations (if applicable to the sector and gear type)

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

Hook and line sector

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 (sector allocation is sum of allocations to sector members).

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 Sector

Option 1. Halibut PSC will be managed through harvest share allocations (sector allocation is sum of allocations to sector members)

Option 2. Continue to fish under halibut PSC caps.

Alternative 3

- Option 1: Allocation of halibut PSC to and within cooperatives is based on the distribution of primary species history of individual cooperative members and the sector's average catch during the sector allocation qualifying period by area and primary species target fishery.
- Option 2: Maintain current PSC management for halibut.

G-13. Individual allocations – Halibut PSC reductions outside of cooperatives

Alternative 2

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).

Alternative 3

Halibut PSC allocated to the limited access fishery for non-members of cooperatives will be reduced by:

Option 1:

- a. 0 percent
- b. 10 percent
- c. 20 percent
- d. 30 percent

Option 2:

- a. 0 percent
- b. 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

Note: this reduction may differ by sector

G-14. Transferability - Gear Restrictions

Alternative 2

Harvest gear restrictions apply to primary species only.

Primary species allocations may be used by other gear types except that:

Option 1: No restrictions

Option 2: Fixed gear allocations may not be harvested using trawl gear

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

Alternative 3

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

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

Transfers of GH or leases of GQ across CP gear types is

- a) not permitted

- b) permitted.

G-15. Transferability - Vessel Type Restrictions

Alternative 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.

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.

Alternative 3

Option 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.)

Option 2: Re-designate CP GH as CV GH upon transfer to a person who is not an initial issuee of CP shares:

Suboption 1. all CP shares

Suboption 2. trawl CP shares

Suboption 3. longline CP shares

It is the intent of the NPFMC that this provision not apply to transfers between the first degree of kindred.

G-16. Transferability – Secondary Species

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; they are fully leasable across gear type and sector and are allocated annually based on primary species allocation.

Option for trawl sablefish shares (**applies to Alternative 2 only**)

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.

G-17. Transferability – Halibut PSC – Long term transfers

Option 1. Groundfish primary species QS/history and Halibut PSC QS/history 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 QS/history are separable and may be transferred separately

G-18. Transferability – Halibut PSC – Annual transfers

Alternative 2

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).

G-19. Retention requirements (rockfish, sablefish and Atka mackerel)

Alternative 2

- 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

G-20. Limited processing for CVs

Alternative 2

Limited processing of groundfish species by owners of CV harvest shares of groundfish 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))

G-21. Processing by Catcher Processors

Alternative 2

- 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.
- Option 4. CPs may buy delivery restricted CV fish, if they hold a processing license.

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

G-22. Regionalization

Alternative 2

Catcher vessel harvest shares are regionalized based on the landings history during the regionalization qualifying period, not where it was caught.

If issued, 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. **(Applies to Alternatives 2A and 2B)**

Catcher processor shares and any 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.

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 5851.10' 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:

CGOA Pollock (area 620 and 630)
CGOA aggregate flatfish,
CGOA aggregate rockfish and
CGOA Pacific cod.

CGOA trawl sablefish will be regionalized based on all landing of primary species in the CGOA associated with the license during regionalization qualifying period.

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

Option 1. the preferred individual allocation qualifying period
Option 2. 1999 – 2002

Alternative 3

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

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

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

Catcher processor history is not subject to regionalization.

The history associated with a license would be regionalized based on the landings history associated with that license during the regionalization qualifying period.

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 5851.10' 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:

CGOA Pollock (area 620 and 630),
CGOA aggregate flatfish,
CGOA aggregate rockfish, and
CGOA Pacific cod.

CGOA trawl sablefish will be regionalized based on all landing of primary species in the CGOA associated with the license during regionalization qualifying period.

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

Option 1. the years 1999-2002.

Option 2. consistent with the qualifying period under cooperative formation in Section 3.3.5

G-23. 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. 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.

Option 3. (**Applies to Alternative 2 only**) 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

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

G-24. Incentive species

Alternative 2 and Alternative 3

Incentive species are:

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

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.

Allocation of incentive species

Allocations of incentive species groundfish primary species harvest shares (QS) will be made to historical participants using the following threshold approach:

Allocate harvest shares as a fixed allocation in metric tons. The threshold is set as:

Option 1. Total retained catch of the participants divided by the number of years in the qualifying period.

- Option 2. Total retained catch of the participants plus 25% divided by the number of years in the qualifying period.
- Option 3. Total catch of the participants divided by the number of years in the qualifying period.

If available TAC is less than the total fixed allocation in metric tons, then reduce allocations pro-rata amongst shareholders. If available TAC is greater than the threshold, available incentive fishery quota is amount by which the TAC exceeds the threshold.

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.

Catch accounting for and entry to the incentive fisheries

Use of allocated QS and incentive fishery quota

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

- 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.

G-25. Sideboards

GOA Groundfish sideboards under the crab rationalization plan, under the AFA, and the CGOA rockfish pilot project would be superseded by the GOA rationalization program allocations upon implementation.

On completion of a rationalization program in the BS, any sideboards from the GOA rationalization under this section will be superseded for the fleet subject to rationalization.

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.

Alternative 2

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.

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.

Alternative 3

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.

G-26. Program Review and Data Collection

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.

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.

Trawl Gear Alternatives

T-1. Transferability - Leasing

Alternative 2 and 3

Active participation requirements for trawl CVs (leasing restrictions):

1. For initial issuants of trawl QS/GH who receive initial allocations of Pcod, pollock, or aggregate rockfish primary species less than:

- a. 60th percentile
- b. 65th percentile
- c. 70th percentile
- d. 75th percentile

Their initial allocation of primary species trawl QS/GH can be leased freely for the first 3 years of the program.

2. For initial issuants of trawl QS/GH who receive initial allocations greater than the amount established above in 2 of 3 most recent years:

- a. 30%
- b. 40%
- c. 50%

of their aggregate primary species trawl QS/GH for Pcod, pollock, and aggregate rockfish must either (a) be fished by a vessel which the trawl QS/GH holder owns at least

- Option 1. 20%
- Option 2. 30%
- Option 3. 40%
- Option 4. >50%

of, or (b) fished on a vessel with the trawl QS/GH holder on board.

3. After 3 years from the start of this rationalization program, the above option 2 applies to all QS/GH holders.

(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.)

Leasing requirements imposed on cooperative members will be monitored by the cooperative. Compliance will be reported in the cooperative annual report.

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

T-2. Excessive share caps – individual caps on use and holdings

Alternative 2 and 3

History holdings of an individual shall be capped at:

- Option 1. 1% of the history by area, sector and species groups (pollock, Pacific cod aggregate rockfish, aggregate flatfish)
- Option 2. 3% of the history by area, sector and species group
- Option 3. 5% of the history by area, sector and species group
- Option 4. 20% of the history by area, sector and species group
- Option 5. 30% of the history by area, sector and species group
- Option 6. no cap

Allocations to original issuees would be grandfathered at the original level of history.

Apply individually and collectively to all harvest share holders in each sector and fishery.
Different caps can be chosen in the CV sector and the CP sector.

CP history conversion to CV history

CP history and annual allocations converted to CV history and annual allocations will count toward CV caps.

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

T-3. Excessive share caps – vessel use caps

Alternative 2 and 3

Individual vessel use cap (applies within and outside of co-ops)

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 group/area/sector. 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.

T-4. Excessive share caps – vertical integration caps

Alternatives 2A High and 2B High

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 (by species group/area/sector).

Alternative 2C

Up to 30% of CV shares shall be designated as “CVP” shares and eligible to be held by processors and CV recipients.

Alternative 3

Any processor holdings of harvest history, 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 history
- Option 3. 115%-150% of initial allocation of CP history
- Option 4. no cap

by species group/area/sector.

T-5. Excessive share caps – cooperative use caps

Alternative 2 and 3

Control of history or use of annual allocations by a co-op shall be capped at:

- Option 1. 15% by area, sector and species group (pollock, Pacific cod aggregate rockfish, aggregate flatfish).
- Option 2. 25% by area, sector and species group.
- Option 3. 45% by area, sector and species group.
- Option 4. no cap.

Separate caps can be chosen for the CV and CP sector.

T-6. Overage Provisions

Alternative 2

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.

- Option 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).
- Option 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).

T-7. Transferability – Eligibility to Receive

Alternative 2

Persons eligible to receive harvest history or shares by transfer must be:

- 1) Entities eligible to document a vessel
- 2) Initial recipients of CV or C/P harvest shares
- 3) Community administrative entities eligible to receive shares/history by transfer
- 4) Individuals eligible to document a vessel with at least 150 days of sea time

Definition of sea time:

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

Alternative 3

Persons qualified to receive history by transfer include:

- 1) processors that associate with initial cooperatives and
- 2) for CP/CV history/shares:
 - a. entities eligible to document a vessel
 - b. initial recipients of CV or CP harvest shares
 - c. community administrative entities eligible to receive shares/history by transfer
 - d. individuals eligible to document a vessel with at least 150 days of sea time

Definition of sea time:

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

Alternative T2A – IFQ/Cooperatives with Processor License Limitation

T2A-1. Voluntary Cooperatives

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

T2A-2. Cooperative formation

Co-ops can be formed between

- 1) holders of trawl catcher vessel harvest shares in an area
- 2) holders of catcher/processor harvest shares in an area

Cooperatives are required to have at least 4 distinct and separate harvesters (using the 10% threshold rule)

T2A-3. Cooperative/processor affiliations

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

Option 2. CV cooperatives must be associated with

- a) a processing facility
- b) a processing company

The associated processor must be:

- a) any processor
- b) a limited entry processing license holder

Processors can associate with more than one co-op

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

T2A-4. Movement between cooperatives

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

T2A-5. 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.

T2A-6. Rules Governing Cooperatives

- 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.
- Co-op membership agreements will specify that processor affiliated harvesters 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.
- The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives to the extent permitted by antitrust laws.

T2A-7. Harvest Share Allocations – A share/B share allocations

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.

T2A-8. Provisions for Processor License Limitation

Apply processor provisions generally at the company level.

50-100% of CV harvest share allocation will be reserved for delivery to any licensed trawl processor

T2A-9. Processor License Qualifications

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. 1995-2001
- Option 2. 1995-2002
- Option 3. 1998-2003
- Option 4. 2000-2004
- Option 5. 1995-2003

Eligible Processors – minimum annual processing

Trawl

- Suboption 1. 2000 mt
- Suboption 2. 1000 mt
- Suboption 3. 500 mt

Trawl and fixed gear eligible processors

Processors that meet criteria for both the trawl processor license and fixed gear processor licenses will be issued a single trawl/fixed gear license

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

A licensed processor may operate an unlimited number of facilities under one license.

T2A-10. Transferability of eligible processor licenses

Processor licenses can be sold, leased, or transferred.

Within the same region

T2A-11. Processing Use Caps

Processing caps at the entity level by processor license type (Western Gulf, Central Gulf & West Yakutat (combined)) on A share landings:

- Option 1. Range 70% to 130% of TAC processed by area, sector and species group for the largest licensed processor

Option 2. Processing use caps would be equal to a percentage that would allow contraction of processing companies by 20%, 30%, or 50% of the number initially qualified processing companies by area, sector and species group

(Note: There is no limit on the amount of fish licensed processor can buy from the open B share classed fish)
Processing caps apply at the entity level.

Initial issues that exceed the processor use cap are grandfathered at their current level.

T2A-12. License ownership restrictions on processors

(Applies at the entity level) by region

Processors may acquire additional licenses so that they hold a combination of licenses allowing them to process 'A' shares from both the fixed gear and trawl gear sectors. Owners of fixed licenses can buy trawl/fixed licenses, owners of trawl/fixed may not buy additional licenses.

Alternative T2B – IFQ/Cooperatives with Processor Linkages

T2B-1. Voluntary Cooperatives

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

T2B-2. Cooperative formation

Co-ops can be formed between

- 1) holders of trawl catcher vessel harvest shares in an area
- 2) holders of catcher/processor harvest shares in an area

Cooperatives are required to have at least 4 distinct and separate harvesters (using the 10% threshold rule)

T2B-3. Cooperative/processor affiliations

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

Option 2. CV cooperatives must be associated with

- a) a processing facility
- b) a processing company

The associated processor must be:

- a) any processor
- b) a limited entry processing license holder
- c) a limited entry processing license holder to which the share holder's shares are linked

Processors can associate with more than one co-op

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

T2B-4. 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.

T2B-5. Movement between cooperatives

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

T2B-6. Rules Governing Cooperatives

- 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.
- Co-op membership agreements will specify that processor affiliated harvesters 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.
- The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives to the extent permitted by antitrust laws.

T2B-7. Harvest Share Allocations – A share/B share allocations

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 to which the shares are linked. 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.

T2B-8. Provisions for Processor License Limitation

Apply provisions generally at the facility (plant) level.

50-100% of CV harvest share allocation will be reserved for delivery to the linked licensed closed class trawl processor.

T2B-9. Processor License Qualifications

To qualify for a processor license, a processor must have purchased and processed a minimum amount of groundfish by area (Western Gulf; Central Gulf & West Yakutat (combined)) and region as described below in at least 4 of the following years:

- Option 1. 1995-2001
- Option 2. 1995-2002

- Option 3. 1998-2003
- Option 4. 2000-2004
- Option 5. 1995-2003

Eligible Processors – minimum annual processing

- Suboption 1. 2000 mt
- Suboption 2. 1000 mt
- Suboption 3. 500 mt

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

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.

T2B-10. Linkage (Linkages apply by area)

A harvester’s processor linked shares are associated with the licensed fixed or trawl processor to which the harvester delivered the most pounds of primary groundfish species by area (Western Gulf; Central Gulf & West Yakutat (combined)) and region (North/South) during the

- a) qualifying years.
- b) most recent 1, 2, or 3 years from the qualifying years.
- c) last ___ years of prior to 2004.
 - i. 1
 - ii. 2
 - iii. 3

Suboption:

A harvester is initially eligible to join a cooperative in association with a processor who processed

- a) 80% or b) 90%

of the harvesters eligible history. If no processor processed this percentage of a harvester’s eligible history, the harvester linked shares are with the processor that processed the most qualified landings and the processor that processed the second most qualified landings on a pro rata basis

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’s shares would be linked is no longer operating in the community, and another processing facility within the community has not purchased the history, the harvester is eligible to establish a share linkage with another processor in the following order:

- 1) The licensed processor to whom the harvester delivered the second most pounds in the community as long as that processor accounts for at least 20% of harvester’s history
- 2) Any licensed processor in the community
- 3) The licensed processor to whom the harvester delivered the second most pounds in the region
- 4) Any licensed processor in the region

Option 2: If the processing facility with whom the harvester’s shares would be linked is no longer operating in the community, the harvester is eligible to establish a share linkage with another processor in the following order:

- 1) The licensed processor to whom the harvester delivered the second most pounds in the community as long as that processor accounts for at least 20% of harvester's history
- 2) Any licensed processor in the community
- 3) The licensed processor to whom the harvester delivered the second most pounds in the region
- 4) Any licensed processor in the region

T2B-11. Movement between linked processors

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

In the absence of consent, when a harvester moves from a linked processor, the harvesters shares are reduced 10% - 20% for a period of:

- 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 share reduction shall be redistributed to the shareholders associated with the processor that the shareholder left (if it continues to exist).

T2B-12. 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 share linkages are broken and shares may be linked to any licensed processor within the same community or, if no processor exists in the community, within the same region.

T2B-13. License Transfers Among Processors (in the same community)

- 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 association with that license will transfer to the processor receiving the license. All harvest share/history holders will be subject to any share reduction at the full penalty for movement the first year; for the second year, half penalty applies to change the processor association. Harvest share holders would be allowed to develop a new association with a licensed processor within the same community if another processor is in the community or if no processor in the community within the same region.
- Option 3. 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 at the full penalty for the first year; for the second year, no penalty applies to change the processor association. Harvest share holders would be allowed to develop a new association with a licensed processor within the same community if another processor is in the community or if no processor in the community within the same region.

T2B-14. Processing Use Caps

Processing caps apply at the entity level by processor license type (by CGOA and WGOA regulatory areas) on A share landings:

- Option 1. Range 70% to 130% of TAC processed by area, sector and species group for the largest licensed processor
- Option 2. Processing use caps would be equal to a percentage that would allow contraction of processing companies by area, sector and species group by 20%, 30%, or 50% of the number initially qualified processing companies

(Note: There is no limit on the amount of fish licensed processor can buy from the open B share classed fish) Initial issues that exceed the processor use cap are grandfathered at their current level.

T2B-15. License ownership restrictions on processors

Applies at the entity level by region

- Option 1. A maximum of one facility license
- Option 2. A maximum of two facility licenses
- Option 3. A maximum of three facility licenses
- Option 4. An unlimited number of facility licenses

Initial issues that exceed the license ownership cap are grandfathered at their current level.

Alternative T2C – IFQ/Cooperatives with Harvest Share Allocations to Processors

T2C-1. Voluntary Cooperatives

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

T2C-2. Cooperative formation

Co-ops can be formed between

- 1) holders of trawl catcher vessel harvest shares in an area
- 2) holders of catcher/processor harvest shares in an area

Cooperatives are required to have at least 4 distinct and separate harvesters (using the 10% threshold rule)

T2C-3. Cooperative/processor affiliations

- Option 1. No association required between processors and co-ops
- Option 2. CV cooperatives must be associated with
 - a) a processing facility
 - b) a processing company

The associated processor must be:

- a) any processor
- b) a limited entry processing license holder (i.e., CVP holder)

Processors can associate with more than one co-op

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

T2C-4. Movement between cooperatives

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

T2C-5. 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.

T2C-6. Rules Governing Cooperatives

- 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.
- The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives to the extent permitted by antitrust laws.
- 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.
- Co-op membership agreements will specify that processor affiliated harvesters cannot participate in price setting negotiations except as permitted by general antitrust law.

T2C-7. Processor Eligibility

To qualify for a CVP allocation, 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. 1995-2001
- Option 2. 1995-2002
- Option 3. 1998-2003
- Option 4. 2000-2004
- Option 5. 1995-2003

Eligible Processors – minimum annual processing

- Suboption 1. 2000 mt
- Suboption 2. 1000 mt
- Suboption 3. 500 mt

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

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 eligible for a CVP allocation in the region in which it processed the most fish.

T2C-8. Processor Allocations

Up to 30% of CV QS 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 used to determine processor eligibility. Any balance of CVP not distributed initially to processors shall be distributed proportionally to CV recipients.

T2C-9. CVP Transferability

CVP is transferable between eligible CV holders and /or processors.

CVP shares may be transferred or leased to any entity eligible to receive CV QS by transfer.

T2C-10. CVP Use

CVP shares may be fished on any catcher vessel and subject to existing share designations (i.e., gear and vessel type) and existing vessel use caps.

Any shareholder under this program is intended to comply with all existing laws concerning the documentation of vessels and entry of vessels to U.S. fisheries in fishing those shares. Shareholders 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 in U.S. fisheries.

T2C-11. CVP Caps on Use and Holdings

Caps of CVP will apply at the company level by area, sector and species group and will be a 10-30% of the total pool of CVP shares available in the area, sector and species group. Recipients of CVP that exceed the cap will be grandfathered.

T2C-12. Limit on Vertical Integration

No processors (and processor affiliates using the 10% rule) may own or control CV quota shares (other than CVP). CVP initially issued to processor affiliates will be grandfathered.

T2C-13. CVP Regionalization

CVP shares will be regionalized.

Alternative T3 – Cooperatives/Limited Access with Processor Associations

T3-1. Voluntary Cooperatives

Voluntary cooperatives may form between eligible harvesters in association with processors. Harvesters may elect not to join a cooperatives, and continue to fish in the LLP/Limited Access fishery.

T3-2. Allocations to Individuals and Cooperatives

On joining a cooperative that complies with all requirements for an initial cooperative, an individual will be allocated catch history as generic Gulf History (GH).

Each cooperative will receive an annual allocation of Gulf Quota (GQ) based on the GH of its members.

T3-3. Cooperative Eligibility - Catcher Vessel Cooperatives

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 combined) and region (North/South) during the

- a) qualifying years.
- b) most recent 1, 2, or 3 years from the qualifying years.
- c) last 4 years prior to 2004

Provisions applied to a, b, and c:

For the following species groups:

Option 1:

- Pollock
- Pacific cod
- Aggregate rockfish
- Aggregate flatfish

Option 2: All groundfish

Suboption: A harvester is initially eligible to join a cooperative in association with a processor who processed

- a) 80%
- b) 90%

of the harvesters eligible history. If no processor processed this percentage of a harvester's eligible history, the harvester can enter into initial cooperatives with the processor that processed the most qualified landings and, the processor that processed the second most qualified landings on a pro rata basis.

T3-4. Cooperative Formation - Catcher Vessel Cooperatives

Cooperatives are required to have at least:

- Option 1. 4 distinct and separate harvesters (using the 10% threshold rule)
- Option 2. 50-75 percent of the eligible GH for each co-op associated with its processor
Applies to CVs for processor associated cooperatives, if less than 4 distinct and separate harvesters are available to associate with the processor.
- Option 3. Any number of eligible harvesters within the sector (allows single person co-op)

T3-5. Initial Cooperative Agreement Requirements

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, an eligible harvester must enter into a duly executed contractual agreement (Contract) with the processor the harvester is initially eligible to join a cooperative in associate with.

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 eligible harvester 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.

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 and entering into a Contract with the processor the harvester is initially eligible to join a cooperative in association with. The Contract must meet the harvester/processor contract requirements for initial co-op membership.

Any shareholder under this program is intended to comply with all existing laws concerning the documentation of vessels and entry of vessels to U.S. fisheries in fishing those shares. Shareholders 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 in U.S. fisheries.

T3-6. Duration of Initial Cooperative Agreements

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.

Different options may apply to CV and CP coops

T3-7. Catcher Vessel - Cooperative/processor associations

Option 1: If the processing facility with whom the harvester would be initially 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 in the following order

- 1) The processor to whom the harvester delivered the second most pounds in the community as long as that processor accounts for at least 20% of harvester's history
- 2) Any processor in the community
- 3) The processor to whom the harvester delivered the second most pounds in the region
- 4) Any processor in the region

Option 2: If the processing facility with whom the harvester would be initially associated is no longer operating in the community, the harvester is eligible to deliver to in the following order

- 1) The processor to whom the harvester delivered the second most pounds in the community as long as that processor accounts for at least 20% of harvester's history
- 2) Any processor in the community
- 3) The processor to whom the harvester delivered the second most pounds in the region
- 4) Any processor in the region

CV cooperatives must be associated with an eligible processing facility
Processors can associate with more than one co-op.

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

The eligible processor is:

- 1) prior to satisfying an exit requirement, a processor that the harvester is initially eligible to associate with in a cooperative, and

- 2) after satisfaction of an exit requirement, any processor

T3-8. Cooperative Eligibility - Catcher Processor Cooperatives

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

T3-9. Cooperative Formation - Catcher Processor Cooperatives

Cooperatives are required to have at least:

- Option 1. 4 distinct and separate harvesters (using the 10% threshold rule)
- Option 2. 50-100 percent of the GH of its sector.
- Option 3. Any number of eligible harvesters within the sector (allows single person co-op)

T3-10. Movement between cooperatives

An initial cooperative formation period shall be established beginning with year one of program implementation and extended for the period identified below.

- Option 1. no initial formation period (0 years)
- Option 2. period is 1 year
- Option 3. period is 2 years
- Option 4. period is 3 years

Different options may apply to CV and CP sectors

After the initial cooperative formation period, a holder of GH that meets the requirements of an initial cooperative agreement for exiting a cooperative may leave an initial cooperative and join a cooperative in association with any processor pursuant to a Contract that meets the requirements of rules governing cooperatives.

T3-11. Rules Governing Cooperatives

The following provisions apply to all cooperatives:

- a) 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.
- b) Except for CP cooperatives, a pre-season Contract between an eligible, willing harvesters in association with a processor is a pre-requisite to cooperative membership and a cooperative receiving an allocation of GQ based on the history of that harvester. For an initial co-op, the Contract must meet the initial cooperative agreement requirements.
- c) The co-op membership agreement and the Contract will be filed with the RAM Division. The cooperative agreement must contain a fishing plan for the harvest of all co-op fish.
- d) Co-op members shall internally allocate and manage the co-op's allocation per the cooperative agreement.
- e) 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 cooperative agreement.
- f) The cooperative agreement 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.
- g) 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.

- h) The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives. Co-op membership agreements will specify that processor affiliated harvesters cannot participate in price setting negotiations, except as permitted by general antitrust law, code of conduct, mechanisms for expelling members, or exit agreements, except as permitted by general antitrust law.
- i) 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 cooperative 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 initial cooperative agreement requirements.
- j) The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FMCA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives.

T3-12. 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 the initial cooperative formation period, the limits on transfers shall apply for the same period of time as the initial cooperative formation period.

T3-13. Use of Annual Allocations

Any holders of history and cooperatives under this program are intended to comply with all existing laws concerning the documentation of vessels and entry of vessels to U.S. fisheries in fishing under the program. Holders of history unable to enter a vessel into U.S. fisheries may lease 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 in U.S. fisheries.

T3-14. LLP/Limited Access Fishery

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

In the limited access fishery directed fishing will be permitted for primary species only. The current system of MRAs will be used for managing catch of secondary species and unallocated species.

T3-15. Movement from a Cooperative to the LLP/Limited Access Fishery

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/Limited Access fishery for any primary and secondary species identified under this program unless all GH initially associated with the LLP is held by the LLP holder and is allocated to the LLP/Limited 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 LLP/Limited Access fishery.

T3-16. Processing Use Caps

Processors shall be capped at the entity level.

No processor shall process more than:

Option 1. 25% of total harvest by area, sector and species group

Option 2. 50% of total harvest by area, sector and species group

Option 3. 75% of total harvest by area, sector and species group

Option 4. no cap

Option 5. no cap in areas with two or fewer processors.

Processors eligible to associate with an initial cooperative will be grandfathered.

There is no limit on the amount of fish that an eligible processor can buy from the open access fishery.

Pot Gear Alternatives

P-1. Transferability - Leasing

Alternative 2 and 3

Active participation requirements for trawl CVs (leasing restrictions):

1. For initial issuants of pot QS/GH who receive initial allocations of Pacific cod less than:
 - a. 60th percentile
 - b. 65th percentile
 - c. 70th percentile
 - d. 75th percentileTheir initial allocation of primary species pot QS/GH can be leased freely for the first 3 years of the program.
2. For initial issuants of pot QS/GH who receive initial allocations greater than the amount established above in 2 of 3 most recent years:
 - a. 30%
 - b. 40%
 - c. 50%of their aggregate primary species pot QS/GH for Pacific cod must either (a) be fished by a vessel which the pot QS/GH holder owns at least
 - Option 1. 20%
 - Option 2. 30%
 - Option 3. 40%
 - Option 4. >50%of, or (b) fished on a vessel with the pot QS/GH holder on board.
3. After 3 years from the start of this rationalization program, the above paragraph 2 applies to all QS/GH holders.

(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.)

Leasing requirements imposed on cooperative members will be monitored by the cooperative. Compliance will be reported in the cooperative annual report.

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 quota shares.

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.

P-2. Excessive share caps – individual caps on use and holdings

Alternative 2 and 3

Holdings of pot gear Pacific cod shares/history by an individual in each area shall be capped at:

- | | |
|-----------|------|
| Option | 0.5% |
| Option 1. | 1% |
| Option 2. | 3% |
| Option 3. | 5% |
| Option 4. | 20% |
| Option 5 | 30% |

Option 6 no cap

Allocations to original issuees would be grandfathered at the original level of history.
Apply individually and collectively to all harvest share/history holders in the pot sector.

CP history conversion to CV history

CP history and annual allocations converted to CV history and annual allocations will count toward CV caps

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

P-3. Excessive share caps – vessel use caps

Alternative 2 and 3

Individual vessel use cap (applies within and outside co-ops)

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 pot gear Pacific cod by area. Initial issuees 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.

P-4. Excessive share caps – vertical integration caps

Alternatives 2A High and 2B High

Harvest shares initial recipients with more than 10% limited threshold ownership by licensed processors are capped at 115-150% of initial allocation of pot gear Pacific cod harvest CV shares by area.

Alternative 2C

Up to 30% of CV shares shall be designated as “CVP” shares and eligible to be held by processors and CV recipients.

Alternative 3

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

- Option 1. initial allocation of harvest CV and CP shares of pot gear Pacific cod by area
- Option 2. 115%-150% of initial allocation of CV history of pot gear Pacific cod by area
- Option 3. 115%-150% of initial allocation of CP history of pot gear Pacific cod by area
- Option 4. no cap

P-5. Excessive share caps – cooperative use caps

Alternative 2 and 3

Control of history or use of annual allocations of pot gear Pacific cod by a co-op shall be capped at:

- Option 1. 15% by area.
- Option 2. 25% by area.
- Option 3. 45% by area.
- Option 4. no cap

Different caps can be chosen for CPs and CV

P-6. Block Program

Alternative 2

Preserving entry level opportunities for Pacific cod

Each initial allocation of Pacific 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

Eligible participants would be allowed to hold a maximum of:

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

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

P-7. Overage Provisions

Alternative 2

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.

- Option 1. Overages up to 10% of the last trip will be allowed with rollover provisions for underages up to 10% of harvest shares (or IFQ).
- Option 2. 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).

P-8. Transferability – Eligibility to Receive

Alternative 2

Persons eligible to receive harvest history or shares by transfer must be:

- 1) Entities eligible to document a vessel
- 2) Initial recipients of CV or C/P harvest shares
- 3) Community administrative entities eligible to receive shares/history by transfer
- 4) Individuals eligible to document a vessel with at least 150 days of sea time

Definition of sea time:

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

Alternative 3

Persons qualified to receive history by transfer include:

- 1) processors that associate with initial cooperatives and
- 2) For CP/CV history shares:
 - a) Entities eligible to document a vessel
 - b) Initial recipients of CV or CP harvest shares
 - c) Community administrative entities eligible to receive shares/history by transfer
 - d) Individuals eligible to document a vessel with at least 150 days of sea time

Definition of sea time:

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

Alternative P2L – Pot Low Producer – IFQ/Cooperatives

Applies only to low producing fixed gear vessels

Low producing vessels are exempt from delivery requirements

P2L-1. Voluntary Cooperatives

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

P2L-2. Cooperative formation

Co-ops can be formed between holders of low producing fixed gear catcher vessel harvest shares in an area.

Cooperatives are required to have at least 4 distinct and separate harvesters (using the 10% threshold rule)

P2L-3. 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
- b) a processing company

Processors can associate with more than one co-op

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

P2L-4. Movement between cooperatives

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

P2L-5. 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.

P2L-6. Rules Governing Cooperatives

- 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.
- Co-op membership agreements will specify that 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.
- The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives to the extent permitted by antitrust laws.

P2L-7. Regionalization

It should be clarified whether regionalization applies under this alternative.

Alternative P2HA – Pot High Producer - IFQ/Cooperatives with Processor License Limitation

Applies only to high producing fixed gear catcher vessels and fixed gear catcher processors

P2HA-1. Voluntary Cooperatives

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

P2HA-2. Cooperative formation

Co-ops can be formed between

- 1) holders of high producing fixed gear catcher vessel harvest shares in an area
- 2) holders of catcher/processor harvest shares in an area

Cooperatives are required to have at least 4 distinct and separate harvesters (using the 10% threshold rule)

P2HA-3. Cooperative/processor affiliations

- Option 1. No association required between processors and co-ops
- Option 2. CV cooperatives must be associated with
 - a) a processing facility
 - b) a processing company

The associated processor must be:

- a) any processor
- b) a limited entry processing license holder

Processors can associate with more than one co-op

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

P2HA-4. Movement between cooperatives

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

P2HA-5. 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.

P2HA-6. Rules Governing Cooperatives

- 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 inter-co-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.
- Co-op membership agreements will specify that 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.
- The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives to the extent permitted by antitrust laws.

P2HA-7. Harvest Share Allocations – A share/B share allocations

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.

P2HA-8. Provisions for Processor License Limitation

Apply processor provisions generally at the company level.

50-100% of CV harvest share allocation will be reserved for delivery to any licensed fixed gear processor

P2HA-9. Processor License Qualifications

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. 1995-2001
- Option 2. 1995-2002
- Option 3. 1998-2003
- Option 4. 2000-2004
- Option 5. 1995-2003

Eligible Processors – minimum annual processing

Fixed gear

- Suboption 1. 500 mt
- Suboption 2. 200 mt
- Suboption 3. 50 mt

Trawl and fixed gear eligible processors

Processors that meet criteria for both the trawl processor license and fixed gear processor licenses will be issued a single trawl/fixed gear license

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

P2HA-10. Transferability of eligible processor licenses

Processor licenses can be sold, leased, or transferred.

Within the same region

P2HA-11. Processing Use Caps

Processing caps by processor license type (Western Gulf; Central Gulf & West Yakutat (combined)) on A share landings:

- Option 1. Range 70% to 130% of TAC processed of pot gear Pacific cod by area for the largest licensed processor
- Option 2. Processing use caps would be equal to a percentage that would allow contraction of processing companies of pot gear Pacific cod by area by 20%, 30%, or 50% of the number initially qualified processing companies

(Note: There is no limit on the amount of fish licensed processor can buy from the open B share classed fish)

Processing caps apply at the entity level.

P2HA-12. License ownership restrictions on processors

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

Alternative P2HB –Pot High Producer - IFQ/Cooperatives with Processor Linkages

Applies only to high producing fixed gear vessels and catcher processors

P2HB-1. Voluntary Cooperatives

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

P2HB-2. Cooperative formation

Co-ops can be formed between

- 1) holders of high producer fixed gear catcher vessel harvest shares in an area
- 2) holders of catcher/processor harvest shares in an area

Cooperatives are required to have at least 4 distinct and separate harvesters (using the 10% threshold rule)

P2HB-3. 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
- b) a processing company

The associated processor must be:

- a) any processor
- b) a limited entry processing license holder
- c) a limited entry processing license holder to which the share holder's shares are linked

Processors can associate with more than one co-op

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

P2HB-4. 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.

P2HB-5. Movement between cooperatives

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

P2HB-6. Rules Governing Cooperatives

- 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.
- Co-op membership agreements will specify that 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.
- The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives to the extent permitted by antitrust laws.

P2HB-7. Harvest Share Allocations – A share/B share allocations

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 to which the shares are linked. 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.

P2HB-8. Provisions for Processor License Limitation

Apply provisions generally at the facility (plant) level.

50-100% of CV harvest share allocation will be reserved for delivery to the linked licensed closed class fixed gear processor.

P2HB-9. Processor License Qualifications

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. 1995-2001
- Option 2. 1995-2002
- Option 3. 1998-2003
- Option 4. 2000-2004
- Option 5. 1995-2003

Eligible Processors – minimum annual processing

- Suboption 1. 2000 mt
- Suboption 2. 1000 mt

Suboption 3. 500 mt

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

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.

P2HB-10. Linkage (Linkages apply by area)

A harvester's processor linked shares are associated with the licensed fixed gear processor to which the harvester delivered the most pounds of groundfish during the last ___ years of prior to 2004.

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

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
- iii. the licensed processor to whom the harvester delivered the second most pounds

Option 2: If the processing facility with whom the harvester is associated is no longer operating in the community, the harvester is eligible to deliver to

- i. any licensed processor
- ii. any licensed processor in the community
- iii. the licensed processor to whom the harvester delivered the second most pounds

P2HB-11. Movement between linked processors

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

In the absence of consent, when a harvester moves from a linked processor, the harvesters shares are reduced 10% - 20% for a period of:

- 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 share reduction shall be redistributed to the shareholders associated with the processor that the shareholder left (if it continues to exist).

P2HB-12. 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.

P2HB-13. License Transfers Among Processors

- 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.

P2HB-14. Processing Use Caps

Processing caps by processor license type (by CGOA and WGOA regulatory areas) on A share landings:

- Option 1. Range 70% to 130% of TAC processed of pot gear Pacific cod by area for the largest licensed processor
- Option 2. Processing use caps would be equal to a percentage that would allow contraction of processing companies of pot gear Pacific cod by area by 20%, 30%, or 50% of the number initially qualified processing companies

(Note: There is no limit on the amount of fish licensed processor can buy from the open B share classed fish)

P2HB-15. License ownership restrictions on processors

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

Alternative P2C – Pot IFQ/Cooperatives with Harvest Share Allocations to Processors

Applies to all fixed gear vessels

P2C-1. Voluntary Cooperatives

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

P2C-2. Cooperative formation

Co-ops can be formed between

- 1) holders of fixed gear catcher vessel harvest shares in an area
- 2) holders of catcher/processor harvest shares in an area

Cooperatives are required to have at least 4 distinct and separate harvesters (using the 10% threshold rule)

P2C-3. 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
- b) a processing company

The associated processor must be:

- a) any processor
- b) a limited entry processing license holder (i.e., CVP holder)

Processors can associate with more than one co-op

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

P2C-4. Movement between cooperatives

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

P2C-5. 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.

P2C-6. Rules Governing Cooperatives

- 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 inter-co-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.
- Co-op membership agreements will specify that 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.
- The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives to the extent permitted by antitrust laws.

P2C-7. Processor Eligibility

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. 1995-2001
- Option 2. 1995-2002
- Option 3. 1998-2003
- Option 4. 2000-2004
- Option 5. 1995-2003

Eligible Processors – minimum annual processing

- Suboption 1. 2000 mt
- Suboption 2. 1000 mt
- Suboption 3. 500 mt

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

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.

P2C-8. Processor Allocations

Up to 30% of CV QS 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 used to determine processor eligibility. Any balance of CVP not distributed initially to processors shall be distributed proportionally to CV recipients.

P2C-9. CVP Transferability

CVP is transferable between eligible CV holders and /or processors.

CVP shares may be transferred or leased to any entity eligible to receive CV QS by transfer.

P2C-10. CVP Use

CVP shares may be fished on any catcher vessel and subject to existing share designations (i.e., gear and vessel type) and existing vessel use caps.

Any shareholder under this program is intended to comply with all existing laws concerning the documentation of vessels and entry of vessels to U.S. fisheries in fishing those shares. Shareholders 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 in U.S. fisheries.

P2C-11. CVP Caps on Use and Holdings

Caps of pot gear Pacific cod CVP will apply at the company level by area and will be a 10-30% of the total pool of pot gear Pacific cod CVP shares available in the management area. Recipients of CVP that exceed the cap will be grandfathered.

P2C-12. Limit on Vertical Integration

No processors (and processor affiliates using the 10% rule) may own or control CV quota shares (other than CVP). CVP initially issued to processor affiliates will be grandfathered.

P2C-13. CVP Regionalization

CVP shares will be regionalized.

Alternative P3L1 – Pot Low Producer – Sector Allocation with Limited Access Fishery

Applies to low producing fixed gear vessels.

Exclude from co-op program, provide sector allocation and continue as an LLP fishery.

Alternative P3L2 – Pot Low Producer – Cooperatives/Limited Access

Applies to all fixed gear vessels - Applies all co-op rules except processor affiliation requirement for initial co-op formation (i.e. harvester co-op without processor association).

P3L2-1. Voluntary Cooperatives

Voluntary cooperatives may form between eligible harvesters. Harvesters may elect not to join a cooperative, and continue to fish in the LLP/Limited Access fishery.

P3L2-2. Allocations to Individuals and Cooperatives

On joining a cooperative that complies with all requirements for an initial cooperative, an individual will be allocated catch history as generic Gulf History (GH).

Each cooperative will receive an annual allocation of Gulf Quota (GQ) based on the GH of its members.

P3L2-3. Cooperative Eligibility - Catcher Vessel Cooperatives

Catcher vessel co-ops may be established within sectors between eligible harvesters.

P3L2-4. Cooperative Formation - Catcher Vessel Cooperatives

Cooperatives are required to have at least:

- Option 1. 4 distinct and separate harvesters (using the 10% threshold rule)
- Option 2. Any number of eligible harvesters within the sector (allows single person co-op)

P3L2-5. Initial Cooperative Agreement Requirements

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.

P3L2-6. Duration of Initial Cooperative Agreements

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.

P3L2-7. Movement between cooperatives

An initial cooperative 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

After the initial cooperative formation period, a holder of GH may leave an initial cooperative and join another cooperative.

P3L2-8. Rules Governing Cooperatives

The following provisions apply to all cooperatives:

- a) The harvesters that enter into a co-op membership agreement shall be the members of the co-op.
- b) The co-op membership agreement will be filed with the RAM Division. The Contract must contain a fishing plan for the harvest of all co-op fish.
- c) Co-op members shall internally allocate and manage the co-op's allocation per the cooperative agreement.
- d) Subject to any harvesting caps that may be adopted, GH or GQ may be transferred and consolidated within the co-op.
- e) The cooperative agreement 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.
- f) 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.
- g) The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives. Co-op membership agreements will specify that processor affiliated harvesters cannot participate in price setting negotiations, except as permitted by general antitrust law, code of conduct, mechanisms for expelling members, or exit agreements, except as permitted by general antitrust law.
- h) 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.

P3L2-9. 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 cooperative agreement 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 the initial cooperative formation period, the limits on transfers shall apply for the same period of time as the initial cooperative formation period.

P3L2-10. Use of Annual Allocations

Any holders of history and cooperatives under this program are intended to comply with all existing laws concerning the documentation of vessels and entry of vessels to U.S. fisheries in fishing under the program. Holders of history unable to enter a vessel into U.S. fisheries may lease 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 in U.S. fisheries.

P3L2-11. LLP/Limited Access Fishery

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

In the limited access fishery directed fishing will be permitted for primary species only. The current system of MRAs will be used for managing catch of secondary species and unallocated species.

P3L2-12. Movement from a Cooperative to the LLP/Limited Access Fishery

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/Limited Access fishery for any primary and secondary species identified under this program unless all GH initially associated with the LLP is held by the LLP holder and is allocated to the LLP/Limited 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 LLP/Limited Access fishery.

P3L2-13. Processing Use Caps

Processors shall be capped at the entity level.

No processor shall process more than:

- Option 1. 25% of total harvest by area of pot gear Pacific cod
- Option 2. 50% of total harvest by area of pot gear Pacific cod
- Option 3. 75% of total harvest by area of pot gear Pacific cod
- Option 4. no cap

Processors eligible to associate with an initial cooperative will be grandfathered.

Alternative P3 – Pot Cooperatives/Limited Access with Processors Associations

Applies to all fixed gear vessels (catcher vessels and catcher processors)

P3-1. Voluntary Cooperatives

Voluntary cooperatives may form between eligible harvesters in association with processors. Harvesters may elect not to join a cooperatives, and continue to fish in the LLP/Limited Access fishery.

P3-2. Allocations to Individuals and Cooperatives

On joining a cooperative that complies with all requirements for an initial cooperative, an individual will be allocated catch history as generic Gulf History (GH).

Each cooperative will receive an annual allocation of Gulf Quota (GQ) based on the GH of its members.

P3-3. Cooperative Eligibility - Catcher Vessel Cooperatives

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 pot gear Pacific cod 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.
- c) last 4 years prior to 2004

P3-4. Cooperative Formation - Catcher Vessel Cooperatives

Cooperatives are required to have at least:

- Option 1. 4 distinct and separate harvesters (using the 10% threshold rule)
- Option 2. 50-75 percent of the eligible GH for each co-op associated with its processor
Applies to CVs for processor associated cooperatives, if less than 4 distinct and separate harvesters are available to associate with the processor.
- Option 3. Any number of eligible harvesters within the sector (allows single person co-op)

P3-5. Initial Cooperative Agreement Requirements

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, an eligible harvester must enter into a duly executed contractual agreement (Contract) with the processor the harvester is initially eligible to join a cooperative in associate with.

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 eligible harvester 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.

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 and entering into a Contract with the processor the harvester is initially eligible to join a cooperative in association with. The Contract must meet the harvester/processor contract requirements for initial co-op membership.

Any shareholder under this program is intended to comply with all existing laws concerning the documentation of vessels and entry of vessels to U.S. fisheries in fishing those shares. Shareholders 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 in U.S. fisheries.

P3-6. Duration of Initial Cooperative Agreements

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.

P3-7. Catcher Vessel - Cooperative/processor associations

Option 1: If the processing facility with whom the harvester would be initially 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 (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.)
- iii. the licensed processor to whom the harvester delivered the second most pounds

Option 2: If the processing facility with whom the harvester would be initially associated is no longer operating in the community, the harvester is eligible to deliver to

- i. any licensed processor
- ii. any licensed processor in the 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.)
- iii. the licensed processor to whom the harvester delivered the second most pounds

CV cooperatives must be associated with an eligible processing facility
Processors can associate with more than one co-op.

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

The eligible processor is:

- 1) prior to satisfying an exit requirement, a processor that the harvester is initially eligible to associate with in a cooperative, and
- 2) after satisfaction of an exit requirement, any processor

P3-8. Cooperative Eligibility - Catcher Processor Cooperatives

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

P3-9. Cooperative Formation - Catcher Processor Cooperatives

Cooperatives are required to have at least:

- Option 1. 4 distinct and separate harvesters (using the 10% threshold rule)
- Option 2. 50-100 percent of the GH of its sector.
- Option 3. Any number of eligible harvesters within the sector (allows single person co-op)

P3-10. Movement between cooperatives

An initial cooperative 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

After the initial cooperative formation period, a holder of GH that meets the requirements of an initial cooperative agreement for exiting a cooperative may leave an initial cooperative and join a cooperative in association with any processor pursuant to a Contract that meets the requirements of rules governing cooperatives.

P3-11. Rules Governing Cooperatives

The following provisions apply to all cooperatives:

- a) 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.
- b) Except for CP cooperatives, a pre-season Contract between an eligible, willing harvester in association with a processor is a pre-requisite to cooperative membership and a cooperative receiving an allocation of GQ based on the history of that harvester. For an initial co-op, the Contract must meet the initial cooperative agreement requirements.
- c) The co-op membership agreement and the Contract will be filed with the RAM Division. The cooperative agreement must contain a fishing plan for the harvest of all co-op fish.
- d) Co-op members shall internally allocate and manage the co-op's allocation per the cooperative agreement.
- e) 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 cooperative agreement.
- f) The cooperative agreement 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.
- g) 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.
- h) The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives. Co-op membership agreements will specify that processor affiliated harvesters cannot participate in price setting negotiations, except as permitted by general antitrust law, code of conduct, mechanisms for expelling members, or exit agreements, except as permitted by general antitrust law.
- i) 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 cooperative 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 initial cooperative agreement requirements.
- j) The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FMCA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives.

P3-12. 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 the initial cooperative formation period, the limits on transfers shall apply for the same period of time as the initial cooperative formation period.

P3-13. Use of Annual Allocations

Any holders of history and cooperatives under this program are intended to comply with all existing laws concerning the documentation of vessels and entry of vessels to U.S. fisheries in fishing under the program. Holders of history unable to enter a vessel into U.S. fisheries may lease 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 in U.S. fisheries.

P3-14. LLP/Limited Access Fishery

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

In the limited access fishery directed fishing will be permitted for primary species only. The current system of MRAs will be used for managing catch of secondary species and unallocated species.

P3-15. Movement from a Cooperative to the LLP/Limited Access Fishery

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/Limited Access fishery for any primary and secondary species identified under this program unless all GH initially associated with the LLP is held by the LLP holder and is allocated to the LLP/Limited 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 LLP/Limited Access fishery.

P3-16. Processing Use Caps

Processors shall be capped at the entity level.

No processor shall process more than:

- Option 1. 25% of total harvest by area of pot gear Pacific cod
- Option 2. 50% of total harvest by area of pot gear Pacific cod
- Option 3. 75% of total harvest by area of pot gear Pacific cod
- Option 4. no cap

Processors eligible to associate with an initial cooperative will be grandfathered.

Hook-and-Line Gear Alternatives

L-1. Transferability - Leasing

Alternative 2

For Hook and Line (HAL) catcher vessels

Apply leasing limitation inside and outside of cooperatives

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. Allow leasing of up to (5%,10%, 15%, 20%) of CV QS, but only to individuals and entities eligible to receive QS/IFQ by transfer.

For Hook and Line (HAL) CPs

Allow leasing of CP QS, but only to individuals and entities eligible to receive QS/IFQ by transfer.

Alternative 3

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

For Hook and Line (HAL) catcher vessels

Option 2. Allow leasing of up to (5%,10%, 15%, 20%) of CV primary species history, but only to individuals and entities eligible to receive history by transfer.

For Hook and Line (HAL) catcher processors

Allow leasing of CP history, but only to individuals and entities eligible to receive history by transfer.

L-2. Share Use – Owner-on-board

Alternative 2

For Hook and Line (HAL) catcher vessels

Apply owner-on-board requirements inside and outside of cooperatives

(80%, 85%, 90%, 95%) of the fixed gear primary species quota shares initially issued to fishers/harvesters would be designated as "owner on board."

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 quota shares.

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.

L-3. Excessive share caps – individual caps on use and holdings

Alternative 2 and 3

History holdings of a co-op member shall be capped at:

- Option 1. .5% of the history by area and primary species
- Option 2. 1% of the history by area and primary species (Pacific cod and WGOA deep water flatfish)
- Option 3. 3% of the history by area and primary species (Pacific cod and WGOA deep water flatfish)
- Option 4. 5% of the history by area and primary species
- Option 5. 20% of the history by area and primary species
- Option 6. 30% of the history by area and primary species
- Option 7. no cap

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

CP history conversion to CV history

CP history and annual allocations converted to CV history and annual allocations will count toward CV caps

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

L-4. Excessive share caps – vessel use caps

Alternative 2 and 3

Individual vessel use 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 primary species and area. 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.

L-5. Excessive share caps – vertical integration caps

Alternatives 2A High and 2B High

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 by primary species and area.

Alternative 2C

Up to 30% of CV shares shall be designated as “CVP” shares and eligible to be held by processors and CV recipients.

Alternative 3

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

- Option 1. initial allocation of harvest CV and CP shares by primary species and area
- Option 2. 115%-150% of initial allocation of CV history by primary species and area
- Option 3. 115%-150% of initial allocation of CP history by primary species and area
- Option 4. no cap

L-6. Excessive share caps – cooperative use caps

Alternative 2 and 3

Control of history or use of annual allocations by a co-op shall be capped at:

- Option 1. 15% by primary species and area (Pacific cod and WGOA flatfish).
- Option 2. 25% by primary species and area

- Option 3. 45% by primary species and area
- Option 4. no cap

L-7. Block Program

Alternative 2 & 3

Preserving entry level opportunities for Pacific cod

Holder of High Producer (unblocked) QS can not acquire additional Low producer (blocked) QS (no divestment required)

All initially allocated Low producer shares will be blocked shares

Initial allocations of blocked shares will be allocated as blocks of or less than a specific size.

- *For example: If a Low Producer issuant receives an initial allocation of 115,000 lbs and if the Council establishes maximum block size to be 20,000 lbs the initial issuant would receive five (5) 20,000 blocks and one (1) 15,000 lb block.*

Blocked shares can be combined into larger blocks up to :

1. 10,000 lbs
2. 20,000 lbs
3. 30,000 lbs
4. Other limit to be determined after analysis describes the impacts of this option
 - Suboption. Low producer harvest shares earned as a bycatch in the halibut sablefish ITQ program would be exempt from the block program and will be issued as unblocked shares

Eligible participants would be allowed to hold a maximum of:

- Option 1 1 block
- Option 2 2 blocks
- Option 3 3 blocks

Suboption for all options in this section:

- o Original issuants are eligible to hold any number of originally issued blocks, but may not acquire more than the allowable limit.

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 Three blocks and any amount of unblocked shares

L-8. Overage Provisions

Alternative 2 and 3

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.

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

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).

L-9. Retention of halibut out of season

Alternative 2 and 3

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.

L-10. Transferability – Eligibility to Receive

Alternative 2

Persons eligible to receive harvest history or shares by transfer must be:

For CP history/shares:

- 1) Entities eligible to document a vessel
- 2) Initial recipients of CV or C/P harvest shares
- 3) Community administrative entities eligible to receive shares/history by transfer

For CV history/shares:

- 1) Individuals eligible to document a vessel with at least 150 days of sea time
- 2) Initial recipients of CV or C/P harvest shares
- 3) Community administrative entities eligible to receive shares/history by transfer.

Definition of sea time:

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

Alternative 3

Persons qualified to receive history by transfer include:

- 1) processors that associate with initial cooperatives and
- 2)

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 history
Option 4.	individuals who are U.S. citizens.

Definition of sea time:

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

Alternative L2L – Hook-and-Line Gear Low Producer – IFQ/Cooperatives

Applies only to low producing fixed gear vessels

Low producing vessels are exempt from delivery requirements

L2L-1. Voluntary Cooperatives

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

L2L-2. Cooperative formation

Co-ops can be formed between holders of low producing fixed gear catcher vessel harvest shares in an area.

Cooperatives are required to have at least 4 distinct and separate harvesters (using the 10% threshold rule)

L2L-3. 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
 - b) a processing company
- Processors can associate with more than one co-op

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

L2L-4. Movement between cooperatives

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

L2L-5. 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.

L2L-6. Rules Governing Cooperatives

- 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 inter-co-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.
- Co-op membership agreements will specify that 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.
- The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives to the extent permitted by antitrust laws.

L2L-7. Regionalization

It should be clarified whether regionalization applies under this alternative.

Alternative L2HA – Hook-and-Line Gear High Producer - IFQ/Cooperatives with Processor License Limitation

Applies only to high producing fixed gear catcher vessels and fixed gear catcher processors

L2HA-1. Voluntary Cooperatives

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

L2HA-2. Cooperative formation

Co-ops can be formed between

- 1) holders of high producing fixed gear catcher vessel harvest shares in an area
- 2) holders of catcher/processor harvest shares in an area

Cooperatives are required to have at least 4 distinct and separate harvesters (using the 10% threshold rule)

L2HA-3. Cooperative/processor affiliations

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

Option 2. CV cooperatives must be associated with

- a) a processing facility
- b) a processing company

The associated processor must be:

- a) any processor
- b) a limited entry processing license holder

Processors can associate with more than one co-op

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

L2HA-4. Movement between cooperatives

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

L2HA-5. 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.

L2HA-6. Rules Governing Cooperatives

- 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.
- Co-op membership agreements will specify that 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.
- The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives to the extent permitted by antitrust laws.

L2HA-7. Harvest Share Allocations – A share/B share allocations

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.

L2HA-8. Provisions for Processor License Limitation

Apply processor provisions generally at the company level.

50-100% of CV harvest share allocation will be reserved for delivery to any licensed fixed gear processor

L2HA-9. Processor License Qualifications

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. 1995-2001
- Option 2. 1995-2002
- Option 3. 1998-2003
- Option 4. 2000-2004
- Option 5. 1995-2003

Eligible Processors – minimum annual processing

Fixed gear

- Suboption 1. 500 mt
- Suboption 2. 200 mt
- Suboption 3. 50 mt

Trawl and fixed gear eligible processors

Processors that meet criteria for both the trawl processor license and fixed gear processor licenses will be issued a single trawl/fixed gear license

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

L2HA-10. Transferability of eligible processor licenses

Processor licenses can be sold, leased, or transferred.

Within the same region

L2HA-11. Processing Use Caps

Processing caps by processor license type (by CGOA and WGOA regulatory areas) on A share landings:

Option 1. Range 70% to 130% of TAC processed by primary species and area for the largest licensed processor

Option 2. Processing use caps would be equal to a percentage that would allow contraction of processing companies by primary species and area by 20%, 30%, or 50% of the number initially qualified processing companies

(Note: There is no limit on the amount of fish licensed processor can buy from the open B share classed fish)

Processing caps apply at the entity level.

L2HA-12. License ownership restrictions on processors

Option 1. No restrictions

Option 2. Trawl/fixed license holders cannot hold any additional fixed gear only licenses

Alternative L2HB – Hook-and-Line Gear High Producer - IFQ/Cooperatives with Processor Linkages

Applies only to high producing fixed gear vessels and catcher processors

L2HB-1. Voluntary Cooperatives

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

L2HB-2. Cooperative formation

Co-ops can be formed between

1) holders of high producer fixed gear catcher vessel harvest shares in an area

2) holders of catcher/processor harvest shares in an area

Cooperatives are required to have at least 4 distinct and separate harvesters (using the 10% threshold rule)

L2HB-3. 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

b) a processing company

The associated processor must be:

- a) any processor
- b) a limited entry processing license holder
- c) a limited entry processing license holder to which the share holder's shares are linked

Processors can associate with more than one co-op

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

L2HB-4. 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.

L2HB-5. Movement between cooperatives

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 |

L2HB-6. Rules Governing Cooperatives

- 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 inter-co-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.
- Co-op membership agreements will specify that 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.
- The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives to the extent permitted by antitrust laws.

L2HB-7. Harvest Share Allocations – A share/B share allocations

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 to which the shares are linked. 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.

L2HB-8. Provisions for Processor License Limitation

Apply provisions generally at the facility (plant) level.

50-100% of CV harvest share allocation will be reserved for delivery to the linked licensed closed class fixed gear processor.

L2HB-9. Processor License Qualifications

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. 1995-2001
- Option 2. 1995-2002
- Option 3. 1998-2003
- Option 4. 2000-2004
- Option 5. 1995-2003

Eligible Processors – minimum annual processing

- Suboption 1. 2000 mt
- Suboption 2. 1000 mt
- Suboption 3. 500 mt

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

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.

L2HB-10. Linkage (Linkages apply by area)

A harvester's processor linked shares are associated with the licensed fixed gear processor to which the harvester delivered the most pounds of groundfish during the last ___ years of prior to 2004.

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

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
- iii. the licensed processor to whom the harvester delivered the second most pounds

Option 2: If the processing facility with whom the harvester is associated is no longer operating in the community, the harvester is eligible to deliver to

- i. any licensed processor
- ii. any licensed processor in the community
- iii. the licensed processor to whom the harvester delivered the second most pounds

L2HB-11. Movement between linked processors

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

In the absence of consent, when a harvester moves from a linked processor, the harvesters shares are reduced 10% - 20% for a period of:

- 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 share reduction shall be redistributed to the shareholders associated with the processor that the shareholder left (if it continues to exist).

L2HB-12. 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.

L2HB-13. License Transfers Among Processors

- 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.

L2HB-14. Processing Use Caps

Processing caps by processor license type (by CGOA and WGOA regulatory areas) on A share landings:

- Option 1. Range 70% to 130% of TAC processed by primary species and area for the largest licensed processor
- Option 2. Processing use caps would be equal to a percentage that would allow contraction of processing companies by primary species and area by 20%, 30%, or 50% of the number initially qualified processing companies

(Note: There is no limit on the amount of fish licensed processor can buy from the open B share classed fish)

L2HB-15. License ownership restrictions on processors

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

Alternative L2C – Hook-and-Line IFQ/Cooperatives with Harvest Share Allocations to Processors

Applies to all fixed gear vessels

L2C-1. Voluntary Cooperatives

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

L2C-2. Cooperative formation

Co-ops can be formed between

- 1) holders of fixed gear catcher vessel harvest shares in an area
- 2) holders of catcher/processor harvest shares in an area

Cooperatives are required to have at least 4 distinct and separate harvesters (using the 10% threshold rule)

L2C-3. 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
 - b) a processing company

The associated processor must be:

- a) any processor
- b) a limited entry processing license holder (i.e., CVP holder)

Processors can associate with more than one co-op

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

L2C-4. Movement between cooperatives

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

L2C-5. 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.

L2C-6. Rules Governing Cooperatives

- 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.
- Co-op membership agreements will specify that 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.
- The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives to the extent permitted by antitrust laws.

L2C-7. Processor Eligibility

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. 1995-2001
- Option 2. 1995-2002
- Option 3. 1998-2003
- Option 4. 2000-2004
- Option 5. 1995-2003

Eligible Processors – minimum annual processing

- Suboption 1. 2000 mt
- Suboption 2. 1000 mt
- Suboption 3. 500 mt

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

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.

L2C-8. Processor Allocations

Up to 30% of CV QS 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 used to determine processor eligibility. Any balance of CVP not distributed initially to processors shall be distributed proportionally to CV recipients.

L2C-9. CVP Transferability

CVP is transferable between eligible CV holders and /or processors.
CVP shares may be transferred or leased to any entity eligible to receive CV QS by transfer.

L2C-10. CVP Use

CVP shares may be fished on any catcher vessel and subject to existing share designations (i.e., gear and vessel type) and existing vessel use caps.

Any shareholder under this program is intended to comply with all existing laws concerning the documentation of vessels and entry of vessels to U.S. fisheries in fishing those shares. Shareholders 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 in U.S. fisheries.

L2C-11. CVP Caps on Use and Holdings

Caps of CVP will apply at the company level by primary species and 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.

L2C-12. Limit on Vertical Integration

No processors (and processor affiliates using the 10% rule) may own or control CV quota shares (other than CVP). CVP initially issued to processor affiliates will be grandfathered.

L2C-13. CVP Regionalization

CVP shares will be regionalized.

Alternative L3L1 – Hook-and-Line Gear Low Producer – Sector Allocation with Limited Access Fishery

Applies to low producing fixed gear vessels.

Exclude from co-op program, provide sector allocation and continue as an LLP fishery.

Alternative L3L2 – Hook-and-Line Gear Low Producer – Cooperatives/Limited Access

Applies to all fixed gear vessels - Applies all co-op rules except processor affiliation requirement for initial co-op formation (i.e. harvester co-op without processor association).

L3L2-1. Voluntary Cooperatives

Voluntary cooperatives may form between eligible harvesters. Harvesters may elect not to join a cooperative, and continue to fish in the LLP/Limited Access fishery.

L3L2-2. Allocations to Individuals and Cooperatives

On joining a cooperative that complies with all requirements for an initial cooperative, an individual will be allocated catch history as generic Gulf History (GH).

Each cooperative will receive an annual allocation of Gulf Quota (GQ) based on the GH of its members.

L3L2-3. Cooperative Eligibility - Catcher Vessel Cooperatives

Catcher vessel co-ops may be established within sectors between eligible harvesters.

L3L2-4. Cooperative Formation - Catcher Vessel Cooperatives

Cooperatives are required to have at least:

- Option 1. 4 distinct and separate harvesters (using the 10% threshold rule)
- Option 2. Any number of eligible harvesters within the sector (allows single person co-op)

L3L2-5. Initial Cooperative Agreement Requirements

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.

L3L2-6. Duration of Initial Cooperative Agreements

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.

L3L2-7. Movement between cooperatives

An initial cooperative 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

After the initial cooperative formation period, a holder of GH may leave an initial cooperative and join another cooperative.

L3L2-8. Rules Governing Cooperatives

The following provisions apply to all cooperatives:

- a) The harvesters that enter into a co-op membership agreement shall be the members of the co-op.
- b) The co-op membership agreement will be filed with the RAM Division. The Contract must contain a fishing plan for the harvest of all co-op fish.
- c) Co-op members shall internally allocate and manage the co-op's allocation per the cooperative agreement.
- d) Subject to any harvesting caps that may be adopted, GH or GQ may be transferred and consolidated within the co-op.

- e) The cooperative agreement 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.
- f) 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.
- g) The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives. Co-op membership agreements will specify that processor affiliated harvesters cannot participate in price setting negotiations, except as permitted by general antitrust law, code of conduct, mechanisms for expelling members, or exit agreements, except as permitted by general antitrust law.
- h) 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.

L3L2-9. 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 cooperative agreement 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 the initial cooperative formation period, the limits on transfers shall apply for the same period of time as the initial cooperative formation period.

L3L2-10. Use of Annual Allocations

Any holders of history and cooperatives under this program are intended to comply with all existing laws concerning the documentation of vessels and entry of vessels to U.S. fisheries in fishing under the program. Holders of history unable to enter a vessel into U.S. fisheries may lease 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 in U.S. fisheries.

L3L2-11. LLP/Limited Access Fishery

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

In the limited access fishery directed fishing will be permitted for primary species only. The current system of MRAs will be used for managing catch of secondary species and unallocated species.

L3L2-12. Movement from a Cooperative to the LLP/Limited Access Fishery

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/Limited Access fishery for any primary and secondary species identified under this program unless all GH initially associated with the LLP is held by the LLP holder and is allocated to the LLP/Limited 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 LLP/Limited Access fishery.

L3L2-13. Processing Use Caps

Processors shall be capped at the entity level.

No processor shall process more than:

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

Processors eligible to associate with an initial cooperative will be grandfathered.

Alternative L3 – Hook-and-Line Gear Cooperatives/Limited Access with Processors Associations

Applies to all fixed gear vessels (catcher vessels and catcher processors)

L3-1. Voluntary Cooperatives

Voluntary cooperatives may form between eligible harvesters in association with processors. Harvesters may elect not to join a cooperatives, and continue to fish in the LLP/Limited Access fishery.

L3-2. Allocations to Individuals and Cooperatives

On joining a cooperative that complies with all requirements for an initial cooperative, an individual will be allocated catch history as generic Gulf History (GH).

Each cooperative will receive an annual allocation of Gulf Quota (GQ) based on the GH of its members.

L3-3. Cooperative Eligibility - Catcher Vessel Cooperatives

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.
- c) last 4 years prior to 2004

Provisions applied to a, b, and c:

For the following species groups:

- Pacific cod
- Western GOA deep water flatfish

L3-4. Cooperative Formation - Catcher Vessel Cooperatives

Cooperatives are required to have at least:

- Option 1. 4 distinct and separate harvesters (using the 10% threshold rule)

- Option 2. 50-75 percent of the eligible GH for each co-op associated with its processor
Applies to CVs for processor associated cooperatives, if less than 4 distinct and separate harvesters are available to associate with the processor.
- Option 3. Any number of eligible harvesters within the sector (allows single person co-op)

L3-5. Initial Cooperative Agreement Requirements

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, an eligible harvester must enter into a duly executed contractual agreement (Contract) with the processor the harvester is initially eligible to join a cooperative in association with.

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 eligible harvester 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.

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 and entering into a Contract with the processor the harvester is initially eligible to join a cooperative in association with. The Contract must meet the harvester/processor contract requirements for initial co-op membership.

Any shareholder under this program is intended to comply with all existing laws concerning the documentation of vessels and entry of vessels to U.S. fisheries in fishing those shares. Shareholders 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 in U.S. fisheries.

L3-6. Duration of Initial Cooperative Agreements

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.

L3-7. Catcher Vessel - Cooperative/processor associations

Option 1: If the processing facility with whom the harvester would be initially 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 (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.)
- iii. the licensed processor to whom the harvester delivered the second most pounds

Option 2: If the processing facility with whom the harvester would be initially associated is no longer operating in the community, the harvester is eligible to deliver to

- i. any licensed processor

- ii. any licensed processor in the 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.)
- iv. the licensed processor to whom the harvester delivered the second most pounds

CV cooperatives must be associated with an eligible processing facility
Processors can associate with more than one co-op.

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

The eligible processor is:

- 1) prior to satisfying an exit requirement, a processor that the harvester is initially eligible to associate with in a cooperative, and
- 2) after satisfaction of an exit requirement, any processor

L3-8. Cooperative Eligibility - Catcher Processor Cooperatives

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

L3-9. Cooperative Formation - Catcher Processor Cooperatives

Cooperatives are required to have at least:

- Option 1. 4 distinct and separate harvesters (using the 10% threshold rule)
- Option 2. 50-100 percent of the GH of its sector.
- Option 3. Any number of eligible harvesters within the sector (allows single person co-op)

L3-10. Movement between cooperatives

An initial cooperative 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

After the initial cooperative formation period, a holder of GH that meets the requirements of an initial cooperative agreement for exiting a cooperative may leave an initial cooperative and join a cooperative in association with any processor pursuant to a Contract that meets the requirements of rules governing cooperatives.

L3-11. Rules Governing Cooperatives

The following provisions apply to all cooperatives:

- a) 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.
- b) Except for CP cooperatives, a pre-season Contract between an eligible, willing harvester in association with a processor is a pre-requisite to cooperative membership and a cooperative receiving an allocation of GQ based on the history of that harvester. For an initial co-op, the Contract must meet the initial cooperative agreement requirements.

- c) The co-op membership agreement and the Contract will be filed with the RAM Division. The cooperative agreement must contain a fishing plan for the harvest of all co-op fish.
- d) Co-op members shall internally allocate and manage the co-op's allocation per the cooperative agreement.
- e) 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 cooperative agreement.
- f) The cooperative agreement 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.
- g) 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.
- h) The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FCMA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives. Co-op membership agreements will specify that processor affiliated harvesters cannot participate in price setting negotiations, except as permitted by general antitrust law, code of conduct, mechanisms for expelling members, or exit agreements, except as permitted by general antitrust law.
- i) 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 cooperative 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 initial cooperative agreement requirements.
- j) The cooperatives formed under this program are harvest associations that are intended only to conduct and coordinate harvest activities of their members and are not FMCA cooperatives. Processor affiliated vessels will be permitted to join harvest cooperatives.

L3-12. 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 the initial cooperative formation period, the limits on transfers shall apply for the same period of time as the initial cooperative formation period.

L3-13. Use of Annual Allocations

Any holders of history and cooperatives under this program are intended to comply with all existing laws concerning the documentation of vessels and entry of vessels to U.S. fisheries in fishing under the program. Holders of history unable to enter a vessel into U.S. fisheries may lease 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 in U.S. fisheries.

L3-14. LLP/Limited Access Fishery

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

In the limited access fishery directed fishing will be permitted for primary species only. The current system of MRAs will be used for managing catch of secondary species and unallocated species.

L3-15. Movement from a Cooperative to the LLP/Limited Access Fishery

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/Limited Access fishery for any primary and secondary species identified under this program unless all GH initially associated with the LLP is held by the LLP holder and is allocated to the LLP/Limited 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 LLP/Limited Access fishery.

L3-16. Processing Use Caps

Processors shall be capped at the entity level.

No processor shall process more than:

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

Processors eligible to associate with an initial cooperative will be grandfathered.

Jig Gear Alternatives

Alternative J2 – Jig Sector Allocation – Open Access

Jig Sector receives sector allocation and is prosecuted as an open access fishery.

Alternative J3A – Jig Sector Allocation

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

Alternative J3B – Cooperatives/Limited Access with Processors Associations

The provisions applicable to the fixed gear low producing catcher vessels could be used to develop this alternative, if the Council wished to pursue this alternative.

Provisions relating to the IFQ halibut/sablefish fishery and Southeast Outside

IFQ provisions

IFQ-1. Management areas

Applies to Sablefish areas SE, WY, CG, WG. Applies to halibut areas 2C, 3A, 3B, 4A.

IFQ-2. Primary species

P.cod, Greenland turbot, POP,

QS will be issued to the halibut/sablefish QS holder. Any QS/IFQ issues for these primary species will not be subject to regionalization, mandatory coop, closed class processor, or processor linkage provisions of GOA rationalization.

IFQ-3. Secondary species

RE/SR, Thornyheads, Pelagic shelf, Other Slope, Northern, and Other rockfish. Allocation to the halibut/sablefish IFQ fishery shall be determined by:

- A) Sablefish: Allocation based on the average rate and 75th percentile of observed bycatch rates, by area (the rate which 75% of observed sets did not exceed)
- B) Halibut: Allocation based on the average rate and 75th percentile of bycatch rates experienced in IPHC surveys by area (the rate which 75% of survey sets did not exceed).

The IPHC survey data will look at the years 1995-2002 and 1998-2002.

IFQ-4. Management provisions for secondary species

- a) Management of RE/SR, Thornyheads, Pelagic, Other Slope, Northern, and Other rockfish shall be
 - Option 1: Managed in aggregate on an area basis using current MRA regulations.
 - Option 2: Allocated to individual sablefish or halibut QS owners proportional to their QS holdings. Secondary species QS can only be permanently transferred with the underlying parent QS, but IFQ may be leased across vessel categories and species within the halibut and sablefish IFQ program.
 - Suboption 1: Allow an individual to choose, on an annual basis, individual allocations or to participate in the common pool.
 - Suboption 2: Allow a 7 day grace period after an overage occurs for the owner to lease sufficient Secondary species IFQ to cover the overage. Failure to secure sufficient IFQ would result in forfeiture of the overage and fines.
- b) An estimate of non commercial use of secondary species will be made based on observer and IPHC data. Non commercial use of secondary species for gurdy bait will not require QS/IFQ.
- c) Require full retention of Secondary species listed under A.

Southeast Outside provisions

SEO-1. Secondary Species

SEO is exempt from GOA rationalization program except for the management of RE/SR, Thornyheads, and Other Slope as secondary species

SEO-2. Management provisions for secondary species

Management provisions for secondary species

- a) Any QS/IFQ issued for these secondary species will not be subject to regionalization, mandatory coop, closed class processor, or processor linkage provisions of GOA rationalization
- b) Management of RE/SR, Thornyheads, and Other Slope rockfish shall be:
 - Option 1: Managed in aggregate on an area basis using current MRA regulations.
Suboption: separate allocations for each target fishery
 - Option 2: Allocated to the vessel owner or qualified lease holder as a ratio of target species
- c) Non commercial use of secondary species for gurdy bait will not require QS/IFQ.
- d) Develop sideboards for the SEO area