

ADVISORY PANEL MINUTES
North Pacific Fishery Management Council
April 3 – 8 2006, Anchorage Hilton, Anchorage, Alaska

Certified by: _____

Date: _____

The following members were present for all or part of the meeting:

Al Burch
Lisa Butzner
Joe Childers
Craig Cross
Tom Enlow
Duncan Fields
Bob Gunderson
John Henderschedt
Jan Jacobs

Bob Jacobson
Simon Kinneen
Matt Moir
John Moller
Ed Poulsen
Jim Preston
Michelle Ridgway
Lori Swanson

Jeb Morrow, Cora Crome and Kent Leslie were absent.

C-1 CDQ

Given the possibility that pending regulations may render the AP's decision mute, the AP recommends delaying action on this issue. *Motion passed 18/0.*

C-2 IRIU

(b) Maximum Retainable Amounts

The AP recommends the Council proceed forward with the analysis, with the the components and alternatives as outlined for initial review in June and final action in October. *Motion passed 14/0.*

(a) Amendment 80

The AP recommends the Council adopt the following components and options for final action:

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

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

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

Option 2.2 10%

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

Suboption 2.2 10%

Component 3 Identifies the sector allocation calculation (after deductions for CDQs, ICAs, and other existing fishery allocations, i.e., Atka mackerel jig) for the Non-AFA Trawl CP sector. Atka mackerel and

Aleutian Islands Pacific Ocean perch allocations will be calculated for ~~individual subareas or~~ and all subareas combined (541/EBS, 542, and 543). The remaining portion of the primary species TAC included in this program would be allocated to the BSAI trawl limited access fishery.

For purpose of allocation to the Non-AFA Trawl CP sector, each primary species allocation is based upon the years and percentage of catch history selected in Component 4 using one of the following:

Option 3.2 Retained legal catch of the sector over retained legal catch by all sectors

Suboption 3.2.2 Allocations would be managed as a hard cap for the H&G sector, and for the Non H&G sector, an ICA would be taken off the top to accommodate incidental bycatch by the non-H&G sector. ~~Staff should include tables that show anticipated ICA amounts in the non-H&G fisheries and actual catch of non-Amendment 80 sector be added to table 3.2, including display of discards.~~

Option 3.5 This option may be selected in conjunction with Options 3.1 through 3.4. Target species and PSC rollover: any unharvested portion of the Amendment 80 target species or unharvested portion of PSC in the limited access fishery that is projected to remain unused shall be rolled over to vessels that are members of Amendment 80 cooperatives.

Any roll over of halibut PSC to the Non-AFA Trawl CP sector shall be discounted by 5%. That is, if 100 mt of halibut is available for roll over, then 95 mt of halibut would be re-allocated to the Non-AFA Trawl CP sector. Once the initial allocation has been determined, the Non-AFA Trawl CP sector may re-allocate the PSC among the target species.

~~In addition, NMFS shall determine whether the Non-AFA Trawl CP sector will utilize the TAC or PSC allowance available to it. In the event that NMFS determines that a portion of a TAC or PSC allowance will not be utilized, it shall be reallocated to the BSAI trawl limited access fishery. PSC will be reallocated to the BSAI trawl limited access fishery in the same proportion as PSC that is allocated in the annual species.~~

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

Component 4 Catch history years used to determine the allocation to the Non-AFA Trawl CP sector in Component 3.

Option 4.6 2000-2004 in combination with component 13.2.3, 125,000 mt threshold for the yfs fishery and 60% to the non-AFA trawl CP sector / 40% to the limited access sector.

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

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

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

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

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

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

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

~~For all other PSC species, the limited access percentage should be limited to the sum of AFA CV/CP sideboard percentages with the remainder allocated to the AM80 sector. Minimum and maximum allowances of crab PSC for each sector may be selected within the range of alternatives identified in the January 2006 Amendment 80 analysis.~~

No further reductions in PSC for the non-AFA trawl CP sector will be implemented.

If AM85 is implemented prior to AM80, the nonAFA trawl CP sector would receive an allocation of PSC in accordance with AM85. Upon implementation of AM80, no allocation of PSC will be made to the non-AFA trawl CP sector under AM85.

Motion passed 12/3

Minority Report: The PSC allowances adopted under component 6 do not adequately address the problem statement goals for bycatch reduction in the non-AFA trawl CP sector. Whereas the PSC allocation method for halibut may result in specific provisions nor a clean statement of intent for reducing crab PSC. Without explicit provisions for reducing PSC usage under the rationalization program, the package fails to use tools available under rationalization to minimize bycatch to the extent practicable. Signed: Ed Poulsen, John Moller, Michelle Ridgway.

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

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

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

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

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

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

Component 8 Establishes the licenses that would be authorized for participation in a cooperative and would receive a cooperative endorsement. Component 8 also establishes the number of vessels required before the cooperative is allowed to operate. No later than November 1 or December 1 of each year, an application must be filed with NOAA fisheries by the cooperative with a membership list for the year.

A cooperative endorsement will be assigned to one license for each vessel meeting the qualification of Component 7. Additional licenses assigned to a vessel will not count toward the coop formation threshold, but will receive a cooperative endorsement provided that:

Option 8a.3 the license was used to catch 150 mt of groundfish with trawl gear on a vessel qualified as an eligible Non-AFA Trawl CP, and processed that fish between 1997 and 2004.

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

Option 8b.2 At least 30% of the eligible vessels

Component 9 Determines the method of allocation of PSC limits and groundfish between the cooperative and eligible Non-AFA Trawl CP participants who elect not to be in a cooperative. For the Atka mackerel fishery, include in the analysis the use of an inter-cooperative agreement to address the daily catch restrictions in critical habitat without triggering SSL consultation.

Option 9.1 Catch history is based on total catch

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

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

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

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

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

0.5 percent of the yellowfin sole catch history

0.5 percent of the rock sole catch history

0.1 percent of the flathead sole catch history

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

Option 10.9 Select the highest percentage allocation by species, for each vessel using total catch of the vessel over the total catch of the sector for the following four suites of years: 1997-2003 drop 2; 1997-2004, drop 2; 1997-2004, drop 3; 1998-2004, drop 2. Different year scenarios may be chosen for different species.

Add all of the percentages together and then adjust proportionally to 100%.

Vessels less than 200' with less than 2% of the sectors' atka mackerel history will receive their allocations in the area in which it was caught. All other vessels will receive their percentage of the sectors history equally from 543, 542, and 541 BS. The allocation for these vessels will be after removal of the allocation for the less than 200' less than 2% boats. For AI POP, all vessels will receive their percentage allocation equally in 541, 542 and 543.

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

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

Option 11.2 Consolidation in the Non-AFA Trawl Catcher Processor sector is limited such that no single person (using the individual and collective rule) can hold catch history more than a fixed percentage of the overall sector apportionment history. The cap would be applied on an aggregate species-by-species basis at ~~(options: 20%, 30%, 40%, or 50%~~ of the sector's allocation).

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

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

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

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

Option 12.4 GOA sideboard provisions

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

- Suboption 12.4.1 Vessels associated with LLPs that have Gulf weekly participation of greater than 10 weeks in the flatfish fishery during the years defined in Component 10 will be eligible to participate in the GOA flatfish fisheries.
- Suboption 12.4.2 If the analysis shows that one non-AFA trawl CP vessel has significantly higher participation in the GOA flatfish fisheries relative to other non-AFA trawl CP vessels, where 80% of weeks fished from 2000-2003 were in the GOA that vessel may be considered for an exemption from Amendment 80 halibut sideboards in the GOA and may participate fully in the GOA open-access flatfish fisheries. The history of this vessel will not contribute to the Non-AFA Trawl CP sideboards and its catch will not be subtracted from these sideboards.
- Suboption 12.4.2.1 If a vessel is given an exemption to Amendment 80 GOA sideboards, they may not lease their Bering Sea Amendment 80 history.
- Suboption 12.4.3 Gulf-wide halibut sideboards for the deep and shallow complex fisheries would be established by season calculated based on:
- Option B: Actual usage for the Amendment 80 qualified non-AFA trawl sector for the years defined in Component 10
- Suboption 12.4.4 GOA Pollock, Pacific cod, and directed rockfish species (POP, NR and PSR) sideboards for the Amendment 80 qualified non-AFA trawl CP sector would be established using the years defined in Component 10, where catch is defined as retained catch by Gulf area as a percentage of total retained catch of all sectors in that area.
- Suboption 12.4.5 While the CGOA rockfish demonstration program is in place, the CGOA rockfish demonstration program takes precedence. The demonstration program would remove the need for catch sideboards for the CGOA directed rockfish species. The Amendment 80 CPs deep halibut mortality sideboard cap for the 3rd seasonal allowance (in July) will be revised by the amount of the deep complex halibut mortality allocated to the rockfish demonstration program for the Amendment 80 qualified non-AFA trawl CP sector while the demonstration program is in effect.
- Suboption 12.4.6 Sideboards apply to vessels (actual boats) and LLPs used to generate harvest shares that resulted in allocating a percentage of the Amendment 80 species TACs to the non-AFA trawl CP sector. The intent is to prevent double-dipping with respect to GOA history related to sideboards.
- Suboption 12.4.7 On completion of a comprehensive rationalization program in the GOA, any sideboards from the BSAI Amendment 80 plan amendment will be superseded by the allocations in the GOA rationalization program.
- Suboption 12.4.8 Sideboards for PSC and GOA groundfish would be allocated between cooperative and non-cooperative vessel/licenses that are initially assigned harvest privileges for the five BSAI species allocated, LLP holders, based on the same formula as Component 10.
- Suboption 12.4.9 Each cooperative must sign an intercooperative agreement that states the coop

~~will stay within its aggregate GOA sideboards unless there is a leasing agreement in place. contract will include a provision that that cooperative will not exceed its aggregate cooperative sideboard. The cooperative contract should also include third party enforceability provisions.~~

Issue 4: Development of a Yellowfin Sole Threshold Fishery

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

Option 13.1 Threshold Rollover options:

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

Option 13.2.3 125,000 mt

Suboption 60% non AFA trawl CP sector and 40% limited access fishery

Other Elements of Amendment 80

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

- The cooperative program developed in Amendment 80 would not supersede pollock and Pacific cod IR/IU programs.
- The Groundfish Retention Standards (GRS) (Amendment 79) would be applied to the cooperative as an aggregate on an annual basis and on those vessels who did not join a cooperative as individuals. All vessels in the sector, consistent with NMFS catch monitoring plan, would be required to have on board NOAA Fisheries approved scales to determine total catch and either maintain observer coverage of every haul for verification that all fish are being weighed or use an alternative scale-use verification plan approved by NOAA Fisheries.
- Non-AFA Trawl CP sector participants that did not elect to join a cooperative would be subject to all current regulations including all restrictions of the LLP and the GRS if approved.
- All qualified license holders participating in the fisheries of the Non-AFA Trawl CP sector for Amendment 80 species would need to have trawl and catcher processor endorsements with general licenses for BSAI and the additional sector eligibility endorsement. Length limits within the license would also be enforced such that any replacement vessel entering the fishery would not exceed the Maximum Length Overall (MLOA) specified on the license.
- Permanent transfers of an eligible vessel, its associated catch history, and its permit would be allowed. Eligible vessels, their associated catch history, and a sector eligibility endorsement would not be separable or divisible. In the case of a sunk, lost, inoperable or otherwise ineligible vessel, catch history would be attached to the license that arose from the vessel and could not be separable or divisible. All transfers must be reported to NOAA fisheries in order to track who owns the sector eligibility permit and harvest privileges of a vessel. The purchaser must be eligible to own a fishing

~~vessel under MarAd regulations or any person who is currently eligible to own a vessel. Sector Eligibility Endorsements would be allowed if transferred with the associated Groundfish LLP. Sector Eligibility Endorsement, the associated groundfish LLP license, and associated catch histories would not be separable or divisible. All transfers must NOAA Fisheries for approval in order to track who owns the Sector Eligibility Endorsements. The purchaser must be eligible to own a fishing vessel under MarAd regulations or must be a person who is currently eligible to own a vessel.~~

- Annual allocations to the cooperative will be transferable among Non-AFA Trawl CP cooperative members. Such transfers will not need NOAA Fisheries approval.
- Annual allocations to the cooperative will be transferable among Non-AFA Trawl CP cooperatives. Inter-cooperative transfers must be approved by NOAA Fisheries.
- Any non-trawl or non-BSAI catches by qualified license holders that are considered part of the Non-AFA Trawl CP sector will not be included in the defined cooperative program. In addition, these non-trawl or non-BSAI catches allocated to the Non-AFA Trawl CP sector would not necessarily be excluded from other rationalization programs.
- Catch history used for allocation and eligibility purposes will be legal and documented catch.
- Disposition of groundfish species not allocated to the Non-AFA Trawl CP sector will not change as a result of the cooperative program developed in Amendment 80.
- Bycatch limits for non-specified species or marine resources would not be established. However, if the Council deems that bycatch is unreasonable, specific regulations to minimize impacts would be considered.
- The cooperative(s) would need to show evidence of binding private contracts and remedies for violations of contractual agreements would need to be provided to NOAA Fisheries. The cooperative would need to demonstrate adequate mechanism for monitoring and reporting prohibited species and groundfish catch. Participants in the cooperative would need to agree to abide by all cooperative rules and requirements.
- Specific requirements for reporting, monitoring and enforcement, and observer protocols will be developed in regulations for participants in the cooperative program and will not be the purview of the cooperative. The Council should specify their goals and objectives for in-season monitoring and program evaluation. Recordkeeping and reporting portions of the program can then be developed to ensure that goals and objectives of the program are met in a cost effective manner.
- A detailed annual report will be required from each cooperative(s). Fishery managers will review the annual report and determine if the program is functioning as desired. It is recommended that in-depth assessments of program be undertaken under the auspices of the Council/NOAA Fisheries periodically (for example, every five years). The in-depth studies will report the accomplishments of the program and indicate whether any changes are necessary.
- A socioeconomic data collection program will be implemented under the Non-AFA Trawl CP Cooperative Program. The program will collect cost, revenue, ownership, and employment data on a periodic basis. The purpose of the data collection is to fully understand the socio-economic impacts of the action, to inform future management actions, and to assure that this action serves its intended purpose and meets the goals set forth in the problem statement. Data will be used by Council and agency staff, recognizing that confidentiality is of extreme importance. The AP requests Council direct staff to work with the agency to develop the analysis and techniques to be applied to the data.

Motion passed 10/7

Minority Report:

The undersigned minority opposes the main motion on the basis of the groundfish sector allocations (Component 4, Option 4.6). While we fully support the concept of Amendment 80 sector allocations and endorse the inter- and intra-sector management measures outlined in the motion, the negative impacts on the limited access sector that would likely result from the sector allocation dictate that we oppose this motion.

Under this preferred alternative, the amount of yellowfin sole remaining for the limited access sector after allocating 93.2 percent of the present yellowfin sole ITAC to the Amendment 80 sector is less than the 2005 harvest and likely 2006 harvest by the limited access sector. By contrast, the sum of the AFA CV and CP yellowfin sole sideboards is approximately thirty percent of the ITAC.

In this motion, a 125,000 metric ton “trigger” for the yellowfin sole threshold fishery and an allocation of 60 percent of the threshold fishery to the Amendment 80 sector is linked to the groundfish allocation in Component 4. We believe that a threshold trigger associated with Option 4.6 should be much lower, as the “below threshold” amount available to the limited access sector is considerably lower than that sectors current harvests. A threshold trigger of 125,000 would be much more acceptable if it were associated with a limited access allocation reflective of the AFA CV and CP yellowfin sole sideboards.

This motion’s allocative bias in favor of the Amendment 80 sector is exacerbated by the fact that under Option 3.5 fish allocated to but not used by the Amendment 80 sector cannot be rolled back to the limited access sector.

Signed: John Henderschedt, Craig Cross, Tom Enlow, Jan Jacobs

Additionally, we, the minority of the minority cannot support the IRIU package because it does not include provisions for making definitive reductions in PSC and other bycatch. The AP motion provides for no reduction in crab PSC. As such, the package neither meets objectives in the problem statement nor complies with the MSA requirements to minimize waste and bycatch to the extent practicable. The potential negative impacts on halibut PSC and crab are particularly unacceptable. Signed Ed Poulsen, Michelle Ridgway

C-3 BSAI P.cod sector Allocations

The AP recommends the following as it’s preferred alternative:

PART I: BSAI PACIFIC COD SECTOR ALLOCATIONS

ALTERNATIVE 2: Modify the current BSAI Pacific cod allocations among the jig, trawl, and fixed gear (hook-and-line and pot) sectors according to a set of catch history years or other considerations.

Component 1: Sectors for which allocations will be established

- AFA Trawl CPs (AFA 20)¹
 - Suboption b: Exclude catch history of the nine trawl CPs whose claims to catch history have been extinguished by Section 209 of the AFA
- Non-AFA Trawl CPs
- AFA Trawl CVs
- Non-AFA Trawl CVs
- Hook-and-line CPs
- Hook-and-line CVs ≥60’
- Pot CPs
- Pot CVs ≥60’
- Hook-and-line and pot CVs <60’
- Jig CVs

Eligibility criteria for non-AFA trawl catcher vessels to be included in the AFA CV sector for purposes of the Pacific cod allocations:

Option 1.1 The holder of a license that arose from a vessel/history that made a minimum of 100 mt of Pacific cod landings during each of the years 1995–1997.

Component 2: Sector Allocations

The <60’ fixed gear CV sector will only fish from the direct allocation to that sector.

The BSAI Pacific cod TAC that is allocated to the above sectors (as defined in Component 1) is TAC less the CDQ Program reserve. In addition, the annual incidental catch allowance (ICA) for fixed gear is deducted off the top from the aggregate amount of the BSAI Pacific cod TAC allocated to the fixed gear sectors combined. Pacific cod harvested incidentally in the non-Pacific cod directed BSAI fixed gear fisheries is attributed to the ICA. The ICA is determined annually by the NMFS Regional Administrator in the annual specifications process and has typically been 500 mt.

Option 2.7: The Council can select percentages for cod allocated to each sector that fall within the range of percentages analyzed. *Motion passed 12/5*

<60HAL/Pot CVs	2.0
AFA Trawl CPs	2.5
AFA Trawl CVs	20.3
Jig CVs	1.0
Longline CPs	49.0
Longline CVs >60’	0.2
Non-AFA Trawl CPs	14.0
Non-AFA Trawl CVs	0.8
Pot CPs	1.7
Pot CVs >60’	8.5
	100.0

¹Refers to the 20 trawl catcher processors listed in Section 208(e) of the American Fisheries Act (AFA).

Component 3: Seasonal Apportionments

Option 3.2 Upon determination of the new overall allocations to the trawl and fixed gear sectors, maintain the current percentage of the ITAC allocated to the A and B seasons for trawl gear and the A season for fixed gear. Provide that any reduction in the overall trawl allocation resulting from the options would be applied only in the C season for trawl gear. If necessary, remaining reductions will be taken from the trawl B season. Provide that any increase in the overall fixed gear allocation resulting from the options would be applied only in the B season for fixed gear.
Motion passed 16/0

Option 3.4 Apportion the BSAI Pacific cod jig allocation on a trimester basis as follows:
60% (Jan. 1 – April 30)
20% (April 30 – August 31)
20% (August 31 – December 31) *Motion passed 16/0*

Component 4: Rollovers between gear sectors

Inseason management would retain flexibility to determine how to reallocate projected unused sector allocations (rollovers), taking into consideration the hierarchy below. NMFS takes into account the intent of the rollover hierarchy and the likelihood of a sector's capability to harvest reallocated quota.

Option 4.2 Projected unused allocations to any sector delivering inshore must be considered for reallocation to other inshore sectors before being considered for reallocation to any offshore sector. The suite of provisions below comprises Option 4.2.

4.2.1 Projected unused allocation in the jig sector is considered for reallocation to the <60' fixed gear CV sector on a seasonal basis. The third trimester jig rollover should be available to the <60' fixed gear CV sector on September 1.

4.2.2 Any unused allocation from any inshore sector will first be considered for reallocation to the jig sector and/or <60' fixed gear CV sector; then to the hook-and-line CV $\geq 60'$ or pot CV $\geq 60'$ sector; then to the trawl CV sectors. Any CV allocation that is not likely to be harvested through this hierarchy will be reallocated as per components 4.2.3–4.2.6 below.

4.2.3 Projected unused trawl sector allocations are considered for reallocation to other trawl sectors (AFA CP; non-AFA CP; AFA CV; non-AFA CV) before being reallocated to the fixed gear sectors (hook-and-line CP; hook-and-line CV $\geq 60'$; pot CP; pot CV $\geq 60'$).

4.2.4 Reallocation of TAC from the trawl sectors to fixed gear sectors will be 0.9% to pot CP, 4.1% to pot CV $\geq 60'$, and 95% to hook-and-line CP.

Suboption 1: Reallocation of TAC from the trawl sectors to the fixed gear sectors will be proportional to the new fixed gear allocations.

4.2.5 Projected unused pot sector allocations (CPs and $\geq 60'$ CVs) are considered for reallocation to the other pot sector before being reallocated to the hook-and-line CP sector.

4.2.6 Projected unused allocations in the <60' fixed gear CV sector, both pot sectors (CP and $\geq 60'$ CV), and hook-and-line CV $\geq 60'$ are reallocated to the hook-and-line CP sector.

Motion passed 16/0

Component 5: CDQ Allocation of BSAI Pacific Cod

The CDQ Program reserve for BSAI Pacific cod shall be removed from the TAC prior to the allocation to all other sectors at percentage amounts equal to one of the following options:

Option 5.1 7.5% (status quo) *Motion passed 9/7/1*

MINORITY REPORT

We, the minority of the AP, strongly support the increase of the CDQ allocation of BSAI cod to a 10%. We believe the increase in the CDQ cod allocation is necessary and appropriate for the following reasons:

- 1. The other fleets in the Bering Sea are already operating with a 10% CDQ reserve (pollock & crab) or will be operating with a 10% CDQ (Amendment 80 flatfish). Equity among the fleet would therefore require a 10% codfish allocation.*
- 2. It is recognized that, with the rationalization of the BSAI fisheries, the appropriate CDQ allocation is 10%. Testimony (written and public) from most sectors as well as discussion at the AP reflected this and there was no dispute on this issue. Amendment 85 is a quasi "rationalization" of the cod fleet and we feel that the co-ops and consolidation resultant from this action constitutes the level of rationalization required for the 10% adjustment.*
- 3. Allocation decisions should reflect the principles and standards of the Magnuson-Stevens Act. Just as the Amendment 85 recommendations recognize the need for non CDQ coastal communities to improve their local economies (allocation to jig and small boat sectors) the amendment should also recognize the need for the remainder of the Bering Sea communities to improve their economies.*
- 4. The CDQ groups have shown the capacity and ability to catch a 10% codfish allocation.*

*CDQ fishing for cod under a rationalized harvest strategy with fixed gear is consistent with longterm goals for minimizing bycatch and habitat impacts. Signed: Simon Kinneen, John Moller, Duncan Fields
Jan Jacobs, Michelle Ridgeway, Jim Preston*

Component 6: Apportionment of trawl halibut and crab PSC to the cod fishery group

The total amount of trawl halibut PSC for the non-CDQ fisheries is 3,400 mt, which is apportioned between Pacific cod, yellowfin sole, rocksole/other flatfish/flathead sole, pollock/Atka mackerel/other. Generally, 1,400 mt is apportioned to the cod trawl fishery group, but this amount and actual use can vary annually. A significant amount of Pacific cod is taken incidentally in other trawl fisheries so the PSC use associated with that Pacific cod harvest would be attributed to a fishery group other than cod trawl. Amendment 80 will also allocate halibut PSC to the H&G trawl sector so that the amount of halibut PSC available to the remaining trawl sectors will be reduced.

Component 7: Apportionment of the cod trawl fishery group halibut and crab PSC to trawl sectors

Option 7.2: The annual PSC allocation to the trawl Pacific cod fishery will be apportioned to the cod trawl sectors based on the sector's directed cod fishery harvests during the qualifying period under Component 2.

To determine halibut PSC, percentage of cod harvested in cod target fishery by the trawl sector should be calculated on the basis of all Pcod catch, including that which is designated for fishmeal production. *Motion passed 17/0.*

Component 8: Apportionment of cod non-trawl halibut PSC

The total amount of non-trawl halibut PSC for the non-CDQ fisheries is 833 mt. The 833 mt is normally apportioned between cod hook-and-line sectors and other non-trawl fisheries during the annual specifications process. Generally, 775 mt is apportioned to hook-and-line cod fisheries and 58 mt to other non-trawl. This component would divide the halibut PSC amount apportioned to non-trawl cod between the hook-and-line CP sector and hook-and-line CV sector (for CVs $\geq 60'$ and CVs $< 60'$ combined).

Option 8.2 10 mt for CVs, remainder for CPs
Set the halibut PSC amount for each category in the specification process.
Motion passed 17/0

Anticipating that this action will precipitate rationalization of some sectors, the AP recommends the Council initiate a trailing amendment analysis addressing PSC reductions. *Motion passed 9/8*

Trawl sector allocations of Pcod will be managed as is currently done, as a soft cap with a directed fishing allowance and incidental catch allowance for each trawl sector determined by NMFS in-season management. When AM80 is implemented, the Pcod sector allocation for the non-AFA trawl CP sector will be divided between coop and non-coop vessels using the same formula as other unallocated species, and operate as a hard cap. *Motion passed 16/1.*

The AP recommends that AFA trawl catcher vessel cod sideboards apply within the AFA CV sector, which will include the three vessels under Component 1, option 1.1. *Motion passed 17/0*

The AP requests the Council change the start date for the less than 60' fixed gear sector to March 15. *Motion passed 17/0.*

Additionally, the AP recommends the Council adopt a revised catch accounting system that would deduct all landings made by pot CP cod vessels that hold only a CP designation from the pot CP cod sector allocation. *Motion passed 17/0.*

Finally, the AP recommends the Council take final action on Part 1 of AM85. *Motion passed 16/1.*

The AP recommends the Council table part 2 of Amendment 85 until a split for the BSAI Pcod TAC is more imminent. *Motion passed 15/0*

C-4 BSAI Trawl CV

The AP recommends the inclusion in the subsequent staff discussion the subject of trawl eligibility requirements for the GOA. *Motion passed 12/5*

Additionally, the AP recommends that the analysis be focused on "all groundfish" and not include P.Cod and/or Amendment 80 species as separate options. *Motion passed 17/0.*

Further, the AP recommends that the analysis include the years 1995-2004. *Motion passed 17/0.*

C-5 Gulf of Alaska Groundfish Rationalization

AP recommends, after continued public request, the inclusion of the following language as stated in it February minutes:

The AP recommends that individual catch history harvested in the state waters parallel fishery be credited to eligible individuals in determining their proportional share of primary and secondary speices allocated by the Council as part of the Gulf of Alaska federal fisheries management. It is the intent of the AP that stakeholders' parallel fishery history be counted for both sector splits and individual allocations in the federally managed fisheries. Passed 14/0

The AP recommends accepting staff changes to the document regarding anti-trust considerations as outlined in the discussion paper. Passed 14/0

The AP recommends that sections L1 through L9, under Alternatives 2 and 3 be replaced, in total, with the following options: *Passed 14/0*

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

Holders 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:

- 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.

The AP recommends that Option 2 under G-15 Alternative 3 be stricken. *Passed 12/2*

Under G-11., Individual allocations – Secondary Species, the AP recommends replacement of the suboption under option 1 with the following language:

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).

Passed 14/0

The AP recommends accepting staff's editorial changes throughout the document. *Passed 14/0*

Under G-22, Alternative 3, the AP recommends that the paragraph starting with "In the event GH is regionalized..." be stricken. *Passed 14/0*

At AP recommends removal of any and all of the proposed processor linkages from all pot, longline and jig elements and options. *Passed 8/4/1*

Minority Report:

It is inappropriate to remove two alternatives for the longline and pot gear sectors at this time. The Council should develop a wide suite of alternatives for the NEPA process so that the impacts and benefits of rationalization can be understood for the different sectors. A one pie alternative will not meet the problem statement, "broadly distributing the benefits of rationalization to harvesters, processors and fishery dependent coastal communities." It is anticipated that the high/low producer division will give the vast number of harvesters an IFQ within the pot and longline sectors which the public needs to understand. The analysis should be structured so that contrast is available for similar and different treatments across both the trawl and fixed gear sectors as the rationalization alternatives are developed. Signed: Matthew Moir, John Henderschedt, Tom Enlow, Jan Jacobs.

The Advisory Panel compliments the staff for the work done in developing the Skipper Crew Discussion paper for this meeting.

The AP recommends that the Council give notice to the public that it intends to develop a range of skipper/crew provisions to be integrated into the Gulf Rationalization Alternatives document.

The AP 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 AP recommends that the following list alternatives and program elements for used 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

Alternative 3

Tax on First Transfer for the Benefit of Skippers and Crew

1. Tax-on-First-Transfer Program Elements
 - a. Shares subject to the tax:
 - i. Species
 - ii. Gear
 - iii. Gear and Species
 - b. Transfers subject to the tax
 - i. Transfers of long term history or shares

- ii. Leases prior to the first transfer of long term history or shares
- c. Definition of transfer (i.e., changes in corporate structure or change in named holder, etc.)
- d. Nature of the tax
 - i. tax on revenues from the sale
 - ii. reallocation of a portion of shares transferred
- e. Determining sale price (for sales without explicit market price)
- f. Distribution of benefits
 - i. Identification of skippers and crew to benefit from a tax
 - 1. historical
 - 2. current,
 - 3. specific skippers and crew affected by the transfer
- g. Division of benefits between skippers and crew
- h. Restrictions (if any) on the use of shares received

Passed 14/0

Under T-1, The AP recommends deleting the paragraph starting with “All initial issues... and in the following paragraph, change “owner on board” with “trawl QS/GH”. *Passed 14/0*

C-6 Halibut GHL

The AP recommends that the Council adopt the Charter IFQ Stakeholder Committee Moratorium Alternative (Item C-6(c)(2)), with the following modification.

Option 2 under Issue 1 should be changed to read as follows:

Option 2. Area 2C and 3A, exclude those communities previously identified under Amendment 66.

Motion passed 14/0.

Additionally, the AP recommends the following action by the Council:

On page vi of the Executive Summary Item C-6(a),

For 2C :

Choose Alternative 3 modified to read as follows:

Alternative 3. Prohibit harvest by skipper and crew, and set an annual catch limit of five fish for individual clients

For 3A

Choose Alternative 3 modified to read as follows:

Alternative 3. Prohibit harvest by skipper and crew.

Motion passed 9/4

Minority report:

We the minority support the recommendation of the stakeholder committee to take no action on Halibut Charter Management measures. Signed: Jim Preston, Lisa Butzner, Lori Swanson, Joe Childers

The AP recommends that the Charter IFQ Stakeholder Committee continue its work developing a permanent long term solution including further analysis of ; separate accounting, stair stepping up, etc. *Motion passed 13/0.*

Further, the AP recommends that the Council develop a responsive timeline for implementing refinements to management actions necessary to keep harvest at the GHL or allocation. *Passed 12-2*

D 1 Groundfish Management

The AP recommends the Council adopt the recommendations of the SSC in regard to removal of Dark Rockfish from the GOA Groundfish FMP. *Passed 12/0*

The AP recommends the Council approve the EFP for longline targeting of SEO rockfish. *Passed 12/0*

The AP recommends that the Council proceed with Amendment Package 84B at a pace which allows inclusion of new information, particularly of the genetics on salmon origins, oceanographic influences or salmon distribution and improved assessment of salmon stocks. *Passed 12/0*